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Memorandum of January 27, 2000

The President

Delegation of Authority To Conduct Assessments and Promulgate Regulations on Public Access to Off-Site Consequence Analysis Information

Memorandum for the Attorney General[,] the Administrator of the Environmental Protection Agency[, and] the Director of the Office of Management and Budget

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 112(r)(7)(H) of the Clean Air Act (“Act”) (42 U.S.C. 7412(r)(7)(H)), as added by section 3 of the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Public Law 106–40), and section 301 of title 3, United States Code, I hereby delegate to:

(1) the Attorney General the authority vested in the President under section 112(r)(7)(H)(ii)(I)(aa) of the Act to assess the increased risk of terrorist and other criminal activity associated with the posting of off-site consequence analysis information on the Internet;

(2) the Administrator of the Environmental Protection Agency (EPA) the authority vested in the President under section 112(r)(7)(H)(ii)(I)(bb) of the Act to assess the incentives created by public disclosure of off-site consequence analysis information for reduction in the risk of accidental releases; and

(3) the Attorney General and the Administrator of EPA, jointly, the authority vested in the President under section 112(r)(7)(H)(ii)(II) of the Act to promulgate regulations, based on these assessments, governing the distribution of off-site consequence analysis information. These regulations, in proposed and final form, shall be subject to review and approval by the Director of the Office of Management and Budget.

The Administrator of EPA is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 27, 2000.

Rules and Regulations

Federal Register

Vol. 65, No. 35

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99-097-1]

Melon Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are quarantining part of Los Angeles County, CA, because of the melon fruit fly and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the melon fruit fly to noninfested areas of the United States.

DATES: This interim rule was effective February 22, 2000. We invite you to comment on this docket. We will consider all comments that we receive by April 24, 2000. The incorporation by reference provided for by this interim rule is approved by the Director of the Federal Register as of February 22, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-097-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 99-097-1.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

We are amending the "Domestic Quarantine Notices" in 7 CFR part 301 by adding a new subpart 301.97, "Melon fruit fly" (referred to below as the regulations). These regulations quarantine part of Los Angeles County, CA, because of the melon fruit fly and restrict the interstate movement of regulated articles from the quarantined area.

The melon fruit fly, *Bactrocera cucurbitae* (Coquillett), is a very destructive pest of fruits and vegetables, including melons, mangos, peppers, squash, cucumbers, beans, oranges, and peaches. This pest can cause serious economic losses by lowering the yield and quality of these fruits and vegetables and by damaging the seedlings and young plants of squash, melons, and cucumbers. Heavy infestations can result in complete loss of these crops.

Recent trapping surveys near El Monte and Rosemead, CA, have established that part of Los Angeles County is infested with the melon fruit fly.

Officials of the Animal and Plant Health Inspection Service (APHIS) and State and county agencies in California have begun an intensive survey and eradication program in the infested area. Also, as explained below, California has restricted the intrastate movement of certain articles from the infested area to prevent the spread of the melon fruit fly within California. However, Federal regulations are necessary to restrict the interstate movement of certain articles from the infested area to prevent the spread of the melon fruit fly to noninfested areas of the United States. This interim rule establishes those

Federal regulations, which are described below.

Section 301.97—Restrictions on Interstate Movement of Regulated Articles

Section 301.97 prohibits the interstate movement of regulated articles from quarantined areas except in accordance with the regulations.

Section 301.97-1—Definitions

Section 301.97-1 contains definitions of the following terms: Administrator, Animal and Plant Health Inspection Service, certificate, compliance agreement, Departmental permit, dripline, infestation, inspector, interstate, limited permit, melon fruit fly, moved (move, movement), person, Plant Protection and Quarantine, quarantined area, regulated articles, and State.

Section 301.97-2—Regulated Articles

Certain articles present a significant risk of spreading the melon fruit fly if they are moved from quarantined areas without restrictions. We call these articles regulated articles. Paragraphs (a) through (e) of § 301.97-2 list the following as regulated articles:

- The melon fruit fly;
- Certain fruits and vegetables (fruits or vegetables that are canned or dried or that are frozen below -17.8°C (0°F) are exempted, since the melon fruit fly cannot survive such processing);
- Soil within the dripline of plants that produce those fruits or vegetables;
- Certain plants of the family Cucurbitaceae; and
- Any other product, article, or means of conveyance that an inspector determines to present a risk of spreading the melon fruit fly when the inspector notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions in the regulations.

The last item listed above, which provides for the designation of "any other product, article, or means of conveyance" as a regulated article, is intended to address the risks presented by, for example, a truck with melon fruit fly pupae in the cracks of its floorboards by enabling an inspector to designate that truck as a regulated article in order to ensure that any necessary risk-mitigating measures are carried out.

Section 301.97-3—Quarantined Areas

Paragraph (a) of § 301.97-3 provides the criteria for the inclusion of States, or portions of States, in the list of quarantined areas. Under these criteria, any State or portion of a State in which the melon fruit fly is found by an inspector, or in which the Administrator has reason to believe that the melon fruit fly is present, will be listed as a quarantined area. These criteria also provide that an area will be designated as a quarantined area when the Administrator considers it necessary due to the area's inseparability for quarantine enforcement purposes from localities in which the melon fruit fly has been found.

Paragraph (a) of § 301.97-3 also provides that we will designate less than an entire State as a quarantined area only if we determine that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed on the interstate movement of regulated articles and that the designation of less than the entire State as a quarantined area will prevent the interstate spread of the melon fruit fly. These determinations would indicate that infestations are confined to the quarantined areas and eliminate the need for designating an entire State as a quarantined area.

The boundary lines that delimit the portion of a State that is designated as a quarantined area are set up approximately 4.5 miles from the locations where melon fruit fly has been detected. The boundary lines may vary due to factors such as the location of melon fruit fly host material, the location of transportation centers such as bus stations and airports, the pattern of persons moving in that State, the number and patterns of distribution of the melon fruit fly, and the use of clearly identifiable lines for the boundaries.

We have determined that it is not necessary to designate the entire State of California as a quarantined area because the melon fruit fly has not been found in any other area of the State, and because California has adopted and is enforcing restrictions on the intrastate movement of regulated articles and those restrictions are substantially the same as those imposed by the regulations on the interstate movement of regulated articles. Therefore, in accordance with the criteria described in the previous paragraph, we have designated the El Monte and Rosemead area of Los Angeles County, CA, as a quarantined area. The boundaries of the quarantined area are described in

§ 301.97-3(c) in the rule portion of this document.

Paragraph (b) of § 301.97-3 provides that we may temporarily designate any nonquarantined area in a State as a quarantined area when we determine that the nonquarantined area meets the criteria for designation as a quarantined area described in § 301.97-3(a). In such cases, we will give the owner or person in possession of the area a copy of the regulations along with written notice of the area's temporary designation as a quarantined area, after which time the interstate movement of any regulated article from the area will be subject to the regulations. This provision is necessary to prevent the spread of the melon fruit fly during the time between the detection of the pest and the time a document quarantining the area can be made effective and published in the **Federal Register**. In the event that an area's designation as a temporary quarantined area is terminated, we will provide written notice of that termination to the owner or person in possession of the area as soon as is practicable.

Section 301.97-4—Conditions Governing the Interstate Movement of Regulated Articles From Quarantined Areas

This section requires most regulated articles moving interstate from quarantined areas to be accompanied by a certificate or a limited permit. The only exceptions are certain articles that move into the quarantined area from outside the quarantined area or that are moved by APHIS or the Department for experimental or scientific purposes.

Except for articles moved by APHIS or the Department, only articles that are moved into the quarantined area from outside the quarantined area and that are accompanied by a waybill that indicates the point of origin may be moved interstate without a certificate or limited permit. Additionally, the articles must be moved in an enclosed vehicle or be completely enclosed so as to prevent access by melon fruit flies. The regulated articles must also move through the quarantined area without stopping (except for refueling, rest stops, emergency repairs, and for traffic conditions such as traffic lights and stop signs), and the regulated articles must not be unpacked or unloaded in the quarantined area.

Also, APHIS or the Department may move regulated articles interstate without a certificate or limited permit if the articles are moved for experimental or scientific purposes. However, the articles must be moved in accordance with a Departmental permit issued by

the Administrator, under conditions specified on the permit to prevent the spread of the melon fruit fly.

Section 301.97-5—Issuance and Cancellation of Certificates and Limited Permits

Under Federal domestic plant quarantine programs, there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles when an inspector finds that, because of certain conditions (e.g., the article is free of melon fruit fly), there is no pest risk before movement. Regulated articles accompanied by a certificate may be moved interstate without further restrictions. Limited permits are issued for regulated articles when an inspector finds that, because of a possible pest risk, the articles may be safely moved interstate only subject to further restrictions, such as movement to limited areas and movement for limited purposes. Section 301.97-5 explains the conditions for issuing a certificate or limited permit.

Specifically, § 301.97-5(a) provides that a certificate will be issued by an inspector for the movement of a regulated article if the inspector determines that the article: (1) Is free of the melon fruit fly; has been treated under the supervision of an inspector, who must be present during the treatment, in accordance with § 301.97-10; or comes from a premises of origin that is free of the melon fruit fly; (2) will be moved in compliance with any additional emergency conditions deemed necessary to prevent the spread of the melon fruit fly under section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); and (3) is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to that article.

We have included a footnote (number 4) that provides an address for securing the addresses and telephone numbers of the local Plant Protection and Quarantine offices at which services of inspectors may be requested. We have also included a footnote (number 5) that explains that the Secretary of Agriculture can, under 7 U.S.C. 150dd, take emergency actions to seize, quarantine, treat, destroy, or apply other remedial measures to articles that are, or that he or she has reason to believe are, infested or infected by or contain plant pests.

Paragraph (b) of § 301.97-5 provides for the issuance of a limited permit (in lieu of a certificate) by an inspector for interstate movement of a regulated article if the inspector determines that the article is to be moved to a specified

destination for specified handling, utilization or processing, and that the movement will not result in the spread of the melon fruit fly.

Paragraph (c) of § 301.97–5 allows any person who has entered into and is operating under a compliance agreement to issue a certificate or limited permit for the interstate movement of a regulated article after an inspector has determined that the article is eligible for a certificate or limited permit under § 301.97–5(a) or (b).

Also, § 301.97–5(d) contains provisions for the withdrawal of a certificate or limited permit by an inspector if the inspector determines that the holder of the certificate or limited permit has not complied with conditions for the use of the document. This section also contains provisions for notifying the holder of the reasons for the withdrawal and for holding a hearing if there is any conflict concerning any material fact in the event that the person wishes to appeal the cancellation.

Section 301.97–6—Compliance Agreements and Cancellation

Section 301.97–6 provides for the issuance and cancellation of compliance agreements. Compliance agreements are provided for the convenience of persons who are involved in interstate shipments of regulated articles from quarantined areas. A compliance agreement will be issued when an inspector has determined that the person requesting the compliance agreement is knowledgeable regarding the requirements of the regulations, and the person has agreed to comply with those requirements. This section contains a footnote (number 7) that explains how compliance agreements may be arranged.

Section 301.97–6 also provides that an inspector may cancel the compliance agreement upon finding that a person who has entered into the agreement has failed to comply with any of the provisions of the regulations. The inspector will notify the holder of the compliance agreement of the reasons for cancellation and offer an opportunity for a hearing to resolve any conflicts of material fact in the event that the person wishes to appeal the cancellation.

Section 301.97–7—Assembly and Inspection of Regulated Articles

Section 301.97–7 provides that any person (other than a person authorized to issue certificates or limited permits under § 301.97–5(c)) who desires a certificate or limited permit to move regulated articles must request, at least 48 hours before the desired interstate

movement, that an inspector issue a certificate or limited permit. The regulated articles must be assembled in a place and manner directed by the inspector.

Section 301.97–8—Attachment and Disposition of Certificates and Limited Permits

Section 301.97–8 requires the certificate or limited permit issued for movement of the regulated article to be attached, during the interstate movement, to the regulated article, or to a container carrying the regulated article, or to the accompanying waybill. Further, the section requires that the carrier must furnish the certificate or limited permit to the consignee at the destination of the regulated article.

These provisions are necessary for enforcement purposes and to ensure that persons desiring inspection services can obtain them before the intended movement date.

Section 301.97–9—Costs and Charges

Section 301.97–9 explains the APHIS policy that the services of an inspector that are needed to comply with the regulations are provided without cost between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, to persons requiring those services, but that we will not be responsible for any other costs or charges (such as overtime costs for inspections conducted at times other than between 8 a.m. to 4:30 p.m., Monday through Friday, except holidays).

Section 301.97–10—Treatments

Section 301.97–10 sets forth treatment schedules that qualify soil and regulated articles for issuance of certificates and limited permits as provided in § 301.97–5. For instance, it has been determined, based on research by the Agricultural Research Service, that the following diazinon treatment would destroy the melon fruit fly in soil:

Soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.97–2(a) of this subpart: Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the dripline with sufficient water to wet the soil to a depth of at least ½ inch.

Treatments authorized for use in destroying the melon fruit fly on regulated articles are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at 7 CFR 300.1, “Materials incorporated by reference.”

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the melon fruit fly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule quarantines part of Los Angeles County, CA, because of the melon fruit fly and restricts the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the melon fruit fly to noninfested areas of the United States.

Within the regulated area there are approximately 413 small entities that may be affected by this rule. These include 3 distributors, 250 fruit sellers, 27 growers, 126 nurseries, 1 processor, 3 community gardens, 2 swap meets, and 1 farmers market. These 413 entities comprise less than 1 percent of the total number of similar entities operating in the State of California. Additionally, these small entities sell regulated articles primarily for local intrastate—not interstate—movement, so the effect, if any, of this rule on these entities appears to be minimal.

The effect on those few entities that do move regulated articles interstate from the quarantined area will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate will very little additional cost.

Under these circumstances, the Administrator of the Animal and Plant

Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12988

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

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The assessment provides a basis for the conclusion that the implementation of integrated pest management to achieve eradication of the melon fruit fly will not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under

FOR FURTHER INFORMATION CONTACT.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0088 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Docket No. 99–097–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. Please state that your comments refer to Docket No. 99–097–1 and send your comments within 60 days of publication of this rule.

This interim rule quarantines a part of Los Angeles, CA, because of the melon fruit fly and restricts the interstate movement of regulated articles from the quarantined area. Its implementation will require us to engage in certain information collection activities, in that certain articles may not be moved interstate from the quarantined area unless they are accompanied by a certificate or a limited permit. A certificate or limited permit may be issued by an inspector (*i.e.*, an APHIS employee or other person authorized by the APHIS Administrator to enforce the regulations), or by a person who has entered into a written compliance agreement with APHIS. We are soliciting comments from the public concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .04049 hours per response.

Respondents: State and county cooperators (inspectors); and producers, handlers, and movers of regulated fruit and vegetables in Los Angeles County, California.

Estimated annual number of respondents: 10.

Estimated annual number of responses per respondent: 32.1.

Estimated annual number of responses: 321.

Estimated total annual burden on respondents: 13 hours.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. Part 301 is amended by adding a new “Subpart—Melon Fruit Fly,” §§ 301.97 through 301.97–10, to read as follows:

Subpart—Melon Fruit Fly

Sec.

301.97 Restrictions on interstate movement of regulated articles.

301.97–1 Definitions.

301.97–2 Regulated articles.

301.97–3 Quarantined areas.

301.97–4 Conditions governing the interstate movement of regulated articles from regulated areas.

301.97–5 Issuance and cancellation of certificates and limited permits.

301.97–6 Compliance agreements and cancellation.

301.97–7 Assembly and inspection of regulated articles.

301.97–8 Attachment and disposition of certificates and limited permits.

301.97–9 Costs and charges.

301.97–10 Treatments.

Subpart—Melon Fruit Fly**§ 301.97 Restrictions on interstate movement of regulated articles.**

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart¹

§ 301.97–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture.

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of melon fruit fly and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

Departmental permit. A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with § 301.97–4(d) of this subpart.

Dripline. The line around the canopy of a plant.

Infestation. The presence of the melon fruit fly or the existence of circumstances that makes it reasonable to believe that the melon fruit fly is present.

Inspector. Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with § 301.97–5(b) of this subpart only to a specified

destination and only in accordance with specified conditions.

Melon fruit fly. The insect known as the melon fruit fly, *Bactrocera cucurbitae* (Coquillett), in any stage of development.

Moved (move, movement). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Plant Protection and Quarantine. Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any State, or any portion of a State, listed in § 301.97–3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.97–3(b) of this subpart.

Regulated article. Any article listed in § 301.97–2 or otherwise designated as a regulated article in accordance with § 301.97–2(e).

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.97–2 Regulated articles.

The following are regulated articles:

(a) Melon fruit flies.²

(b) The following fruits and vegetables:

Apple (*Malus sylvestris*)

Apple, custard (*Annona reticulata*)

Avocado (*Persea americana*)

Bean, hyacinth (*Dolichos lablab*)

Bean, lima (*Phaseolus lunatus* = *Phaseolus limensis*)

Bean, mung (*Phaseolus vulgaris*)

Cantaloupe (*Cucumis melo* and

Cucumis melo var. *Cantalupensis*)

Cauliflower (*Brassica oleracea* var. *botrytis*)

Chayote (*Sechium edule*)

Colocynth (*Citrullus colocynthis*)

Cowpea (*Vigna unguiculata*)

Cucumber (*Cucumis sativus*)

Cucumber, bur (*Sicyos* sp.)

Cucurbit (*Cucumis pubescens* and

Cucumis trigonus)

Date palm (*Phoenix dactylifera*)

Eggplant (*Solanum melongena*)

Fig (*Ficus carica*)

Gourds

(*Coccinia* spp.)

(*Crescentia* spp.)

(*Lagenaria* spp.)

(*Luffa* spp.)

(*Momordica* spp.)

(*Trichosanthis* spp.)

Grape (*Vitis trifolia*)

Guava (*Psidium guajava*)

Guava, cattley (*Psidium cattleianum*)

Lemon, water (*Passiflora laurifolia*)

Mango (*Mangifera indica*)

Melon (*Citrullus* spp.)

Melon, Chinese (*Benincasa hispida*)

Melon, oriental pickling (*Cucumis melo* var. *conomon*)

Mustard, leaf (*Brassica juncea*)

Okra (*Hibiscus esculentus*)

Orange, king (*Citrus nobilis*)

Orange, mandarin (*Citrus reticulata*)

Orange, sweet (*Citrus sinensis*)

Papaya (*Carica papaya*)

Passion fruit (*Passiflora edulis*)

Peach (*Prunus persica*)

Pear (*Pyrus communis*)

Pepper (*Capsicum annum*)

Pepper, chile (*Capsicum annum*)

Pepper, tobasco (*Capsicum frutescens*)

Pumpkin (*Cucurbita pepo*)

Pumpkin, Canada (*Cucurbita moschata*)

Scarlet wisteria tree (*Sesbania grandiflora*)

Soursop (*Annona muricata*)

Squash (*Cucurbita maxima*)

Tomato (*Lycopersicon esculentum*)

Tomato, tree (*Cyphomandra betaceae*)

Watermelon (*Citrullus lanatus* = *Citrullus vulgaris*)

Any fruits or vegetables that are canned or dried or frozen below – 17.8 °C. (0 °F.) are not regulated articles.

(c) Soil within the dripline of plants that are producing or have produced the fruits or vegetables listed in paragraph (b) of this section.

(d) Plants of the following species in the family Cucurbitaceae:

Cantaloupe (*Cucumis melo*)

Chayote (*Sechium edule*)

Colocynth (*Citrullus colocynthis*)

Cucumber (*Cucumis sativus*)

Cucumber, bur (*Sicyos* sp.)

Cucurbit, wild (*Cucumis trigonus*)

Gherkin, West India (*Cucumis angaria*)

Gourd, angled luffa (*Luffa acutangula*)

Gourd, balsam apple (*Momordica balsaminia*)

Gourd, ivy (*Coccinia grandis*)

Gourd, kakari (*Momordica dioica*)

Gourd, serpent cucumber (*Trichosanthis anguina*)

Gourd, snake (*Trichosanthis cucumeroides*)

Gourd, sponge (*Luffa aegyptiaca*)

Gourd, white flowered (*Lagenaria siceraria*)

Melon, Chinese (*Benincasa hispida*)

Melon, long (*Cucumis utilissimus*)

Pumpkin (*Cucurbita pepo*)

Pumpkin, Canada (*Cucurbita moschata*)

Squash (*Cucurbita maxima*)

Watermelon (*Citrullus lanatus* = *Citrullus vulgaris*)

¹ Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd and 150ff).

² Permit and other requirements for the interstate movement of melon fruit flies are contained in part 330 of this chapter.

(e) Any other product, article, or means of conveyance not listed in paragraphs (a) through (d) of this section that an inspector determines presents a risk of spreading the melon fruit fly, when the inspector notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

§ 301.97-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which the melon fruit fly has been found by an inspector, in which the Administrator has reason to believe that the melon fruit fly is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which the melon fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of the melon fruit fly.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas:

California

Los Angeles County. That portion of Los Angeles County bounded by a line drawn as follows: Beginning at the intersection of Atlantic Boulevard and

Huntington Drive; then northeast along Huntington Drive to Sierra Madre Boulevard; then north along Sierra Madre Boulevard to Interstate Highway 210; then east along Interstate Highway 210 to Buena Vista Street; then south along Buena Vista Street to Arrow Highway; then east along Arrow Highway to Interstate Highway 605; then south along Interstate Highway 605 to Live Oak Avenue; then east along Live Oak Avenue to Baldwin Park Boulevard; then south and southwest along Baldwin Park Boulevard to Francisquito Avenue; then southeast along Francisquito Avenue to Puente Avenue; then southwest along Puente Avenue to Valley Boulevard; then southeast along Valley Boulevard to 5th Street; then southwest along 5th Street to Lomitas Avenue; then southwest along an imaginary line to the intersection of Interstate Highway 605 and Beverly Boulevard; then west along Beverly Boulevard to Garfield Avenue; then north along Garfield Avenue to Garvey Avenue; then west along Garvey Avenue to Atlantic Boulevard; then north along Atlantic Boulevard to the point of beginning.

§ 301.97-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Any regulated article may be moved interstate from a quarantined area³ only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.97-5 and 301.97-8 of this subpart;

(b) Without a certificate or limited permit if:

(1) The regulated article originated outside the quarantined area and is either moved in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by melon fruit flies (such as canvas, plastic, or other closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill.

(c) Without a certificate or limited permit if:

(1) The regulated article originated outside any quarantined area and is moved through (without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs) the quarantined area in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by melon fruit flies (such

as canvas, plastic, or other closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area.

(d) Without a certificate or limited permit if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a Departmental permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of the melon fruit fly; and

(4) With a tag or label bearing the number of the Departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container.

(Approved by the Office of Management and Budget under control number 0579-0088)

§ 301.97-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate may be issued by an inspector⁴ for the interstate movement of a regulated article if the inspector determines that:

(1)(i) The regulated article has been treated under the direction of an inspector in accordance with § 301.97-10 of this subpart; or

(ii) Based on inspection of the premises of origin, the premises are free from the melon fruit fly; or

(iii) Based on inspection of the regulated article, the regulated article is free of melon fruit flies; and

(2) The regulated article will be moved through the quarantined area in an enclosed vehicle or will be completely enclosed by a covering adequate to prevent access by the melon fruit fly; and

(3) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 105 of the Federal Plant Pest Act

³ Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

⁴ Services of an inspector may be requested by contacting local offices of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 134, Riverdale, MD 20737-1236.

(7 U.S.C. 150dd)⁵ to prevent the spread of the melon fruit fly; and

(4) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector⁶ will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, processing, or utilization (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the melon fruit fly because life stages of the melon fruit fly will be destroyed by the specified handling, processing, or utilization;

(2) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) to prevent the spread of the melon fruit fly; and

(3) The regulated article is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for the interstate movement of regulated articles may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the interstate movement of a regulated article if an inspector has determined that the regulated article is eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may issue a limited permit for interstate movement of a regulated article when an inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate or limited permit has not complied with all conditions in this subpart for the use of the certificate or limited permit. If the

withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0088)

§ 301.97-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person understands this subpart and agrees to comply with its provisions.⁷

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

⁷ Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 134, Riverdale, MD 20737-1236, and from local offices of the Plant Protection and Quarantine, which are listed in telephone directories.

§ 301.97-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.97-5(c)) who desires to move a regulated article interstate accompanied by a certificate or limited permit must notify an inspector⁸ as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired interstate movement.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.97-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article, or

(2) Attached to the regulated article itself if not in a container, or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate or limited permit is attached to the consignee's copy of the waybill, the regulated article must be sufficiently described on the certificate or limited permit and on the waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article.

(Approved by the Office of Management and Budget under control number 0579-0088)

§ 301.97-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

§ 301.97-10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the melon fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1 of this chapter, "Materials incorporated by reference." The following treatments also may be used for the regulated articles indicated:

⁵ Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides that the Secretary of Agriculture may, under certain conditions, seize, quarantine, treat, destroy, or apply other remedial measures to articles that are, or that the Administrator has reason to believe are, infested or infected by or contain plant pests.

⁶ See footnote 4 to § 301.97-5(a).

⁸ See footnote 4 to § 301.97-5(a).

(a) *Soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.97-2(a) of this subpart.* Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the dripline with sufficient water to wet the soil to at least a depth of ½ inch.

(b) [Reserved]

Done in Washington, DC, this 1st day of February 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-4030 Filed 2-18-00; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-339-AD; Amendment 39-11582; AD 2000-03-22]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100, -200, and 747SP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-100, -200, and 747SP series airplanes, that requires repetitive detailed visual and ultrasonic inspections to detect missing, damaged, or broken taperlock bolts in the diagonal brace underwing fittings; and corrective actions, if necessary. This AD also requires eventual replacement of the aft 10 taperlock bolts with new bolts, which constitutes terminating action for the repetitive inspections. This amendment is prompted by reports of damaged, broken, and corroded taperlock bolts of the diagonal brace underwing fittings on the outboard strut due to stress corrosion cracking. The actions specified by this AD are intended to prevent loss of the underwing fitting load path due to missing, damaged, or broken taperlock bolts, which could result in separation of the engine and strut from the airplane.

DATES: Effective March 28, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 28, 2000.

ADDRESSES: The service information referenced in this AD may be obtained

from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2771; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747-100, -200, and 747SP series airplanes was published in the **Federal Register** on August 31, 1999 (64 FR 47440). That action proposed to require repetitive detailed visual and ultrasonic inspections to detect missing, damaged, or broken taperlock bolts in the diagonal brace underwing fittings; and corrective actions, if necessary. That action also proposed to require eventual replacement of the aft 10 taperlock bolts with new bolts as terminating action for the repetitive inspections.

Comments

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

Support for the Proposal

One commenter supports the proposed rule.

Request to Reference Other Terminating Action

One commenter requests that the FAA revise the notice of proposed rulemaking (NPRM) to reference accomplishment of Boeing Service Bulletin 747-57-2288 as terminating action for the repetitive inspection requirements proposed in the NPRM. The commenter states that accomplishment of the replacement of the diagonal brace underwing fitting in accordance with Figures 5 through 9 of that service bulletin, or the clearance adjustment in accordance with Figure 10 of that service bulletin, includes replacement of the same taperlock bolts with new bolts as described in the NPRM and in Boeing Alert Service Bulletin 747-57A2308, dated August 6, 1998 (which was referenced as the

appropriate source of service information for the actions proposed in the NPRM). The commenter states that if the taperlocks that are the subject of this AD have already been replaced with the same new bolts that are specified in this AD, the operator should not be required to do the inspections proposed in the NPRM or apply for approval of an alternative method of compliance. The commenter states that if its request is granted and incorporated in the final rule, operators and the FAA will not have to process as many applications for alternative methods of compliance.

The FAA concurs with the commenter's request. The FAA finds that accomplishment of the replacement of the diagonal brace underwing fitting or the clearance adjustment described in Boeing Service Bulletin 747-57-2288, Revision 1, dated June 26, 1997, is acceptable for compliance with the requirements of paragraph (d) of this AD. Accordingly, a new NOTE 3 has been added to this final rule. However, the FAA finds that accomplishment of such replacement or clearance adjustment in accordance with the original issue of Boeing Service Bulletin 747-57-2288, dated September 15, 1994, is not acceptable for compliance with paragraph (d) of this AD, because that service bulletin does not specify to replace the taperlock bolts that are subject to this AD.

Request to Clarify "Spares" Paragraph

One commenter requests that the FAA revise paragraph (e) of the NPRM to change the words "on any airplane" to "on any Boeing 747 airplane that is listed in the effectivity of [Boeing Service Bulletin] 747-57A2308." The commenter states that an operator was confused about the meaning of the paragraph as it is phrased in the NPRM.

The FAA concurs with the intent of the commenter's request. The FAA acknowledges that the language used in the NPRM may confuse some operators. Therefore, paragraph (e) of this final rule has been revised to state that, "... no person shall install a bolt, part number BACB30PE() * (), or any other bolt made of 4340, 8740, or PH13-8 Mo steel, in the locations specified in this AD, on any airplane listed in the applicability of this AD."

Request to Revise Estimated Cost of Terminating Action

One commenter requests that the FAA revise the estimated cost of the terminating action, as quoted in the proposed rule. The commenter points out that the number of work hours for accomplishment of the terminating action stated in the NPRM (*i.e.*, 8 work

hours) is inconsistent with the estimate in Boeing Alert Service Bulletin 747-57A2308. The commenter estimates that 248 to 306 work hours per airplane is necessary to accomplish the proposed replacement of taperlock bolts.

The FAA partially concurs with the commenter's request. The FAA does not concur with the commenter's estimate of 248 to 306 work hours, because that estimate includes time to gain access and close up. The cost analysis in AD rulemaking actions typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because such incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. However, the FAA finds that the number of work hours necessary for accomplishment of the terminating action is underestimated in the NPRM. The FAA estimates that the terminating action will take 68 work hours for airplanes in Groups 1, 2, and 5, and 125 work hours for airplanes in Groups 3 and 4. (These estimates coincide with Boeing's estimate for the number of work hours necessary to accomplish the terminating action if it is accomplished concurrently with other strut modifications.) The FAA has revised the cost impact information in this final rule accordingly.

Request To Delete Terminating Action Requirement

One commenter requests that the FAA revise the NPRM to delete the requirement to replace the subject taperlocks within 48 months after the effective date of this AD. The commenter states that the diagonal-brace-to-wing attachment can carry ultimate load with a certain number of failed taperlocks. The commenter asserts that the visual and ultrasonic inspections that are proposed in the NPRM will reliably detect bolt fractures before multiple fractures occur, and will ensure that the outboard engines and struts will not separate from the airplane. Furthermore, the commenter states that removing the subject taperlocks is a difficult and time-consuming procedure, necessitating costs and downtime not commensurate with the degree of enhanced flight safety.

The FAA does not concur with the commenter's request. As stated in the "Differences Between Proposed Rule and Service Bulletin" section of the NPRM, the FAA has determined that long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. The

commenter supplied no data (such as the crack growth rate after inspection, to ensure that the inspection interval is adequate for timely detection of cracking) to support its statement that inspections will reliably detect bolt fractures before multiple fractures occur. The FAA finds that no change to the final rule is necessary in this regard.

Request To Allow Installation of Cadmium-Plated Taperlock Bolts

One commenter requests that the FAA revise paragraph (e) of the NPRM to state that taperlock bolts made of 4340, 8740, or PH13-8 Mo steel *with no coating or with aluminum coating* may be installed. [Paragraph (e) of the NPRM states that no bolt made of 4340, 8740, or PH13-8 Mo steel—regardless of the type of coating—may be installed.] The commenter states that it has had no service problems with cadmium-plated 4340, 8740, or PH13-8 Mo steel taperlock bolts, and further states that such cadmium-plated 4340 and 8740 steel taperlock bolts are approved for use in the Boeing 747 Structural Repair Manual, which is approved by the FAA.

The FAA does not concur with the commenter's request to allow use of cadmium-plated steel taperlock bolts. The terminating action required by this AD requires installation of BACB30NX*K* bolts. The material that these bolts are made of is less susceptible to stress corrosion cracking than the bolts with cadmium plating that the commenter specifies. In addition, the FAA has determined that BACB30NX*K* bolts are not listed in Boeing 747 Structural Repair Manual, Chapter 51-30-03, Figure 1, Sheet 37. Therefore, cadmium-plated 4340 and 8740 steel taperlock bolts are not approved for use in place of the BACB30NX*K* bolts required by this AD. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 274 Model 747-100, -200, and 747SP series airplanes of the affected design in the worldwide fleet. The FAA estimates that 122 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required inspection, at the average labor rate of \$60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be \$7,320, or \$60 per airplane, per inspection cycle.

It will take approximately 68 work hours per airplane to accomplish the required terminating action for airplanes included in Groups 1, 2, and 5, as specified in the service bulletin. It will take approximately 125 work hours to accomplish the required terminating action for airplanes included in Groups 3 and 4, as specified in the service bulletin. The average labor rate is \$60 per work hour. Required parts will cost approximately \$8,008 per airplane. Based on these figures, the cost impact of the required terminating action on U.S. operators is estimated to be \$12,088 per airplane, for airplanes in Groups 1, 2, and 5; and \$15,508 per airplane, for airplanes in Groups 3 and 4.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000-03-22 Boeing: Amendment 39-11582. Docket 98-NM-339-AD.

Applicability: Model 747-100, -200, and 747SP series airplanes; line numbers 1 through 567 inclusive; equipped with aluminum diagonal brace underwing fittings; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the underwing fitting load path due to missing, damaged, or broken taperlock bolts, which could result in separation of the engine and strut from the airplane, accomplish the following:

Repetitive Inspections

(a) Prior to the accumulation of 9,000 total flight cycles, or within 18 months after the effective date of this AD, whichever occurs later, accomplish the actions required by paragraphs (a)(1) and (a)(2) of this AD in accordance with Boeing Alert Service Bulletin 747-57A2308, dated August 6, 1998. Thereafter, repeat the inspections at intervals not to exceed 18 months until accomplishment of the actions specified in paragraph (d) of this AD.

(1) Perform a detailed visual inspection to detect missing taperlock bolts in the diagonal brace underwing fitting at the Number 1 and Number 4 pylons.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally

supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(2) Perform an ultrasonic inspection to detect damaged or broken taperlock bolts in the diagonal brace underwing fitting at the Number 1 and Number 4 pylons.

Corrective Actions

(b) If any missing, damaged, or broken taperlock bolt is detected during any inspection required by paragraph (a) of this AD, prior to further flight, perform the applicable corrective actions (i.e., inspection, drill/ream, and replacement) in accordance with Boeing Alert Service Bulletin 747-57A2308, dated August 6, 1998; except as provided in paragraph (c) of this AD. Replacement of any taperlock bolt with a new bolt in accordance with this paragraph constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD for that bolt only.

(c) If any crack is detected during the inspection required by paragraph (b) of this AD and the damage to a bolt hole exceeds first oversize (for 0.5-inch bolts) or second oversize (for 0.4375-inch bolts); and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Terminating Action

(d) Within 48 months after the effective date of this AD, accomplish the actions required by paragraphs (d)(1) and (d)(2) of this AD in accordance with Boeing Alert Service Bulletin 747-57A2308, dated August 6, 1998. Accomplishment of the actions specified in this paragraph constitutes terminating action for the repetitive inspection requirements of this AD.

(1) Prior to accomplishing the replacement required by paragraph (d)(2) of this AD, perform an open hole high frequency eddy current inspection to detect cracks at the bolt hole locations of the aft 10 taperlock bolts. If any cracking is detected, prior to further flight, perform applicable corrective actions in accordance with paragraph (c) of this AD.

(2) Replace the aft 10 taperlock bolts with new bolts in the diagonal brace underwing fitting at the Number 1 and Number 4 pylons.

Note 3: Accomplishment of the replacement of the diagonal brace underwing fitting in accordance with Figures 5 through 9 of Boeing Service Bulletin 747-57-2288, Revision 1, dated June 26, 1997; or the clearance adjustment in accordance with Figures 10 through 14 of that service bulletin; is acceptable for compliance with the requirements of paragraph (d) of this AD.

Spares

(e) As of the effective date of this AD, no person shall install a bolt, part number BACB30PE() * (), or any other bolt made of 4340, 8740, or PH13-8 Mo steel, in the locations specified in this AD, on any airplane listed in the applicability of this AD.

Alternate Method of Compliance

(f) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(h) Except as provided in paragraph (c) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747-57A2308, dated August 6, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P. O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on March 28, 2000.

Issued in Renton, Washington, on February 11, 2000.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-3797 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-NM-150-AD; Amendment 39-11580; AD 2000-03-20]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A300-600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300–600 series airplanes, that requires repetitive ultrasonic inspections to detect cracks on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, and various follow-on actions. This amendment is prompted by reports of cracking due to fatigue-related stress in the radius of frame 40 adjacent to the tension bolts at the center/outer wing junction. The actions specified by this AD are intended to detect and correct fatigue cracking on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, which could result in reduced structural integrity of the wings.

DATES: Effective March 28, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 28, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300–600 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the *Federal Register* on November 24, 1998 (63 FR 64918). That action proposed to require repetitive ultrasonic inspections to detect cracks on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, and various follow-on actions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to the comments received.

One commenter, an operator, has no comments on the proposed supplemental NPRM, except to report that the ultrasonic inspections have been accomplished on part of its fleet, with no findings of cracking as yet.

Clarification of Flight Hour Thresholds

One commenter, the manufacturer, states that it cannot determine how the flight hour thresholds specified in the supplemental NPRM were calculated by the FAA. The FAA infers that the commenter is requesting clarification regarding the requirement to accomplish the initial inspection at “7,250 total landings or 17,700 total flight hours, whichever occurs first,” as specified in paragraph (a)(1)(i) of the supplemental NPRM.

The FAA herewith provides the requested information. The threshold of 7,600 total landings specified in Airbus Service Bulletin A300–57–6062, Revision 02, dated January 29, 1997, is calculated using the “adjustment-for-range” formula and a fatigue rating of 0.13, and is valid for airplanes having an average flight time (AFT) of 2.1 hours. (Airbus Service Bulletin A300–57–6062, Revision 02, was referenced in the supplemental NPRM as the appropriate source of service information for this AD.) At the time the supplemental NPRM was developed, the AFT for all Airbus Model A300–600 airplanes operated in the United States was 2.45 hours. The FAA used the 2.45 AFT and the “adjustment-for-range” formula to obtain an adjustment factor appropriate for airplanes on the U.S. Register, as follows:

$$1 - [(2.45 - 2.1) * 0.13] = 0.9545$$
$$0.9545 * 7,600 = 7,254.$$

Additionally, the FAA multiplied the 2.45 AFT by the adjusted landing threshold to obtain an approximation of the corresponding flight hours, as follows:

$$7,254 * 2.45 = 17,773.$$

Using these calculations, the FAA determined appropriate landing and flight-hour thresholds, previously described, for the requirements of this AD.

Request To Revise Compliance Threshold

The same commenter requests that the supplemental NPRM be revised to replace the compliance thresholds with thresholds calculated using a new method. The commenter states that the flight-hour thresholds specified in the supplemental NPRM seem to be overly conservative for operators utilizing

airplanes in long-range operations; such thresholds will penalize those operators by requiring inspections earlier than necessary. The commenter states that, in order to avoid using the current “adjustment-for-range” formula for calculating compliance times, an alternative method has been developed. This new method will provide constant flight-hour thresholds and intervals in addition to the flight cycle-based thresholds and intervals. The commenter proposes to provide these additional thresholds to the FAA, calculated in accordance with the new method.

The FAA does not concur. The FAA has reviewed the alternative method proposed by the manufacturer for calculating flight-hour thresholds, and has discussed the requirements of this AD further with the manufacturer and with the Direction Generale de l’Aviation Civile (DGAC), which is the airworthiness authority for France. The FAA concurs technically with use of such flight-hour and flight-cycle thresholds and intervals. However, the revised thresholds have not yet been made available to the FAA for its review, and the manufacturer advises that there has been a delay in internal review and approval of the thresholds. The FAA does not consider it appropriate to further delay issuance of this AD while awaiting the receipt of these data. Therefore, the FAA has determined that it is necessary to issue the AD with the currently specified thresholds. Once revised thresholds are made available, the FAA will review them and determine if further rulemaking is necessary. Additionally, under the provisions of paragraph (d)(1) of the AD, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such adjustments of the compliance time would provide an acceptable level of safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 35 airplanes of U.S. registry will be affected by this AD. It will take approximately 2 work hours per airplane (1 work hour per side) to accomplish the required ultrasonic inspection, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be

\$4,200, or \$120 per airplane, per inspection cycle.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000-03-20 Airbus Industrie: Amendment 39-11580. Docket 95-NM-150-AD.

Applicability: All Model A300-600 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, which could result in reduced structural integrity of the wings, accomplish the following:

Inspections and Corrective Actions

(a) Perform an ultrasonic inspection to detect cracking on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, in accordance with Airbus Service Bulletin A300-57-6062, Revision 02, dated January 29, 1997, at the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD.

(1) For airplanes that have accumulated fewer than 9,100 total landings or 22,300 total flight hours as of the effective date of this AD: Inspect at the later of the times specified in either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Prior to the accumulation of 7,250 total landings or 17,700 total flight hours, whichever occurs first.

(ii) Within 1,500 landings after the effective date of this AD.

(2) For airplanes that have accumulated 9,100 total landings or more and 22,300 total flight hours or more as of the effective date of this AD: Inspect within 750 landings after the effective date of this AD.

Note 2: Inspections that were accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A300-57-6062, Revision 1, dated July 23, 1995, are considered acceptable for compliance with paragraph (a) of this AD.

(b) If no crack is detected during the inspection required by paragraph (a) of this AD, repeat the ultrasonic inspection required by that paragraph thereafter at intervals not to exceed 6,500 landings or 16,000 flight hours, whichever occurs first; in accordance with Airbus Service Bulletin A300-57-6062, Revision 02, dated January 29, 1997.

(c) If any crack is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, install an access door, and perform an eddy current inspection to confirm the presence of a crack; in accordance with Airbus Service Bulletin A300-57-6062, Revision 02, dated January 29, 1997. Accomplishment of this eddy current inspection terminates the repetitive inspection requirement of paragraph (b) of this AD.

(1) If no crack is detected during the eddy current inspection, repeat the eddy current

inspection, in accordance with the service bulletin, thereafter at intervals not to exceed 6,500 landings or 16,000 flight hours, whichever occurs first.

(2) If any crack is detected during any eddy current inspection performed in accordance with paragraph (c) or (c)(1) of this AD, prior to further flight, blend out the crack and repeat the eddy current inspection in accordance with the service bulletin.

(i) If the eddy current inspection performed after the blend-out shows that the crack has been removed, and if the blend-out is equal to or less than 50 millimeters (mm) long and equal to or less than 2 mm deep, thereafter repeat the eddy current inspection at intervals not to exceed 2,800 landings or 7,000 flight hours, whichever occurs first.

(ii) If the eddy current inspection performed after the blend-out shows that the crack has not been removed, or if the blend-out is more than 50 mm long or more than 2 mm deep, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Generale de l'Aviation Civile (or its delegated agent).

Alternative Methods of Compliance

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

(2) Operators may request an extension to the compliance times of this AD in accordance with the "adjustment-for-range" formula found in Paragraph 1.B.(5) of Airbus Service Bulletin A300-57-6062, Revision 02, dated January 29, 1997; and provided in A300-600 Maintenance Review Board, Section 5, Paragraph 5.4. The average flight time per flight cycle (landing) in hours used in this formula should be for an individual airplane. Average flight time for a group of airplanes may be used if all airplanes of the group have flight times differing by no more than 10 percent. If compliance times are based on the average flight time for a group of airplanes, the flight times for individual airplanes of the group must be included for FAA review.

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

Special Flight Permits

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

Incorporation by Reference

(f) Except as required by (c)(2)(ii) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A300-57-6062,

Revision 02, dated January 29, 1997, which contains the specified effective pages:

Page No.	Revision level shown on page	Date shown on page
1–34, 37	02	Jan. 29, 1999
35, 36	1	Jul. 23, 1995

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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 95–063–177(B)R3, dated July 2, 1997.

(g) This amendment becomes effective on March 28, 2000.

Issued in Renton, Washington, on February 11, 2000.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3796 Filed 2–18–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–193–AD; Amendment 39–11581; AD 2000–03–21]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires a one-time detailed visual inspection to detect discrepancies of the wire expando sleeve of the wire bundles adjacent to the landing gear control lever module; certain follow-on actions and repair, if necessary; and wrapping the wire expando sleeve with tape, or with zippertubing and tape. This amendment is prompted by reports indicating that the landing gear failed to extend on an in-service airplane, and that the landing gear control cable was severed on a second in-service airplane. The actions specified by this AD are intended to

prevent interference between the landing gear control lever and wire bundles adjacent to the landing gear control lever module, and to prevent wire chafing and arcing between the landing gear control cable and adjacent wire bundles, which could result in the inability to extend the landing gear prior to landing.

DATES: Effective March 28, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 28, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elias Natsiopoulou, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1279; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the **Federal Register** on February 17, 1999 (64 FR 7829). That action proposed to require a one-time inspection to detect discrepancies of the wire expando sleeve of the wire bundles adjacent to the landing gear control lever module; certain follow-on actions and repair, if necessary; and wrapping the wire expando sleeve with tape, or with zippertubing and tape.

Comments

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

Support for the Proposal

Two commenters concur with the proposal. Another commenter states that it is not affected by the proposal, as the proposed actions have been accomplished for its fleet.

Request to Clarify Wire Bundle Interference

One commenter, the manufacturer, recommends clarification of the description of wire bundle interference in the Summary and Discussion sections of the proposed rule. The notice of proposed rulemaking (NPRM) describes two incidents on in-service Model 767 series airplanes. In the first incident, the expando sleeve on a wire bundle adjacent to the landing gear lever mechanism in the flight deck became caught on the lever mechanism such that the lever could not be moved from the UP position, and the gear was extended by depressurizing the center hydraulic system. The commenter contends that interference of the wire bundle expando sleeve with the landing gear control lever did not result in the wires for the alternate extension system interfering and arcing with the landing gear UP cable. Such interference and arcing are unrelated events. The contact with the gear UP cable was solely the result of the amount of slack in the wire bundle itself. The only wire bundle long enough to reach the gear UP cable is the one that contains wires for the alternate extension system.

In the second incident, which was an unrelated incident, a wire bundle containing wires for the alternate extension system chafed on the landing gear UP cable, causing arcing and failure of the gear UP cable; however, the landing gear was extended at the time and gear extension capability was still available through the gear DOWN cable. The commenter contends that the inability to extend the landing gear also is not an issue if the landing gear had been UP and locked; the landing gear will extend. If the landing gear had been retracted when the UP cable was severed, and assuming that the alternate extension system had been rendered inoperative due to the arcing, the normal extension system is available. When gear DOWN is selected, the landing gear selector valve will move to

the gear DOWN position through the landing gear lever and the DOWN cable, and the landing gear will extend. In addition, because the DOWN cable is located forward of the UP cable and the wire bundle, the landing gear DOWN cable is not susceptible to the same arcing and severing as the UP cable.

For the Summary section of the NPRM, the commenter suggests clarifying that only one report prompted the NPRM, the landing gear "UP cable" was severed, and that "consequent arcing" was not a factor in the interference between the landing gear control lever and the wire bundles. In addition, the commenter suggests adding that the proposed AD also is intended to prevent chafing and arcing between the wire bundle containing wires for the landing gear alternate extension system and the landing gear UP cable.

The FAA concurs partially with the commenter's recommended changes to the Summary section of the NPRM and has determined that certain changes add technical clarity. However, more than one report was received regarding the unsafe condition; therefore, no change to the final rule is necessary in that regard.

Although the Summary does not specify which cable (UP or DOWN) was severed, the FAA points out that one of the reports of an in-service incident on a Model 767 series airplane does not specify which cable was severed, or the condition of the other cable. In one incident, the FAA concluded that it was the UP cable that was damaged because the flight crew could not retract the landing gear. However, it is not the severance of the UP cable that could result in the inability to extend the landing gear, but the loss of the alternate extend system due to the damaged wires (an undetectable failure) and the inability to move the control lever from the UP to the DOWN position, or the loss of the center hydraulic system. In light of this, the final rule has not been changed to specify which cable was severed.

The FAA has clarified that the action required by the proposed AD is intended to prevent "interference" between the landing gear control lever module and adjacent wire bundles rather than to prevent "interference and consequent arcing." However, the FAA has determined that this AD also is intended to "prevent wire chafing and arcing between the landing gear control cable and adjacent wire bundles" rather than "to prevent chafing and arcing between the wire bundle containing wires for the landing gear alternate

extension system and the landing gear UP cable."

For the Discussion section of the NPRM, the commenter suggests further clarification of what the investigation revealed, and the damage caused by interference between the landing gear and wire bundles. The commenter contends that the landing gear still would extend when the landing gear lever is moved to the DOWN position because the DOWN cable would not be affected.

Although the FAA agrees with some of the commenter's suggested changes to the Discussion section of the proposed AD, no changes are necessary because that section is not included in the final rule. However, as stated earlier in this AD, the inability to extend the landing gear is not due to the severance of the UP cable but to a number of other factors.

The FAA also agrees that the wire bundle that contains the wires of the landing gear alternate extension system interfered with the landing gear cable, and that this interference caused the wires of the alternate extension system to arc. In addition, the FAA agrees that repeated arcing over a period of time could sever the landing gear cable; however, as stated earlier, it is not necessary to specify the "UP" cable. Further, the FAA agrees that the landing gear will extend when the landing gear lever is moved to the DOWN position if the landing gear DOWN cable is unaffected.

Request To Clarify the Wire Bundle Wrapping Procedure

The Air Transport Association (ATA) of America, on behalf of one of its members, states that this member requests clarification with regard to the procedure for wrapping the wire bundles. According to the commenter, the proposed rule gives the option to perform the work in accordance with Boeing Alert Service Bulletin 767-32A0163, original issue, dated March 5, 1998, or Boeing Service Bulletin 767-32A0163, Revision 1, dated October 1, 1998. However, the proposed rule requires wrapping the wire bundles with "tape," or with "zippertubing and tape," and does not include the option to wrap the wire bundle with "zippertubing" only, as permitted in the original issue of the service bulletin. (Both versions of the service bulletin are cited in the proposal as appropriate sources of service information.) For this reason, the commenter contends that this inconsistency could lead to confusion and should be clarified.

The FAA acknowledges that clarification of the wrapping procedure

is necessary. Although the original issue of the alert service bulletin specifies using either "tape" or "zippertubing," and the Summary of Revision 1 of the service bulletin specifies using either "tape" or "zippertubing," the FAA points out that the Accomplishment Instructions of Revision 1 of the service bulletin specify using either "tape" or "zippertubing and tape."

Although the original issue of the alert service bulletin specifies wrapping the wire bundles together in a single grouping, Revision 1 of the service bulletin specifies separating the wire bundles into two separate groups (one group consisting of a small single wire bundle, and the other group consisting of the remaining wire bundles that are larger in trunk diameter). Revision 1 of the service bulletin was issued after reports indicated that, due to limited access, it was difficult to wrap all of the wire bundles together in the P31 panel, and that grouping the wire bundles in a single wrap resulted in a stiff, unmanageable assembly. The FAA was informed by the manufacturer that zippertubing small enough for wrapping a single wire bundle is unavailable, and using a larger size of zippertubing is not recommended. For that reason, Revision 1 of the service bulletin includes the preferred procedures for separating the wire bundles into two groups for wrapping and provides an easier method for accomplishing those actions than the original issue of the alert service bulletin. [The FAA has added Note 3 following paragraph (a) of this AD to specify this information.] The FAA has determined that if operators have accomplished the action required to wrap the expando sleeve with either "tape" or "zippertubing only" in accordance with the original issue of the alert service bulletin, that action is adequate in addressing the identified unsafe condition. References to the type of wrapping required have been removed from paragraph (a)(1), (a)(2)(i), (a)(2)(ii)(A), or (a)(2)(ii)(B) of the final rule.

Request To Extend the Compliance Time and Change Inspection Requirements

The ATA, on behalf of one of its members, requests that the proposed compliance threshold for the initial inspection be extended to 1 year after the effective date of the AD, so that the required inspections can be conducted in a controlled hangar environment. According to the commenter, with a fleet of 79 Model 767 series airplanes affected by this proposed rule, the 90-day compliance time would pose a significant operational burden; whereas,

an extension of the compliance time to 1 year would allow sufficient flexibility to perform the inspection at the next scheduled maintenance.

The FAA does not concur with the request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the safety implications but the normal maintenance schedules for timely accomplishment of the required inspection and corrective actions. In consideration of these items and reports of the identified unsafe condition, the FAA has determined that a 90-day compliance time represents an appropriate interval of time allowable wherein the corrective actions can be accomplished during scheduled maintenance intervals for the majority of affected operators, and an adequate level of safety can be maintained. The FAA points out this AD does not require that inspections be performed in a controlled hangar environment. In addition, other operators with large fleets of Model 767 series airplanes have already complied with those requirements. No change to paragraph (a) of the final rule is necessary in this regard.

Request for an Additional Modification of the Landing Gear

One commenter states that the accomplishment of an additional modification of the control lever module, in accordance with Boeing Service Bulletin 757-32-0179, dated December 22, 1998, is necessary to provide a newly designed left-side plate of the landing gear control lever module. Although the actions required by the proposed AD are intended to detect and prevent possible interference between the wire bundle and landing gear control lever module, such action does not completely remove the possibility that such interference could occur in the specific area of the landing gear control lever module behind the instrument panel. Such a modification would effectively prevent interference between the wire bundle and the control lever module and also prevent a subsequent "blocked" lever.

The FAA does not concur that the final rule should include a requirement for installing a newly designed left-side plate of the landing gear control lever module in accordance with Service Bulletin 767-32-0179. Accomplishment of the actions specified by either the original issue or Revision 1 of Service Bulletin 767-32A0163 is intended to adequately address the identified unsafe condition by preventing interference between the landing gear control lever

and wire bundles adjacent to the landing gear control lever module and by preventing wire chafing and arcing between the landing gear control cable and adjacent wire bundles. The FAA points out that, although the new left-side plate specified by Service Bulletin 767-32-0179 provides a barrier between the wire bundles and landing gear control lever module, such a plate does not protect the wires from chafing.

Request for Issuance of an Interim Flight Crew Procedure

One commenter states that it considers issuance of a flight crew operating procedure by an operational bulletin to be essential in providing instructions on how to shut down the center hydraulic system for Model 767 series airplanes and subsequently extend the landing gear. The commenter contends that this procedure is necessary until a hydraulic bypass valve is installed (as described in the following paragraphs).

Although the FAA acknowledges the concerns of the commenter regarding issuance of a flight crew operating procedure for shutting down the center hydraulic system, it does not concur that this AD should include such a procedure. The FAA has determined that, because of the complexity of the hydraulic system, issuance of such an operating procedure could introduce other unforeseeable problems. At the present time, shutting down the center hydraulic system is only used in an emergency situation, and such a decision is determined by the flight crew. The FAA considers that such a provision is adequate in addressing the identified unsafe condition and ensuring the continued safety of the affected fleet. No change to this final rule is necessary in this regard.

Request To Install a Hydraulic Bypass Valve for the Landing Gear

One commenter recommends installing a hydraulic bypass valve in the landing gear hydraulic system on Model 767 series airplanes. Because of an incident that occurred in the 1980's on a Model 757 series airplane in which the flight crew was unable to extend the landing gear when a blocked system occurred while the landing gear was in the UP position, the manufacturer issued Boeing Service Bulletin 757-32-0053, which specifies installation of a hydraulic bypass valve. Such a valve bypasses the hydraulic pressure from the UP position when using the alternate gear extension system, and allows the gear to be extended with the extension system, even with the gear UP pressure still applied when the

extension system is blocked in its UP position. The hydraulic bypass valve, specified by Service Bulletin 757-32-0053 and installed in Model 757 series airplanes in accordance with that service bulletin, also is available for Model 767 series airplanes as a masterchange for retrofit, and has been installed on one operator's fleet of Model 767 series airplanes.

However, the commenter contends that accomplishment of the actions specified by Service Bulletin 767-32-0179 and those specified by the original issue and Revision 1 of Service Bulletin 767-32A0163 would only prevent an incident in which the flight crew would be unable to extend the landing gear if the cause is related to the landing gear control lever module or its adjacent wire bundles. The flight crew would still be unable to extend the landing gear when a blocked system in the UP position is caused by a different component of the landing gear extension system. That this possibility exists is indicated by the fact that this condition occurred on Model 757 series airplanes in the 1980's (as described previously).

The commenter also states that one operator of a Model 767 series airplane experienced an inflight event when the landing gear lever failed to move from the UP to the OFF position. Following this event, extensive troubleshooting revealed the anomaly of the wire bundle and the associated landing gear lever module, as described in the proposed rule. Based on those findings and the immediate action taken to prevent such an incident in the future, the commenter has investigated and reviewed the entire design of the landing gear extension system, and has concluded that a design deficiency exists in the Model 767 landing gear extension system.

The FAA acknowledges the concerns of the commenter, and may consider additional rulemaking to address that concern in the future on certain airplanes. However, while there may be merit to the commenter's suggestion regarding installation of a hydraulic bypass valve, this AD is not the appropriate context in which to evaluate that suggestion. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. In addition, at the present time, the FAA has not determined all of the failure modes of the hydraulic bypass valve and the effects of such failures on the landing gear hydraulic system for Model 767 series airplanes. Therefore, no change to the final rule is deemed necessary.

Request To Add a Phrase to the Proposed AD

One commenter states that it has reviewed the proposed NPRM and, having already commenced embodiment of Boeing Service Bulletin 767–32A0163, would like to see the words “unless previously accomplished” inserted before paragraph (a) of the proposed NPRM.

The FAA points out that operators are always given credit for work accomplished previously, and that the compliance statement of an AD includes the phrase “Required as indicated, unless accomplished previously.” Therefore, no change to the final rule is necessary.

Explanation of Changes Made to the Proposal

The FAA has clarified the inspection requirements by specifying a “detailed visual inspection” rather than an “inspection,” which was cited in the Summary of the NPRM, or a “visual inspection,” which was cited in paragraphs (a), (a)(2), and (a)(2)(ii) of the proposed AD. In addition, in the final rule Note 2 has been added to clarify the definition of a detailed visual inspection. The final rule has been changed accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 666 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 268 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. The cost of required parts are nominal. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$16,080, or \$60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–03–21 Boeing: Amendment 39–11581. Docket 98–NM–193–AD.

Applicability: Model 767 airplanes, as listed in Boeing Service Bulletin 767–32A0163, Revision 1, dated October 1, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the

owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) 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 interference between the landing gear control lever and wire bundles adjacent to the landing gear control lever module, and to prevent wire chafing and arcing between the landing gear control cable and adjacent wire bundles, which could result in the inability to extend the landing gear prior to landing, accomplish the following:

Detailed Visual Inspection

(a) Within 90 days after the effective date of this AD, perform a one-time detailed visual inspection to detect discrepancies (i.e., cut, abrasion, fraying, and arcing) of the wire expando sleeve of the wire bundles adjacent to the landing gear control lever module, in accordance with Boeing Alert Service Bulletin 767–32A0163, dated March 5, 1998, or Boeing Service Bulletin 767–32A0163, Revision 1, dated October 1, 1998.

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

Note 3: Boeing Service Bulletin 767–32A0163, Revision 1, dated October 1, 1998, specifies the preferred procedures for separating the wire bundles into two groups for wrapping, which is an easier method for accomplishing those actions.

Follow-On Actions, Repair, and Wire Wrapping

(1) If no discrepancy of the wire expando sleeve is detected, prior to further flight, wrap the wire expando sleeve in accordance with the alert service bulletin or Revision 1.

(2) If any discrepancy of the wire expando sleeve is detected, prior to further flight, perform a detailed visual inspection to detect discrepancies of the varglas layer, in accordance with the alert service bulletin or Revision 1.

(i) If no discrepancy of the varglas layer is detected, prior to further flight, repair and wrap the wire expando sleeve in accordance with the alert service bulletin or Revision 1.

(ii) If any discrepancy of the varglas layer is detected, prior to further flight, perform a detailed visual inspection to detect discrepancies of the wire bundles, in accordance with the alert service bulletin or Revision 1.

(A) If no discrepancy of the wire bundles is detected, prior to further flight, rewrap the

wires with new varglas layer, and repair and wrap the wire expando sleeve in accordance with the alert service bulletin or Revision 1.

(B) If any discrepancy of the wire bundles is detected, prior to further flight, repair the wires, rewrap the wire bundles with new varglas layer, and repair and wrap the wire expando sleeve in accordance with the alert service bulletin or Revision 1.

Alternative Methods of Compliance

(b) 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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin 767-32A0163, dated March 5, 1998, or Boeing Service Bulletin 767-32A0163, Revision 1, dated October 1, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 28, 2000.

Issued in Renton, Washington, on February 11, 2000.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-3795 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-CE-07-AD; Amendment 39-11583; AD 2000-04-01]

RIN 2120-AA64

Airworthiness Directives; Cessna Aircraft Company Models 172R, 172S, 182S, 206H, and T206H Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Cessna Aircraft Company (Cessna) Models 172R, 172S, 182S, 206H, and T206H airplanes. This AD requires that you accomplish the following:

- Inspect the oil pressure switch to determine if the oil pressure switch is part-number (P/N) 77041 or P/N 83278; and
- Replace any P/N 77041 oil pressure switch with a P/N 83278 switch.

This AD is the result of reports of failure of the oil pressure switch diaphragm. The actions specified by this AD are intended to prevent loss of engine oil through the failure of the oil pressure switch diaphragm, which could result in partial or complete loss of engine power.

DATES: Effective March 11, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of March 11, 2000.

The FAA must receive any comments on this rule on or before April 17, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-07-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517-5800; facsimile: (316) 942-9006. You may examine this information at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-07-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4143; facsimile: (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD?: We have received three reports of the diaphragm of the oil pressure switch failing on Cessna Models 172R, 182S, and 206H airplanes. The part number (P/N) of the failed oil pressure switch is 77041. The P/N 77041 oil pressure switch is utilized on the following Cessna airplanes:

Model	Serial Nos.
172R	17280001 through 17280830.
172S	172S8001 through 172S8324, 172S8326 through 172S8333, 172S8340, 172S8342, 172S8344, 172S8345, and 172S8347.
182S	18280001 through 18280660.
206H	20608001 through 20608053, 20608055 through 20608071, and 20608073 through 20608076.
T206H	T20608001 through T20608093, T20608095 through T20608103, T20608105 through T20608131, T20608133 through T20608137, T20608139, T20608141, T20608144, and T20608145.

What are the consequences if the condition is not corrected?: Failure of the engine oil pressure switch diaphragm results in loss of engine oil through the vent hole. This could lead to partial or complete loss of engine power.

Relevant Service Information

Is there service information that applies to this subject?: Yes. Cessna has issued Service Bulletin No. SB00-79-01, dated January 31, 2000.

What are the provisions of this service bulletin?: The service bulletin specifies and includes procedures for accomplishing the following:

- Inspecting the oil pressure switch to determine if the oil pressure switch is P/N 77041 or P/N 83278; and
- Replacing any P/N 77041 oil pressure switch with a P/N 83278 switch.

The FAA's Determination and an Explanation of the Provisions of the AD

What has the FAA decided?: After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, the FAA has determined that:

- An unsafe condition exists or could develop on Cessna Models 172R, 172S, 182S, 206H, and T206H airplanes;
- The actions of the above-referenced service bulletin should be accomplished on the affected airplanes; and
- AD action should be taken in order to prevent loss of engine oil through the failure of the oil pressure switch diaphragm, which could result in partial or complete loss of engine power.

What does this AD require?: This AD requires you to accomplish the following:

- Inspect the oil pressure switch to determine if the oil pressure switch is P/N 77041 or P/N 83278; and
- Replace any P/N 77041 oil pressure switch with a P/N 83278 switch.

What is the compliance time of this AD?: Within the next 25 hours time-in-service (TIS) after the effective date of this AD.

Will the public have the opportunity to comment prior to the issuance of the rule?: No. Since a situation exists that requires the immediate adoption of this regulation, the FAA finds that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, the FAA invites comments on this rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's

docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at <http://www.plainlanguage.gov>.

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000-CE-07-AD." We will date stamp and mail the postcard back to you.

Regulatory Impact

These regulations will not have a substantial direct effect 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, the FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and 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 (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000-04-01 Cessna Aircraft Company:
Amendment 39-11583; Docket No. 2000-CE-07-AD.

(a) *What airplanes are affected by this AD?:* The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
172R	17280001 through 17280830.
172S	172S8001 through 172S8324, 172S8326 through 172S8333, 172S8340, 172S8342, 172S8344, 172S8345, and 172S8347.
182S	18280001 through 18280660.
206H	20608001 through 20608053, 20608055 through 20608071, and 20608073 through 20608076.
T206H	T20608001 through T20608093, T20608095 through T20608103, T20608105 through T20608131, T20608133 through T20608137, T20608139, T20608141, T20608144, and T20608145.

(b) *Who must comply with this AD?*

Anyone who wishes to operate any of the above airplanes on the U.S. Register.

(c) *What problem does this AD address?*

The actions of this AD are intended to prevent failure of the engine oil pressure switch diaphragm, which results in loss of

engine oil through the vent hole. This could lead to partial or complete loss of engine power.

(d) *What must I do to address this problem?*: Within the next 25 hours time-in-service after the effective date of this AD, inspect the oil pressure switch to determine

if it is part-number (P/N) 77041 (or FAA-approved equivalent part number) or P/N 83278 (or FAA-approved equivalent part number). Then accomplish the following, as applicable:

If	Then
P/N 77041 (or FAA-approved equivalent part number) oil pressure switch is installed,	1. Prior to further flight after inspection, replace this switch with a P/N 83278 (or FAA-approved equivalent part number) oil pressure switch; and 2. As of the effective date of this AD, do not install a P/N 77041 (or FAA-approved equivalent part number) oil pressure switch on any affected airplane.
P/N 83278 (or FAA-approved equivalent part number) oil pressure switch is installed,	No further action is required by this AD except that, as of the effective date of this AD, do not install a P/N 77041 (or FAA-approved equivalent part number) oil pressure switch on any affected airplane.

(e) *What procedures must be used to accomplish the actions of this AD?*: You must use the procedures in Cessna Service Bulletin SB00-79-01, dated January 31, 2000, to accomplish this action.

(f) *Can I comply with this AD in any other way?*: Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(g) *Where can I get information about any already-approved alternative methods of compliance?*: Contact Paul Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4143; facsimile: (316) 946-4407.

(h) *What if I need to fly the airplane to another location to comply with this AD?*: The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(i) *Are any service bulletins incorporated into this AD by reference?*: Yes. Actions required by this AD must be done in accordance with Cessna Service Bulletin SB00-79-01, dated January 31, 2000. The

Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(j) *When does this amendment become effective?*: This amendment becomes effective on March 11, 2000.

Issued in Kansas City, Missouri, on February 11, 2000.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-3794 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NM-139-AD; Amendment 39-11585; AD 2000-04-03]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Models DC-3 and DC-4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Models DC-3 and DC-4 series airplanes that requires an inspection to determine the type of airframe pneumatic deicing boots installed. This amendment also requires revising the Airplane Flight Manual (AFM) to include requirements for activation of

the pneumatic deicing boots for those airplanes equipped with "modern" boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: Effective March 28, 2000.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT:

Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5346; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Models DC-3 and DC-4 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on November 18, 1999 (64 FR 62993). That action proposed to require

an inspection to determine the type of airframe pneumatic deicing boots installed. That action also proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the pneumatic deicing boots for those airplanes equipped with "modern" boots.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Addition of Note 2

The FAA has added a new Note 2 that provides an explanation of the term "visual inspection" as specified in paragraph (a) of the final rule.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 166 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 2 work hours per airplane to accomplish the required actions, at the average labor rate of \$60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be \$19,920, or \$120 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 the following new airworthiness directive:

2000-04-03 McDonnell Douglas:

Amendment 39-11585. Docket 99-NM-139-AD.

Applicability: Models DC-3 and DC-4 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

Note 1: For the purposes of this AD, the following definitions of "older" and "modern" apply:

"Modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

(a) Within 10 days after the effective date of this AD: Perform a visual inspection to determine if the type of pneumatic deicing boots installed is either "older" or "modern" boots.

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

(1) For those airplanes equipped with "older" pneumatic deicing boots, no further action is required by this AD.

(2) For those airplanes equipped with "modern" pneumatic deicing boots, within 10 days after the inspection required by paragraph (a) of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice."

Alternative Methods of Compliance

(b) 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, Los Angeles Aircraft Certification Office, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

(d) This amendment becomes effective on March 28, 2000.

Issued in Renton, Washington, on February 14, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-3885 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-CE-08-AD; Amendment 39-11594; AD 2000-04-12]

RIN 2120-AA64

Airworthiness Directives; Cameron Balloons Ltd. (Thunder & Colt) Titanium Propane Cylinders, Part Number (P/N) CB2380 and P/N CB2383

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all aircraft (specifically balloons) that incorporate certain Cameron Balloons Ltd. (Thunder and Colt) titanium propane cylinders, part number (P/N) CB2380 and P/N CB2383. This AD requires that you remove from service any of the affected titanium propane cylinders and replace each affected cylinder with an FAA-approved airworthy propane cylinder. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent titanium propane cylinders from cracking and releasing propane gas vapor while the balloon is in service. This could result in a propane explosion and fire.

DATES: Effective March 13, 2000.

The FAA must receive any comments on this rule on or before April 17, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-08-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Cameron Balloons Ltd./Thunder and Colt, St. Johns Street, Bedminster, Bristol; BS3 4NH; telephone: +44 (0)117 9637216; facsimile: +44 (0)177 966168; or

Cameron Balloons, P.O. Box 3672, Ann Arbor, Michigan 46106; telephone: (734) 426-5525; facsimile: (734) 426-5026. You may examine this information at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-08-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Roger Chudy, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4140; facsimile: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD?: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on aircraft (specifically balloons) that incorporate certain Cameron Balloons Ltd. (Thunder and Colt) titanium propane cylinders, part number (P/N) CB2380 and P/N CB2383.

The CAA advises that fatigue may cause the longitudinal weld on these titanium propane cylinders to crack. This would cause the propane fuel to leak from these cylinders.

What are the consequences if the condition is not corrected?: This condition, if not corrected, could lead to a propane explosion and fire.

Relevant Service Information

Is there service information that applies to this subject?: Yes. The following service bulletins address this issue:

—Cameron Balloons Ltd. and Thunder & Colt has issued Alert Service Bulletin SB8, dated January 28, 2000; and

—Cameron Balloons Alert Service Bulletin 5, dated February 2, 2000.

What are the provisions of these service bulletins?: The applicability and provisions of these service bulletins are as follows:

Cameron Balloons Ltd. and Thunder & Colt Alert Service Bulletin SB8: This service information applies to any aircraft (specifically balloons) that incorporate one of the affected titanium propane cylinders, and specifies the following:

- Cylinders must not be refilled.
- Cylinders must be emptied of all fuel and depressurized within 7 days.
- Cylinders must be returned to Cameron Balloons factory after emptying.

Cameron Balloons Alert Service Bulletin 5: This service information applies to any aircraft (specifically balloons) that incorporate one of the affected titanium propane cylinders, and specifies the following:

- Tanks must not be refilled after February 29, 2000.
- Tanks must be emptied of all fuel and depressurized by February 29, 2000.
- Tanks must be returned, empty and depressurized, to the Cameron Balloons U.S. factory no later than February 29, 2000.

The Foreign Airworthiness Authority's Action

What action did the CAA take?: The CAA did the following in order to assure the continued airworthiness of aircraft (specifically balloons) that incorporate these titanium propane cylinders in the United Kingdom:

- Classified the actions specified in Cameron Balloons Ltd. and Thunder & Colt Alert Service Bulletin SB8, dated January 28, 2000, as mandatory; and
- Issued United Kingdom AD 001-01-2000, dated January 31, 2000.

Was this in accordance with the bilateral airworthiness agreement?: Yes. Pursuant to the applicable bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the AD

What has the FAA decided?: After examining the circumstances and reviewing all available information related to the incidents described above including that received from the CAA, the FAA has determined that:

- An unsafe condition exists or could develop on aircraft (specifically balloons) that incorporate certain Cameron Balloons Ltd. (Thunder and Colt) titanium propane cylinders, P/N CB2380 and P/N CB2383;
- The affected titanium propane cylinders should be removed from service; and
- AD action should be taken to prevent titanium propane cylinders from cracking and releasing propane gas vapor while the balloon is in service. This could result in a propane explosion and fire.

What does this AD require?: This AD requires that you remove from service any of the affected titanium propane cylinders and replace each affected cylinder with an FAA-approved airworthy propane cylinder.

Compliance Time of This AD

What is the compliance time of this AD? Within 14 calendar days after the effective date of this AD.

Why is the compliance time in calendar time instead of hours time-in-service? The FAA has determined that a calendar time for compliance is necessary because the unsafe condition described by this AD is not directly related to titanium propane cylinder use. The chance of this situation occurring is the same for aircraft with 10 hours time-in-service (TIS) that incorporate a titanium propane cylinder as it is for aircraft with 500 hours TIS that incorporate a titanium propane cylinder.

For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed in a reasonable time period on aircraft that incorporate at least one of the affected titanium propane cylinders.

Will the public have the opportunity to comment prior to the issuance of the rule? No. Since a situation exists that requires the immediate adoption of this regulation, the FAA finds that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, the FAA invites comments on this rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption "ADDRESSES." The FAA will consider all comments received on or before the closing date. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to

improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at <http://www.plainlanguage.gov>.

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000-CE-08-AD." We will date stamp and mail the postcard back to you.

Regulatory Impact

These regulations will not have a substantial direct effect 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, the FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. We determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If the FAA determines that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, we will prepare a final regulatory evaluation and place it in the Rules Docket (otherwise, an evaluation is not required). You may obtain a copy of this evaluation, if filed, from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000-04-12 Cameron Balloons LTD/Thunder and Colt: Amendment 39-11594; Docket No. 2000-CE-08-AD.

(a) *What aircraft are affected by this AD?* Any aircraft (specifically balloons), certificated in any category, that incorporate at least one of the following titanium propane cylinders:

Part No.	Serial No.
CB2380	All serial numbers up to and including BT0143
CB2383	All serial numbers up to and including BT0076

(b) *Who must comply with this AD?* Anyone who wishes to operate an aircraft (specifically balloons) that:

(1) Is certificated in any category and listed on the U.S. Register; and

(2) Incorporates at least one of the above-referenced titanium propane cylinders.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent titanium propane cylinders from cracking and releasing propane gas vapor while the balloon is in service. This could result in a propane explosion and fire.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

(1) Within the next 14 calendar days after the effective date of this AD, you must remove from service any of the titanium propane cylinders listed in paragraph (a) of this AD and replace each affected cylinder with an FAA-approved airworthy propane cylinder that is not listed in paragraph (a) of this AD; and

(2) As of the effective date of this AD, you must not incorporate, on any aircraft (specifically balloons), any titanium propane cylinder listed in paragraph (a) of this AD.

(e) *What specific procedures must I use to accomplish the action?* No procedures are necessary to remove the titanium propane cylinders from operation. However, the following contains information you should use when handling these titanium propane cylinders:

(1) Instructions for handling and exchanging the affected titanium propane cylinders are included in Cameron Balloons Ltd. and Thunder & Colt Alert Service Bulletin SB8, dated January 28, 2000.

(2) The current applicable Department of Transportation (DOT) regulations (49 CFR part 171, et. seq.) shall be utilized when handling or shipping hazardous materials associated with titanium propane cylinders.

(f) *Can I comply with this AD in any other way?* Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

(2) This AD applies to any titanium propane cylinder referenced in the Applicability section of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For those titanium propane cylinders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(g) *Where can I get information about any already-approved alternative methods of compliance?*: Contact the Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4140; facsimile: (816) 329-4090.

(h) *Who should I contact if I have questions regarding the service information?*: Direct all questions or technical information related to Cameron Balloons Ltd and Thunder & Colt Alert Service Bulletin SB8, dated January 28, 2000, to Cameron Balloons Ltd/Thunder and Colt, St. Johns Street, Bedminster, Bristol; BS3 4NH; telephone: +44 (0)117 9637216; facsimile: +44 (0)177 966168; or Cameron Balloons U.S., Ann Arbor, Michigan 46106; telephone: (734) 426-5525; facsimile: (734) 426-5026. You may examine this service information at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Has another airworthiness authority addressed this action?*: Yes. The subject of this AD is addressed in United Kingdom AD 001-01-2000, dated January 31, 2000.

(j) *When does this amendment become effective?*: This amendment becomes effective on March 13, 2000.

Issued in Kansas City, Missouri, on February 15, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-4070 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ASO-28]

Establishment of Class D Airspace, Amendment of Class D Airspace; Key West, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace at Key West International Airport, FL, and establishes Class D airspace at Key West NAS. As a result of this action, the Key West International Airport Class D airspace area will be reduced concurrent with the establishment of the Class D airspace at Key West NAS.

EFFECTIVE DATE: 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT:

Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

History

On January 5, 2000, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class D airspace at Key West International Airport, FL, and establishing Class D airspace at Key West NAS, (65 FR 402). This action reduces the size of the Key West International Airport Class D airspace area concurrent with the establishment of the Key West NAS Class D airspace area. Designations for Class D airspace extending upward from the surface of the earth are published in FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR part 71.1. The Class D designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Key West International Airport, FL, and establishes airspace at Key West NAS.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 5000 Class D Airspace.

* * * * *

ASO FL D Key West NAS, FL [New]

Key West NAS, FL

(Lat. 24°34'33"N, long. 81°41'20"W)

Key West International Airport

(Lat 24°33'23"N, long. 81°45'34"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.3-mile radius of Key West NAS, excluding that airspace within the Key West International Airport Class D airspace area. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter by

continuously published in the Airport/
Facility Directory.

* * * * *

ASO FL D Key West, FL [Revised]

Key West International Airport, FL
(Lat. 24°33'23"N, long. 81°45'34"W)
Key West NAS

(Lat. 24°34'33"N, long. 81°41'20"W)

That airspace extending upward from the surface to and including 2,500 feet MSL beginning at lat. 24°37'12"N, long. 81°44'41"W; to lat. 24°33'04"N, long. 81°43'48"W; to lat. 24°31'15"N, long. 81°45'22"W; to lat. 24°30'35"N, long. 81°45'14"W; thence counterclockwise via the 5.3-mile radius of Key West NAS to the intersection of the 3.9-mile radius of the Key West International Airport, thence clockwise via the 3.9-mile radius of the Key West International Airport to the point of beginning. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on
February 9, 2000.

Nancy B. Shelton,

*Acting Manager, Air Traffic Division Southern
Region.*

[FR Doc. 00-4107 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ACE-48]

Amendment to Class E Airspace; Hutchinson, KS

AGENCY: Federal Aviation
Administration, DOT.

ACTION: Direct final rule; confirmation of
effective date.

SUMMARY: This document confirms the
effective date of a direct final rule which
revises Class E airspace at Hutchinson,
KS.

DATE: The direct final rule published at
64 FR 68009 is effective on 0901 UTC,
April 20, 2000.

FOR FURTHER INFORMATION CONTACT:

Kathy Randolph, Air Traffic Division,
Airspace Branch, ACE-520C, DOT
Regional Headquarters Building, Federal
Aviation Administration, 901 Locust,
Kansas City, MO 64106; telephone:
(816) 329-2525.

SUPPLEMENTARY INFORMATION: The FAA
published this direct final rule with a
request for comments in the **Federal
Register** on December 6, 1999 (64 FR

68009). The FAA uses the direct final
rulemaking procedure for a non-
controversial rule where the FAA
believes that there will be no adverse
public comment. This direct final rule
advised the public that no adverse
comments were anticipated, and that
unless a written adverse comment, or a
written notice of intent to submit such
an adverse comment, were received
within the comment period, the
regulation would become effective on
April 20, 2000. No adverse comments
were received, and thus this notice
confirms that this direct final rule will
become effective on that date.

Issued in Kansas City, MO on February 7,
2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00-3982 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AH-FRL-6540-1]

Technical Amendment: Requirements for Preparation, Adoption, and Submittal of State Implementation Plans

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Technical amendment.

SUMMARY: In today's action we correct a
text error in the regulations on
Requirements for Preparation,
Adoption, and Submittal of State
Implementation Plans. This error results
from an omission in making conforming
amendments when subpart D was
removed in 1995.

DATES: This technical amendment is
effective on February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Tom
Coulter, Air Quality Modeling Group
(MD-14), Office of Air Quality Planning
and Standards, U.S. Environmental
Protection Agency, Research Triangle
Park, NC 27711; telephone (919) 541-
0832.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 1995 the President
directed all Federal agencies and
departments to conduct a
comprehensive review of the regulations
they administer and, by June 1, 1995, to
identify those rules that are obsolete or
unduly burdensome. EPA conducted a
review of all of its rules, including rules

issued under the Clean Air Act (CAA),
as amended (42 U.S.C. 7401 *et seq.*).
Based on this review, we issued on June
29, 1995 a final rule that eliminated a
number of obsolete CAA rules from the
CFR. These rules were no longer legally
in effect because (1) they implemented
statutory provisions which have been
repealed, (2) they expired by their own
terms or by the terms of the statute, or
(3) they were vacated (i.e., declared void
and of no effect) by a court.

Because it was superseded by section
175A of the 1991 CAA, which provides
the requirements for maintenance plans,
we decided to include subpart D of 40
CFR Part 51, Maintenance of National
Standards, in these removals (60 FR
33915). This subpart covered a
discussion of Air Quality Maintenance
Areas (AQMA) and included §§ 40-63.
This removal was reflected in the July
1995 issue of the Code of Federal
Regulations. Paragraph (d)(6) of § 51.102
refers to materials that were removed
with the subpart D deletion,
specifically, AQMA (paragraph
(d)(6)(ii)) and § 51.63 itself. We failed to
include this paragraph along with the
removal of subpart D.

Final Action

To correct this error, we are removing
paragraph (d)(6) from § 51.102 which
relates to the case of hearings on AQMA
plans. The action merely makes a
conforming correction to eliminate CFR
references to provisions that no longer
exist. Because this action is a technical,
non-substantive correction, we have
made a "good cause" finding under
section 553(b)(B) of the Administrative
Procedures Act that notice and public
procedure are unnecessary. We are thus
issuing this correction notice without
prior proposal because the Agency
views it as non-controversial and
anticipates no adverse comments.

Administrative Requirements

Under Executive Order 12866 (58 FR
51735, October 4, 1993), this action is
not a "significant regulatory action" and
is therefore not subject to review by the
Office of Management and Budget.
Because the agency has made a "good
cause" finding that this action is not
subject to notice-and-comment
requirements under the Administrative
Procedure Act or any other statute (see
Final Action), it is not subject to the
regulatory flexibility provisions of the
Regulatory Flexibility Act (5 U.S.C. 601
et seq.), or to sections 202 and 205 of the
Unfunded Mandates Reform Act of 1995
(UMRA) (Public Law 104-4). In
addition, this action does not
significantly or uniquely affect small
governments or impose a significant

intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (CRA; 5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and

established an effective date of February 22, 2000.

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

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 10, 2000.

Robert A. Perciasepe,

Assistant Administrator, Office of Air and Radiation.

Part 51, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. Section 51.102 is amended by removing paragraph (d)(6).

[FR Doc. 00-4047 Filed 2-18-00; 8:45 am]

BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302-11

[FTR Amendment 91]

RIN 3090-AH14

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for calculating the 2000 RIT allowance to be paid to relocating Federal employees.

DATES: This final rule is effective January 1, 2000, and applies for RIT

allowance payments made on or after January 1, 2000.

FOR FURTHER INFORMATION CONTACT:

Calvin L. Pittman, Office of Governmentwide Policy (MTT), Washington, DC 20405, telephone (202) 501-1538.

SUPPLEMENTARY INFORMATION: This amendment provides the tax tables necessary to compute the relocation income tax (RIT) allowance for employees who are taxed in 2000 on moving expense reimbursements.

A. Background

Section 5724b of Title 5, United States Code, provides for reimbursement of substantially all Federal, State, and local income taxes incurred by a transferred Federal employee on taxable moving expense reimbursements. Policies and procedures for the calculation and payment of a RIT allowance are contained in the Federal Travel Regulation (41 CFR 302-11). The Federal, State, and Puerto Rico tax tables for calculating RIT allowance payments are updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates.

B. Executive Order 12866

The General Services Administration (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 this final rule does 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. 3501 *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 in 41 CFR Part 302-11

Government employees, Income taxes, Relocation allowances and entitlements, Transfers, Travel and transportation expenses.

For the reasons set forth in the preamble, 41 CFR part 302-11 is amended as follows:

PART 302-11—RELOCATION INCOME TAX (RIT) ALLOWANCE

1. The authority citation for 41 CFR part 302-11 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

2. Appendixes A, B, C, and D to part 302-11 are amended by adding a new table at the end of each appendix, respectively, to read as follows:

Appendix A to Part 302-11—Federal Tax Tables For RIT Allowance

* * * * *

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1999

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1999.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	\$7,288	\$33,937	\$13,132	\$48,851	\$17,078	\$62,143	\$8,480	\$30,536
28	33,937	73,812	48,851	109,613	62,143	128,360	30,536	61,844
31	73,812	145,735	109,613	177,494	128,360	185,189	61,844	95,644
36	145,735	300,782	177,494	324,383	185,189	309,316	95,644	164,417
39.6	300,782	.....	324,383	.....	309,316	.....	164,417	.....

Appendix B to Part 302-11—State Tax Tables For RIT Allowance

* * * * *

State Marginal Tax Rates by Earned Income Level—Tax Year 1999

The following table is to be used to determine the State marginal tax rates for

calculation of the RIT allowance as prescribed in § 302-11.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 1999.

Marginal tax rates (stated in percents) for the earned income amounts specified in each column^{1,2}

State (or district)	\$20,000— \$24,999	\$25,000— \$49,999	\$50,000— \$74,999	\$75,000 and over
Alabama	5	5	5	5
Alaska	0	0	0	0
Arizona	2.87	3.2	3.74	5.04
Arkansas	4.5	7	7	7
If single status ³	6	7	7	7
California	2	4	8	9.3
If single status ³	4	8	8	9.3
Colorado	4.75	4.75	4.75	4.75
Connecticut	4.5	4.5	4.5	4.5
Delaware	5.2	5.95	6.4	6.4
District of Columbia	8	9.5	9.5	9.5
Florida	0	0	0	0
Georgia	6	6	6	6
Hawaii	7.2	8.2	8.75	8.75
If single status ³	8.2	8.75	8.75	8.75
Idaho	7.8	8.2	8.2	8.2
Illinois	3	3	3	3
Indiana	3.4	3.4	3.4	3.4
Iowa	6.48	7.92	8.98	8.98
If single status ³	6.8	7.92	8.98	8.98
Kansas	3.5	6.25	6.25	6.45
If single status ³	4.1	7.75	7.75	7.75
Kentucky	6	6	6	6
Louisiana	2	4	4	6
If single status ³	4	4	6	6
Maine	4.5	7	8.5	8.5
If single status ³	8.5	8.5	8.5	8.5
Maryland	4.8	4.8	4.8	4.8
Massachusetts	5.95	5.95	5.95	5.95
Michigan	4.3	4.3	4.3	4.3
Minnesota	5.5	7.25	7.25	8
If single status ³	7.25	7.25	8	8
Mississippi	5	5	5	5
Missouri	6	6	6	6
Montana	6	9	10	11
Nebraska	3.65	5.24	6.99	6.99
If single status ³	5.24	6.99	6.99	6.99
Nevada	0	0	0	0

Marginal tax rates (stated in percents) for the earned income amounts specified in each column^{1,2}

State (or district)	\$20,000– \$24,999	\$25,000– \$49,999	\$50,000– \$74,999	\$75,000 and over
New Hampshire	0	0	0	0
New Jersey	1.4	1.75	2.45	6.37
If single status ³	1.4	3.5	5.525	6.37
New Mexico	3.2	6	7.1	8.2
If single status ³	6	7.1	7.9	8.2
New York	4	5.25	6.85	6.85
If single status ³	5.25	6.85	6.85	6.85
North Carolina	6	7	7	7.75
North Dakota	6.67	9.33	12	12
If single status ³	8	10.67	12	12
Ohio	2.694	4.040	4.715	6.799
Oklahoma	5	6.75	6.75	6.75
If single status ³	6.75	6.75	6.75	6.75
Oregon	9	9	9	9
Pennsylvania	2.8	2.8	2.8	2.8
Rhode Island ⁴	26	26	26	26
South Carolina	7	7	7	7
South Dakota	0	0	0	0
Tennessee	0	0	0	0
Texas	0	0	0	0
Utah	7	7	7	7
Vermont ⁵	24	24	24	24
Virginia	5	5.75	5.75	5.75
Washington	0	0	0	0
West Virginia	4	4.5	6	6.5
Wisconsin	6.37	6.77	6.77	6.77
Wyoming	0	0	0	0

¹ Earned income amounts that fall between the income brackets shown in this table (e.g., \$24,999.45, \$49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

² If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(ii).

³ This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

⁴ The income tax rate for Rhode Island is 26 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2)(iii).

⁵ The income tax rate for Vermont is 24 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2)(iii).

Appendix C to Part 302–11—Tax Tables For RIT Allowance—Year 2

* * * * *

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 2000

The following table is to be used to
determine the Federal marginal tax rate for

Year 2 for computation of the RIT allowance
as prescribed in § 302–11.8(e)(1). This table
is to be used for employees whose Year 1
occurred during calendar years 1990, 1991,
1992, 1993, 1994, 1995, 1996, 1997, 1998, or
1999.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	\$7,417	\$34,638	\$13,375	\$49,734	\$17,421	\$63,297	\$8,603	\$31,342
28	34,638	75,764	49,734	113,413	63,297	131,334	31,342	63,448
31	75,764	148,990	113,413	180,742	131,334	189,826	63,448	99,219
36	148,990	306,111	180,742	326,450	189,826	315,957	99,219	170,524
39.6	306,111	.....	326,450	.....	315,957	.....	170,524	.....

Appendix D to Part 302–11—Puerto Rico Tax Tables for RIT Allowance

* * * * *

Puerto Rico Marginal Tax Rates by Earned Income Level—Tax Year 1999

The following table is to be used to
determine the Puerto Rico marginal tax rate

for computation of the RIT allowance as
prescribed in § 302–11.8(e)(4)(i).

Marginal tax rate (percent)	Single filing status		Any other filing status	
	Over	But not over	Over	But not over
12				\$25,000
18		\$25,000	.....	.....

Marginal tax rate (percent)	Single filing status		Any other filing status	
	Over	But not over	Over	But not over
31	\$25,000	50,000	\$25,000	50,000
33	50,000	.....	50,000	.....

Dated: February 14, 2000.

David J. Barram,

Administrator of General Services.

[FR Doc. 00-4059 Filed 2-18-00; 8:45 am]

BILLING CODE 6820-24-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[HCFA-1860-FC]

Medicare Program; Payment Amount if Customary Charges are Less Than Reasonable Costs: Technical Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: In accordance with HCFA's regulatory burden reduction program, this technical regulation modifies or removes from regulations language that references the following aspects of the Medicare program:

The Lower of Cost or Charges (LCC) carryover provision; this provision was removed from HCFA regulations several years ago.

The application of the LCC principle to durable medical equipment (DME) furnished by home health agencies (HHAs); these items are now paid in accordance with a fee schedule.

DATES: *Effective Date:* These regulations are effective on March 23, 2000.

Comments must be submitted on or before March 23, 2000.

ADDRESSES: Mail written comments (one original and three copies) to the Following address ONLY: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-1860-FC, PO Box 8013, Baltimore, MD 21244-1850.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC, or C5-14-03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244-1850. Comments mailed to those addresses may be delayed and could be considered late.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-1860-FC.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443-G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (Phone (202) 690-7890).

FOR FURTHER INFORMATION CONTACT:

Ward Pleines, (410) 786-4528.

SUPPLEMENTARY INFORMATION:

I. Background

While the Medicare program's Lower of Cost or Charges (LCC) principle is mandated by sections 1814(b) and 1833(a)(2) of the Social Security Act (the Act), the inclusion of the carryover provision in the regulations at 42 CFR 413.13(h) was not required by the law. When we believed that the provider community had sufficient experience with the LCC principle to warrant the elimination of the carryover provision, we amended the regulations to permit the carryover of unreimbursed costs only for cost reporting periods starting on or after January 1, 1974 (the start of the LCC principle) but before April 28, 1988 (the elimination of the carryover provision). This change was accomplished through the publication of a final regulation in the **Federal Register** at 53 FR 10077, published March 29, 1988. We now believe that sufficient time has passed since the publication of the revision eliminating the carryover provision so that it is no longer necessary to maintain any reference to the carryover provision in the regulations. Accordingly, we have deleted sections referring to the LCC carryover provision from the regulations.

Section 4062(b) of the Omnibus Reconciliation Act of 1987 (Public Law 100-203) added section 1834 to the Act. Section 1834(a) provides for payment for durable medical equipment (DME) at 80 percent of the lesser of the actual charge for the item or the payment amount recognized under the DME fee schedule. For nominal charge Home Health Agencies (HHAs), payment is

made based on 80 percent of the DME fee schedule amount. Since payment for DME provided by HHAs is no longer based on the lesser of reasonable cost or reasonable charges, the LCC principle is no longer applicable to DME provided by HHAs. Therefore, all regulation sections referring to the application of the LCC principle to DME provided by HHAs are being deleted.

II. Provisions of the Final Regulations

In § 413.13 we clarified the language, making the following changes:

In paragraph (a), we removed the definition of "provider with a significant portion of low-income patients" (the term is explained in the one place it is used), simplified the definitions of "fair compensation", and added definitions of "customary charges", "nominal charge", and "reasonable cost".

In paragraph (b)(1), we removed the last sentence and, (as throughout the section), any provisions that expired 10 or more years ago and all beginning dates earlier than 1989.

In paragraph (c), we removed paragraph (c)(2)(iii).

Wherever appropriate, we added descriptive headings to paragraph subdivisions.

We removed paragraphs (g) and (h). The paragraph (g)(2) rule (separate consideration of Part A and Part B services) which is the only part of paragraph (g) which is not obsolete now appears in paragraph (b)(1) of the section.

In § 413.134, we have removed paragraph (k) because it is no longer applicable. We have also redesignated paragraph (l) as paragraph (k).

In § 413.153, we have removed paragraph (e) because it is no longer applicable. We have also redesignated paragraph (f) as paragraph (e).

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

IV. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order

(E.O.) 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity.

The RFA (5 U.S.C. 601 through 612) requires agencies to analyze options for regulatory relief for small entities. Consistent with the RFA, we prepare a regulatory flexibility analysis unless we certify that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat most hospitals and most other providers, physicians, health care suppliers, carriers, and intermediaries as small entities, either by nonprofit status or by having revenues of \$5 million or less annually. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. That analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

The Unfunded Mandates Reform Act of 1995 requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in a mandated expenditure in any one year by State, local, and tribal governments, in the aggregate or by both the private sector, of \$100 million. This rule has no mandated consequential effect on State, local, or tribal governments, or the private sector and will not create an unfunded mandate.

We have not prepared a regulatory flexibility analysis because we have determined and we certify that these rules will not have a significant economic impact on a substantial number of small entities or a significant impact on the operation of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this rule was not reviewed by the Office of Management and Budget.

We have reviewed this final rule under the threshold criteria of Executive Order 13132, Federalism. We have determined that it does not significantly

affect the rights, roles, and responsibilities of States.

V. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on a proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, the terms and substance of the proposed rule and a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

The changes made by this rule are technical and editorial in nature and do not alter the substance of the regulation. It clarifies several portions of § 413.13 and removes provisions that have not been in effect for several years.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. For the same reason, we believe that we have good cause to dispense with the usual 30-day delay in the effective date of a rule, and believe that this rule should become effective immediately upon publication. We are providing a 60-day comment period for public comment.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR part 413 is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. Section 413.13 is revised to read as follows:

§ 413.13 Amount of payment if customary charges for services furnished are less than reasonable costs.

(a) *Definitions.* As used in this section—

Customary charges means the regular rates that providers charge both

beneficiaries and other paying patients for the services furnished to them.

Fair compensation means the reasonable cost of covered services.

Nominal charge means a charge equal to 60 percent or less of the reasonable cost of a service.

Public provider means a provider operated by a Federal, State, county, city, or other local government agency or instrumentality.

Reasonable cost means cost actually incurred, to the extent that cost is necessary for the efficient delivery of the service, and subject to the exclusions specified in paragraph (d) of this section.

(b) *Application of the lesser of costs or charges (LCC) principle.*—(1) *General rule.* Except as provided in paragraph (c) of this section, HCFA pays providers the lesser of the reasonable cost or the customary charges for services furnished to Medicare beneficiaries. Reasonable cost and customary charges are compared separately for Part A services and Part B services.

(2) *Example.* (i) A provider's reasonable cost for covered services furnished to Medicare beneficiaries during a cost reporting period is \$125,000.

(ii) The provider's customary charges for those services is \$110,000.

(iii) HCFA pays the provider \$110,000 less the deductible and coinsurance amounts for which the beneficiaries are responsible.

(c) *Exceptions to the LCC principle.* (1) *Providers not subject to the LCC principle.*

HCFA pays the following providers the fair compensation for the services they furnish:

(i) CORFs.

(ii) Public providers that furnish services free of charge or at a nominal charge.

(iii) Any provider that requests payment of fair compensation and can demonstrate to its intermediary that a significant portion of its patients are low income and that its charges are less than costs because its customary practice is to charge patients on the basis of their ability to pay.

(2) *Services not subject to the LCC principle.* The following services are not subject to the LCC principle:

(i) *Part A inpatient hospital services.*

Inpatient hospital services are not subject to the LCC principle if they are subject to either of the following:

(A) The prospective payment system under part 412 of this chapter.

(B) The rate of increase limits set forth in § 413.40.

(ii) *Facility services related to ambulatory surgical procedures*

performed in outpatient hospital departments. Facility services related to ambulatory surgical procedures performed in hospital outpatient departments are subject to the payment methodology set forth in § 413.118.

(iii) *Services furnished by a critical access hospital (CAH).* Inpatient and outpatient services furnished by a CAH are subject to the payment methodology set forth in § 413.70.

(iv) *Hospital outpatient radiology services.* Hospital outpatient radiology services are subject to the payment methodology set forth in § 413.122.

(v) *Other diagnostic procedures performed by a hospital on an outpatient basis.* Other outpatient diagnostic procedures are subject to the payment methodology set forth in § 413.122.

(vi) *Skilled nursing facility services.* Skilled nursing facility services subject to the payment methodology set forth in §§ 413.330 *et seq.*

(d) *Exclusions from reasonable cost.* For purposes of comparison with customary charges under this section, reasonable cost does not include the following:

(1) Payments made to a provider as reimbursement for bad debts arising from noncollection of Medicare deductible and coinsurance amounts, as provided in § 413.80.

(2) Amounts that represent the recovery of excess depreciation resulting from termination from the Medicare program or a decrease in Medicare utilization applicable to prior cost reporting periods, as provided in § 413.134.

(3) Amounts that result from disposition of depreciable assets, applicable to prior cost reporting periods, as provided in § 413.134.

(4) Payments to funds for the donated services of teaching physicians, as provided in § 413.85.

(5) Except as provided in paragraph (f)(2)(iii) of this section for making nominal charge determinations in special situations, graduate medical education costs.

(e) *Reductions in customary charges.* Customary charges are reduced in proportion to the ratio of the aggregate amount actually collected from charge-paying non-Medicare patients to the amount that would have been realized had customary charges been paid, if the provider—

(1) Did not actually impose charges on most of the patients liable for payment for its services on a charge basis; or

(2) Failed to make a reasonable effort to collect those charges.

(f) *Nominal charge determinations.* In determining whether a provider's

customary charges equal 60 percent or less of its reasonable costs, the following rules apply:

(1) *General rule.* The determination is based on charges actually billed to charge-paying, non-Medicare patients, and (except for clinical diagnostic laboratory tests that are paid under section 1833(h) of the Act) is made separately for Part A services and Part B services.

(2) *Determination in special situations.* (i) *Charges based on ability to pay.* For providers that have a sliding scale or discounted charges based on patients' ability to pay, the determination—

(A) Is based on charges billed to all charge-paying patients;

(B) Uses the ratio of the sliding scale charges to the provider's full customary charges; and

(C) Applies the ratio to the discounted charges to equate those charges to customary charges.

(ii) *HHA services.* In determining nominal charges for HHAs, all Part A and Part B services, with the exception of DME, are considered together.

(iii) *Graduate medical education.* When making the nominal charge determination, graduate medical education payments (or the provider's reasonable costs for that education, if supported by appropriate data) are included in reasonable costs.

§ 413.134 [Amended]

3. Section 413.134 is amended by removing paragraph (k) and redesignating paragraph (l) as paragraph (k).

§ 413.153 [Amended]

4. Section 413.153 is amended by removing paragraph (e) and redesignating paragraph (f) as paragraph (e).

(Catalog of Federal Domestic Assistance; Program No. 93.773, Medicare Hospital Insurance; Program No. 93.774, Medicare Supplementary Medical Insurance)

Dated: November 2, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

[FR Doc. 00-3580 Filed 2-18-00; 8:45 am]

BILLING CODE 4120-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7728]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Support Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or

construction of buildings in the special flood hazard areas shown on the map.

The Associate Director finds that the delayed effective dates would be contrary to the public interest. The Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists

those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Washington: Garfield, county of, unincorporated areas	530047	Dec. 1, 1999	Nov. 15, 1977.
Utah: Monticello, city of, San Juan County	490212	Dec. 6, 1999	Dec. 24, 1976.
Tennessee: Overton, county of, unincorporated areas	470362	Dec. 9, 1999	Jan. 13, 1978.
Michigan:			
Brandon, township of, Oakland County	261031	Dec. 17, 1999	
Ensley, township of, Newaygo County	261042	do	
Iowa:			
Delhi, city of, Delaware County	190566	do	Mar. 19, 1976.
Cerro Gordo, county of, unincorporated areas	190853	Dec. 29, 1999	June 7, 1977.
Texas: Schulenburg, city of, Fayette County	481134	Jan. 5, 2000	June 25, 1976.
New Eligibles—Regular Program			
Tennessee: Plainview, city of, Union County	470417	Dec. 9, 1999	July 16, 1990.
Reinstatement			
Indiana: New Castle, city of, Henry County	180092	Sept. 4, 1987, Reg.; Sept. 4, 1987, Susp.; Dec. 17, 1999, Reg.; Dec. 17, 1999, Rein.	Sept. 4, 1987.
Regular Program Conversions			
Region II			
New York: Sloatsburg, village of, Rockland County	360690	Dec. 1, 1999, Suspension Withdrawn	Dec. 1, 1999.
Region I			
Rhode Island: North Providence, town of, Providence County.	440020	Dec. 6, 1999, Suspension Withdrawn	Dec. 6, 1999.
Region III			
Philadelphia: Smithfield, township of, Monroe County ..	421896	do	Do.
Region V			
Michigan:			
Nashville, village of, Barry County	260902	do	Do.
Northville, city of, Wayne & Oakland Counties	260235	do	Do.
Ohio: Bay Village, city of, Cuyahoga County	390093	do	Do.
Wisconsin:			
Ozaukee County, unincorporated areas	550310	do	Do.
Saukville, village of, Ozaukee County	550317	do	Do.
Region VI			
Oklahoma: Lincoln County, unincorporated areas	400457	do	Do.
Texas:			
Midland, city of, Midland County	480477	do	Do.
Midland County, unincorporated areas	481239	do	Do.
Odessa, city of, Midland County	480206	do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Region VII			
Iowa: Ankeny, city of, Polk County	190226	do	Do.
Missouri:			
Foristell, city of, St. Charles County	290902	do	Do.
Lee's Summit, city of, Jackson & Cass Counties ..	290174	do	Do.
Nebraska:			
Albion, city of, Boone County	310009	do	Do.
Boone County, unincorporated areas	310008	do	Do.
Petersburg, village of, Boone County	310308	do	Do.
St. Edward, village of, Boone County	310010	do	Do.
Region VIII			
Utah: Santa Clara, town of, Washington County	490178	do	Do.
Region X			
Alaska: Kenai Peninsula, borough of	020012	do	Do.
Washington: Kittitas County, unincorporated areas	530095	do	Do.
Region I			
Vermont:			
Bellows Falls, village of, Windham County	500125	Dec. 20, 1999 Suspension Withdrawn	Dec. 20, 1999.
Rockingham, town of, Windham County	500135	do	Do.
Springfield, town of, Windsor County	500154	do	Do.
Thetford, town of, Orange County	500075	do	Do.
Region IV			
South Carolina:			
Hollywood, town of, Charleston County	450037	do	Do.
Ravenel, town of, Charleston County	450043	do	Do.
Tennessee:			
Lincoln County, unincorporated areas	470104	do	Do.
Petersburg, town of, Lincoln County	470106	do	Do.
Region V			
Minnesota: Sauk Rapids, city of Benton County	270023	do	Do.
Wisconsin: Grant County, unincorporated areas	555557	do	Do.

¹ The City of Plainview adopted the Union County Flood Insurance Rate Map (CID #470194) dated 07/16/90, panel 0100B.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; NSFHA—Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: February 8, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00-4074 Filed 2-18-00; 8:45 am]

BILLING CODE 6718-05-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7729]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of

the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Support Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and

administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance.

A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended

unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region VI				
New Mexico: Bosque Farms, village of, Valencia County.	350142	Nov. 29, 1983, Emerg.; Feb. 15, 1985, Reg.; Feb. 9, 2000, Susp.	Feb. 9, 2000	Feb. 9, 2000.
Valencia County, unincorporated areas.	350086	Apr. 13, 1979, Emerg.; July 2, 1991, Reg.; Feb. 9, 2000, Susp.	do	Do.
Texas: Brazos County, unincorporated areas..	481195	Jan. 13, 1986, Emerg.; July 2, 1992, Reg.; Feb. 9, 2000, Susp.	do	Do.
College Station, city of, Brazos County	480083	Aug. 16, 1974, Emerg.; July 2, 1981, Reg.; Feb. 9, 2000, Susp.	do	Do.
Region VII				
Nebraska: Lindsay, village of, Platte County	310177	Dec. 15, 1976, Emerg.; Sept. 4, 1987, Reg.; Feb. 9, 2000, Susp.	do	Do.
Platte County, unincorporated areas	310467	Jan. 8, 1990, Emerg.; Sept. 1, 1990, Reg.; Feb. 9, 2000, Susp.	do	Do.
Region IX				
California: Alameda County, unincorporated areas.	060001	Dec. 3, 1971, Emerg.; Apr. 15, 1981, Reg.; Feb. 9, 2000, Susp.	do	Do.
Fremont, city of, Alameda County	065028	Jan. 29, 1971, Emerg.; May 2, 1983, Reg.; Feb. 9, 2000, Susp.	do	Do.
Hayward, city of, Alameda County	065033	Jan. 29, 1971, Emerg.; Sept. 16, 1981, Reg.; Feb. 9, 2000, Susp.	do	Do.
Newark, city of, Alameda County	060009	Apr. 22, 1974, Emerg.; Dec. 1, 1978, Reg.; Feb. 9, 2000, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
San Leandro, city of, Alameda County	060013	May 30, 1975, Emerg.; Mar. 18, 1980, Reg.; Feb. 9, 2000, Susp.	do	Do.
Union City, city of, Alameda County	060014	Aug. 18, 1972, Emerg.; Dec. 1, 1978, Reg.; Feb. 9, 2000, Susp.	do	Do.
Region I				
Maine: Dallas Plantation, Franklin County ...	230455	Mar. 19, 1975, Emerg.; Aug. 19, 1985, Reg.; Feb. 23, 2000, Susp.	Feb. 23, 2000 ...	Feb. 23, 2000.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Dated: February 8, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00-4075 Filed 2-18-00; 8:45 am]

BILLING CODE 6718-05-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

Public Information Collection Approved by Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice of effective date.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the paperwork information burdens contained in the Report and Order and the Order on Reconsideration regarding implementation of the Communications Assistance for Law Enforcement Act. The effective date for certain rule sections was held in abeyance until OMB approval for these burdens was granted. This document is needed to notify the public that OMB

has approved these burdens and to announce the effective date of the associated rules.

DATES: The affected rules, 47 CFR 64.2103, 64.2104, and 64.2105 (64 FR 51462, September 23, 1999) became effective February 2, 2000.

FOR FURTHER INFORMATION CONTACT: John Spencer, 202-418-1310.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has received OMB approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 96-511. The rules adopted in this proceeding (*see* Report and Order at 64 FR 51462, September 23, 1999, and Order on Reconsideration at 64 FR 52244, September 28, 1999) are therefore effective February 2, 2000. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control

numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418-0214.

Federal Communications Commission

OMB Control No.: 3060-0809.

Expiration Date: 04/30/00.

Title: Communications Assistance for Law Enforcement Act, Report and Order and Order on Reconsideration.

Form No.: N/A.

Estimated Annual Burden: 36,000 burden hours annually, 6 hours per response; 6,000 responses.

Description: The information filed with the Commission will be used to verify telecommunications carriers' conformance with the CALEA requirements, and the information made available to law enforcement officials will be used to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 00-3889 Filed 2-18-00; 8:45 am]

BILLING CODE 6712-01-P

Proposed Rules

Federal Register

Vol. 65, No. 35

Tuesday, February 22, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-88-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100, -200, -300, 747SR, and 747SP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain Boeing Model 747-100, -200, -300, 747SR, and 747SP series airplanes, that currently requires a one-time inspection to detect cracking of the longeron splice fittings at stringer 11, on the left and right sides at body station 2598, and replacement of any cracked fitting with a new fitting. This action would reduce the compliance time for accomplishment of the currently required inspection and add a new requirement for repetitive inspections. This proposal is prompted by reports that fatigue cracking was found on longeron splice fittings. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in reduced controllability of the horizontal stabilizer.

DATES: Comments must be received by April 7, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 97-NM-88-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1153; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-88-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 97-NM-88-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On December 19, 1997, the FAA issued AD 97-26-21, amendment 39-10264 (62 FR 67550, December 29, 1997), applicable to certain Boeing Model 747-100, -200, -300, 747SR, and 747SP series airplanes. That AD requires a one-time inspection to detect cracking of the longeron splice fittings at stringer 11, on the left and right sides at body station 2598, and replacement of any cracked fitting with a new fitting. That action was prompted by reports that fatigue cracking was found on longeron splice fittings. The requirements of that AD are intended to detect and correct such fatigue cracking, which could result in reduced controllability of the horizontal stabilizer.

In the preamble to AD 97-26-21, the FAA indicated that the actions required by that AD were considered "interim action" and that further rulemaking action to propose repetitive inspections for all affected airplanes was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747-53A2410, Revision 3, dated March 12, 1998, including Addendum. That service bulletin describes procedures for repetitive detailed visual inspections to detect cracking of the longeron splice fittings at stringer 11, on the left and right sides at body station 2598, and replacement of any cracked fitting with a new fitting. The procedures described in that service bulletin are essentially similar to those described in Boeing Alert Service Bulletin 747-53A2410, Revision 2, dated October 30, 1997, which was referenced in AD 97-26-21 as the appropriate source of service information. Among other things, Revision 3 of the service bulletin includes a new table that clarifies what fastener kits are necessary for each splice fitting replacement. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 97-26-21 to continue to require an inspection to detect cracking of the longeron splice fittings at stringer 11, on the left and right sides at body station 2598, and replacement of any cracked fitting with a new fitting. The proposed AD would reduce the compliance time for accomplishment of the currently required inspection and add a new requirement for repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between Service Bulletin and Proposed AD

The logic diagram in the service bulletin recommends a grace period of 500 flight cycles or 2,000 flight hours (whichever occurs first) for airplanes that have accumulated more than 22,000 total flight cycles or 78,000 total flight hours. Operators should note that this proposed AD does not provide a grace period for these airplanes. This proposed AD would require accomplishment of the initial inspection no later than the accumulation of 22,000 total flight cycles or 78,000 total flight hours, whichever occurs first. In AD 97-26-21, the FAA provides a grace period of 90 days after January 13, 1998 (the effective date of AD 97-26-21), in place of the grace period of 500 flight cycles or 2,000 flight hours recommended in the service bulletin. Because one of the purposes of the proposed AD is to reduce the initial compliance time for the inspection, the FAA finds that it would be inappropriate to allow airplanes that are approaching the inspection threshold of 22,000 total flight cycles or 78,000 total flight hours, *i.e.*, the time when they would be required to accomplish the inspection required by AD 97-26-21, to continue to fly for additional time beyond the threshold specified in that AD. Also, since no additional airplanes would be added to the applicability of this proposed AD, all airplanes that would be subject to this proposed AD are currently subject to AD 97-26-21, and the grace period provided in AD 97-26-21 has already passed, this proposed AD does not restate that grace period.

Explanation of Compliance Time

The FAA finds that the service bulletin is not clear about the initial

inspection threshold for airplanes with fewer than 17,000 total flight cycles or 63,000 total flight hours. Boeing has advised the FAA that it intended to provide an initial inspection threshold of 17,000 total flight cycles or 63,000 total flight hours (whichever occurs first), with a grace period of 1,800 flight cycles or 7,000 flight hours for airplanes that have already exceeded these thresholds upon receipt of the service bulletin. Therefore, this proposed AD provides compliance times that are consistent with Boeing's intent.

Cost Impact

There are approximately 685 airplanes of the affected design in the worldwide fleet. The FAA estimates that 99 airplanes of U.S. registry would be affected by this proposed AD.

The inspection that is currently required by AD 97-26-21 takes approximately 32 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be \$190,080, or \$1,920 per airplane.

The proposed AD would require the same inspection currently required by AD 97-26-21 to be accomplished repetitively. Therefore, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be \$190,080, or \$1,920 per airplane, per inspection cycle.

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

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft

regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-10264 (62 FR 67550, December 29, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 97-NM-88-AD.

Supersedes AD 97-26-21, Amendment 39-10264.

Applicability: Model 747-100, 747-200, 747-300, 747SR, and 747SP series airplanes; having line positions 201 through 886 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the longeron splice fittings at stringer 11, which could result in reduced controllability of the horizontal stabilizer, accomplish the following:

Initial Inspection

(a) Perform a one-time detailed visual inspection to detect cracking of the longeron fittings at stringer 11, on the left and right sides at body station 2598, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2410, Revision 2,

dated October 30, 1997, including Addendum; or Boeing Service Bulletin 747-53A2410, Revision 3, dated March 12, 1998, including Addendum. After the effective date of this AD, only Revision 3 shall be used.

(1) For airplanes that have accumulated fewer than 17,000 total flight cycles or 63,000 total flight hours as of the effective date of this AD: Inspect at the later of the times specified in paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Prior to the accumulation of 17,000 total flight cycles or 63,000 total flight hours, whichever occurs first.

(ii) Within 1,800 flight cycles or 7,000 flight hours after the effective date of this AD, whichever occurs first.

(2) For airplanes that have accumulated 17,000 total flight cycles or more, or 63,000 total flight hours or more, as of the effective date of this AD: Inspect at the earlier of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Prior to the accumulation of 22,000 total flight cycles or 78,000 total flight hours, whichever occurs first.

(ii) Within 1,800 flight cycles or 7,000 flight hours after the effective date of this AD, whichever occurs first.

Note 2: Where there are differences between the AD and the service bulletin, the AD prevails.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Repetitive Inspections

(b) If no crack is found during the inspection required by paragraph (a) of this AD, repeat the inspection one time at the later of the times specified in paragraphs (b)(1) and (b)(2) of this AD, and thereafter at intervals not to exceed 3,000 flight cycles or 18,000 flight hours, whichever occurs first.

(1) Within 3,000 flight cycles or 18,000 flight hours after accomplishment of the most recent inspection, whichever occurs first.

(2) Within 1,800 flight cycles or 7,000 flight hours after the effective date of this AD, whichever occurs first.

Replacement and Repetitive Inspections

(c) If any crack is found during any inspection required by paragraph (a) or (b) of this AD: Prior to further flight, replace the cracked fitting with a new fitting, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2410, Revision 2, dated October 30, 1997, including Addendum; or Boeing Service Bulletin 747-53A2410, Revision 3, dated March 12, 1998, including Addendum. After the effective date of this AD, only Revision 3 shall be used. Then, repeat the inspection specified in paragraph (a) of this AD at the later of the times specified in paragraphs (c)(1) and (c)(2) of this AD, and

thereafter at intervals not to exceed 3,000 flight cycles or 18,000 flight hours, whichever occurs first.

(1) Within 17,000 flight cycles or 63,000 flight hours after replacement, whichever occurs first.

(2) Within 1,800 flight cycles or 7,000 flight hours after the effective date of this AD, whichever occurs first.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Issued in Renton, Washington, on February 15, 2000.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 00-4121 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 11

[Docket No. 00N-0358]

Technical Implementation of Electronic Records and Electronic Signatures; Public Meeting and Request for Presentation Abstracts

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of a meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting on industry's experience in implementing the technical provisions of regulations on electronic records and electronic signatures, and requesting abstracts of presentations persons would like to give at the meeting. FDA and the Parenteral Drug Association (PDA) are co-sponsoring this event. However, participation is not limited to the pharmaceutical industry;

all interested persons, from all FDA regulated industries, are invited to participate. The purpose of the meeting is to exchange information on the range of experiences persons subject to these regulations have had in implementing the rule's technical provisions and available products and services that enable implementation of those requirements. This will neither be a forum to discuss the merits of the rule, nor a tutorial on the regulation; meeting attendees should have a basic understanding of these regulations. Information presented at the event will assist FDA in developing future industry guidance documents with respect to these regulations.

DATES: The meeting is scheduled for Monday and Tuesday, June 19 and 20, 2000, from 8:30 a.m. to 5 p.m. Abstracts of proposed presentations must be received by March 19, 2000. Handouts and related presentation materials for accepted abstracts must be received by May 19, 2000. Submit written comments by May 19, 2000.

ADDRESSES: The meeting will be held at the Wyndham Franklin Plaza Hotel, 17th and Race Sts., Philadelphia, PA 19103.

Send meeting registration requests, abstracts of proposed presentations and materials for accepted abstracts to the Angie Fischer, PDA, 7500 Old Georgetown Rd., suite 620, Bethesda, MD 20814. Material may be sent by electronic mail to PDA at fischer@pda.org.

You may view documents related to this event at the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

For general information:
Steven M. Solomon, Office of Enforcement, Office of Regulatory Affairs (HFC-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-0386, FAX: 301-827-0343, e-mail: ssolomon@ora.fda.gov.

For information about registration for the public meeting: Angie Fischer, Program Director, PDA, 7500 Old Georgetown Rd., suite 620, Bethesda, MD 20814, 301-986-0293 x129; FAX 301-986-0296; e-mail: fischer@pda.org.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the *Federal Register* of March 20, 1997 (62 FR 13430), FDA (we) issued a final rulemaking for part 11 (21 CFR part 11), electronic records and electronic signatures. The rule went into

effect on August 20, 1997. Part 11 is intended to create criteria for electronic recordkeeping technologies while preserving the agency's ability to protect and promote the public health (e.g., by facilitating timely review and approval of safe and effective new medical products, conducting efficient audits of required records, and when necessary pursuing regulatory actions). Part 11 applies to all FDA program areas, but does not mandate electronic recordkeeping. Part 11 describes the technical and procedural requirements that must be met if a person chooses to maintain records electronically and use electronic signatures. Part 11 applies to those records and signatures required by FDA predicate rules, as well as signatures that are not required, but appear in required records.

Part 11 was developed in concert with industry over a period of 6 years. Virtually all of the rule's requirements had been suggested by industry comments to a July 21, 1992, advance notice of proposed rulemaking (57 FR 32185). In response to comments to an August 31, 1994, proposed rule (59 FR 45160), the agency refined and reduced many of the proposed requirements in order to minimize the burden of compliance. The final rule's provisions are consistent with an emerging body of Federal and State law as well as commercial standards and practices.

II. Scope of Meeting

The scope of the meeting will be limited to implementation of part 11's technical requirements. This forum will focus on how persons subject to the rule are finding and using available enabling technologies. We are mindful of the rapid pace at which such technologies are changing and emerging, and the importance of keeping up with products and services that help ensure that electronic records remain trustworthy, reliable, and compatible with FDA's public health protection responsibilities.

Part 11 affords persons substantial flexibility in selecting enabling technologies that meet their respective needs, yet facilitate compliance with the rule. However, the agency is aware that some persons have found it challenging to keep up with available technologies and adapt them to older electronic recordkeeping systems. We expect this conference to help those persons and provide the agency with additional information we will use to develop future part 11 guidance documents.

We emphasize that this meeting is open to all FDA regulated industries (foods, cosmetics, pharmaceuticals, biologics, veterinary, and medical

devices) as well as suppliers of computer technologies and services designed for use with electronic records. Attendees will have opportunity to ask questions of presenters.

We encourage all interested professional and trade groups to support this event by advising their members about it and encouraging their participation. Such groups should contact the PDA regarding any additional assistance they would like to provide.

We invite interested persons to give brief presentations about their experiences in implementing one or more of part 11's technical provisions. Likewise, we invite persons who provide enabling technologies specific to those requirements to give presentations addressing how they have been and can be applied to FDA regulated industries. In all cases, presentations must not exceed 20 minutes. Of particular interest would be presentations regarding modifications to electronic recordkeeping systems that were in use before August 20, 1997, (so called legacy systems). Here are some examples of relevant topics:

Electronic Records Creation: Methods of ensuring proper sequencing of electronic record entries and construction, use of technology to ensure validity of data input and operational instructions, and transaction controls to ensure that records are generated from the right data sources.

Electronic Record Integrity and Reliability: Use of secure electronic audit trails that independently provide transaction date and time stamping of operator entries and actions that create, modify or delete electronic records; use of encryption and digital signatures in support of electronic record integrity and authenticity.

Electronic Signatures: Use of biometric and digital signature technologies; linking electronic signatures to electronic records.

Archiving Electronic Records: Methods of preserving electronic records, including content, structure, context, audit trail and other security attributes; migration from one file format and computing platform to another; ensuring accessibility by end users and FDA, especially when archiving to an environment different from the one in which the records were initially created.

III. Requests to Make Presentations, and Registration

If you would like to make a presentation at this meeting, send a brief abstract (no longer than one page), along with the speaker's name, affiliation,

title, postal address, fax and phone numbers, and electronic mail address to PDA (address above).

If you elect to send your abstract and speaker information by electronic mail, send the material in Adobe(r) PDF (portable document format), or ASCII (American Standard Code for Information Interchange) format to fischer@pda.org.

Abstracts of proposed presentations, along with speaker information, must be received by March 19, 2000. FDA and PDA will jointly determine which abstracts to accept, and authors will be notified. Presentation handouts and related materials for accepted abstracts must be received by May 19, 2000. (Speakers who miss this deadline but wish to give meeting attendees copies of their material should bring sufficient copies with them at the time of the meeting.)

To register for the meeting, contact the PDA at the address above. Also, see the association's Internet site at <http://www.pda.org>. If you need special accommodations due to disability, please inform the PDA contact person above when you register.

IV. Public Docket

You may review the documents related to this meeting in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday. These documents include the co-sponsorship agreement between FDA and PDA for this event, presentation abstracts and speaker information materials, and presentation handouts upon completion of the meeting.

V. Comments

Interested persons, including those unable to attend or speak at the meeting, may send us comments regarding their experiences in implementing part 11's technical provisions, and their products or services that help people meet those requirements. Send paper comments on or before May 19, 2000, to the Dockets Management Branch (address above). You may also send comments electronically to the Dockets Management Branch via the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: February 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00-4026 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[USCG-1998-3868]

RIN 2115-AF39

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble and proposed regulatory text published in the **Federal Register** of December 7, 1999, regarding Outer Continental Shelf Activities.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Mr. James M. Magill, Vessel and Facility Operating Standards Division (G-MSO-2), telephone 202-267-1082, or fax 202-267-4570. For questions on viewing, or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Corrections

In the proposed rule 33 CFR Parts 140 through 147, beginning on page 68416 in the issue of December 7, 1999, make the following corrections.

1. On page 68416 in the first column, under **DATES**, the second sentence currently reads, "Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before February 7, 2000." This sentence should read "Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before April 5, 2000."

2. On page 68430 in the second column, the sentence starting on line 52 currently reads, "A primary point of discussion revolved around the use of a Certified Marine Chemist and the use of a Competent Person." This sentence should read, "A primary point of discussion revolved around the use of a Certified Marine Chemist and/or the use of a Competent Person."

3. On page 68431 in the second column, the sentence starting on line 23 currently reads, "Lifesaving equipment on manned fixed facilities (subpart I) including survival craft and rescue boats (§§ 143.825 and 143.826), survival craft for temporary personnel (§ 143.828), approval requirements for lifeboats (§ 143.830), free-fall lifeboats (§ 143.831), inflatable life rafts (§ 143.832), rigid life rafts (§ 143.833),

marine evacuation systems (§ 143.834), life floats (§ 143.835), launching and recovery equipment (§§ 143.836 and 143.837), location and arrangement of survival craft (§ 143.840), rescue boat approval and stowage (§ 143.841), embarkation, launching, and recovery arrangements (§ 143.842), lifejackets (§§ 143.845 through 143.848), ring life buoys (§§ 143.850 through 143.852), first aid kit (§ 143.855), immersion suits (§ 143.870), marking of work vests (§ 143.877), inflatable lifejackets (§ 143.881), and marking requirements for lifesaving equipment (§ 143.885)." This sentence should read, "Lifesaving equipment on manned fixed facilities (subpart I) including survival craft and rescue boats (§§ 143.825 and 143.826), survival craft for temporary personnel (§ 143.828), approval requirements for lifeboats (§ 143.830), free-fall lifeboats (§ 143.831), inflatable life rafts (§ 143.832), rigid life rafts (§ 143.833), marine evacuation systems (§ 143.834), life floats (§ 143.835), launching and recovery equipment (§§ 143.836 and 143.837), location and arrangement of survival craft (§ 143.840), rescue boat approval and stowage (§ 143.841), embarkation, launching, and recovery arrangements (§ 143.842), lifejackets (§§ 143.845 through 143.848), ring life buoys (§§ 143.850 through 143.852), first aid kit (§ 143.855), immersion suits (§ 143.870), marking of work vests (§ 143.877), inflatable lifejackets (§ 143.881), and marking requirements for lifesaving equipment (§ 143.885)."

4. On page 68434 in the first column, the sentence starting on line 13 currently reads, "Because many of the potential safety hazards on fixed facilities are similar to those on MODU's, requirements proposed in this subpart are similar to those applied to MODU's under subchapter I-A of 46 CFR chapter I." This sentence should read, "Because many of the potential safety hazards on fixed facilities are similar to those on MODU's, requirements proposed in this subpart are similar to those applied to MODU's under subchapter I-A of 46 CFR chapter I."

5. On page 68435 in the third column, the sentence starting on line 38 currently reads, "This section cross-references the requirements for immersion suits for manned fixed facilities (§ 143.870), unmanned fixed facilities (§ 143.925), manned floating facilities (§ 144.310), unmanned floating facilities (§ 144.420), U.S. vessels (§ 146.200), and foreign vessels (§ 146.210)." It should read, "This section cross-references the requirements for immersion suits for manned fixed facilities (§ 143.870),

unmanned fixed facilities (§ 143.925), manned floating facilities (§ 144.310), unmanned floating facilities (§ 144.420), U.S. vessels (§ 146.200), and foreign vessels (§ 146.210)."

6. On page 68450 in the first column, the definition of *Marine inspector* currently reads, "*Marine inspector* means an individual designated as such by an 'Officer in Charge, Marine Inspection,' to perform inspections of OCS units to determine whether or not the requirements of Coast Guard regulations or laws administered by the Coast Guard are met." The definition should read, "*Marine inspector* means an individual designated as such by an 'Officer in Charge, Marine Inspection,' to perform inspections of 'OCS units' to determine whether or not the requirements of Coast Guard regulations or laws administered by the Coast Guard are met."

7. On page 68450 in the third column, the definition of *Outer Continental Shelf* or *OCS* reads, "*Outer Continental Shelf* or *OCS* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters (as the term 'lands beneath navigable waters' is defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control." The definition should read, "*Outer Continental Shelf* or *OCS* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters (as the term 'lands beneath navigable waters' is defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a))) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control."

8. On page 68451 in the third column, the entry for API RP 54 currently reads, "API RP 54, Occupational Safety and Health for Oil and Gas Well Drilling and Servicing Operations, and Servicing Operations, Second Edition, May 1, 1992—142.265". The entry should read, "API RP 54, Occupational Safety and Health for Oil and Gas Well Drilling and Servicing Operations, Second Edition, May 1, 1992—142.265".

9. On page 68452 in the first column, the entry for IMO resolution A.649(16) currently reads, "IMO Resolution A.649(16), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1989—144.1005; 144.1020; 145.105; 145.205; 45.305; 145.410". The entry should read, "IMO Resolution A.649(16), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1989—

144.1005; 144.1020; 145.105; 145.205; 145.305; 145.410”.

10. On page 68452 in the third column, the heading “§ 140.50 What are the penalties for noncompliance?” should be changed to “§ 140.50 What are the penalties for noncompliance with these regulations?”

11. On page 68458 in the third column, the definition of *Hot work* currently reads, “*Hot work* means work that produces heat or fire, such as riveting, welding, burning, or the use of powder-actuated fastening tools. Work that produces sparks, such as grinding, drilling, or abrasive blasting, is hot work if considered so by a Certified Marine Chemist.” The definition should read, “*Hot work* means work that produces heat or fire, such as riveting, welding, burning, or the use of power-actuated fastening tools. Work that produces sparks, such as grinding, drilling, or abrasive blasting, is hot work if considered so by a Certified Marine Chemist.”

12. On page 68459 in the second column, under section 142.110, paragraph (b)(2) currently reads, “That the equipment is maintained and used or worn as required by this subpart.” It should read, “That the equipment is maintained and used or worn as required by this subpart; and”.

13. On page 68462 in the second column, section 142.280 currently reads, “When a crane is being used with a personnel transfer net to transfer personnel over water, personnel must wear a Coast Guard approved personal floatation device. The crane operator must not lift or lower personnel directly over an OSC unit or attending vessel, except to clear or land personnel.” It should read, “When a crane is being used with a personnel transfer net to transfer personnel over water, personnel must wear a Coast Guard approved personal floatation device. The crane operator must not lift or lower personnel directly over an OCS unit or attending vessel, except to clear or land personnel.”

14. On page 68465 in the first column, under section 142.366, paragraph (a) currently reads, “The owner, operator, and person in charge must ensure that, in addition to the training under § 142.360, each member of the rescue team is trained to use the personal protective, rescue, and medical

equipment needed to perform their functions as part of the team.”

15. On page 68467 in the second column, under 142.415, paragraph (b) currently reads, “The training must be supplemental to address each hazardous material newly introduced on the facility.” It should read, “The training must be supplemental to address each hazardous material newly introduced on the facility.”

16. On page 68475 in the first column, under section 143.730, paragraph (d) currently reads, “You must replace during the annual inspection each battery used in an item of lifesaving equipment and clearly marked with an expiration date if the expiration date has passed.” It should read, “You must replace during the annual inspection each battery used in an item of lifesaving equipment and clearly mark with an expiration date if the expiration date has passed.”

17. On page 68485 in the second column, under section 143.1105, paragraph (b) currently reads “When on a facility under paragraph (a)(1) of this section—(1) Each accommodation module; (2) Each temporary accommodation module; or”. It should read, “When on a facility under paragraph (a)(1) of this section—(1) Each accommodation module; (2) Each temporary accommodation module; or (3) Each accommodation module that is part of a drilling/workover rig package.”

18. On page 68485, in the second and third columns, under section 143.1115, paragraph (c) introductory text currently reads “Accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package for 16 or fewer persons must be treated as new lodging or rooming houses under chapter 20 of NFPA 101 and meet chapters 20 and 31 of NFPA 101, except as follows:”. It should read, “Accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package for 16 or fewer persons must be treated as new lodging or rooming houses under chapter 20 of NFPA 101 and meet chapters 20 and 32 of NFPA 101, except as follows:”.

19. On page 68486, in table 143.1115(f), the line that reads, “Chapter 20 and 31 of NFPA 101, Life Safety Code per § 143.1115(c).” should read, “Chapter 20 and 32 of NFPA 101, Life Safety Code per § 143.1115(c).”

20. On page 68490 in column 1, under section 143.1335, the headings for

paragraphs (a), (b), and (c) should appear in italic type.

21. On page 68494 in the second column, the introductory text of section 144.800 currently reads, “This part applies to each U.S. floating facility that—”. It should read, “This subpart applies to each U.S. floating facility that—”.

22. On page 68494 in the third column, the heading “§ 144.810 When may a facility begin or continue operations after its plans are submitted?” should be changed to “§ 144.810 When may a floating facility begin or continue operations after its plans are submitted?”

23. On page 68496 in the second column, the heading “§ 144.1005 What are the operating requirements for a foreign facility?” should be changed to “§ 144.1005 What are the operating requirements for a foreign floating facility?”

24. On page 68496 in the second column, the heading “§ 144.1010 What are the requirements for an emergency evacuation plan for a foreign facility?” should be changed to “§ 144.1010 What are the requirements for an emergency evacuation plan for a foreign floating facility?”

25. On page 68496 in the second column, the heading “§ 144.1015 What are the requirements for operating manuals for a foreign facility?” should be changed to “§ 144.1015 What are the requirements for operating manuals for a foreign floating facility?”

26. On page 68496 in the second column, the heading “§ 144.1020 What are the design, equipment, and inspection requirements for a foreign facility?” should be changed to “§ 144.1020 What are the design, equipment, and inspection requirements for a foreign floating facility?”

27. On page 68496 in the third column, the heading “§ 144.1025 What are the additional requirements for a foreign facility used for storage of oil in bulk?” should be changed to “§ 144.1025 What are the additional requirements for a foreign floating facility used for storage of oil in bulk?”

28. On page 68497 in the first column, the heading “§ 144.1030 How do I get a letter of compliance for a foreign facility?” should be changed to “§ 144.1030 How do I get a letter of compliance for a foreign floating facility?”

29. On page 68497 in the first column, the heading “§ 144.1035 When must a foreign facility be reinspected?” should be changed to “§ 144.1035 When must a foreign floating facility be reinspected?”

30. On page 69497 in the third column, the text of section 145.100

currently reads, "Each U.S. MODU must comply with the operating requirements in 46 CFR part 109 when engaged in OCS activities." It should read, "Each U.S. MODU must comply with the operational requirements in 46 CFR part 109 when engaged in OCS activities."

31. On page 68497 in the third column, 145.105(a) currently reads, "The operating requirements in 46 CFR part 109." It should read, "The operational requirements in 46 CFR part 109."

32. On page 68498 in the first column, under section 145.106(a), paragraphs (1) and (2) currently read, "(1) Notified of each event listed in 46 CFR 4.05-1(a)(1) through (a)(6), and (2) Notified of an occurrence causing property damage in excess of \$100,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage." They should read, "

"(1) Notified of each event listed in 46 CFR 4.05-1(a)(1) through (a)(6); and

(2) Notified of an occurrence causing property damage in excess of \$100,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage."

33. On page 68498 in the second column, under section 145.110, paragraph (c) currently reads, "Information under paragraphs (a) and (b) of this section may be provided by telephone or may be submitted together with, and need not repeat, information submitted in applications and notices under the aids to navigation requirements in part 67 of this chapter." It should read, "Information under paragraphs (a) and (b) of this section may be provided by telephone or may be submitted together with, and need not repeat, information submitted in applications and notices under the aids to navigation requirements in part 67 of this chapter."

34. On page 68500 in the second column, under section 145.540, paragraph (b) currently reads, "If the OCMCI determines that the MIDU meets the requirements of paragraph (a) of this part, the OCMCI issues a letter of compliance for the MIDU. The OCMCI may require that the MIDU be inspected as part of this determination." It should read, "If the OCMCI determines that the MIDU meets the requirements of paragraph (a) of this section, the OCMCI issues a letter of compliance for the MIDU. The OCMCI may require that the

MIDU be inspected as part of this determination."

35. On page 68500 in the second column, under § 145.540, paragraph (c) currently reads, "A letter of compliance under paragraph (b) of this part is valid for 2 years or until the MIDU departs the OCS, whichever comes first." It should read, "A letter of compliance under paragraph (b) of this section is valid for 2 years or until the MIDU departs the OCS, whichever comes first."

36. On page 68501 in the first column, under section 146.100, paragraph (c) currently reads, "The owner and operator must ensure that the name of the individual acting as the person in charge is made available upon request by Coast Guard personnel." It should read, "The owner or operator, or their agent, must ensure that the name of the individual acting as the person in charge is made available upon request by Coast Guard personnel."

37. On page 68503 in the third column, the authority citation currently reads, "14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46." It should read, "14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46."

Dated: February 11, 2000.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 00-3825 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018-AG03

Subsistence Management Regulations for Public Lands in Alaska, Subpart C—Board Determinations

AGENCY: Forest Service, Agriculture; and Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule solicits public comment on a request by the Kenaitze Indian Tribe for the Federal Subsistence Board to declare the entire Kenai Peninsula rural for the purposes of the priority afforded by Title VIII of the Alaska Interest Lands Conservation Act. Although currently proposing no changes from the existing regulations, this proposed rule requests public review and comment to assist the Board

in assessing the concerns of the Kenaitze Indian Tribe and the possible impacts of the Tribe's request and in reaching a decision.

DATES: The Federal Subsistence Board must receive your written comments no later than March 31, 2000. The Board will sponsor a public hearing to receive comments. See **SUPPLEMENTARY INFORMATION** for additional information.

ADDRESSES: You may submit written comments and proposals to the Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management, (907) 786-3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271-2540.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in McDowell v. State of Alaska that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in McDowell required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the McDowell decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114-27170). Consistent with Subparts A, B, and C of these

regulations, the Departments established a Federal Subsistence Board (Board) to administer the Federal subsistence management program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Area Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service.

The "Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the **Federal Register** (57 FR 22940-22964) on May 29, 1992. In a lawsuit consolidated with *Alaska v. Babbitt*, plaintiff Katie John challenged these rules, arguing that navigable waters are properly included within the definition of "public lands" set out in ANILCA. The United States Court of Appeals for the Ninth Circuit subsequently held: "[T]he definition of public lands includes those navigable waters in which the United States has an interest by virtue of the reserved water rights doctrine." *Alaska v. Babbitt*, 72 F.3d at 703-704. In the course of its decision, the Ninth Circuit also directed: "[T]he Federal agencies that administer the subsistence priority are responsible for identifying those waters." *Id.* at 704. As a result, we published a final rule (Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition To Include Waters Subject to Subsistence Priority, Final Rule, 64 FR 1276) on January 8, 1999, that conformed the Federal subsistence management regulations to the Ninth Circuit's ruling.

Through the Board, these agencies have participated in development of regulations for Subparts A, B, and C, and the annual Subpart D regulations. Because this proposed rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR part 242 and 50 CFR part 100.

History of the Rural/Nonrural Determinations for the Kenai Peninsula

At its September 26, 1990, meeting, the Board made preliminary rural determinations, including nonrural findings for Sitka, Saxman, Kodiak, and some communities on the Kenai Peninsula. According to those proposed determinations, the rural communities on the Kenai Peninsula included Ninilchik, Seldovia, Port Graham,

Nanwalek, Hope, and Cooper Landing. Proposed nonrural determinations for the Kenai Peninsula included the Kenai area, including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifonsky, Kasilof, and Clam Gulch; the Homer area, including Homer, Anchor Point, Kachemak City, and Fritz Creek; and the Seward area, including Seward and Moose Pass. These proposed determinations were published in the **Federal Register** on October 5, 1990 (55 FR 40897). At its December 17, 1990, meeting, the Board finalized its rural determinations. After considering public testimony at the meeting, as well as public comments received at public hearings in response to the proposed determinations, the Board determined that Sitka, Saxman, and Kodiak were rural communities and made no changes on the Kenai Peninsula. The final rural determinations were published in the **Federal Register** on January 3, 1991 (56 FR 236).

On February 14, 1991, Alaska Legal Services filed a Petition for Reconsideration on behalf of the Kenaitze Tribe, asking that the Board change its nonrural determination for the Kenai Peninsula. The Board denied the request and explained its action to the proponents in a letter dated May 7, 1991.

In June 1995, eight public hearings were held on the Kenai Peninsula to gather testimony on the proposed customary and traditional use determinations for moose in Units 7 and 15. The determinations establish which rural residents of the Kenai Peninsula can hunt under Federal subsistence regulations. Although rural determinations were not the focus of those hearings, many of those who testified indicated their dissatisfaction with the current rural determinations previously established by the Board.

In September 1995, the Southcentral Regional Council met in Anchor Point and, in response to the public testimony received that summer and at its meeting, developed a recommendation to the Board that the entire Kenai Peninsula be considered rural. Council members spoke to the divisiveness of the current rural determinations, problems with aggregating and separating communities using the current process, and the importance of fishing and hunting to residents of the Kenai Peninsula. A dissenting minority of Council members felt that not all the communities on the Kenai Peninsula could be characterized as rural. When the Board subsequently met to discuss the recommendation, the Board decided that the most appropriate course of action was for the Regional Council to hold public hearings on the

Kenai Peninsula to allow for public comment on the proposal. However, at the next Regional Council meeting in February 1996, a motion to hold hearings failed, and no meetings were held.

In January 1998, the Institute of Social and Economic Research (ISER) issued a report commissioned by the Native American Rights Fund on behalf of the Kenaitze Tribe, assessing the rural character of Kenai Peninsula areas determined by the Board to be nonrural. The ISER report compares the characteristics of Kenai Peninsula communities, especially Kenai, Soldotna, and Homer, with Kodiak, Sitka, and Saxman, communities determined by the Board to be rural. The report found that on measures of rural character such as population density, seasonal employment, and levels of harvest, the Kenai Peninsula is similar to one or more of the areas the Board designated as rural. Only on the indicators of employment growth and diversity, according to the report, did the Kenai Peninsula not exhibit characteristics comparable to communities classified as rural.

At the March 1998 meeting of the Southcentral Regional Council, the Kenaitze Tribe requested that the entire Kenai Peninsula be made rural. The request asserted that special circumstances are present that warrant making this determination without waiting for the review of all rural determinations that is scheduled to occur following receipt of data from the 2000 census. The Board again suggested that the Regional Council hold public hearings on the Kenai Peninsula. The Regional Council voted to do so at its fall 1998 meeting. Public hearings were held in November 1998 in Seward, Homer, and Kenai. In March 1999, after hearing the report of the public hearings and further testimony from members of the Kenaitze Tribe and their attorneys, the Southcentral Regional Council again recommended that the Board approve the Kenaitze request to reconsider its 1990 nonrural determinations and declare the entire Kenai Peninsula rural in light of the special circumstances identified.

At its May 1999 meeting, after hearing further public testimony, the Board decided to reconsider the Kenai Peninsula communities. This proposed rule requests public review and comment to assist the Board in assessing the concerns of the Kenaitze Indian Tribe and the possible impacts of the Tribe's request and in reaching a decision.

The purpose of this proposed rule is to start the process leading to a Board

determination at its meeting in early May 2000.

Analysis Available

As a result of the Kenaitze request, in May 1999, the Board directed staff to reevaluate the 1990 rural determinations for the Kenai Peninsula communities for a decision in May 2000. Copies of the analysis, "Re-evaluation of 1990 Rural Determinations for Kenai Peninsula Communities" are available upon request. Requests should be submitted to the Office of Subsistence Management, (907) 786-3888, or electronically to Bill_Knauer@fws.gov.

Hearing Locations and Comment Procedures

The Board will hold a hearing on this proposed rule in Kenai, AK, on March 1, 2000.

We will publish notice of the specific time and hearing location in local and statewide newspapers prior to the hearing. We may need to change the location and date based on weather or local circumstances. You may present comments on the proposal to change the rural/nonrural determinations on the Kenai Peninsula at the scheduled public hearing. We will accept written public comments on the proposal during the public comment period. Comments may also be submitted electronically to Bill_Knauer@fws.gov. The Board will deliberate and take final action on the proposal at a public meeting to be held in Anchorage during May 2000.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the

FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940-22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

We prepared an environmental assessment on the expansion of Federal jurisdiction over fisheries that is available by contacting the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and signed a Finding of No Significant Impact. Accordingly, an amended final rule for Subsistence Management Regulations for Public Lands in Alaska (64 FR 1276, published January 8, 1999) expanded the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. We completed Section 810 analyses as part of the FEIS and the environmental assessment processes. These analyses concluded that the Federal Subsistence Management Program, with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses but will not reach the "may significantly restrict" threshold for notice and hearings under ANILCA Section 810(a) for any subsistence uses.

Paperwork Reduction Act

These rules in their entirety contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below were approved by OMB under 44 U.S.C. 3501 and were assigned clearance number 1018-0075, which expires 5/31/2000. The information requirements described below will be submitted to OMB for approval beyond that date. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

The collection of information under this proposed rule will be achieved through the use of a Federal Subsistence Hunt, Designated Hunter, or Fish/Shellfish Harvest/Designated Harvester application. This information will establish whether the applicant qualifies to participate in a Federal subsistence hunt or fishery on public land in Alaska and will provide a report of harvest and location of harvest.

The likely respondents to this collection of information are rural Alaska residents who wish to participate in specific subsistence hunts or fisheries on Federal land. The collected information is necessary to determine harvest success and harvest location in order to make management decisions relative to the conservation of healthy fish, shellfish, or wildlife populations. The annual burden of reporting and recordkeeping is estimated to average 0.25 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. The estimated number of likely respondents under this rule is less than 6,900, yielding a total annual reporting and recordkeeping burden of 1,725 hours or less.

Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (Subsistence), Washington, DC 20503. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B.

Other Requirements

This rule was not subject to OMB review under Executive Order 12866.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand. Send a copy of any comments that concern how we could make this rule easier to understand to: USFWS, Office of Subsistence Management, Thomas H. Boyd, 1011 E. Tudor Road, Anchorage, Alaska 99503. You may also e-mail the comments to this address: Bill_Knauer@fws.gov.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, fishing tackle, boat, motor, and gasoline dealers. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

In general, the resources harvested under rules contained in 36 CFR 242 and 50 CFR 100 will be consumed by the local harvester and do not result in a dollar benefit to the economy. We estimate a harvest of 2 million pounds of meat and 24 million pounds of fish (including 8.3 million pounds of salmon) are harvested by the local subsistence users annually and, if given a dollar value of \$3.00 per pound for meat and salmon and \$0.58 per pound for other fish, would equate to about \$40 million in food value statewide.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Act. This rule will not have an effect on the economy of \$100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability

of U.S.-based enterprises to compete with foreign-based enterprises.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or tribal governments.

The Service has determined that this rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

In accordance with Executive Order 13132, the rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over fish or wildlife resources on Federal lands unless it meets certain requirements.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

Drafting Information

This document was drafted by William Knauer under the guidance of Thomas H. Boyd of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Curt Wilson, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Accordingly, for the reasons set out in the preamble, the Departments propose to maintain the current regulations pertaining to rural determinations for the 2000 subsistence seasons and beyond found at § _____.23(a) of title 36, part 242, and title 50, part 100, of the Code of Federal Regulations (CFR). Following a review of any comments received on this proposed rule and a meeting of the Federal Subsistence Board in May 2000, we will publish a final rule either maintaining the current regulations found in 36 CFR 242.23(a) and 50 CFR 100.23(a) or amending those regulations to remove the Kenai Peninsula communities from the list of areas determined to be nonrural.

Dated: February 2, 2000.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: February 2, 2000.

Kenneth E. Thompson,

Acting Regional Forester, USDA—Forest Service.

[FR Doc. 00-4271 Filed 2-17-00; 4:03 pm]

BILLING CODE 3410-11-P 4310-55-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA095-0216; FRL-6539-4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval of revisions to the California State Implementation Plan (SIP) which concerns the control of sulfur emissions within the Ventura County Air Pollution Control District.

The intended effect of proposing a limited approval of this rule is to regulate emissions of sulfur dioxide (SO₂) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate it into the federally approved SIP. EPA has evaluated this rule and is proposing a limited approval under provisions of the CAA regarding EPA action on SIP submittals and

general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions.

DATES: Comments must be received on or before March 23, 2000.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket, 401 "M" Street, SW., Washington, DC 20460.

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

Ventura County APCD, 669 County Square Dr., 2nd Fl., Ventura, CA 93003-5417

FOR FURTHER INFORMATION CONTACT: Stanley Tong, Rulemaking Office, [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1191.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for approval into the California SIP is: Ventura County Air Pollution Control District (VCAPCD) Rule 54, Sulfur Compounds. VCAPCD Rule 54 was submitted by CARB to EPA on July 13, 1994.

II. Background

40 CFR 81.305 provides the attainment status designations for air districts in California. Ventura County Air Pollution Control District is listed as being in attainment for the national ambient air quality standards (NAAQS) for sulfur dioxide (SO₂). Therefore, for purposes of controlling SO₂, this rule

need only comply with the general provisions of section 110 of the Act.

Sulfur dioxide is formed by the combustion of fuels containing sulfur compounds. High concentrations of SO₂ affect breathing and may aggravate existing respiratory and cardiovascular disease. VCAPCD adopted Rule 54, Sulfur Compounds, on June 14, 1994 to control sulfur dioxide emissions. On July 13, 1994, the State of California submitted many rules for incorporation into its SIP, including VCAPCD Rule 54. This rule was found to be complete on September 12, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V and is being proposed for limited approval.

The following is EPA's evaluation and proposed action for VCAPCD Rule 54.

III. EPA Evaluation and Proposed Action

In determining the approvability of an SO₂ rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

While the VCAPCD is in attainment with the SO₂ NAAQS, many of the general SIP requirements regarding enforceability, for example, are still appropriate for this rule. In determining the approvability of this rule, EPA evaluated it in light of the "SO₂ Guideline Document," EPA-452/R-94-008.

On April 17, 1987, EPA approved into the SIP a version of VCAPCD Rule 54, Sulfur Compounds, that had been adopted by VCAPCD on July 5, 1983. VCAPCD submitted the current revision to Rule 54 which includes the following significant changes from the current SIP:

- Clarified that the SO₂ limits also apply at sea level
- The rule now covers sulfur emissions from outer continental shelf sources
- Reduced the SO₂ ground level limits from 0.5 ppm down to 0.25 ppm to match state standards.

- Added an exemption for planned and unplanned flaring events provided conditions described in the Rule are met.

- Added a section on test methods.

Although VCAPCD's Rule 54 will strengthen the SIP, this rule contains the following deficiency which should be corrected.

- The rule specifies a 300 ppm SO₂ limit at the point of discharge for any combustion operation. The rule should also indicate that the standard is on a dry basis and should specify the percent excess air. EPA also recommends the following improvement to the rule.

- The period of record retention specified should be consistent with the federal record retention requirement of 5 years.

A detailed discussion of the rule deficiency and recommendation for rule improvement can be found in the Technical Support Document for VCAPCD Rule 54 (1/14/2000), which is available from the U.S. EPA, Region IX office.

Because of the deficiency identified for the rule being acted on in this document, it is not fully approvable and may lead to rule enforceability problems. Because of the above deficiency, EPA cannot grant full approval of the rule under section 110(k)(3). Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to advance the Act's overarching air quality protection goals by strengthening the SIP. In order to strengthen the SIP by advancing the SO₂ air quality protection goal of the Act, EPA is proposing a limited approval of VCAPCD Rule 54 under sections 110(k)(3) and 301(a) of the Act. However, this limited approval would not approve those measures as satisfying any other specific requirement of the

Act, nor would it constitute full approval of the SIP submittal pursuant to section 110(k)(3). Rather, a limited approval of this rule by EPA would mean that the emission limitations and other control measure requirements become part of the California SIP and are federally enforceable by EPA. See *e.g.* sections 302(q) and 113 of the Act.

It should be noted that the rule covered by this proposed rulemaking has been adopted and is currently in effect in the air pollution control district to which this action pertains. EPA's final limited approval action will not prevent VCAPCD or EPA from enforcing this rule.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Executive Order 13132, entitled 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 proposed 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 (64 FR 3255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

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

D. Executive Order 13084

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

regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: February 8, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00-4048 Filed 2-18-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket 24-7004; FRL-6540-3]

Federal Rulemaking for the FMC Facility in the Fort Hall PM-10 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; announcement of public hearings and extension of public comment deadline; correction.

SUMMARY: By this action, we are announcing the date, time, and location of two public hearings that EPA will hold to accept oral comments on EPA's supplemental proposal for the Federal Rulemaking for the FMC Facility in the Fort Hall PM-10 Nonattainment Area. We are also extending the deadline for receiving written comments on the supplemental proposal from February 28, 2000, to March 13, 2000. Finally, we are correcting a minor error in the location of the docket.

DATES: Written comments, identified by the docket control number ID 24-7004, must be received by EPA on or before March 13, 2000. EPA will hold public hearings at the following times at the addresses listed below: Tuesday, February 29, 2000, 6:00 p.m. to 8:00 p.m., and Wednesday, March 1, 2000, 6:00 p.m. to 8:00 p.m.

ADDRESSES: Comments should be submitted (in triplicate if possible) to: Christine Lemme, Environmental

Protection Agency, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle Washington 98101.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, Office of Air Quality (OAQ-107), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-0782.

SUPPLEMENTARY INFORMATION: On January 27, 2000, we solicited public comment on a supplemental proposal for the Federal Rulemaking for the FMC Facility in the Fort Hall PM-10 Nonattainment Area (65 FR 4466).¹ In that supplemental proposal, we stated that we would accept written public comments on the supplemental proposal until February 28, 2000. We also stated that we would not hold a public hearing on the supplemental proposal unless one was requested and a sufficient reason for holding a hearing was provided.

Based on letters we received prior to publication of the supplemental proposal, we believe there is a significant public interest in the supplemental proposal. We have therefore decided to hold public hearings on the supplemental proposal in advance of a specific request during the public comment period. The public hearings will be held on:

Tuesday, February 29, 2000, 6:00 p.m. to 8:00 p.m., Pocatello City Council Chambers, 711 North 9th, Pocatello, Idaho

Wednesday, March 1, 2000, 6:00 p.m. to 8:00 p.m., Shoshone-Bannock Tribal Council Chambers, Agency Road and Bannock Drive, Fort Hall, Idaho

To accommodate the public hearings, we are also extending the deadline for receiving written public comments on the supplemental proposal to March 13, 2000. Interested persons are invited to attend the public hearings and to comment on all aspects of EPA's supplemental proposal. The January 27, 2000, supplemental notice also stated that the docket for the supplemental proposal is available for public inspection at EPA's Central Docket Section, Office of Air and Radiation, Room 1500 (M-6102), 401 M Street, SW., Washington, D.C. 20460; EPA Region 10, Office of Air Quality, 10th Floor, 1200 Sixth Avenue, Seattle, Washington; the Shoshone-Bannock Tribes, Office of Air Quality Program, Land Use Commission, Fort Hall Government Center, Agency and Bannock Roads, Fort Hall, Idaho 83203; the Shoshone-Bannock Library, Pima

¹ The supplemental proposal proposed to revise certain aspects of the original proposal published in the **Federal Register** on February 12, 1999 (64 FR 7308).

and Bannock, Fort Hall, Idaho, 83203; and the Idaho State University Library, Government Documents Dept., 850 South 9th Avenue, Pocatello, Idaho. This notice is also to clarify that the full docket is available for review at EPA's Central Docket Section, Office of Air and Radiation; EPA Region 10, Office of Air Quality; and the Shoshone-Bannock Tribes, Office of Air Quality Program, Land Use Commission. Only a copy of the supplemental proposal and a copy of the index to the docket are available for review at the Shoshone-Bannock Library and the Idaho State University Library.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 9, 2000.

Jane Moore,

Acting Regional Administrator, Region 10.

[FR Doc. 00-4141 Filed 2-18-00; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-188; MM Docket No. 99-108; RM-9511; MM Docket No. 99-112; RM-9540; MM Docket No. 99-147; RM-9555]

Radio Broadcasting Services; Sawpit, CO; Thermal, CA; Congress, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denials.

SUMMARY: This document denies three petitions for rule making filed by Mountain West Broadcasting proposing the allotment of new FM channels to Sawpit, Colorado (MM Docket No. 99-108; RM-9511), 64 FR 17139, April 8, 1999; Thermal, California (MM Docket No. 99-112; RM-9540), 64 FR 17142, April 8, 1999; and Congress, Arizona (MM Docket No. 99-147; RM-9555), 64 FR 26717, May 17, 1999, for failure to demonstrate each locality's status as a *bona fide* community for allotment purposes. With this action, the referenced proceedings are terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99-108; MM Docket No. 99-112; and MM Docket No.

99–147, adopted January 27, 2000, and released February 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of

this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, D.C. 20036, (202) 857–3800.

List of Subjects 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–4083 Filed 2–18–00; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 65, No. 35

Tuesday, February 22, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Louisiana

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Louisiana for review and comment.

SUMMARY: It is the intention of the NRCS in Louisiana to issue revised conservation practice standards in Section IV of the FOTG for the following practices: Nutrient Management (code 590), and Waste Utilization (code 633).

DATES: Comments will be received on or before March 23, 2000.

FOR FURTHER INFORMATION CONTACT:

Inquire in writing to Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service (NRCS), 3737 Government Street, Alexandria, Louisiana 71302. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Louisiana will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Louisiana regarding disposition of those comments and a final determination of change will be made.

Dated: February 7, 2000.

Donald W. Gohmert,

State Conservationist, Alexandria, Louisiana 71302.

[FR Doc. 00-4112 Filed 2-18-00; 8:45 am]

BILLING CODE 3410-16-P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) in Mississippi

AGENCY: Natural Resources Conservation Service (NRCS) in Mississippi.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Mississippi for review and comment.

SUMMARY: It is the intention of NRCS in Mississippi to issue new and revised conservation practices of the FOTG in its entirety. Each of 123 standards under the responsibility of Ecological Sciences and Engineering are being issued and are available for public comment.

DATES: Comments will be received on or before March 23, 2000.

ADDRESSES: Inquire in writing to Homer L. Wilkes, State Conservationist, Natural Resources Conservation Service, Suite 1321 Federal Building, 100 W. Capitol Street, Jackson, MS 39269. Copies of the draft conservation practice standards will be made available upon written request.

BACKGROUND INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Mississippi will receive comments relative to the stated summary. Following that period, a determination will be made by the NRCS in Mississippi regarding disposition of those comments and a final determination of change will be made.

Dated: February 11, 2000.

Richard L. Peace,

State Conservation Engineer, Jackson, MS.
[FR Doc. 00-4029 Filed 2-18-00; 8:45 am]

BILLING CODE 3410-21-P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 000209033-0036-00]

RIN Number 0607-XX56

Pollution Abatement Costs and Expenditures Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: Notice is hereby given that the Bureau of the Census (U.S. Census Bureau) will conduct the Pollution Abatement Costs and Expenditures survey for the year 1999. The U.S. Census Bureau, prior to 1995, conducted the Pollution Abatement Costs and Expenditures survey, MA-200. Due to budget limitations, the survey was suspended. In response to the need for this data to assess the cost of environmental regulations on private business, the U.S. Census Bureau, with support from the Environmental Protection Agency, is reinstating the Pollution Abatement Costs and Expenditures survey.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, Manufacturing and Construction Division, U.S. Census Bureau, Room 2135, Federal Building 4, Washington, DC 20233, on (301) 457-4683.

SUPPLEMENTARY INFORMATION: The U.S. Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, United States Code, Sections 182, 224, and 225. The Pollution Abatement Costs and Expenditures survey will provide continuing and timely national statistical data for the period between the economic censuses. The next economic census will occur in the year 2002. Data collected in this survey will be within the general scope, type, and character of those inquiries covered in the economic census.

The survey form will collect—from plants that produce goods or provide services classified in manufacturing,

mining, and electric utility industries—data on the operating costs of pollution prevention and treatment, including hazardous pollutants, payments to government agencies for pollution removal, and new capital expenditures for pollution prevention and treatment (such as for air pollution control, water pollution control, and solid waste). These data are similar to the data collected on the previously mentioned MA-200. The survey results will be used to track costs of regulatory programs and rules. Results also will be used for monitoring economic impact and promoting growth of environmental programs.

The U.S. Census Bureau will use mail-out/mail-back survey forms to collect the data. Companies will be asked to respond to the survey within 60 days of the initial mailing. Letters encouraging participation will be mailed to companies that have not responded by the designated time. Resulting statistics will be published in the Current Industrial Reports series.

The primary users of these data will be federal, state, and local government agencies, including the U.S. Census Bureau, the Environmental Protection Agency, and the Bureau of Economic Analysis. Other users include business firms, academics, trade associations, and research and consulting organizations. These data are not publicly available from nongovernmental or other governmental sources on a timely and continuing basis.

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 current valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 United States Code, Chapter 35, we have submitted the survey to OMB. We will furnish report forms to organizations included in the survey, and additional copies are available on written request to the Director, U.S. Census Bureau, Washington, DC 20233-0101.

Based upon the foregoing, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: February 11, 2000.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 00-4099 Filed 2-18-00; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021500B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public information meetings in support of its Habitat Committee to solicit public input on proposals to begin developing one or more dedicated habitat research areas. The results of and information gathered at these meetings will be reviewed by the Habitat Committee. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on Monday, March 6, 2000 at 3:00 p.m., Wednesday, March 8, 2000 at 3:00 p.m., and Monday, March 13, 2000 at 10:00 a.m.

ADDRESSES: The meetings will be held as follows:

March 6, 2000, 3:00 p.m., Urban Forestry Center, 45 Elwyn Road, Portsmouth, NH; (603) 431-6774;

March 8, 2000, 3:00 p.m., Center for Marine Science and Technology (CMAS), University of Massachusetts, 706 South Rodney French Boulevard, New Bedford, MA; (508) 999-8193; and

March 13, 2000, 10:00 a.m., Sheraton Plymouth Inn, 180 Water Street, Plymouth, MA; (508) 747-4900.

FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231-0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1036; telephone: (781) 231-0422.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council's Habitat Committee is holding informational meetings on the potential establishment of one or more new dedicated habitat research areas. The committee is trying to identify the major issues related to developing the research area(s). The committee solicits suggestions and input on the location and design of proposed habitat research area(s). The committee also wants to ensure that any area(s) selected would be appropriate for the conduct of

habitat-related research and information gathering.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, those issues will not be the subject of formal Council action during this meeting. Council action 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(c) 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 Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: February 15, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00-4146 Filed 2-18-00; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 000216044-0044-01]

Public Meeting, Child Online Protection Act Commission

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: In October 1998, Congress passed the Child Online Protection Act (COPA), Pub. L. No. 105-277, 112 Stat. 2681-736 (1998), to restrict the commercial distribution of material that is harmful to minors on the Internet. The Act established a Commission to examine the extent to which current technological tools effectively help to protect children from inappropriate online content. Under the statute, the Speaker of the House and the Senator Majority Leader selected 16 members of the Commission from the public and private sector. In addition, the statute provided that representatives from the Federal Trade Commission, the Department of Justice, and the National Telecommunications and Information Administration will also serve on the Commission as "ex officio" members. The original COPA legislative language

required the Commission to submit a report to Congress one year from the date of the enactment. Congress extended the report deadline to November 30, 2000 under the Intellectual Property and Communications Omnibus Reform Act of 1999, Pub. L. No. 106-113 § 1000(a)(9), 113 Stat 1501, 1536 (1999). The new legislation mandates that the Commission hold its first meeting no later than March 31, 2000.

DATES: The COPA Commission's first meeting will be held from 10:30 a.m.-12:30 p.m. on March 7, 2000, at the U.S. Department of Commerce, Room 4830, 1401 Constitution Avenue, N.W., Washington, D.C. 20230. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Sallianne Fortunato, Office of Policy Analysis and Development, National Telecommunications and Information Administration; telephone (202) 482-1880; or electronic mail <sfortunato@ntia.doc.gov>

Media inquiries should be directed to the Office of Public Affairs, National Telecommunications and Information Administration, at (202) 482-7002.

Public Participation: The COPA Commission Meeting is open to the public on a first-come, first-served basis and physically accessible to people with disabilities. To facilitate entry into the Department of Commerce building, please have a photo identification available and/or a U.S. Government building pass if applicable. Any member of the public wishing to attend and requiring special services, such as a sign language interpretation or other ancillary aids, should contact, Sallianne Fortunato, Office of Policy Analysis and Development, U.S. Department of Commerce, at least five (5) working days prior to the COPA Commission Meeting, at either telephone number (202) 482-1880 or electronic mail at <sfortunato@ntia.doc.gov>

Kathy Smith,

Chief Counsel.

[FR Doc. 00-4147 Filed 2-18-00; 8:45 am]

BILLING CODE 3510-60-P

COMMODITY FUTURES TRADING COMMISSION

RIN 3038-ZA10

Applications of the Cantor Financial Futures Exchange for Designation as a Contract Market in Futures on Five Year Agency Notes and Ten Year Agency Notes

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed commodity futures contracts.

SUMMARY: The Cantor Financial Futures Exchange (CFFE or Exchange) has applied for designation as a contract market in futures on five year agency notes and ten year agency notes. The proposals were submitted under the Commission's 45-day Fast Track procedures. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATE: Comments must be received on or before March 8, 2000.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418-5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the CFFE five and ten year agency notes futures contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Thomas Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, telephone (202) 418-5278. Facsimile number: (202) 418-5527. Electronic mail: tleahy@cftc.gov.

SUPPLEMENTARY INFORMATION: The designation applications were submitted pursuant to the Commission's Fast Track procedures for streamlining the review of futures contract rule amendments and new contract approvals (62 FR 10434). Under these procedures, the proposals, absent any contrary action by the Commission, may be deemed approved at the close of business on March 24, 2000, 45 days after receipt of the proposals. In view of the limited review period under the Fast Track procedures, the Commission has determined to publish for public comment notice of the availability of the terms and conditions for 15 days, rather than 30 days as provided for proposals submitted under the regular review procedures.

Copies of the terms and conditions will be available for inspection at the

Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418-5100, or via the internet on the CFTC website at www.cftc.gov under "What's New & Pending".

Other materials submitted by the CFFE in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed contracts, or with respect to other materials submitted by the CFFE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on February 14, 2000.

Richard Shilts,

Acting Director.

[FR Doc. 00-4028 Filed 02-18-00; 8:45 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

Global Markets Advisory Committee, Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, § 10(a), that the Commodity Futures Trading Commission's Global Markets Advisory Committee ("GMAC") will conduct a public meeting on March 9, 2000, in the first floor hearing room (Room 1000) of the Commission's Washington, DC, headquarters, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The meeting will begin at 1:00 p.m. and last until 4:00 p.m. The Agenda will consist of the following:

Agenda

1. Introductory Remarks by Commissioner Barbara Pedersen Holum, Chairman, GMAC.

2. Presentation and discussion of recommended initiatives to harmonize international financial regulation governing segregation of customer funds.

3. Presentation and discussion of recommended amendments for rules governing secured amount balances.

4. Consideration and discussion of rule amendments and related initiatives to harmonize international regulatory treatment of institutional customers.

5. New business.

The GMAC was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on the many complex and novel issues raised by the ever-increasing globalization of futures markets. The purposes and objectives of the GMAC are more fully set forth in its charter.

The meeting is open to the public. The Chairman of the GMAC, Commissioner Barbara Pedersen Holum, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a statement with the Advisory Committee should mail a copy of the statement to the attention of: Global Markets Advisory Committee, c/o Commissioner Barbara Pedersen Holum, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Commissioner Holum in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on February 16, 2000.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00-4098 Filed 2-18-00; 8:45 am]

BILLING CODE 6351-01-M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Availability of Application Guidelines and Technical Assistance Meeting for Potential Applicants for AmeriCorps*State Program Funds for the District of Columbia

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of application guidelines and pre-application technical assistance meeting.

SUMMARY: Five hundred thousand dollars (\$500,000) is available for new competitive AmeriCorps*State programs in the District of Columbia. Application guidelines are available for local government agencies, institutions of higher education, and public or private non-profit organizations in the District of Columbia interested in applying for these funds. The Corporation for National and Community Service has scheduled a meeting to provide technical assistance to eligible applicants.

FOR FURTHER INFORMATION CONTACT: For further information about the application guidelines or the technical assistance meeting, contact Betty Platt (202) 606-5000, ext. 422, or Carolyn Thompson, (202) 606-5000, ext. 260, T.D.D. (202) 565-2799. For individuals with disabilities, we will make information available in alternative formats upon request.

SUPPLEMENTARY INFORMATION:

AmeriCorps is the national service program that engages Americans of all ages and backgrounds in meeting critical education, public safety, environmental, and other human needs. Each year, we provide funds to programs operated by non-profit organizations, local government agencies, and institutions of higher education to support projects such as tutoring children, restoring streams and parks, building playgrounds and housing, assisting elders, and serving in health clinics. For more information about the activities we support, visit our web site: www.nationalservice.org.

We have scheduled a technical assistance meeting regarding the application processes for AmeriCorps*State grants. The meeting will assist participants in understanding funding opportunities at the Corporation, provide tips on preparing a successful application for the 2000 AmeriCorps*State grant competition, and the framework objectives for an AmeriCorps program.

Technical Assistance Meeting

Date: March 9, 2000.

Time: 9:30-11:30 a.m.

Location: 1201 New York Avenue, NW, 8th Floor, Washington, DC 20525.

Obtaining a Copy of the Application

After February 25, 2000, you may pick up copies of the "AmeriCorps Application Guidelines for the District of Columbia" from the 8th Floor Receptionist at the Corporation for National Service, 1201 New York Avenue, N.W., or you may request copies by calling Carolyn Thompson at

(202) 606-5000, ext. 260, T.D.D. (202) 565-2799, (allow ten days for mailing). The application will also be available in PDF format on the Corporation's web site: www.nationalservice.org.

Dated: February 15, 2000.

Peter Heinaru,

*Director, AmeriCorps*State/National.*

[FR Doc. 00-4077 Filed 2-18-00; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense will submit to OMB for emergency processing, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Office of the Assistant Secretary of Defense for Health Affairs/TRICARE Management Activity announces a proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and, (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Title and OMB Number: Pharmacy Redesign Pilot Program; OMB Number 0720-[To Be Determined].

Type of Request: New Collection; Emergency processing requested with a shortened public comment period ending March 7, 2000. An approval date of March 15, 2000, has been requested.

Number of Respondents: 2,000.

Responses Per Respondent: 1.

Annual Responses & Prime: 2,000.

Average Burden Per Response: 10 minutes.

Annual Burden Hours: 333.

Needs and Uses: This collection instrument serves as an application form for enrollment in the TRICARE Pharmacy Redesign Pilot Program. The information collected will be used to

provide the Managed Care Support Contractors, contracted to supply administrative support, with the data to determine beneficiary eligibility, other health insurance liability, and premium payment. The Fiscal Year 1999 Strom Thurmond National Defense Authorization Act (Public Law 105-261) directed the Department of Defense to develop a system-wide pharmacy redesign plan and to implement the redesigned benefit at two sites for Medicare-eligible beneficiaries. The pharmacy redesign implementation will be evaluated by an independent entity outside the Department of Defense. An eligible beneficiary for the pharmacy redesign demonstration is a member or former member of the uniformed services as described in section 1074(b) of Title 10; a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of Title 10; or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who meets the following requirements: (a) 65 years of age or older, (b) entitled to Medicare Part A, (c) enrolled in Medicare Part B, and (d) resides in the implementation area.

Affected Public: Individuals or Households.

Frequency: On Occasion and Annually.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Allison Eydt.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DOD (Health Affairs), Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, or by fax at (703) 604-6270.

Dated: February 14, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00-4094 Filed 2-18-00; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 23, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 15, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Annual Program Cost Report.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 82.

Burden Hours: 385.

Abstract: Vocational Rehabilitation Services data submitted on the RSA-2 by State VR agencies for each FY used by the Rehabilitation Services Administration (RSA) to administer and manage the Title I Program; to analyze expenditures, evaluate program performance and identify problem areas.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202-4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202-708-9346. Please specify the complete title of the information collection when making your request.

Questions regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708-6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 00-4061 Filed 2-18-00; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education—Reading Excellence Program; Notice of Proposed Priorities, Application Requirements, and Selection Criteria for Fiscal Year 2000 and Subsequent Years

AGENCY: Department of Education.

SUMMARY: The Secretary proposes priorities, application requirements, and selection criteria for fiscal year (FY) 2000 and, at the discretion of the Secretary, for subsequent years. The Secretary takes this action to focus Federal financial assistance on an identified need—children in kindergarten to grade three.

DATES: Comments must be received by the Department March 23, 2000.

ADDRESSES: All comments concerning these proposed priorities, application requirements, and selection criteria should be addressed to Joseph Conaty, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5C141, Washington, DC 20202-6200. Comments may be sent through the Internet: comments@ed.gov. You must include the term "Reading Excellence Program" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT:

Nancy Rhett, Reading Excellence Program, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5C141, Washington, DC 20202-6200, (202) 260-8228. Fax: (202) 260-8969. Internet: <http://www.ed.readingexcellence.gov>.

Individuals who use the telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education. You may also send a copy of these comments to the Department of Education representative named in the **ADDRESSES** section of this preamble.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

This notice does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of the final priorities, application requirements, and selection criteria.

SUPPLEMENTARY INFORMATION: The Reading Excellence Act (REA), Part C, Title II of the Elementary and Secondary Education Act of 1965 (ESEA), was enacted as Title VIII of the Labor-HHS-ED Appropriations Act of 1999 by Section 101(f) of Public Law 105-277, the Omnibus Appropriations Act of FY 1999. Section 2253 of the REA authorizes a Reading and Literacy Grant Program to State educational agencies (SEAs). Grants are to be awarded on a competitive basis to eligible SEAs, which in turn will make competitive subgrants to local educational agencies (LEAs) for two types of activities: Local Reading Improvement subgrants (LRI) and Tutorial Assistance (TAG) subgrants. Section 2255 and Section 2256 of REA establish in detail the eligibility requirements for LEAs for both subgrant programs. The legislation also requires that each LRI subgrant must be large enough to enable a grant recipient to operate a program for a 2-year period.

Section 2253(c)(2)(C) of the legislation requires that a panel of expert reviewers recommend applications for funding.

Panels are generally composed of a minimum of three reviewers. Panel reviewers give each application a numerical score weighted against the selection criteria. Each reviewer also makes a recommendation to fund or not to fund the application.

Note: We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Priorities

A key purpose of the Reading Excellence Act is to help every child to be able to read independently by grade three using research-based approaches to reading instruction. The proposed priorities are necessary to focus available funds on projects that help students in kindergarten through grade three to meet this objective and enable teachers to meet the challenge.

The proposed absolute priority is necessary to ensure that States focus on providing services to the children during the early grades.

Absolute Priority

Under 34 CFR 75.105(c)(3) of EDGAR, the Secretary has the authority to propose an absolute priority. The Secretary proposes that awards under this competition be made only to applications that meet the following absolute priority:

Projects that exclusively fund, at the subgrant level, activities to improve kindergarten through grade three reading instruction and related early childhood, professional development, family literacy, extended learning and tutorial activities.

Competitive Priority

Section 2253(c)(2)(C) of REA requires that priority shall be given to applications from SEAs whose States have modified, are modifying, or provide an assurance that they will modify within 18 months after receiving an REA grant the SEA's elementary school teacher certification requirements. The modification must increase the training and the methods of teaching reading required for certification as an elementary school teacher to reflect scientifically based reading research. However, nothing in the REA shall be construed to establish a national system of teacher certification.

The Secretary proposes to award up to 5 additional points to applicants that

meet this priority. Two points will be awarded to applicants that provide an assurance only. To receive the additional three points, the SEA must include detailed plans or implemented changes that describe high quality teacher preparation that reflects scientifically based reading research.

Application Requirements

A discussion of each proposed requirement follows.

A. Eligible LEAs and schools (Sec. 2255 and Sec. 2256)

We propose that to be considered for funding, an application must include a list of all eligible LEAs and the number of eligible schools, and the number of children and teachers in the eligible schools at the time the application is submitted. Successful applicants must provide a list of eligible LEAs and schools at the time that subgrants are awarded.

Rationale

While the legislation clearly defines the requirements for eligibility, it does not require the applicants to identify the eligible LEAs or schools. We propose that each applicant include a list of the eligible LEAs and the number of eligible schools, as well as the number of children and teachers in each eligible school at the time that the application is submitted. This will enable the panelists to determine the likelihood that the requested funding amount will sufficiently fund the number of proposed subgrants for two years and at a level that will make a substantive improvement in reading instruction and student outcomes. Successful applicants will be required to provide an updated list of eligible LEAs and schools to the Department at the time that subgrants are awarded.

B. Funding Recommendations (Sec. 2253(c)(2)(C))

We propose that to be considered for funding, an application must receive a majority recommendation from the panel of reviewers. Any applications not receiving recommendations to be funded from a majority of the review panel, regardless of the numerical score, will not be considered.

Rationale

The legislation requires that the panel reviewers make a recommendation for funding. The requirement that an application must receive a recommendation for funding from a majority of the review panel will ensure that only quality applications are funded.

Selection Criteria

The Secretary proposes that the following selection criteria be used to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion or factor under that criterion is indicated in the parentheses. There are not specific point totals for the subcategories within each criterion.

(1) Understanding and commitment to effective reading instruction based on scientifically based reading research. (15 points)

In determining the State's understanding and commitment to effective reading instruction based on scientifically based reading research, the Secretary considers the following factors:

(a) The extent to which the proposed project incorporates a deep understanding of the scientifically based reading research literature and how it applies in their State and local education systems.

(b) The extent to which the scientific literature on reading is implemented in proposed grant activities.

(2) Demonstration of Need. (10 points)

In determining the need for the proposed project, the following factors are included:

Demographic and social data on the target population for this program (children and families) and State efforts and initiatives in reading, including current professional development activities related to the teaching of reading and family literacy, standards and assessments, and other related activities; and their relation, if any, to findings from scientifically based reading research.

(3) Quality of local district and school activities. (35 points)

In determining the quality of the services to be provided by local activities, the Secretary considers the following factors:

(a) How the proposed project would change classroom instruction in schools under Local Reading Improvement subgrants. In particular, what professional development activities would be implemented.

(b) The extent to which the proposed activities support research based classroom reading instruction (including extended learning such as tutoring and summer programs, kindergarten transition, family literacy/involvement, and use of technology).

(c) The extent to which the proposed activities will improve reading

instruction for all children, including English language learners and children with special needs.

(d) The extent to which the Tutorial Assistance subgrant activities of the proposed project reflect up-to-date knowledge of reading research and effective practice.

(4) Quality of the plan for State leadership, oversight and evaluation. (25 points)

In determining the quality of the plan for State leadership, oversight and evaluation, the Secretary considers the following factors:

(a) The adequacy of procedures for ensuring success under this grant, including how the State will ensure that school activities will use practices based on scientifically based reading research, especially professional development activities for K-3 teachers.

(b) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including:

- Development of the reading and literacy partnership for overseeing proposed grant activities;
- Guidance provided to eligible districts and schools for developing applications;
- Subgrant processes and criteria; and
- Leadership, technical assistance, and monitoring activities for subgrantees that ensure continuous improvement in reading.

(c) The qualifications, including relevant training and experience, of the key SEA staff responsible for managing the grant activities described above.

(d) The quality of the State's design, including student outcome measures or indicators for grades K-3, subgrant (LRIs and TAGs) and school implementation measures and indicators, a timeline for data collection and reporting, provisions or feedback to districts and identification of a qualified evaluator or inclusion of appropriate criteria.

(e) The extent to which the proposed activities coordinate REA with other State initiatives and programs including how the REA grant will add to current State and local efforts.

(5) Adequacy of Resources. (15 points)

In determining the adequacy of resources, the Secretary considers the following factors:

(a) The average and range of amounts proposed, including the amounts per school/classroom, will provide sufficient resources to accomplish the tasks of Local Reading Improvement and Tutorial Assistance subgrants.

(b) The budget provides sufficient detail and an appropriate level of

funding to accomplish the purposes of this grant.

Paperwork Reduction Act of 1995

This notice and the proposed application packet contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of this notice and application package to the Office of Management and Budget (OMB) for its review.

Collection of Information: Reading Excellence Program

The Reading Excellence Program competitively awards grants to States to improve reading. The SEA will subgrant to LEAs and support activities that are designed to provide children with the skills needed to learn once they enter school, teach every child to read by the end of the third grade, and support teachers and other instructional staff in their efforts to teach reading. Information in the application would include:

(1) A description of the applicant's teacher certification requirements and how they have been or will be modified.

(2) Evidence that the SEA has the demographic and social data of the target population and its impact upon the ability of the local school districts to implement scientifically based reading activities.

(3) The evaluation plan proposed to be used by the State to determine student outcome.

(4) The list of eligible LEAs and schools and the number of teachers and students in those schools.

All information is to be collected once only from each applicant. Annual reporting and record keeping burden for this collection of information is estimated to average 48 hours for each response for 39 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needs, and completing and reviewing the collection of information.

We consider your comments on this proposed collection of information in—

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;

- Evaluating the accuracy of our estimate of burden of the proposed collection, including the validity of our methodology and assumptions;

- Enhancing the quality, usefulness, and clarity of the information we collect; and

- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of response.

OMB is required to make a decision concerning the collection of information contained in this notice of proposed eligibility and selection criteria between 30 and 60 days after publication of this document in the **Federal Register**. Therefore to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the notice of proposed eligibility and selection criteria.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on process developed by State and local government for coordination and review of proposed Federal assistance.

In accordance with this order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

We invite you to submit comments regarding the rules proposed in this notice. To ensure that your comments have the maximum effect in developing the Secretary's final notice of priorities, application requirements, and selection criteria we urge you to identify clearly the specific section of this notice that each of your comments addresses and to arrange your comments in the same order as the sections appear in the notice.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 5C141, 400 Maryland Avenue, SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request, the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability that needs assistance to review the comments. An individual with a disability may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal

Information Relay Service (FIRS) at 1-800-877-8339.

Program Authority: 20 U.S.C. 6661 *et seq.*

Electronic Access to This Document:

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites: <http://ocfo.ed.gov.fedreg.htm>; <http://www.ed.gov/news.html>. To use the PDF file you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1-888-293-6498; or in the Washington, D.C., area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://access.gpo.gov/nara/index.html>.

Catalogue of Federal Assistance Number: 84.338

Dated: February 15, 2000.

Michael Cohen,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 00-4084 Filed 2-18-00; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket Nos. FE C&E 00-02-184]

Notice of Filing of Coal Capability of Reliant Energy Channelview LP Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy; Department of Energy.

ACTION: Notice of Filing.

SUMMARY: Reliant Energy Channelview LP has submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G-039, FE-27, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586-9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42

U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a baseload powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: Reliant Energy Channelview LP (C&E 0-04).

Operator: Reliant Energy Channelview LP.

Location: Shedon Road in Channelview, Harris County, TX.

Plant Configuration: Combined-cycle.

Capacity: 786 MW.

Fuel: Natural gas.

Purchasing Entities: Reliant Energy Services, Inc.

In-Service Date: Late 2001.

Issued in Washington, DC, February 14, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex., Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00-4135 Filed 2-18-00; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Office of Environment, Safety and Health; Notice of Availability of Funds and Request for Applications for Radiation Health Effects Studies in the Russian Federation

AGENCY: Office of Environment, Safety and Health, DOE.

ACTION: Notice of availability of funds and request for applications.

SUMMARY: The Office of International Health Programs, Office of Health Studies, U.S. Department of Energy (DOE), announces that it is accepting applications to support U.S.-Russian population-based studies on low dose-rate radiation health effects in the Russian Federation. This Notice is issued subsequent to the more general

Continuation of Solicitation for Epidemiology and Other Health Studies Financial Assistance Program published in the **Federal Register** (61 FR 53903) on October 16, 1996.

DATES: The deadline for receipt of applications is May 9, 2000.

ADDRESSES: U.S. Department of Energy, Office of International Health Programs, EH-63/270CC, 19901 Germantown Road, Germantown, Maryland 20874-1290. Seven (7) copies of each application should be provided to the above address.

FOR FURTHER INFORMATION CONTACT:

Requests for further information on this announcement may be directed to Dr. Ruth Neta, telephone: (301) 903-1757; facsimile: (301) 903-1413; electronic mail: ruth.neta@eh.doe.gov; or Ms. Elizabeth White, telephone: (301) 903-7582; facsimile: (301) 903-1413; electronic mail: elizabeth.white@eh.doe.gov.

SUPPLEMENTARY INFORMATION:

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- IX. Intellectual Property Annex to the U.S.-Russian Agreement
- X. U.S.-Russian Joint Coordinating Committee for Radiation Effects Research (JCCRER) General Data Access Provisions
- XI. Addendum—Ongoing U.S.-Russian Joint Coordinating Committee for Radiation Effects Research (JCCRER) Studies

I. Purpose

A. The Office of International Health Programs, in partnership with the Russian Federation, funds research on the health consequences (cancer and other diseases) of exposure to low-dose rate ionizing radiation. These ongoing studies are coordinated through the U.S.-Russian Joint Coordinating Committee for Radiation Effects Research (JCCRER).

B. The purpose of this Notice is to encourage the submission of applications for new joint U.S.-Russian feasibility studies on cohorts exposed to chronic low-dose rate ionizing radiation as a result of nuclear weapons production in the Russian Federation. Specifically, applications in the following fields will be considered:

1. Epidemiology and related dosimetry/dose reconstruction; and

2. Molecular epidemiology/biomarkers of disease due to radiation exposure.

C. Where possible, applications for joint multi-disciplinary efforts that combine epidemiology and dosimetry are encouraged.

D. At this time, consideration will not be given to applications:

1. For research on populations exposed as a result of nuclear power incidents such as the Chernobyl accident;

2. For research on populations exposed as a result of testing conducted at the Semipalatinsk Test Site;

3. For validation of dosimetry (e.g., through Electron Paramagnetic Resonance, Fluorescent In-Situ Hybridization, and Thermoluminescence, etc.), either as a component of a retrospective physical dose reconstruction effort or as an independent study; or

4. For cross-generational studies.

E. DOE anticipates that approximately \$1,000,000 may be available in fiscal year 2000 to support up to five new projects initiated, through cooperative agreements, as a result of this Notice. Information from these studies is expected to be of major importance to DOE's mission to protect U.S. workers and populations from risks of exposures that may be associated with the Department's current and future activities.

F. Addendum XI will provide potential applicants with background information on JCCRER studies conducted to date. Descriptions of cohorts included in this section are limited to those of cohorts subject to ongoing JCCRER studies and are not intended to: (1) Be representative of all related studies in the Russian Federation; or (2) indicate a preference to support studies on these populations over others exposed as a result of nuclear weapons production in the Russian Federation.

II. Background

A. The JCCRER is a bilateral Government committee representing Federal agencies from the United States and ministries from the Russian Federation. It was established to implement the Agreement on Cooperation in Research on Radiation Effects for the Purpose of Minimizing the Consequences of Radioactive Contamination on Health and the Environment (U.S.—Russian Agreement), signed on January 1, 1994, by U.S. Secretary of State Warren Christopher and Russian Foreign Minister Andrey Kozyrev to support and facilitate joint cooperative research.

B. Radiation health effects research conducted jointly with the Russian Federation provides a unique opportunity to learn more about possible risks to groups of people from lengthy exposure to radiation. This could include people receiving exposure from uranium mining, operations of nuclear facilities, transport and disposal of radioactive materials, the testing and dismantling of nuclear weapons, and grossly contaminated sites or facilities.

C. Currently, the JCCRER and DOE are focusing on population and worker studies in the Southern Urals region of the Russian Federation. In 1948, a nuclear weapons production complex, the Mayak Production Association (MAYAK), was established by the Soviet Union in the Southern Urals, about 100 km northwest of the city of Chelyabinsk. Large amounts of radioactive materials were released into the environment between 1948 and 1957. Liquid discharges into the Techa River from MAYAK occurred from 1949–1956. As a result, thousands of people residing along the Techa River received significant radiation exposures. Furthermore, because of limited and inadequate (by today's standards) radiation protection measures and procedures, thousands of MAYAK workers were overexposed to radiation.

D. The current U.S. JCCRER members are the:

- 1. U.S. Department of Energy (DOE);
- 2. U.S. Nuclear Regulatory Commission (NRC);
- 3. U.S. Department of Health and Human Services (HHS);
- 4. U.S. Department of Defense (DoD);
- 5. U.S. National Aeronautics and Space Administration (NASA); and
- 6. U.S. Environmental Protection Agency (EPA).

E. The current Russian JCCRER members are the:

- 1. Ministry for Civil Defense Affairs, Emergencies and Elimination of Consequences of Natural Disasters (EMERCOM);
- 2. Ministry of Atomic Energy (MINATOM); and
- 3. Ministry of Health (MINZDRAV).

III. Applicants

A. An applicant must be a U.S. organization(s), and applications must include participation by both a U.S. organization(s) and a Russian organization(s). U.S. applicants may include, but are not limited to, nonprofit and for profit organizations, universities, medical centers, research institutions, and other public and private organizations, including small, minority or women-owned businesses,

as well as consortiums of interested organizations. Applications, if accepted, will be awarded through cooperative agreements. Russian participants will be directly funded through implementing arrangements under the auspices of the U.S.-Russian Agreement.

B. Applications submitted by, or on behalf of (1) another Federal agency; (2) a Federally-Funded Research and Development Center sponsored by a Federal agency; or (3) a DOE Management and Operating (M&O) contractor will not be eligible for an award under this RFA. However, as described below in Section IV(C), Application Format, an application that includes performance of a portion of the work by a DOE M&O contractor under a cooperative agreement may be considered for award.

C. Applicants are subject to applicable requirements of 10 CFR part 600, Financial Assistance Rules, and 10 CFR part 602, Epidemiology and Other Health Studies Financial Assistance Program.

D. Intellectual property created or furnished under any cooperative agreements awarded pursuant to this request for applications will be subject to the intellectual property annex to the U.S.-Russian Agreement, set forth in Section IX. In addition, generated data will be treated in accordance with the JCCRER General Data Access Provisions set forth in Section X. The applicable terms and conditions of the data clauses of 10 CFR 600.27 also will apply if included in the cooperative agreements. It is not anticipated that inventions will be made in performance of work under the cooperative agreements and, therefore, the patent rights clauses of 10 CFR 600.27 will not be included in the cooperative agreements.

IV. Applications

A. General

This Notice of Availability is issued pursuant to DOE regulations contained in 10 CFR part 602: "Epidemiology and Other Health Studies Financial Assistance Program," as published in the **Federal Register** on January 31, 1995 (60 FR 5841). The Catalog of Federal Domestic Assistance number for 10 CFR part 602 is 81.108, and its solicitation control number is EOHSAFAP 10 CFR part 602. 10 CFR part 602 contains the specific requirements for applications, evaluation, and selection criteria. Only those applications following these specific criteria and forms will be considered.

B. Structure of Cooperative Agreements

1. Cooperative agreements funded under this announcement may have two phases. Initial funding for each new cooperative agreement will be for a Phase I feasibility assessment and, if requested by DOE, development of a Phase II proposal. Phase I will last up to eighteen (18) months. Phase II, if warranted, will be funded through continuation awards. Phase II could continue up to four (4) years, renewable annually. Continuation awards for Phase II, if made, will be based on the results from Phase I, the availability of funds, and negotiation of the costs for Phase II. Only those who participate in Phase I will be eligible to participate in Phase II.

2. Phase I: During Phase I, awardees will conduct a feasibility assessment. The feasibility assessment will include a review of site-specific information and an analysis of this and other information to demonstrate the feasibility of conducting the proposed research. During Phase I, investigators will conduct the following tasks:

a. Demonstrate the feasibility of conducting the proposed project and determine any significant impediments to conducting the proposed project, as well as proposed strategies to overcome them;

b. Attend periodic DOE-coordinated meetings to share information on projects; and

c. Upon notification by DOE following review of the feasibility assessment, develop a detailed technical proposal and budget for Phase II.

3. Using the information developed in Task a, investigators will be expected to produce a feasibility assessment to be delivered one (1) year after the award is made. Based on the external review of the feasibility assessment by DOE's standing bi-national Scientific Review Group (an advisory panel for DOE-funded U.S.-Russian radiation health effects research), as well as an internal review by DOE's Office of International Health Programs, DOE will make a determination as to whether to request a long-term proposal for Phase II. Upon notification by DOE, the Phase II technical proposal and proposed budget should be prepared. The complete proposal should be submitted at least ninety (90) days prior to the conclusion of Phase I. The process and criteria used by the DOE to review these documents will be described in detail in the award documents for Phase I. The process is intended to provide a seamless transition to Phase II.

4. Phase II: DOE will determine the need for Phase II activities as described

above and, if appropriate, will support these efforts through continuation awards. Where Phase II plans are approved by DOE, the investigators will perform the following tasks:

a. Conduct the research project developed in Phase I;

b. Periodically communicate results to DOE;

c. Publish the research results in peer reviewed scientific journals; and

d. Attend periodic DOE-coordinated meetings of researchers to share information on projects.

C. Application Format

1. An application shall be submitted by the U.S. organization(s). The application shall contain two sections, technical and cost.

a. Technical applications must contain separate technical descriptions for Phase I and Phase II, which are described in Section IV(B), Structure of Cooperative Agreements. Because the scope of Phase II is dependent on the results of Phase I, the technical description for Phase II may be less specific than that for Phase I, but must clearly demonstrate a capability to conduct Phase II. The technical application shall be no longer than 25 pages in length. Resumes of proposed key personnel should be submitted as an appendix to the technical proposal and will not be counted against the page limit. The following format must be followed for the technical application:

i. *Abstract*—Provide a 1-page summary of the specific aims, background, significance, and research design and methods.

ii. *Specific Aims*—State the long-term objectives and describe what the specific research in this plan is intended to accomplish and the hypothesis to be tested.

iii. *Project Description*—Describe the research design and the procedures to be used to accomplish the specific aims of the project. At a minimum, the tasks listed under Section IV(B), Structure of Cooperative Agreements, must be described (in detail for Phase I tasks and more generally for Phase II tasks). The project description must include clear statements of what is known, what is uncertain, and what new knowledge would be added by the proposed study.

iv. *Resources*—Demonstrate the competency of research personnel and the adequacy of resources. Applications must demonstrate that the applicant has the experience and capability to plan, organize, manage, and implement the proposed work. Applications must identify the technical and scientific staff who will conduct the studies and detail their professional experience and other

sources of support. Applications must demonstrate that the offeror has a demonstrated skill in planning and scheduling projects of comparable magnitude to the project it is proposing under this Notice.

b. Cost proposals shall have no page limit and shall include, for Phase I, a summary breakdown of all costs and provide a detailed breakdown of costs on a task-by-task basis. Costs for Phase II tasks may be more general estimates since the initial award will be for Phase I only. The cost proposal for Phase I shall include an estimate of the costs of the Russian participating organization(s).

2. An application that includes performance of a portion of the effort by a DOE M&O contractor will be evaluated and considered for award pursuant to Section V, Phase I Application Evaluation and Award, provided that the application meets the following criteria:

a. Prior to submission of an application to DOE, the DOE Contracting Officer for the M&O contractor must provide written authorization for the DOE M&O contractor to perform the proposed scope of work. Pursuant to this authorization, the DOE Contracting Officer must determine that performance by the M&O contractor: (1) Is consistent with or complementary to DOE missions and the missions of the facility to which the work is to be assigned; (2) will not adversely impact execution of the assigned programs of the facility; (3) will not place the facility in direct competition with the domestic private sector; and (4) will not create a detrimental future burden on DOE resources. The DOE Contracting Officer's authorization shall be included in the application.

b. An application must include a description of: (1) The scope of work to be performed by the applicant and the scope of work to be performed by the M&O contractor; and (2) the managerial arrangement between the applicant and the M&O contractor. The scope of work to be performed by the M&O contractor may not be more significant than the scope of work to be performed by the applicant and the Russian participating organization(s). Prior to submitting an application for review as set forth in Section V, Phase I Application Evaluation and Selection, DOE will review the application to determine that it meets this criteria and reserves the right to reject any application that fails to do so.

c. DOE intends to fund an approved M&O contractor scope of work through a DOE Field Work Proposal from the

Office of International Health Programs to the DOE Operations Office overseeing the M&O contractor at issue. The M&O contractor's work scope, therefore, should not be accomplished through a contract with a recipient as defined in 10 CFR Part 600.3. Applications must include a form DOE F 4620.1 and budget page for the applicant's portion of the project, and a Field Work Proposal cover page and budget pages (see DOE Order 5700.7C) for the M&O contractor's scope of work.

3. If an applicant uses an M&O contractor to perform a portion of the work under the cooperative agreement, the applicant will be the responsible authority, without recourse to DOE, regarding the settlement and satisfaction of all contractual and administrative issues, including, but not limited to, disputes and claims, arising out of any agreement between the applicant and the M&O contractor.

V. Phase I Application Evaluation and Selection

1. Applications will be subjected to merit review (ad hoc peer review) and will be evaluated against the following criteria listed in descending order of importance and codified at 10 CFR 602.9(d):

- a. Scientific and technical merit of the proposed research;
- b. Appropriateness of the proposed method or approach;
- c. Competency of research personnel and adequacy of proposed resources; and
- d. Reasonableness and appropriateness of the proposed budget.

2. Applications will be peer reviewed by evaluators apart from DOE employees and contractors described in the Office of Environment, Safety and Health's Merit Review System (57 FR 55524, November 25, 1992) and at 10 CFR 602.9(c). The review will consist of an initial comprehensive review by an ad hoc group of experts in the field, followed by a second-tier independent review of the most highly ranked proposals by DOE's standing bi-national Scientific Review Group.

3. Following the feasibility phase, DOE's standing bi-national Scientific Review Group will evaluate the promise of feasibility studies for long-term (Phase II) study. This group will also serve to evaluate, every six (6) months, progress of all DOE-funded long-term studies and the success of completed projects.

VI. DOE's Policy on Protection of Human Subjects Reviews

A. The Federal Policy for the Protection of Human Subjects, in 10

CFR part 745 (the "Common Rule"), has special provisions for international research which apply to any awards made under this Notice of Availability. DOE approval of research conducted outside the United States is subject to the "Common Rule," or equivalent laws and regulations of the country in which research is conducted, whichever represents the greater level of protection for the research subject.

B. DOE will work with awardees during Phase I, as necessary, to ensure that research conducted with Russian participant(s) comports with the required level of protection of human subjects and adequately addresses the issue of informed consent. Information on protecting human research subjects (within DOE) can be obtained from Dr. Susan Rose at the address listed above.

VII. DOE's Role

For DOE to use cooperative agreements for these studies, there must be substantial involvement between DOE and each awardee. DOE established the subject area for these projects, the core tasks for Phase I and prepared this Notice of Availability. DOE will ensure a two-tier external evaluation and will make final selections and awards for applications submitted pursuant to this Notice. DOE, with input from its standing bi-national Scientific Review Group, will evaluate the results of Phase I and, where warranted and subject to available funding, authorize and fund Phase II continuation awards. Finally, DOE will monitor and evaluate the results of the projects to determine how these studies will contribute to DOE's ongoing efforts to improve health and safety programs for its workers.

VIII. Notices on Lobbying Restrictions and American-Made Products

A. Lobbying Restrictions (Energy and Water Act, 2000)

The awardee agrees that none of the funds obligated this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

B. Notice Regarding the Purchase of American-Made Equipment and Products—Sense of Congress

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased

with funds made available under this award should be American-made.

IX. Intellectual Property Annex to the U.S.-Russian Agreement

Pursuant to Article VI of this Agreement:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Agreement and to seek protection for such intellectual property in a timely fashion.

Rights to such intellectual property shall be allocated as provided in this Annex.

I. Scope

A. This Annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed to by the Parties or their designees.

B. For purposes of this Agreement, intellectual property shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.

C. This Annex addresses the allocation of rights, interests, and royalties between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with the Annex, by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by the Party's laws and practices.

D. Disputes concerning intellectual property arising under this Agreement should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitrate tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of the UNCITRAL shall govern.

E. Termination or expiration of the Agreement shall not affect rights of obligations under this Annex.

II. Allocation of Rights

A. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate,

reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author specifically declines to be named.

B. Rights to all forms of intellectual property, other than those rights described in Section II(A) above, shall be allocated as follows:

1. Researchers and scientists visiting in furtherance of their education shall receive intellectual property rights under the existing rules of the host institution. In addition, each visiting researcher or scientist named as an inventor shall have the right to national treatment regarding awards, benefits or other compensation, including royalties, in accordance with the existing rules of the host institution.

2. (a) For intellectual property created during joint research, for example, when the Parties, participating institutions, or Participating personnel have agreed in advance of the scope of work, each Party shall be entitled to obtain all rights and interests in its own territory. Rights and interests in third countries will be determined in implementing arrangements. The rights to intellectual property shall be allocated with due regards for the economic, scientific and technological contributions from each Party to the creation of intellectual property. If research is not designated as "joint research" in the relevant implementing arrangement, rights to intellectual property arising from the research will be allocated in accordance with Paragraph II(B)(1). In addition, each person named as an inventor shall have the right to national treatment regarding awards, benefits and other compensation, including royalties, in accordance with the existing rules of the host institution. (b) Notwithstanding Paragraph II(B)2(A), if a type of intellectual property is available under the laws of one party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors of the property shall nonetheless be entitled to royalties as provided in Paragraph II(B)2(a).

III. Business-Confidential Information

In the event that information identified in a timely fashion as business-confidential is furnished or created under the Agreement, each Party and its participants shall protect such information in accordance with applicable laws, regulations and

administrative practice. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain competitive advantage over those who do not have it, the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

X. U.S.-Russian Joint Coordinating Committee for Radiation Effects Research (JCCRER) General Data Access Provisions

Introduction

The purpose of this data access agreement is to ensure that scientists of the Russian Federation and American scientists working on projects under the *U.S.-Russian Agreement* have equal access to all primary and original Russian and American data necessary to conduct the work described under Directions 1 and 2 of the Agreement. Such access will ensure the highest quality of scientific research conducted in an atmosphere of mutual trust and cooperation.

General Provisions

1. For the purposes of this agreement on data access, data is defined as all information, in whatever format or media, that is identified by any of the Principal Investigators and Directors of participating institutes as necessary to carry out the project.

2. Privacy statutes in Russia and the United States generally restrict access to data which includes personal identifiers. Individual data, however, is the basis of much of the research work of the JCCRER. Therefore, where necessary, adherence to these statutes will be ensured by substituting unique numerical identifiers which protect individual privacy while allowing analysis of individual and aggregate data.

3. Data covered by this access agreement include original or raw data, compiled data created before these projects were begun, and second generation or summarized data and information compiled according to project requirements. The specific project agreement provisions will specify the actual data which fall under each of these categories. Appropriate access to all these data must be ensured; however, original or raw data, and compiled data created before these projects were begun remain the property of that organization and that country

where the data were obtained and are currently maintained.

4. Secondary data created as part of JCCRER projects, which are a joint scientific product, will be jointly owned by the Russian and the American institutions participating in the project. Each project will determine what is a scientific product of the collaboration and, therefore, subject to joint ownership.

5. Project participants have the right to appropriate access to original, compiled and secondary data on the territory of the organization which owns and maintains the data.

6. The specific project agreement provisions will identify the kind and extent of unpublished primary, compiled, and secondary data that may be transferred out of the country of ownership to achieve specific project goals such as technical analyses, modeling, etc., at the home institution of researchers. When such data transfers occur, they must also be approved in writing by the Director of the institute or organization to which the data belong. Transferred data cannot be used for purposes other than those specified by the agreement, even after the project is completed or the researcher is no longer associated with the JCCRER. In cases where such data are transferred to people who are not participants in the project for the purposes of furthering the project, the same conditions and limitations on use of data apply. Such transfers will be carefully scrutinized.

7. No transfers, publications, presentations, press releases or any other form of communication to the outside world regarding details of the unpublished data or the unpublished results of studies conducted under the authority of the JCCRER will be made without the written consent, and participation of the institutions maintaining the data sets and the scientists involved in the research. Any agreement to make data publicly available must be approved by the Directors of organization performing the research. Scientists and specialists participating as current members of the JCCRER Joint Committee, Executive Committee, and Scientific Review Groups have a right to review data and unpublished results of studies as appropriate to their responsibilities, but are similarly bound by the restrictions on communication as described in this paragraph.

8. Dissemination of scientific results, in the form of presentations at scientific meetings and publications in referred journals, is regarded as an essential product of the JCCRER work. To ensure that such communications take place

while complying with the requirements of the participating institutions and funding agencies, procedures will be developed for the expeditious review and approval of such communication requests from the principal investigators.

9. Data published in the open, peer-reviewed literature shall be referenced and used according to generally understood and accepted conventions of scientific conduct; it is expected that proper reference and credit to the origin of the published material will be made.

10. After the publication of reports, third parties may request access to unpublished study data that does not contain individual identifiers, in order to conduct independent analyses. Third parties are defined as experts in the field of radiation health effects and dosimetry who are not part of any JCCRER project. Procedures will be developed for requesting and approving third party access to primary data.

XI. Addendum—Ongoing U.S.-Russian Joint Coordinating Committee for Radiation Effects Research (JCCRER) Studies

A. Description of Ongoing JCCRER Projects

The Russian scientific institutions currently conducting radiation health effects research under the auspices of the JCCRER include the:

- Branch Number 1 of the Biophysics Institute (FIB-1), Ozersk (Dr. Sergey Romanov, Director, romanov@fib1gnc.chel-65.chel.su);
- Mayak Production Association, Ozersk; (Dr. Evgenii Vasilenko, Senior Engineer, rel@envc.chel.su); and
- Urals Research Center for Radiation Medicine (URCRM), Chelyabinsk (Dr. Alexander Akleyev, Director, akleyev@urcrm.chel.su).

1. Description of Cohorts Currently Under Study

Two different epidemiologic research directions currently are supported by the JCCRER: (1) Studies of populations who live near the Techa River; and (2) studies of workers at the MAYAK facility.

a. Techa River Population Cohort.

The liquid discharges to the Techa River from MAYAK (due to inadequate storage of radioactive waste) occurred from 1949–56, with 95 percent released in an eighteen (18) month period (March 1950 to November 1951), for a total release of about 3 million Ci.

The cohort registry consists of individuals born in 1949 or earlier, who lived for at least one (1) month during 1950 to 1952 in the villages along the

Techa River. The cohort includes 28,000 individuals, about 20 percent of which have been estimated to have had average effective doses of exposure of more than 0.5 sievert (Sv). Thirty (30) percent of the cohort members were 0 to 14 years old at the time of exposure.

The external exposure was due from contaminated sediments in the river; the internal exposure (measured by whole body counts and conducted for half of the members of the cohort) was mainly due to intake of river water and milk and included Sr 89, 90, and Cs 137.

Published reports indicate a statistically significant increase in leukemia in the exposed versus control populations. Other cancers, including stomach, esophagus, and lung were also studied, but the results have not been conclusive.

b. MAYAK Workers Cohort.

The computerized registry of 19,000 MAYAK workers contains: occupational histories; vital status; current place of residence or date and causes of death; annual and cumulative data doses; plutonium body burdens; and internal doses to the main organs (lungs, liver and bone marrow). As of 1994, 90 percent of this cohort had known vital status; 5,000 were dead; 1,000 had died of cancer; and more than 4,000 had known plutonium body burdens. The average value of the equivalent dose to the lung for all workers with measured plutonium (Pu 239) body burden is 7.06 Sv, with external gamma doses of 0.88 gray (Gy) for all workers included in the registry. Radiation doses decreased significantly with time, for example:

Years hired	Average exposure
1948–53	1.57 Gy.
1954–58	0.57 Gy.
1959–63	0.27 Gy.
1964–72	0.15 Gy.

More than 1,800 occupational diseases were diagnosed by 1959, 92 percent of which were noted between 1949 and 1953. Eighty-three (83) percent of these were diagnosed as chronic radiation sickness caused by radiation exposures of 1 to 10 Gy. Forty-one (41) cases were diagnosed as acute radiation syndrome, four of which were fatal. Burns and other local radiation injury were reported for 188 workers. In addition, 110 cases of pneumosclerosis (66 in individuals whose internal lung exposure exceeded 4.0 Gy) were diagnosed.

2. Tissues Available for Study from the Deceased Techa River Population and MAYAK Worker Cohorts

Tissues available for study on the Southern Urals populations include those of the deceased Techa River population, stored at URCRM in Chelyabinsk, as well as those of the deceased MAYAK workers, located at

FIB-1 in Ozersk. DOE is currently supporting an effort to establish a tissue repository at FIB-1, as described below.

a. *Establishment of Russian Human Radiobiology Tissue Repository at FIB-1 for Exposed MAYAK Workers.*

The repository consists of organs and tissues of 600 deceased MAYAK workers. Blood sample donations obtained with informed consent from

living members of worker cohort, 1,200 of whom are currently residing in the city of Ozersk, will be added to this repository. Additionally, information on internal and external exposure records, on medical records, and on work history will be included in a computerized inventory currently under development for the tissues included in the repository.

Background Information on Formalin-fixed Tissue Materials From 180 Donors Inventoried to Date

(a) Internal organs:

	Lung	Heart/ aorta	Stomach	Pan- creas	Liver	Intestine		Spleen	Kidneys	Urinary bladder
						Sm	Lg			
Number of cases	180	172/103	132	135	180	24	117	159	176	30

(b) Brain and other organs/tissues:

	Brain		Thyroid	Adre- nals	Reproductive organs				Lymph nodes
	Hemi- spheres	Cere- bellum			Testes	Pros- tate	Ovary	Uterus	
Number of cases	173	109	126	143	100	40	8	19	69

Accumulated Doses of External y-exposure for the 180 Registrants

	Cumulative doses, Gy						Non- mon- itored
	<0.05	0.051– 0.5	0.5–1.0	1.01– 2.0	2.01– 4.0	>4.0	
Number of cases	11	15	7	67	63	27	10

Plutonium Body Burden for the 180 Registrants

	Body burden, kBq							No in- forma- tion
	0–0.75	0.76– 1.5	1.51– 2.95	2.96– 5.9	5.91– 11.84	11.85– 47.36	>47.36	
Number of cases	34	19	24	19	8	31	18	47

Ad hoc histology examination of tissue samples of 15 individuals showed preservation of structure of tissue materials stored in formalin for 10–20 years and their adequacy for utilization in morphology studies. Additionally, work with 10 paraffin blocks has shown promise for future DNA studies.

3. Current JCCRER Research Directions

The JCCRER has initiated areas for study called Directions. Direction 1 focuses on the Techa River population and Direction 2 focuses on the MAYAK workers. All projects are jointly conducted by both U.S. and Russian principal investigators and their

respective teams of researchers, and are summarized below.

A third JCCRER Direction, which is not related to this announcement, is focused on U.S.—Russian emergency preparedness/response activities. The Russian Ministry for Emergencies is leading these activities for the Russian side.

Direction 1: Medical Aspects of Radiation Exposure Effects on Population

1. Project 1.1: Dose Reconstruction for the Population Subjected to Radiation in the Urals.

Objectives: To reconstruct, validate and analyze data on individual radiation doses received by the population so that these can be used in studies assessing the risks of developing cancer in exposed populations. (U.S. support from DOE, with supplements from NASA and EPA—scheduled for completion in March 2000)

2. Project 1.2: Risk Estimation of the Carcinogenic Effects in the Population Residing in the Region of the Mayak Production Association.

Objectives: To conduct studies to determine the risk of cancer in population groups exposed to radioactive contaminants in the region, to characterize the quality and validity of the data for conducting such studies, and to preserve the existing data using modern technologies. (U.S. support from DOE on cancer incidence, the first component of which is scheduled for completion in March 2000, and data preservation projects; from National Cancer Institute (HHS) on cancer mortality project.)

3. Project 1.3: Retrospective Reconstruction of Radionuclide Contamination of Techa River Caused by Liquid Waste Discharge from Radiochemical Production at the Mayak Production Association: 1949–1956.

Objectives: To supplement the population dose reconstruction study by providing additional information on the source term of radioactive materials released into the Techa River. (U.S. support from DOE—completed in 1998.)

Direction 2: Medical Consequences of Occupational Exposure to Radiation

1. Project 2.1: Metabolism and Dosimetry of Plutonium Industrial Compounds.

Objectives: To conduct a joint analysis of the data collected by the U.S. Transuranium and Uranium Registry (USTUR) and the dosimetry registry at FIB-1/MAYAK on deceased people with occupational exposure to radiation. (U.S. support from DOE—scheduled for completion in March 2000.)

2. Project 2.2: Risk Estimation for Stochastic (Carcinogenic) Effects of Occupational Exposure.

Objectives: To determine risk estimates for cancer as a result of prolonged occupational exposure to radiation, from both external sources and internally-deposited radioactive compounds. (U.S. support from DOE.)

3. Project 2.3: Non-cancerous Effects of Occupational Exposure to Radiation.

Objectives: To validate and analyze the data on acute and chronic effects of radiation, other than cancer, observed in a large number of workers at the Mayak Production Association. (U.S. support from NRC.)

4. Project 2.4: Reconstruction of Individual Doses of Exposure to Mayak Production Association Workers.

Objectives: To develop an electronic database of reconstructed doses for external and internal exposures received by the MAYAK worker cohort. (U.S. support from DOE.)

Additional DOE Office of International Health Programs-Funded Direction 2 Studies

The Office of International Health Programs awarded five cooperative agreements in August 1998 for fifteen (15) month feasibility studies to support ongoing joint U.S.-Russian studies in the Southern Urals on low dose-rate radiation health effects. These new studies were aimed at adding a molecular epidemiology/biodosimetry component to the ongoing epidemiologic and dose reconstruction work of the JCCRER. The feasibility studies have been jointly conducted by the FIB-1 in Ozersk and U.S. institutions, and the following two have proceeded as Phase II studies.

1. Improved Dosimetry and Risk Assessment for Plutonium-Induced Lung Disease Using a Microdosimetric Approach

Objectives: To determine plutonium distribution in relation to pathology in preserved tissues.

2. Establishment of a Repository Containing Tissues and Organs of Deceased Workers of the Mayak Production Association Who Were Exposed to Actinide Elements.

Objectives: To establish a human tissue repository for cytogenetic and molecular biological research at FIB-1 in Ozersk.

Issued in Washington, D.C., on February 11, 2000.

Paul J. Seligman, M.D., M.P.H.,

Deputy Assistant Secretary for Health Studies.

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BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00-53-000]

Black River Limited Partnership; Errata of February 16, 2000; Notice of Filing Issued February 8, 2000

By this notice, the due date for interventions and protests in the above-referenced proceeding is hereby shortened to and including February 28, 2000.

David P. Boergers,
Secretary.

[FR Doc. 00-4093 Filed 2-18-00; 2:18 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00-76-000]

Black River Limited Partnership; Errata of February 15, 2000; Notice of Amendment to Application for Commission Determination of Exempt Wholesale Generator Status Issued February 11, 2000

By this notice, the due date for interventions and protests in the above-referenced proceeding is hereby shortened to and including February 25, 2000.

David P. Boergers,
Secretary.

[FR Doc. 00-4056 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00-1317-000]

Central Vermont Public Service Corporation; Notice of Filing

February 10, 2000.

Take notice that on February 7, 2000, Central Vermont Public Service Corporation (Central Vermont), tendered for filing revised Network Integration Transmission Service Agreements with Vermont Electric Cooperative, Inc.; Woodsville Fire District Water and Light Department (Woodsville); Village of Johnson Water and Light Department; Rochester Electric Light and Power Company; Village of Ludlow Electric Light Department of serve under Central Vermont's Open Access Transportation

Tariff No. 7. The revisions add provisions relating to ancillary services for each of the customers. Central Vermont requests that the Commission waive its notice of filing requirements and allow the agreements to become effective as of January 1, 2000, consistent with Central Vermont's original request in the docket.

Any person desiring to be heard or to protests such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 28, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 00-4087 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00-78-000]

Florida Gas Transmission Company and Southern Natural Gas Company; Notice of Application

February 15, 2000.

Take notice that on February 4, 2000, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002 and Southern Natural Gas Company (Southern), 1900 Fifth Avenue North, Birmingham, Alabama 35203 filed a joint application in Docket No. CP00-78-000 pursuant to Section 7(b) of the Natural Gas Act, as amended, for permission and approval to abandon by sale to Arrowhead Pipeline, L.P. (Arrowhead), five minor gas supply lines along with related taps, valves, three measurement facilities, a dehydrator facility, and other minor appurtenant facilities located onshore and offshore in Matagorda County, Texas. In addition, the Applicants are seeking determination that these

facilities, once conveyed to Arrowhead, will be gathering facilities not subject to the Commission's jurisdiction pursuant to NGA Section 1(b). All as more fully set forth in the joint application on file with the Commission which is open to public inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Communications concerning this filing should be addressed to:
For Florida Gas Transmission Company
Mr. Stephen T. Veatch,
Director, Certificates and Regulatory Reporting—(713)-853-6549, Suite 3997

or Mr. Frazier King, Senior Counsel—
(713)-853-7228, Suite 4742
1400 Smith Street,
Florida Gas Transmission Company,
P.O. Box 1188,
Houston, Texas 77251-1188.

For Southern Natural Gas Company
Patrick B. Pope, General Counsel
Telephone: (205) 325-7126

or Sandra W. Murvin, Senior Counsel
(205) 325-3859,
1900 5th Ave. North,
Southern Natural Gas Company,
Post Office Box 2563,
Birmingham, AL 35202-2563.

It is stated that the facilities that are the subject of this application were initially constructed in order to connect gas supplies to the systems of FGT and SNG for rendering their merchant functions. Since FGT and SNG ceased making sales of gas, deliveries through these facilities have dramatically declined. Thus, these facilities have been underutilized for a number of years.

The Applicants further state that the abandonment and sale of these facilities will eliminate the inefficiencies of under-utilization, reduce operation and maintenance costs, reduce rate base and avoid potential stranded costs while firm service from and to primary points will be maintained by FGT and SNG.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 1, 2000, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party

to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the Applicants to appear or be represented at the hearing.

David P. Boergers,
Secretary.

[FR Doc. 00-4089 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00-56-000, et al.]

Onondaga Cogeneration Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

February 14, 2000

Take notice that the following filings have been made with the Commission:

1. Onondaga Cogeneration Limited Partnership

[Docket No. EC00-56-000]

Take notice that on February 4, 2000, Onondaga Cogeneration Limited Partnership (Onondaga) tendered for filing with the Federal Energy Regulatory Commission an application for authorization to transfer facilities under Section 203 of the Federal Power Act in connection with a sale-leaseback of facilities associated with Onondaga's generating facility in Geddes, New York.

Comment date: March 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Con Edison Energy, Inc.; Strategic Power Management, Inc.; U. S. Power & Light, Inc.; Business Discount Plan, Inc.

[Docket Nos. ER98-2491-006, ER96-2591-012, ER96-105-017, and ER99-581-004]

Take notice that on February 8, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

3. New England Power Pool

[Docket No. ER99-2175-003]

Take notice that on February 8, 2000, ISO New England Inc. tendered for filing with the Commission, information regarding Market Rule 15 actions for September 1999 in the above-referenced proceeding for informational purposes only.

4. The Toledo Edison Company

[Docket No. ER00-1540-000]

Take notice that on February 4, 2000, Toledo Edison Company filed their quarterly report for the quarter ending December 31, 1999.

Comment date: March 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Energy NY-GEN, L.L.C.; Southern Energy Bowline, L.L.C.; Southern Energy Lovett, L.L.C.

[Docket Nos. ER00-1553-000, ER00-1554-000, and ER00-1555-000]

Take notice that on February 8, 2000, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending December 31, 1999.

Comment date: March 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Wisvest-Connecticut, LLC Consolidated Edison Company of New York, Inc.; Orange and Rockland Utilities, Inc.; Orange and Rockland Utilities, Inc.; USGen New England, Inc.

[Docket Nos. ER00-1557-000, ER00-1558-000, ER00-1559-000, ER00-1560-000, and ER00-1561-000]

Take notice that on February 9, 2000, the above-mentioned affiliated power producers and/or public utilities filed quarterly reports.

Comment date: March 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00-1565-000]

Take notice that on February 7, 2000 Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU)

(hereinafter Companies) tendered for filing an executed unilateral Service Agreement between the Companies and Reliant Energy Services under the Companies Rate Schedule MBSS.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00-1566-000]

Take notice that on February 7, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and British Columbia Power Exchange Corporation under the Companies Open Access Transmission Tariff.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00-1567-000]

Take notice that on February 7, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Non-Firm Point-to-Point Transmission Service Agreement between the Companies and British Columbia Power Exchange Corporation under the Companies Open Access Transmission Tariff.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER00-1568-000]

Take notice that on February 7, 2000, the California Independent System Operator Corporation tendered for filing a Scheduling Coordinator Agreement between the ISO and Arizona Electric Power Cooperative, Inc. (Arizona Electric) for acceptance by the Commission.

The ISO states that this filing has been served on Arizona Electric and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of January 18, 2000.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power Corporation

[Docket No. ER00-1569-000]

Take notice that on February 7, 2000, Florida Power Corporation (FPC)

tendered for filing a revised Exhibit A to the existing Contract for Interchange Service between itself and Kissimmee Utility Authority (KUA). The revised Exhibit A contains revisions to the description of the existing point of interconnection to reflect changes in facilities and the description of a new point of interconnection.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on February 8, 2000.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Idaho Power Company

[Docket No. ER00-1570-000]

Take notice that on February 7, 2000, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission, Service Agreements for Non-firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service between Idaho Power Company and Tri-State Generation and Transmission Association.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Delmarva Power & Light Company

[Docket No. ER00-1571-000]

Take notice that on February 7, 2000 Delmarva Power & Light Company (Delmarva) tendered for filing an executed umbrella service agreement with Virginia Electric and Power Company under Delmarva's market rate sales tariff, FERC Electric Tariff, Second Revised Volume No. 14.

Delmarva requests an effective date of February 7, 2000, the date of filing.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. USGen New England, Inc.

[Docket No. ER00-1572-000]

Take notice that on February 7, 2000, USGen New England, Inc. (USGenNE) tendered for filing an unexecuted System Restoration Service Agreement between USGenNE and ISO New England Inc. (ISO New England).

Copies of the filing have been served upon ISO New England and counsel for the New England Power Pool.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Southwestern Electric Power Company

[Docket No. ER00-1573-000]

Take notice that on February 7, 2000, Southwestern Electric Power Company

(SWEPCO) filed Amendment No. 3 to the Power Supply Agreement (PSA), as amended, between SWEPCO and the City of Bentonville, Arkansas (Bentonville) in order to provide for a new point of delivery. A revised Exhibit F to the PSA, Points of Delivery, is attached to and incorporated in the Amendment No. 3.

SWEPCO requests an effective date of April 15, 2000.

Copies of the filing have been served on Bentonville and the Arkansas Public Service Commission.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Ameren Services Company

[Docket No. ER00-1574-000]

Take notice that on February 7, 2000, Ameren Services Company (ASC) tendered for filing a Service Agreement for Market Based Rate Power Sales between ASC and Edgar Electric Cooperative Association d/b/a EnerStar Power Corp. (EnerStar). ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to EnerStar pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98-3285-000.

ASC requests that the Service Agreement become effective January 26, 2000.

Comment date: February 28, 2000, 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. 00-4086 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File an Application for a New License

February 15, 2000.

a. *Type of Filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 2619.

c. *Date Filed:* February 4, 2000.

d. *Submitted By:* Nantahala Power and Light—current licensee.

e. *Name of Project:* Mission Hydroelectric Project.

f. *Location:* On the Hiwassee River, a tributary of the Tennessee River, in Clay County, North Carolina.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:* John C. Wishon, Nantahala Power and Light, 301 NP&L Loop, Franklin, NC 28734, (828) 369-4604.

i. *FERC Contact:* Tom Dean, thomas.dean@ferc.fed.us, (202) 219-2778.

j. *Effective date of current license:* May 1, 1965.

k. *Expiration date of current license:* July 31, 2005.

l. *Description of the Project:* The project consists of the following existing facilities: (1) a 47.5-foot-high, 397-foot-long concrete dam comprised of a gated spillway section; (2) the 60-acre Mission Reservoir at a normal pool elevation of 1,658.40 feet U.S.G.S.; (3) three 56-foot-long penstocks; (4) a powerhouse integral with the dam, containing three generating units with a total installed capacity of 1,800 kW; (5) a 34.5-kV transmission line; and (6) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 31, 2003.

David P. Boergers,
Secretary.

[FR Doc. 00-4090 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File an Application For a New License

February 15, 2000

a. *Type of Filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 2169.

c. *Date Filed:* January 31, 2000.

d. *Submitted By:* Alcoa Power Generating Inc.—current licensee.

e. *Name of Project:* Tapoco Hydroelectric Project.

f. *Location:* On the Little Tennessee and Cheoah Rivers, in Graham and Swain Counties, North Carolina, and Blount and Monroe Counties, Tennessee.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:* Sue Fugate, Alcoa Power Generating Inc., Tapoco Division, 300 North Hall Road, Alcoa, TN 37701 (865) 977-3321.

i. *FERC Contact:* Ron McKittrick, ronald.mckittrick@ferc.fed.us, (770) 452-3778.

j. *Effective date of current license:* March 1, 1955.

k. *Expiration date of current license:* February 28, 2005.

l. *Description of the Project:* The project comprises four developments.

The Chilhowee Development consists of the following existing facilities: (1) a 91-foot-high, 1,483-foot-long concrete gravity dam comprised of a gated spillway section; (2) a 1,747-acre reservoir at a normal pool elevation of 874.0 feet msl; (3) a powerhouse, integral with the dam, containing three generating units with a total installed capacity of 50.5 MW; and (4) other appurtenances.

The Calderwood Development consists of the following existing facilities: (1) a 232-foot-high, 916-foot-long concrete arch dam comprised of a gated spillway section; (2) a 536-acre reservoir at a normal pool elevation of 1,087.5 feet msl; (3) a 26.5-foot-diameter, 2,147-foot-long concrete tunnel; (4) three 16-foot-diameter, 330 to 388-foot-long penstocks; (5) a powerhouse containing three generating units with a total installed capacity of 121.5 MW; and (6) other appurtenances.

The Cheoah Development consists of the following existing facilities: (1) a 225-foot-high, 750-foot-long concrete gravity dam comprised of a gated spillway section; (2) a 615-acre reservoir at a normal pool elevation of 1,276.5 feet msl; (3) a concrete tunnel consisting of four 13.5-foot-diameter, 886 to 922-foot-long penstocks; (4) a 17-foot-diameter, 513-foot-long penstock; (5) a powerhouse containing five generating units with a total installed capacity of 110 MW; and (6) other appurtenances.

The Santeetlah Development consists of the following existing facilities: (1) a 216-foot-high, 1,054-foot-long concrete gravity dam comprised of a gated spillway section; (2) a 2,863-acre reservoir at a normal pool elevation of

1,817 feet msl; (3) a 11-foot-diameter, 26,123-foot-long concrete tunnel; (4) a powerhouse containing two generating units with a total installed capacity of 45 MW; and (5) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 2003.

David P. Boergers,
Secretary.

[FR Doc. 00-4091 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184]

El Dorado Irrigation District; Notice of Meeting Cancellation

February 15, 2000.

The meeting scheduled for February 22, 2000, at 9:30 a.m. in Placerville, California announced by notice issued February 7, 2000, has been canceled. If the Commission's staff schedule to attend a public District's meeting in the future, appropriate notice will be issued.

David P. Boergers,
Secretary.

[FR Doc. 00-4092 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-431-000]

Natural Gas Pipeline Company of America; Notice of Rescheduling of Conference

February 15, 2000.

Take notice that the conference in the above-captioned proceeding has been rescheduled for Thursday, March 2, 2000, beginning at 10:00 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426.

All interested parties are permitted to attend.

David P. Boergers,
Secretary.

[FR Doc. 00-4088 Filed 2-18-00; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6540-5]

Agency Information Collection Activities: Continuing Collection; Comment Request; Land Disposal Restrictions No-Migration Variances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Land Disposal Restrictions No-Migration Variances, EPA ICR Number 1353, OMB Control Number 2050-0062, current expiration date May 31, 2000. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 24, 2000.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-2000-NVIP-FFFFF to: (1) if using regular US Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0002, or (2) if using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. Comments may also be submitted electronically through the Internet to: rcra-docket@epa.gov. Comments in electronic format should also be identified by the docket number F-2000-NVIP-FFFFF and must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0002.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor,

1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page. The index and some supporting materials are available electronically. See the "Supplementary Information" section for information on accessing them.

The ICR is available on the Internet at <http://www.epa.gov/epaoswer/hazwaste/ldr/icr/nomigvar.htm>

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register**. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800-424-9346 or TDD 800-553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703-412-9810 or TDD 703 412-3323. For more detailed information on specific aspects of this rulemaking, contact David Eberly, Office of Solid Waste, 5303W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0002, by phone at 703-308-8645, or by e-mail at eberly.david@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Internet Availability

Today's notice and the supporting documents that detail the No-Migration Regulations ICR are available on the Internet. Follow these instructions to access this information electronically:

WWWURL: <http://www.epa.gov/epaoswer/hazwaste/ldr/icr/nomigvar.htm>

FTP: <ftp://ftp.epa.gov>

Login: anonymous

Password: your Internet e-mail address

Path: /pub/epaoswer

Note: The official record for this action will be kept in paper form and maintained at the address in the **ADDRESSES** section above.

Affected entities: Entities potentially affected by this action are owners and

operators of hazardous waste treatment, storage, and disposal facilities.

Title: Land Disposal Restrictions No-Migration Variances, EPA ICR Number 1353, OMB Control Number 2050-0062, current expiration date May 31, 2000.

Abstract: To receive a variance from the hazardous waste land disposal prohibitions, owner/operators of hazardous waste storage or disposal facilities may petition the Environmental Protection Agency to allow land disposal of a specific restricted waste at a specific site. The EPA Regional Offices will review the petitions and determine if they successfully demonstrate "no migration." The applicant must demonstrate that hazardous wastes can be managed safely in a particular land disposal unit, so that "no migration" of any hazardous constituents occurs from the unit for as long as the waste remains hazardous. (See 40 CFR 268.6.) If EPA grants the variance, the waste is no longer prohibited from land disposal in that particular unit. If the owner/operator fails to make this demonstration, or chooses not to petition for the variance, best demonstrated available technology (BDAT) requirements of 40 CFR 268.40 *et seq* must be met before the hazardous wastes are placed in a land disposal unit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency is estimating that no more than one

respondent will prepare and submit a No-Migration variance petition during the three year period of this ICR. EPA estimates that the total annual respondent burden for all information collection activities will be approximately 3,137 hours, at an annual cost of \$187,136. The annual cost includes annual capital start up and operation and maintenance costs of approximately \$180. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: February 14, 2000.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 00-4142 Filed 2-18-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6541-3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Recordkeeping and Reporting Requirements Under EPA's Energy Star Homes Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Recordkeeping and Reporting Requirements Under EPA's Energy Star Homes Program, EPA ICR No. 1879.01. 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 March 23, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, contact Sandy Farmer at EPA by phone at (202) 260-2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at <http://www.epa.gov/icr> and refer to EPA ICR No. 1879.01. For technical questions about the ICR contact Glenn Chinery at (202) 564-9784.

SUPPLEMENTARY INFORMATION:

Title: Recordkeeping and Reporting Requirements Under EPA's Energy Star Homes Program; EPA ICR No. 1879.01.) This is a new collection.

Abstract: This ICR covers recordkeeping and reporting activities for both participation in the Energy Star Homes Program as well as participation in a three-year impact evaluation of the Energy Star Homes Program. The Energy Star Homes Program Impact Evaluation is designed to evaluate the effectiveness of the program in meeting the program's stated objectives. The evaluation will cover Energy Star Homes built during 1997-98 (the "first year"), 1999 (the "second year"), and 2000 (the "third year"). The evaluation consists of surveying Energy Star homebuyers, non-Energy Star homebuyers (hereafter referred to as "Control" homebuyers), Energy Star builder partners, energy suppliers, and Home Energy Rating System (HERS) providers. By collecting information from these different constituents, EPA will be able to determine whether Energy Star homebuyers are satisfied with their purchase; builder partners are meeting their business objectives; and Energy Star homes are delivering the pollution prevention promised. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 10/05/98 (63 FR 53415), no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for participation on the Energy Star Homes Program is estimated to be 3.7 hours per participant. The burden for the respondents participating in the Impact Evaluation is estimated to average 0.22 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency.

This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Home Energy Rating System (HERS) providers, Energy Star Home builders, Energy Star Home and control home buyers, energy suppliers (utility companies) of home buyers.

Estimated Number of Respondents:

1. Memorandum of Understanding: 533 each year for 3 years.

2. HERS providers (information from form already filled out by HERS provider in course of his/her business): 1st year—1,000; 2nd year—5,500; 3rd year—14,000.

3. Energy Star Home Builders: 1st year—600; 2nd year—200, 3rd year—200.

4. Energy Star Home and control home buyers (two groups): 686 from each group each year for 3 years.

5. Energy suppliers (utility companies) of these home buyers—see previous item: 686 from each group each year for 3 years.

Frequency of Response: Once for each respondent.

Estimated Total Annual Hour Burden: 3,198 hours.

Estimated Total non-labor Cost Burden: \$0.

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 1879.01 in any correspondence.

Ms. Sandy Farmer, Collection Strategies Division, Office of Environmental Information (OEI), U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave. NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: February 15, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00-4140 Filed 2-18-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6541-4]

Adequacy Status of Motor Vehicle Emissions Budgets in Submitted State Implementation Plans for Transportation Conformity Purposes; Maryland; Phase II Plan for the Baltimore Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy status.

SUMMARY: EPA is announcing that the revised motor vehicle emissions budgets (hereafter referred to as "budgets") contained in the revised Phase II Plan for the Baltimore Ozone Nonattainment Area submitted by the State of Maryland as a State Implementation Plan (SIP) revision are adequate for transportation conformity purposes. The State submitted the revised Phase II plan to EPA for parallel processing on December 3, 1999, and then formally submitted it on December 21, 1999. The Phase II SIP consists of the attainment demonstration and the two Post 99 Rate-of-Progress (ROP) plans (2002 and 2005) for the Baltimore nonattainment area. EPA has found the attainment budgets and the ROP budgets of the submitted revised Phase II SIP for the Baltimore area adequate for transportation conformity purposes.

DATES: The findings that the attainment and ROP budgets are adequate, made in a letter dated February 15, 2000 to the Maryland Department of the Environment, are effective on March 8, 2000.

FOR FURTHER INFORMATION CONTACT: Paul T. Wentworth, P.E., U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA. 19103 at (215) 814-2184 or by e-mail at: Wentworth.Paul@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document the terms "we," "us," or "our" refer to EPA. The word "budgets" refers to the motor vehicle emission budgets for volatile organic compounds (VOCs) and nitrogen oxides (NO_x). The word "SIP" in this document refers to the revised Phase II Plan for the Baltimore nonattainment area submitted to EPA by the Maryland Department of the Environment (MDE) for parallel processing on December 3, 1999 and

formally submitted on December 21, 1999. The Phase II Plan includes the attainment demonstration for the one-hour National Ambient Air Quality Standard (NAAQS) for ozone and the two Post 99 ROP plans (2002 and 2005) for the Baltimore nonattainment area.

On March 2, 1999, the D.C. Circuit Court ruled that the budgets contained in submitted SIPs cannot be used for transportation conformity determinations until EPA has affirmatively found them adequate. As a result of our findings, the attainment budgets and the ROP budgets contained in the submitted revised Phase II SIP for the Baltimore ozone nonattainment area may be used for future conformity determinations.

On April 29, 1998, MDE submitted its Phase II SIP for the Baltimore area. That Phase II SIP contained mobile source vehicle emissions budgets both for ROP and for attainment. On August 2, 1999, the availability of the Phase II SIP and the motor vehicle emission budgets was posted on EPA's conformity WEB site for the purpose of soliciting public comment. The comment period closed on August 31, 1999, and no comments were received. On October 26, 1999 EPA we sent a letter to MDE which constituted final Agency actions on the adequacy of the budgets contained in the Phase II SIP submitted on April 29, 1999. Those actions were EPA's findings that the budgets were not adequate.

On December 3, 1999, a revised Phase II plan with new attainment and ROP budgets was submitted as a SIP revision by MDE for parallel processing. The revised Phase II plan was formally submitted on December 21, 1999. On December 21, 1999, we posted the availability of the SIP and the motor vehicle emission budgets on our conformity website for the purpose of soliciting public comment on the adequacy of the mobile budgets. The comment period closed on January 20, 2000. EPA received comments from the University of Maryland School of Law on behalf of its client, an organization called the 1000 Friends of Maryland.

On February 15, 2000, we sent a letter to MDE which constituted final Agency actions on the adequacy of the budgets contained in the revised Phase II SIP. Those actions were EPA's findings that the attainment budgets and the ROP budgets are adequate for transportation conformity purposes. This is an announcement of adequacy findings that we already made on February 15, 2000. The effective date of these findings is March 8, 2000. These findings will also be announced on EPA's website: <http://www.epa.gov/oms/traq>, (once there, click on the

"Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity"). The website will contain a detailed analysis of our adequacy finding and our responses to the public comments received from the University of Maryland School of Law on behalf of its client, the 1000 Friends of Maryland. Transportation conformity is required by section 176 of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. The criteria by which we determine whether a SIP's budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4).

Please note that an adequacy finding is separate from EPA's completeness finding, and separate from EPA's finding whether or not the SIP is approvable. Even if we find a budget adequate, the SIP could later be disapproved. We describe our process for determining the adequacy of submitted SIP budgets in a guidance memorandum dated May 14, 1999 entitled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision". We followed this guidance in making our adequacy findings for the budgets contained in the revised Phase II submitted on December 3, 1999 and December 21, 1999 by MDE. You may obtain a copy of this guidance from EPA's conformity website referred to above or by calling the contact name listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 42 U.S.C. 7401-7671q.

Dated: February 15, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00-4122 Filed 2-17-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34218; FRL-6492-2]

Organophosphate Pesticides; Availability of Revised Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the revised risk assessments and related documents for two organophosphate pesticides, acephate and methamidophos. In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture (USDA) to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control numbers OPP-34164B for acephate and OPP-34166B for methamidophos, must be received by EPA on or before April 24, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control numbers OPP-34164B for acephate and OPP-34166B for methamidophos in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT:

Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on acephate and methamidophos, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. Electronically. You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at <http://www.epa.gov/pesticides/op/>.

B. In person. The Agency has established an official record for this action under docket control numbers OPP-34164B for acephate and OPP-34166B for methamidophos. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as CBI. This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control numbers OPP-34164B for acephate and OPP-34166B for methamidophos in the subject line on the first page of your response.

1. By mail. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental

Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* Submit electronic comments by e-mail to: "opdocket@epa.gov," or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control numbers OPP-34164B for acephate and OPP-34166B for methamidophos. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under "FOR FURTHER INFORMATION CONTACT."

IV. What Action is EPA Taking in this Notice?

EPA is making available for public viewing the revised risk assessments and related documents for two organophosphate pesticides, acephate

and methamidophos. These documents have been developed as part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the acephate and methamidophos preliminary risk assessments, which were released to the public, January 8, 1999 (64 FR 1199) (FRL-6055-9), through a notice in the **Federal Register**.

In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk managements for acephate and methamidophos. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the chemical specified in this notice. Such comments and proposals could address ideas about how to manage dietary, occupational, or ecological risks on specific acephate and methamidophos use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commenters may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest ("pre-harvest intervals"), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, commenters may suggest personal protective equipment or technologies to reduce exposure to

workers and pesticide handlers. For ecological risks, commenters may suggest ways to reduce environmental exposure, e.g., exposure to birds, fish, mammals, and other non-target organisms. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate pesticide tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before April 24, 2000, at the addresses given under the "ADDRESSES" section. Comments and proposals will become part of the Agency's official record for the organophosphate pesticides specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: February 9, 2000.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00-4051 Filed 2-18-00; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6540-2]

Guidance Memoranda Relating to the One-Hour Ozone Attainment Demonstrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the EPA has issued two guidance memoranda for public review on requirements for one-hour ozone attainment demonstration State implementation plans (SIPs). The guidance memoranda are entitled: "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations" dated November 3, 1999, and "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas" dated November 30, 1999.

ADDRESSES: These documents are available for public inspection at EPA's website at: www.epa.gov/oms/traq (under conformity) and www.epa.gov/

ttn/oarpg/ramain.html respectively. Copies of these memoranda can also be obtained from the: Ozone Policy and Strategies Group, Office of Air Quality Planning and Standards (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: For questions on the memorandum "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas," contact Ms. Sharon Reinders, U.S. EPA, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5284. For information on the memorandum "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations," contact Ms. Kathryn Sargeant, U.S. EPA, 2000 Traverwood, Ann Arbor, MI 48105, telephone, (734) 214-4441.

While EPA intends to proceed under the guidance that it is setting out today, the Agency will finalize these interpretations only when they apply in the appropriate context of the individual actions addressing specific attainment demonstrations. At that time and in that context, judicial review of EPA's interpretations would be available.

Dated: February 9, 2000.

Henry C. Thomas,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 00-4049 Filed 2-18-00; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-CA; FRL-6045-7]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of California's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On November 4, 1999, the State of California submitted a complete application to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA) for EPA approval. This notice announces the receipt of the State of California's complete application, provides a 45-day public comment period, and an

opportunity to request a public hearing on the application. In its initial submittal of its application, dated September 28, 1998, the State of California certified that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of September 28, 1998. If EPA subsequently finds that the program does not meet all the requirements for approval of a State program, EPA will work with the State to correct any deficiencies in order to approve the program. If the deficiencies are not corrected, a notice of disapproval will be issued in the **Federal Register** and a Federal program will be implemented in the State.

DATES: Comments, identified by docket control number PB-402404-CA, must be received on or before April 7, 2000. Public hearing requests must be submitted on or before April 7, 2000.

ADDRESSES: Comments and public hearing requests may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number PB-402404-CA in the subject line of the first page of your response.

FOR FURTHER INFORMATION CONTACT: Patricia Norton, Lead Coordinator, Environmental Protection Agency, Region IX, 75 Hawthorne St., CMD4-2, San Francisco, CA 94105; telephone number: (415) 744-1069; e-mail address: norton.patricia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, but may be of particular interest to firms and individuals engaged in lead-based paint activities in the State of California. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION."

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document and certain other related documents that

might be available electronically from the EPA Internet Home Page at <http://www.epa.gov>. To access this document on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr>.

2. *In person.* Copies of this notice and the State of California's authorization application are available for inspection at the EPA Region IX Library, Environmental Protection Agency, 75 Hawthorne St., CMD4-2, San Francisco, CA. If you need assistance, please consult the person listed under **FOR FURTHER INFORMATION**.

C. How and to Whom Do I Submit Comments and Public Hearing Requests?

You may submit comments and public hearing requests by mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PB-402404-CA in the subject line of the first page of your response.

1. *By mail.* Submit your comments and public hearing requests to: Patricia Norton, Lead Coordinator, Environmental Protection Agency, Region IX, 75 Hawthorne St., CMD4-2, San Francisco, CA 94105.

2. *In person or by courier.* Deliver your comments and public hearing requests to: Patricia Norton, Lead Coordinator, Environmental Protection Agency, Region IX, 75 Hawthorne St., CMD4-2, San Francisco, CA. The telephone number is (415) 744-1093. The regional office is open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

3. *Electronically.* You may submit your comments and public hearing requests electronically by e-mail to: norton.patricia@epa.gov, or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be Confidential Business Information (CBI). Electronic comments and public hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data and public hearing requests will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and public hearing requests in electronic form must be identified by docket control number PB-402404-CA. Electronic comments and public hearing requests may also be filed online at many Federal Depository Libraries.

D. How Should I Handle Confidential Business Information That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this notice as CBI by marking any part or all of the information submitted as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION**.

II. Background

A. What Action Is the Agency Taking?

The State of California initially submitted its application for EPA approval of its lead-based paint training and certification program on September 22, 1998. On November 4, 1999, the State of California submitted an amended application for EPA approval of its lead-based paint training and certification program. EPA has found that the application includes a transmittal letter from the Governor requesting program approval; a summary of the State program; a detailed description and analysis of the State program which addresses specified elements; an Attorney General's Statement certifying the adequacy of the State's legal authority to administer and enforce the program and citing the specific statutes and regulations providing this authority; and copies of all state regulations, standards and other materials that provide the State with the authority to administer and enforce a lead-based paint program. Thus, the State of California's application has been deemed by EPA to be complete as of November 4, 1999, the date of the submission of its amended application pursuant to 40 CFR part 745, subpart Q.

In its initial application submission on September 28, 1998, the State of California provided to EPA a certification letter signed by the Governor, and a certification statement from the Office of the Attorney General, stating that its lead-based paint training and certification program meets the

requirements for authorization of a State program under section 404(b) of TSCA. Therefore, pursuant to section 404 of TSCA, the program is deemed authorized as of that date (September 28, 1998). If EPA subsequently finds that the program does not meet all the requirements for approval of a State program, EPA will work with the State to correct any deficiencies in order to approve the program. If the deficiencies are not corrected, a notice of disapproval will be issued in the **Federal Register** and a Federal program will be implemented in the state.

Pursuant to section 404(b) of TSCA (15 U.S.C. 2684(b)), EPA must provide notice and an opportunity for a public hearing on a State or Tribal program application before approving the application. Therefore, by this notice EPA is soliciting public comment on whether the State of California's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a public hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

B. What is the Agency's Authority for Taking This Action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-2692), entitled "Lead Exposure Reduction."

Section 402 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404 of TSCA, (15 U.S.C. 2684), a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL-5389-9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR

part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA (15 U.S.C. 2684(h)), EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, (15 U.S.C. 2684(b))). EPA's regulations (40 CFR part 745 subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized (15 U.S.C. 2684(a)). This authorization becomes ineffective, however, if EPA disapproves the application.

III. State Program Description Summary

The State of California provided the following summary of its proposed program:

In 1993, the Training and Certification Program for Lead-Based Paint Activities was established within the California Department of Health Services, Childhood Lead Poisoning Prevention Branch (Department). Section 105250 of the California Health and Safety Code specifies:

"A program is hereby established within the Department [Health Services] to meet the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. Sec. 4851 and following) and Title X of the Housing and Community Development Act of 1992 (Pub. L. 102-550). The Department shall implement and administer the program. The Department shall have powers and authority consistent with the intent of, and shall promulgate regulations to establish the program as an authorized state program pursuant to, Title IV, Section 402 to 404, inclusive of the Toxic Substances Control Act (15 U.S.C. Sec. 2601 and following)."

The elements needed to become an authorized state program are specified

in Federal Regulations (Final Rule) "Lead; requirements for lead-based paint activities in target housing and child-occupied facilities" (40 CFR part 745). The final rule establishes standards for:

1. Accreditation of training programs
2. Certification of individuals
3. Work practice standards for conducting abatement and lead hazard evaluation. These regulations also establish the process and requirements that a state must meet in order to become an authorized program.

In order to establish the regulatory framework required to become an authorized state program, the Department promulgated regulations (Title 17, California Code of Regulations, Division 1, Chapter 8) in July of 1994, establishing requirements for the accreditation of lead-related construction training providers and the interim certification of individuals engaged in lead-related construction work. The Department subsequently amended Chapter 8 to include work practice standards for the evaluation and abatement of lead hazards. These regulations provide the regulatory authority to administer and enforce the Training and Certification Program for Lead-Based Paint Activities.

IV. Federal Overfiling

TSCA section 404(b) (15 U.S.C. 2684(b)) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

V. Submission to Congress and the General Accounting Office

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

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: February 4, 2000.

Enrique Manzanilla,

Acting Regional Administrator, Region IX.

[FR Doc. 00-4050 Filed 2-18-00; 8:45 a.m.]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden we (FEMA) invite comments on our information collections associated with our grant and cooperative agreement programs. We previously published in the **Federal Register** an information collection notice for our non-disaster grant programs. This notice pertains to our non-disaster and disaster grant programs. This notice seeks comments concerning the collection of information that will encompass the financial and administrative reporting and recordkeeping requirements associated with FEMA functional and program activities funded through grants and cooperative agreements.

SUPPLEMENTARY INFORMATION: FEMA awards a variety of grant and cooperative agreements to help carry out its strategic goals. These assistance agreements are made to State and local governments who are involved with components of emergency management. The agency recently instituted a grant consolidation effort in order to maximize flexibility for our State partners while increasing accountability for measurable results.

The FEMA awards are for disaster and non-disaster programs, and FEMA is seeking to have efficient and effective grant administration practices by ensuring that the information collected is done in a consistent manner.

The following programs are covered in this collection as well as any other ad hoc programs, programs that are issued one time for a specific purpose, that FEMA may award:

Non-Disaster Programs

Catalog of Federal Domestic

Assistance No. 83.105-Community

Assistance Program-State Support Services Element (CAP-SSSE)—To ensure that communities participating in the National Flood Insurance Program (NFIP) are achieving flood loss reduction measures consistent with program direction. The CAP-SSSE is intended to identify, prevent and resolve floodplain management issues in participating communities before they develop into problems requiring enforcement action.

Catalog of Federal Domestic Assistance No. 83.526-National Urban Search and Rescue (US&R) Response System—To develop an immediately deployable, national response capability to locate and extricate, and medically stabilize victims of structural collapse during a disaster, while simultaneously enhancing the US&R response capabilities of State and local governments.

Catalog of Federal Domestic Assistance No. 83.535-Mitigation Assistance (MA)—To provide financial and technical assistance to States to create and maintain comprehensive State hazard mitigation capability.

Catalog of Federal Domestic Assistance No. 83.535-Flood Mitigation Assistance (FMA)—To assist States and communities in implementing measures to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insurable under the National Flood Insurance Program (NFIP).

Catalog of Federal Domestic Assistance No. 83.549-Chemical Stockpile Emergency Preparedness Program (CSEPP)—To enhance emergency preparedness capabilities of the States and local communities at each of the eight chemical agent stockpile storage facilities. The purpose of the program is to assist States and local communities in efforts to improve their capacity to plan for and respond to accidents associated with the storage and ultimate disposal of chemical warfare materials.

Catalog of Federal Domestic Assistance No. 83.550-National Dam Safety Program (NDSP)—To encourage the establishment and maintenance of effective State programs intended to ensure dam safety, to protect human life and property, and to improve State dam safety programs.

Catalog of Federal Domestic Assistance No. 83.551-Project Impact Grants (PI)—To encourage the implementation of a sustained pre-disaster mitigation program with activities that reduce the existing risk of natural hazard losses within the geographic location of the designated communities and to strengthen the

States' abilities to support these communities.

Catalog of Federal Domestic Assistance No. 83.552—Emergency Management Performance Grants (EMPG)—To encourage the development of comprehensive emergency management, including for terrorism consequence management, at the State and local level and to improve emergency planning, preparedness, mitigation, response, and recovery capabilities.

Disaster Programs

Catalog of Federal Domestic Assistance No. 83.539—Crisis Counseling (SCC)—To provide immediate crisis counseling services, when required, to victims of a major Federally-declared disaster for the purpose of relieving mental health problems caused or aggravated by a major disaster or its aftermath.

Catalog of Federal Domestic Assistance No. 83.543—Individual and Family Grants (IFG)—To provide funds for the necessary expenses and serious needs of disaster victims which cannot be met through other forms of disaster assistance or through other means such as insurance.

Catalog of Federal Domestic Assistance No. 83.544—Public Assistance Grants (IA)—To provide supplemental assistance to States, local governments, and political subdivisions to the State, Indian Tribes, Alaskan Native Villages, and certain nonprofit organizations in alleviating suffering and hardship resulting from major disasters or emergencies declared by the President.

Catalog of Federal Domestic Assistance No. 83.548—Hazard Mitigation Grant (HMGP)—To provide States and local governments financial assistance to implement measures that will permanently reduce or eliminate future damages and losses from natural hazards through safer building practices and improving existing structures and supporting infrastructure.

Collection of Information

Title: FEMA Assistance Programs (formerly Financial and Technical Assistance Under Performance Partnership Agreements).

Type of Information Collection: Revision of currently approved collection.

OMB Number: 3067-0206.

Form Numbers: SF424, Application for Federal Assistance; Indirect Cost Agreement, FEMA Form (FF) 20-20, Budget Information—Non-Construction; FF20-15, Budget Information—Construction; FF20-16, Assurances; FF76-10A, Obligating Document for Awards/Amendments; FF20-10, Financial Status Report; FF20-17, Outlay Report and Request for Reimbursement for Construction Programs; FF20-18, Report of Government Property; SF-SAC, Data Collection form for Reporting on Audits; and SF 270, Request for Advance or Reimbursement.

Abstract: The collection of information focuses on Standard and FEMA Forms associated with the financial and administrative reporting and recordkeeping requirements that enable State, local governments, and other recipients to request and administer FEMA assistance agreements. This request may be electronic or written. FEMA is instituting a process of using a subset of its OMB approved forms for grant administration in its disaster assistance programs. The following matrix illustrates the relationship between the individual grant/cooperative agreement programs and use of the forms identified in this collection:

APPLICATION

Program	SF 424	FF 20-20	FF 20-15	FF 20-16
CAP	X	X	.....	X
US&R	X	X	.....	X
MA	X	X	.....	X
FMA	X	X	.....	X
SCC	X	.....	.....	.....
IFG	X	X	.....	X

APPLICATION—Continued

Program	SF 424	FF 20-20	FF 20-15	FF 20-16
IA	X	X	.....	X
HMGP	X	X	.....	X
CSEPP	X	X	.....	X
NDSP	X	X	.....	X
PI	X	X	.....	X
EMPG	X	X	X	X

AWARD

Program	FF 76-10A
CAP	X
US&R	X
MA	X
FMA	X
SCC .....	.....
IFG .....	.....
IA .....	.....
HMGP .....	.....
CSEPP	X
NDSP	X
PI	X
EMPG	X

OUTLAYS

Program	FF 20-10	FF 20-17	FF 20-18	FF 20-19
CAP	X	.....	X	X
US&R	SF 270	.....	.....	.....
MA	X	.....	.....	.....
FMA	X	.....	X	X
SCC	X	.....	.....	.....
IFG	X	.....	.....	.....
IA	X	.....	.....	.....
HMGP	X	.....	.....	.....
CSEPP	X	.....	X	X
NDSP	SF 270	.....	.....	.....
PI	X	.....	.....	.....
EMPG	X	X	X	X

Affected Public: State, Local or Tribal Governments, non-profit organizations.

Estimated Total Annual Burden and Record-keeping Hours: Non-disaster 37,777; Disaster—217,090; Total—254,867.

In the notice of January 11, 1999, we listed the burden hour information for non-disaster assistance programs as follows. FEMA Form 20-22, Narrative Form, is no longer being used in this collection.

FEMA forms and other reporting	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual reporting hours (AxBxC)	Record-keeping burden hours
FF20-10 Financial Status Report . . . (semi-annual)	56	2	9.8	1,097.6	22.4
FF20-15 Budget Information Construction Program	56	5	17	4,760	56
FF20-16 Summary Sheet for Assurances and Certifications	56	1	1.5	84	11.2
FF20-17 Outlay Report and Request for Reimbursement for Construction	56	15	17	14,280	168
FF20-18 Report of Government Property	56	1	6	336	11.2
FF20-19 Report of Unobligated Balance of Federal Funds	56	20	2	2,240	224
FF20-20NC Budget Information Non Construction	56	10	9.8	5,488	112
FF76-10A Obligating Document for Award	56	1	1.5	84	11.2
SF424 Application for Federal Assistance	56	1	2	112	11.2
Reading and Understanding	56	1	12	672	11.2

FEMA forms and other reporting	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual reporting hours (A×B×C)	Record-keeping burden hours
Indirect Cost Agreement	56	2	50	5,600	22.4
Budget Deviations	56	2	5.8	649.4	22.4
SF Data Collection	56	1	30	1,680	11.2
Total				37,083	694.40

The following chart shows burden hour information for FEMA disaster assistance programs: (Under "Frequency of Response," 64 equals the average number of disasters per year.)

FEMA forms and other reporting	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual reporting hours (A×B×C)	Record-keeping burden hours
FF20-10 Financial Status Report (quarterly)	56	256	9.8	140,492.8	2,867.2
FF20-16 Summary Sheet for Assurances and Certifications	56	64	1.5	5,376	716.80
FF20-18 Report of Government Property	56	64	6	21,504	716.80
FF20-20 Budget Information Non Construction	56	64	9.8	35,123.2	716.80
SF424 Application for Federal Assistance	56	64	2	7,168	716.80
SF Data Collection	56	1	30	1,680	11.2
Total				211,344	5,745.60

Estimated Cost: \$400,000.00.

Comments: We are soliciting written comments to:

(a) Evaluate whether the proposed data collection is necessary for the proper performance of our responsibilities, including whether the information will have practical utility;

(b) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that we used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of information collection on those who must respond, including permitting electronic submission of responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; and

(e) Help FEMA to more accurately identify and quantify respondent costs.

DATES: Please send any comments on or before April 24, 2000.

ADDRESSES: Please send written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472, (tel.) (202) 646-2625, (facsimile) (202) 646-3524, (email) muriel.anderson@fema.gov. Also, contact Ms. Anderson for copies of the proposed collection of information.

FOR FURTHER INFORMATION CONTACT: Arlene Ramsey, Office of Financial Management, Federal Emergency Management Agency, 500 C Street, SW,

Room 350, Washington, DC 20472, (tel.) (202) 646-4531.

Dated: February 14, 2000.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 00-4073 Filed 2-18-00; 8:45 am]

BILLING CODE 6718-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1312-DR]

North Carolina; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Carolina (FEMA-1312-DR), dated January 31, 2000, and related determinations.

EFFECTIVE DATE: February 8, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Carolina is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 31, 2000:

Edgecombe and Wilson Counties for debris removal (Category A), emergency protective measures (Category B), and utilities (Category F) under Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Charles D. Robinson,

Chief, Human Services Program Guidance and Implementation Branch, Response and Recovery Directorate.

[FR Doc. 00-4072 Filed 2-18-00; 8:45 am]

BILLING CODE 6718-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Partially Open Meeting, Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of partially open meeting.

SUMMARY: In accordance with section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

Name: Board of Visitors for the National Fire Academy.

Dates of Meeting: March 16-18, 2000.

Place: Building J, Room 268, National Emergency Training Center, Emmitsburg, Maryland.

Time:

March 16, 2000, 8:30 a.m.–10:30 a.m.
(Closed Meeting)
March 16, 2000, 10:45 a.m.–5 p.m.
(Open Meeting)
March 17, 2000, 8:30 a.m.–9 p.m.
(Open Meeting)
March 18, 2000, 8:30 a.m.–12 noon
(Open Meeting)

Proposed Agenda: March 16, (Closed Meeting From 8:30 a.m.–10:30 a.m., to review Fiscal Years 2000 and 2001 budgetary and procurement recommendations.) March 16, 10:45 a.m.–5 p.m., Review National Fire Academy Program Activities. March 17–18, Finish Review of National Fire Academy Program Activities.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public (except as noted above) with seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447-1117, on or before March 10, 2000.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Chief Operating Officer, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request within 60 days after the meeting.

Dated: February 10, 2000.

Kenneth O. Burris, Jr.

Chief Operating Officer.

[FR Doc. 00-4076 Filed 2-18-00; 8:45 am]

BILLING CODE 6718-01-P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Notice; Announcing an Open Meeting of the Board

TIME AND DATE: 10 a.m., Wednesday, February 23, 2000.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Interim Final Rule: Amendments to Membership Regulation and Advances Regulation.
- Office of Finance Debt Authorization.

- Interim Final Rule: Amendment to Election Regulation.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408-2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 00-4215 Filed 2-17-00; 12:55 pm]

BILLING CODE 6725-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 17, 2000.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *New Mexico First Financial, Inc.*, Dover, Delaware (in formation); to become a bank holding company by acquiring 100 percent of the voting shares of Mesilla Valley Bank, Las Cruces, New Mexico (in formation).

Board of Governors of the Federal Reserve System, February 16, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00-4153 Filed 2-18-00; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 7, 2000.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Nancy Allen Marital Trust*, Robert Lee, Texas; to acquire additional voting shares of Robert Lee Bancshares, Inc., Robert Lee, Texas, and thereby indirectly acquire additional voting shares of Robert Lee State Bank, Robert Lee, Texas.

Board of Governors of the Federal Reserve System, February 16, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00-4152 Filed 2-18-00; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the

banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 17, 2000.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Crown Bankshares, Inc., Eden Prairie, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Crown Bank, Edina, Minnesota.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. AMB Financial Services Corporation, Bainbridge Island, Washington; to acquire 100 percent of the voting shares of Silverdale State Bank, Silverdale, Washington.

Board of Governors of the Federal Reserve System, February 15, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00-4058 Filed 2-18-00; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00024]

Grant for Injury Control Training and Demonstration Center; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in Fiscal Year (FY) 2000 for a Grant for an Injury Control Training and Demonstration Center.

The purpose of this grant program is to provide support for an injury control training and demonstration center in a state predominately comprised of economically depressed rural communities where a relatively large portion of the work force is engaged in underground mining, family farming and other rural occupations.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and Federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104-65 states that an organization described in Section 501 (c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract loan or any other form.

C. Availability of Funds

Approximately \$1,000,000 is available in FY 2000 to fund one award. It is expected that the award will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting the activities to achieve the purpose of this program, the recipient will be responsible for the following activities:

1. Maintain and enhance a level 1 trauma center that has established linkages with isolated, rural hospitals

that provide medical care services in communities where economic conditions are depressed and where many residents work in occupations, including underground mining and family farming, that have an increased risk for severe injuries.

2. Provide a full-time director/coordinator at the level 1 trauma center with authority and responsibility to carry out the requirements of the program.

3. Provide qualified staff, other resources, and knowledge to implement the components of the program.

4. Maintain and enhance a state-of-the-art telecommunications system with 24-hour capability.

5. Maintain and enhance an applied research program in rural trauma care and EMS systems to enhance and extend prevention, acute care and rehabilitation services.

6. Maintain and enhance training and continuing education programs for emergency physicians, surgeons, trauma nurses, physician assistants, and pre-hospital personnel.

7. Maintain and enhance a population-based trauma registry with uniform case criteria and data elements, to be used for trauma care assessment and injury surveillance.

8. Maintain and enhance an effective, well-defined working relationship with regional and State health agencies that have responsibility for EMS and trauma care services.

9. Provide an intervention project with includes clinical prevention services to emergency department patients with alcohol-related injuries in an emergency department setting.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

The Application Must Include:

1. *Background and Need:*

A. Demonstrate how the applicant will carry out the activities of this grant in a State that is predominately comprised of economically depressed rural communities where a relatively large portion of the work force is engaged in underground mining, family farming and other rural occupations.

B. Demonstrate how the Level 1 Trauma Center will establish linkages with isolated, rural hospitals that

provide medical care services in communities where economic conditions are depressed and where many residents work in occupations, including underground mining and family farming, that have an increased risk for severe injuries.

2. Methods:

A. Describe how the Center's injury control program maintains a balance of training, service and research, which contributes new knowledge applicable to injury prevention and treatment at the State and National levels.

B. Describe the ability to provide qualified staff and other resources and knowledge to implement the components of the program, including a trained epidemiologist or healthcare services researcher.

C. Describe availability of state-of-the-art telecommunications on a 24-hour basis that facilitates: (a) consultations with medical specialists, (b) linkages to major medical and injury control research centers, and (c) transmission of diagnostic information.

D. Describe a plan for an applied research program in rural trauma care and EMS systems, to enhance and extend prevention, acute care and rehabilitation services. Possible research applications may include: more effective public and professional education in injury prevention, quicker public access to emergency services, demonstrable enhancements of telecommunications capacity for pre-hospital emergency care providers, equipment and methods for expeditious transport of injured persons from the scene of injury to the most appropriate receiving hospital, more timely and effective use of resuscitative interventions by pre-hospital and hospital personnel who treat traumatically injured persons, clinical prevention services that target risk-factors for injury recidivism, closer integration of acute care and rehabilitation services, and improvements in trauma care and EMS surveillance systems to facilitate evaluation of clinical and systems performance, and evaluation of clinical prevention services.

E. Describe a demonstrated capacity to maintain training and continuing education programs for emergency physicians, surgeons, trauma nurses, physician assistants, and pre-hospital personnel, so that providers at all phases and levels of service are capable of rendering trauma care that meets recognized national standards. Training programs for pre-hospital personnel could reflect current standard curricula for basic and advanced service providers. Teaching programs for

physicians and trauma nurses could include instruction in advanced methods for resuscitation and stabilization of critically injured patients. Training in medical control and EMS operations could be a priority for those physicians who provide medical direction to pre-hospital personnel. Injury prevention and control must be integrated in all training programs.

F. Describe the ability to incorporate new and rapidly emerging national standards for emergency care data as computerized patient care record systems are introduced or modified for emergency department use.

G. Describe working relationships with regional and State health agencies that have responsibility for injury prevention and control and EMS and trauma care services.

H. Describe a research plan to test clinical prevention services to emergency department patients with alcohol problems. Currently active research protocol(s) along with relevant IRB approvals should be described.

I. If the proposed project involves research on human subjects, applicants must describe and demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. Applicants will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

J. Provide a detailed description of the proposed first year activities, as well as a brief description of future year activities. Provide a detailed budget, with accompanying justification of all costs that is consistent with the stated objectives and planned activities of the project. CDC may not approve or fund all proposed activities. The applicant should be precise about the program purpose of each budget item. Proposed contracts should identify the name of the contractor, if known; describe the services to be performed; provide an itemized budget and justification for the estimated costs of the contract; specify the period of performance, and method of selection.

K. Describe the degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161-1 (OMB Number 0937-0189). Forms are in the application kit. On or before May 1, 2000, submit the

application to the Grants Management Specialist identified in the "Where To Obtain Additional Information" Section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or (b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (25 percent)

The applicant's understanding of the problem of addressing rural trauma care issues. Applicant must demonstrate that this grant will be carried out in a State that is predominately comprised of economically depressed rural communities where a relatively large portion of the work force is engaged in underground mining, family farming and other rural occupations. Applicant must demonstrate a history of addressing the special needs of trauma victims engaged in these occupations.

2. Methods (30 percent)

The extent to which the applicant provides a detailed description of all proposed activities and collaboration needed to achieve each objective and the overall program goal(s). The extent to which the applicant provides a reasonable, logically sequenced and complete schedule for implementing all activities. The extent to which position descriptions, lines of command, and collaborations are appropriate to accomplishing the program goal(s) and objectives. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

3. *Evaluation* (10 percent)

The extent to which the proposed evaluation plan is detailed and capable of documenting program process and outcome measures. The extent to which the applicant demonstrates staff and/or collaborator availability, expertise, and capacity to perform the evaluation.

4. *Staff and Resources* (35 percent)

The extent to which the applicant can provide adequate facilities, staff and/or collaborators, including a full-time coordinator and resources to accomplish the proposed goal(s) and objectives during the project period. The extent to which the applicant demonstrates staff and/or collaborator availability, expertise, previous experience, and capacity to perform the undertaking successfully.

5. *Budget and Justification* (not scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with the stated objectives and planned program activities.

6. *Human Subjects* (not scored)

Indicate whether human subjects will be involved, and if so, how they will be protected, and describe the review process which will govern their participation.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

(a) progress reports, semi-annual;
(b) financial status report, no more than 90 days after the end of the budget period; and final financial status and performance reports, no more than 90 days after the end of the project period. Send all reports to, Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR-1 Human Subjects Requirements

AR-2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR-7 Executive Order 12372 Review

AR-8 Public Health System Reporting Requirements

AR-9 Paperwork Reduction Act Requirements

AR-10 Smoke-Free Workplace Requirements

AR-11 Healthy People 2010

AR-12 Lobbying Restrictions

AR-13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 317(k)(2), 391, 392, 394, and 394A [42 U.S.C. 241(a), 247b(k)(2), 280b, 280b-1, 280b-2, 280b-3] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.136.

J. Where to Obtain Additional Information

For this and other CDC Program Announcements, please see the CDC home page on the Internet: <http://www.cdc.gov>

To receive additional written information and to request an application kit, call 1-888-GRANTS4 (1-888-472-6874). You will be asked to leave your name and address and will be instructed to identify the announcement number of interest. Please refer to Program Announcement 00024 when you request information. After reviewing the Program Announcement, for business management assistance, contact:

Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 00024, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, GA 30341-4146, Telephone (770) 488-2717, Email address jcw6@cdc.gov

For program technical assistance, contact:

Paul Burlack, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, 4770 Buford Highway N.E., Mailstop F41, Atlanta, GA 30341-3724, Telephone (770) 488-4031, Email address pab5@cdc.gov

Dated: February 15, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00-4064 Filed 2-18-00; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Current Status of the Vessel Sanitation Program (VSP) and Experience to Date with Program Operations: This is a public meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Time and Date: 9 a.m.-4 p.m., March 28, 2000.

Place: Auditorium, Port Everglades Administration Building, 1850 Eller Drive, Ft. Lauderdale, Florida 33316. Telephone (954)356-6650; fax (954)356-6671.

Status: Open to the public, limited by the space available. The meeting room accommodates approximately 100 people.

Purpose: During the past 14 years, as part of the revised VSP, CDC has conducted a series of public meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties. This meeting is a continuation of that series of public meetings to discuss the current status of the VSP and experience to date with program operations.

Matters To Be Discussed: Agenda items will include a VSP Program Director Update, 1999 Program Review, Presentation of the Revised VSP Program Operations Manual, Revision of the Final Recommended Shipbuilding Construction Guidelines for Cruise Vessels Destined to Call on U.S. Ports, Update on Disease Surveillance and Outbreak Investigations, Canadian/U.S. Harmonization Update, and VSP Training Seminars.

For a period of 15 days following the meeting, through April 14, 2000, the official record of the meeting will remain open so that additional materials or comments may be submitted for inclusions as part of the record of the meeting. Advanced registration is encouraged. Please provide the following information to Barbara Cline via E-mail: BCline@cdc.gov or facsimile (954)356-6671: name, title, company name, mailing address, telephone number, facsimile number and E-mail address.

Contact Person for More Information: Dave Forney, Chief, VSP, NCEH, CDC, 4770 Buford Highway, NE, M/S F-16, Atlanta, Georgia 30341-3724, telephone

(770)488-7333, E-mail:
DForney@CDC.GOV.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 15, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 00-4066 Filed 2-18-00; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and date: 9 a.m.-3:30 p.m., March 10, 2000.

Place: The Washington Court, 525 New Jersey Avenue, NW, Washington, DC 20001-1527.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The BSC, NIOSH is charged with providing advice to the Director, NIOSH on NIOSH research programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings, and disseminating results.

Matters To Be Discussed: Agenda items include a report from the Director of NIOSH; Responding to Emerging Safety Hazards; Communications Towers; HIV Program Activities; Hazard Surveillance Planning; Intramural NORA Program Initiatives; Asthma, Dermal, Musculoskeletal; Division of Applied Research and Technology; The Re-Unification of Division of Biomedical and Behavioral Science and Division of Physical Sciences and Engineering; and future activities of the Board.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information:

Bryan D. Hardin, Executive Secretary, BSC, NIOSH, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta,

Georgia 30333, telephone 404/639-3773, fax 404/639-2170, e-mail: bdh1@cdc.gov.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 15, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00-4065 Filed 2-18-00; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N-0356]

Agency Information Collection Activities; Proposed Collection; Comment Request; Survey of Incidence of Gastroenterological Parasitic Infections in the United States as a Result of Consumption of Raw Fish

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a voluntary survey about the incidence of gastroenterological parasitic infections in the United States as a result of the consumption of raw fish.

DATES: Submit written comments on the collection of information by April 24, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Peggy Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Room 16B-26; Rockville, MD 20857, 301-827-1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Survey of Incidence of Gastroenterological Parasitic Infections in the United States as a Result of Consumption of Raw Fish

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)), the FDA has the responsibility to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. The "Survey of Incidence of Gastroenterological Parasitic Infections in the United States as Result of Consumption of Raw Fish" will provide information on the actual frequency of occurrence of fish-borne helminth illnesses. Detailed information will be obtained from the target population of clinical gastroenterologists who are likely to have encountered and treated food-borne parasitic infections. Respondents will also be asked to provide demographic information about the

most recent cases. The information will be used to better evaluate the need for control of helminth parasites in fish intended for raw consumption and to evaluate effective means for control

where such controls are found necessary. A national representative sample of 1,000 clinical gastroenterologists will be selected by a

random procedure and interviewed by questionnaire.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN ¹

Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
500	1	500	.50	250

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

This is a one time survey. The burden estimate is based on FDA's experience with conducting similar surveys.

Dated: February 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00-4020 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N-0505]

Agency Information Collection Activities; Proposed Collection; Comment Request; Substances Prohibited From Use in Animal Food or Feed; Animal Protein Prohibited in Ruminant Feed

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension for an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the recordkeeping requirements placed on handlers of ruminant protein to prevent the establishment and amplification of bovine spongiform encephalopathy in the United States by ensuring that ruminant animal feed does not contain animal protein derived from mammalian tissue.

DATES: Submit written comments on the collection of information by April 24, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Denver Presley, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1472.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506 (c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed—21 CFR Part 589 (OMB Control Number 0910-0339—Extension)

This rule (§ 589.2000 (21 CFR 589.2000)) provides that protein derived from mammalian tissue (with some exceptions) for use in ruminant feed is a food additive subject to section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348). Proteins derived from animal tissues contained in such feed ingredients in distribution cannot be readily identified (i.e., species) by recipients engaged in the manufacture, processing, distribution, and use of animal feeds and feed ingredients.

Thus, under the agency's authority in section 701(a) of the act (21 U.S.C. 371(a)), to issue regulations for the efficient enforcement of the act, this rule places three general requirements on persons that manufacture, blend, process, distribute, or use products that contain or may contain protein derived from mammalian tissues and feeds made from such products. The first requirement is for cautionary labeling of these products with direct language developed by FDA. This labeling requirement is exempt from the scope of the PRA because it is a "public disclosure of information originally supplied by the Federal Government for the purpose of disclosure to the public" (5 CFR 1329.3(c)(2)).

The second requirement is for establishments to maintain and make available to FDA, records that are sufficient to track any material that contains protein derived from mammalian tissues (as defined in § 589.2000(a)(1)), throughout the material's receipt, processing, and distribution. Based on available

information, FDA believes that maintenance of these records is a usual and customary part of normal business practices for these firms. Therefore, this recordkeeping requirement creates no additional paperwork burden.

The third requirement is that individuals or firms that manufacture, blend, process, or distribute both

mammalian and nonmammalian materials must maintain written procedures to prevent commingling and cross-contamination. An estimate of the burden resulting from this recordkeeping requirement is provided in table 1 of this document. The estimate is based on the time required to develop written procedures.

Respondents to this collection of information are individuals or firms that manufacture, blend, process distribute, or use feed or feed ingredients that contain or may contain protein that may be derived from mammalian tissue.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR Section	Number of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per record	Total hours
589.2000(e)(1)(iv)	1,030	1	1,030	14	14,420

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of respondents, persons that separate mammalian and nonmammalian materials, is derived from inspections of firms handling animal protein intended for use in animal feed. The estimate of the time required for this recordkeeping requirement is based on agency records and communication with industry.

Dated: February 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00-4023 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N-2607]

Agency Information Collection Activities; Announcement of OMB Approval; Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale" 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 November 22, 1999 (64 FR 63817), 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 0910-0171. The approval expires on January 31, 2003. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: February 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00-4021 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D-0296]

Agency Information Collection Activities; Announcement of OMB Approval; Draft Guidance for Industry on Formal Meetings with Sponsors and Applicants for PDUFA Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Draft Guidance for Industry on Formal Meetings with Sponsors and Applicants for PDUFA Products" has been approved by the Office of Management

and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT:

Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 19, 1999 (64 FR 13591), 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 0910-0429. The approval expires on December 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: February 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00-4022 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. 99D-0297]

Agency Information Collection Activities; Announcement of OMB Approval; Guidance for Industry on Formal Dispute Resolution; Appeals Above the Division Level

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Guidance for Industry on Formal Dispute Resolution; Appeals Above the Division Level" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT:

Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 19, 1999 (64 FR 13587), 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 0910-0430. The approval expires on December 31, 2002. A copy of the supporting statement for this information is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: February 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00-4024 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on March 24, 2000, 8:30 a.m. to 5:30 p.m.

Location: Marriott Washingtonian Center, Grand Ballroom, 9751 Washingtonian Blvd., Gaithersburg, MD.

Contact Person: Kimberly L. Topper, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-7001 or Topperk@cder.fda.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug applications (NDA) 21-130, ZyvoxL (linezolid) tablets, NDA 21-131 ZyvoxL for injection (linezolid injection), and NDA 21-132 ZyvoxL Oral Suspension (linezolid oral suspension), Pharmacia & Upjohn Co., for treatment of community-acquired pneumonia, hospital-acquired pneumonia, complicated and uncomplicated skin and skin structure infections, and Vancomycin-resistant *Enterococcus faecalis* and *faecium* infections, including cases with concurrent bacteremia.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 3, 2000. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 3, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 14, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00-4027 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 1, 2, and 3, 2000, 8 a.m. to 5 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: David Krause, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-3090, ext. 141, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12519. Please call the Information Line or access the Internet address of <http://www.fda.gov/cdrh/panelmtg.html> for up-to-date information on this meeting.

Agenda: On March 1, 2000, there will be a brief FDA presentation on the least burdensome provisions of the FDA Modernization Act of 1997. Also, on March 1, 2000, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for saline inflatable breast prostheses. On March 2, 2000, the committee will discuss, make recommendations, and vote on two PMA's for saline inflatable breast prostheses. These PMA's have been submitted in response to a call for PMA's under section 515(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 306e(b)), published in the **Federal Register** of August 19, 1999 (64 FR 45155). On March 3, 2000, the committee will discuss content, format, and consistency issues involving the labeling information provided to patients considering saline-filled breast prostheses. The document entitled "Guidance on Medical Device Patient Labeling" is the background information for the panel discussion and is available to the public on the Internet at <http://www.fda.gov/cdrh/HumanFactors.html> or CDRH Facts-on-Demand at 1-800-899-0381 or 301-827-0111, specify number 1128 when prompted for the document shelf number. As it becomes available, additional information specific to saline breast implants will be available to the public on FDA's website.

at <http://www.fda.gov/ohrms/dockets/ac/00mtbc.htm>.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 23, 2000. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 12 noon, and 3:45 p.m. and 4:15 p.m. on March 1, 2000; between approximately 8 a.m. and 8:30 a.m., 11:15 a.m. and 11:45 a.m., 1 p.m. and 1:30 p.m., and 4:15 p.m. and 4:45 p.m. on March 2, 2000; and between approximately 9:15 a.m. and 11:15 a.m., and 2:45 p.m. and 3:15 p.m. on March 3, 2000. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 23, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

FDA regrets that it was unable to publish this notice 15 days prior to the March 1, 2, and 3, 2000, General and Plastic Surgery Device Panel of the Medical Devices Advisory Committee

meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the General and Plastic Surgery Device Panel of the Medical Devices Advisory Committee meeting were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 14, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00-4157 Filed 2-16-00; 4:19 pm]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food and Drug Administration/Industry Exchange Workshop on Scale-Up and Postapproval Changes (SUPAC), Supplements, and Other Postapproval Changes; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of workshop.

SUMMARY: The Food and Drug Administration (FDA), Office of the Commissioner, Office of Regulatory Affairs, Center for Drug Evaluation and Research, and the Central Region Small Business Office, and the Northeast Region Small Business Office, in cooperation with the International Society for Pharmaceutical Engineering (ISPE) is announcing the following workshops: FDA/Industry Exchange Workshops on Scale-Up and Postapproval Changes (SUPAC), Supplements, and Other Postapproval Changes. The workshops are intended to review the scientific, regulatory, and quality basis of SUPAC; discuss current issues; and provide attendees with information on the impact of the SUPAC guidances that have been finalized, as well as future agency efforts in this area.

Date and Time: See Table 1 following the "Location" section of this document.

Location: See Table 1 below.

TABLE 1

Workshop Address	Date and Local Time	FDA Contact Person
Newark Airport Marriot, Newark International Airport, Newark, NJ 07114, 1-800-882-1037, FAX: 973-623-7618	Monday, March 20, 2000, from 9 a.m. to 5 p.m.	Marie T. Falcone
Chicago Marriott Schaumburg, 50 North Martingale Rd., Schaumburg, IL 60173, 847-240-0100, FAX: 847-240-2388	Monday, April 10, 2000, from 9 a.m. to 5 p.m.	Do.
Providence Marriott, One Ohms St., Providence, RI 02904, 1-800-937-7768, FAX: 401-861-3550	Thursday, May 4, 2000, from 9 a.m. to 5 p.m.	Do.

Persons needing hotel rooms should mention that they are attending the ISPE, FDA/SUPAC workshop.

Contact: Marie T. Falcone, Industry and Small Business Representative, FDA, rm. 900 U.S. Customhouse, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-2120, ext. 4003, e-mail: mfalcone@ora.fda.gov.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number), along with a \$295 check (member) or \$450 (nonmembers) (which will cover refreshments, lunch, and materials) made payable to ISPE, 3816 W. Linebaugh Ave., suite 412, Tampa,

FL 33624, 813-960-2105, or visit the ISPE at the Internet at <http://www.ispe.org>. Registrations are due 1 week prior to the start of each course. Space is limited, therefore, interested parties are encouraged to register early. Limited on-site registration may be available. Please arrive early to ensure prompt registration. If you need special accommodations due to a disability, please contact ISPE at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The workshops further implement the FDA Plan for Statutory Compliance (developed under Section 406 of the FDA Modernization Act (21 U.S.C. 393))

by working more closely with stakeholders, maximizing the availability of, and clarifying information about the process for review and submissions, and ensuring access to needed scientific and technical expertise.

The topics to be discussed include the following: (1) The history of SUPAC development; (2) comparison of SUPAC immediate-release solid dosage forms, modified-release oral dosage forms, and semisolid-topical dosage forms; (3) bulk actives postapproval changes; (4) postapproval changes sterile aqueous solutions; (5) FDA field staff's involvement in SUPAC; (6) description

and use of the equipment addenda to SUPAC; and (7) facts, figures, and future directions.

The workshop also complies with the Small Business Regulatory Enforcement Fairness Act (Public Law 104-121), which requires outreach activities by government agencies directed to small businesses.

Dated: February 16, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00-4158 Filed 2-16-00; 4:19 pm]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N-0436]

Food and Drug Administration Draft Study Report; Feasibility of Appropriate Methods of Informing Customers of the Contents of Bottled Water

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing for comment a draft study report on the feasibility of appropriate methods of informing customers of the contents of bottled water, as required by the Safe Drinking Water Act Amendments. This draft feasibility study report evaluates and identifies appropriate methods that may be feasible for conveying information about bottled water to customers.

DATES: Written comments must be received by April 24, 2000.

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

FOR FURTHER INFORMATION CONTACT: Rebecca Buckner, Center for Food Safety and Applied Nutrition (HFS-306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-4081.

SUPPLEMENTARY INFORMATION: The text of the draft study report on the feasibility of appropriate methods of informing customers of the contents of bottled water follows:

FDA Draft Study Report: Feasibility of Appropriate Methods of Informing Customers of the Contents of Bottled Water

I. Background

On August 6, 1996, the President signed into law the Safe Drinking Water Act (SDWA) Amendments (Public Law 104-182). Under the Public Notification section of the Amendments, the Environmental Protection Agency (EPA) was required to issue regulations mandating that each community water system provide each customer of the system with an annual report, referred to as a consumer confidence report (CCR), on the level of contaminants in the drinking water purveyed by that system. A complete description of the information contained in a CCR can be found in the next section of this document entitled "FDA's Evaluation of Information about the Contents of Bottled Water."

In the **Federal Register** of February 13, 1998 (63 FR 7606), EPA published a proposed rule to require local water systems to provide an annual CCR to their customers. Based on this proposal, EPA published a final rule on August 19, 1998 (63 FR 44512). Section 114(b) of the SDWA Amendments also required that, no more than 18 months after the date of its enactment, the Food and Drug Administration (FDA), in consultation with EPA, publish for notice and comment a draft study on the feasibility of appropriate methods, if any, of informing customers of the contents of bottled water.

In a notice published in the **Federal Register** of November 12, 1997 (62 FR 60721) (hereinafter "the 1997 notice"), FDA requested comment on several matters relevant to the feasibility of appropriate methods of informing customers of the contents of bottled water. We have evaluated the information received and identified appropriate methods that may be feasible for conveying information about bottled water to customers. This draft feasibility study presents the agency's evaluation of those methods. Congress, under the SDWA Amendments, did not expressly address FDA's authority for implementing, by regulation, any appropriate methods deemed feasible. Should FDA, in the future, decide to engage in rulemaking on this subject, FDA would discuss, in such a rulemaking, the agency's statutory authority for requiring any of the types of information or for requiring a specific method for conveying such information on the contents of bottled water to customers. However, such a discussion is outside the scope of this study.

Comments received on this draft report will be evaluated and considered in preparation of the final report on the feasibility of appropriate methods, if

any, for providing information about the contents of bottled water to customers.

In the 1997 notice, FDA asked for specific information to use in generating the feasibility study. The agency considered this to be the most effective means of obtaining information from all segments of the general public (i.e., industries, trade associations, consumers, consumer advocacy groups, educational institutions) that are interested in the subject of the feasibility of appropriate methods of providing information on bottled water to customers. The following specific information was requested: (1) What methods, if any, may be appropriate for conveying information about the contents of bottled water to customers, and why they are appropriate; (2) for each method identified as being appropriate for conveying information to customers, whether such method is or is not feasible and the supporting reasons why the method is or is not feasible; and (3) the type of information about the contents of bottled water that should be provided to customers within the context of the SDWA Amendments and that would, to the extent possible, be analogous to the information provided in a CCR.

The agency received 51 letters in response to the 1997 notice. Many comments stated that it is not necessary to provide customers with more information than they currently receive on bottled water. Comments that expressed these opinions are beyond the scope of this report and are not discussed.

II. Information About the Contents of Bottled Water

In the 1997 notice, FDA requested comments on the type of information about the contents of bottled water that should be provided to customers that would, to the extent possible, be analogous to information provided in a CCR. To that end, the agency notes that a CCR, as outlined by EPA, contains: (1) Information about the source of drinking water; (2) definitions of "maximum contaminant level" (MCL), "maximum contaminant level goal" (MCLG), "exemption" and "variance"; (3) the MCL, MCLG, and contaminant level detected in the water for regulated contaminants and, for any contaminant detected that violates the MCL during the year, information on the health effects that led EPA to regulate that contaminant; (4) information on compliance with EPA's National Primary Drinking Water Regulations and notice if the system operates under a variance or an exemption and the basis on which the variance or exemption was

granted; (5) information on the levels of unregulated contaminants for which monitoring by the system is required (including, for example, levels of *Cryptosporidium* and radon where States determine such levels may be found); and (6) a statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk, and that more information about contaminants and potential health risks can be obtained by calling the EPA hotline.

In the 1997 notice, we requested comments on what information analogous to that in a CCR should be provided to customers. We realize that not all of the information in a CCR is relevant to bottled water. For example, FDA establishes "allowable levels" for contaminants, not MCL's (FDA has established allowable levels for 83 contaminants in bottled water).

A few comments stated that FDA was exceeding its congressional mandate in soliciting comments on information about the contents of bottled water that could be reported to customers. These comments stated that the agency was asked to study the feasibility of appropriate methods of informing customers about the contents of bottled water and was not asked to evaluate information about the contents.

We disagree with these comments. In order to consider the feasibility of appropriate methods of informing customers of the contents of bottled water, we must consider the type and amount of information on the contents of bottled water that may be included within the context of the SDWA Amendments. Many who commented indicated that it was possible to provide information similar to that found in a CCR for bottled water. However, several comments stated that a list of all detected contaminants should not be provided because this would be confusing to customers and indicated that only contaminants in violation of allowable levels should be listed.

Many comments stated that it was appropriate to discuss contaminant limits in bottled water in terms of allowable levels rather than MCL's. MCL is the term used in EPA's, but not FDA's, regulations. However, a few comments maintained that bottled water contaminant limits should be expressed as MCL's for the sake of consistency.

Several comments indicated that, in addition to the information contained in a CCR, bottled water information should include a mineral profile, hydrogen-ion concentration (pH) and hardness measurements and sodium content. A "date bottled" statement and a

statement of the type of treatment or disinfection that the water received also were suggested as information that would be of interest to customers. Some comments stated that treatment or disinfection information is important to immunocompromised individuals in determining whether the water has been treated by one of the methods recommended by the Centers for Disease Control and Prevention for the elimination of *Cryptosporidium*, a parasite that has caused serious waterborne illness outbreaks from the consumption of contaminated public drinking water.

FDA's Evaluation of Information About the Contents of Bottled Water

We believe that much of the information contained in a CCR is applicable to bottled water. However, we recognize that certain information contained in a CCR is relevant only to public drinking water systems. Such information includes the definition and statement of MCLG's and information on public drinking water systems operating under a variance and other information that is relevant only to public drinking water systems regulated by EPA, such as information on EPA's drinking water hotline.

The agency notes that certain information not required in a CCR, e.g., "date bottled," mineral profile, pH and type of treatment given to water (for immunocompromised consumers), may be of interest to some bottled water customers. However, with the exception of information related to the potential presence of *Cryptosporidium* in bottled water (type of treatment), this information is not analogous to information contained in a CCR. In soliciting comments on the type of information on bottled water that could be provided to customers, we specified in the 1997 notice (62 FR 60721 at 60722) that the information should be within the context of the SDWA Amendments and, to the extent possible, be analogous to that contained in a CCR. The agency's intent in the 1997 notice was to solicit information that was analogous to that outlined by EPA for inclusion in a CCR (see above). Although we recognize that the SDWA Amendments provide for States to develop alternative requirements with respect to the form and content of a CCR, it was not our intent to solicit a broad range of information but rather to limit the discussion to information that is analogous to that outlined by EPA for inclusion in a CCR. Therefore, consideration of information that is not within the context of the SDWA Amendments (i.e., analogous to

information outlined by EPA for inclusion in a CCR) is beyond the scope of this study.

III. Feasibility of Appropriate Methods of Informing Customers of the Contents of Bottled Water

In the 1997 notice, FDA suggested several possible methods for conveying information, i.e., providing the information on the label of the bottle or in a pamphlet made available at point of sale, or listing a phone number or an address on the label that the customer could use to access information, or providing the information on an Internet site that customers could access. We also suggested that firms making bulk deliveries might provide their customers with the information directly or by mail. The agency recognized that the aforementioned methods do not represent all possible methods that may be appropriate and interested persons were asked to suggest other methods.

For each method identified as being appropriate for conveying information to customers about the contents of bottled water, FDA requested comments on whether the provision of information by the method is or is not feasible, i.e., is or is not "capable of being done or carried out" (Webster's Third New International Dictionary, 1976). Although not explicitly stated in the 1997 notice, we note that practicality is an important element of feasibility. Additionally, interested persons were asked to state why a particular method would be feasible or not feasible, addressing costs and other relevant factors (e.g., label space) in their comments.

The agency received comments on the appropriateness and feasibility of six methods of informing customers of the contents of bottled water. These methods include the label, a phone number/address for company contact on the label, a combination of the two previous methods (some information on the label, some available through company contact), a pamphlet at point of purchase, an information package distributed with bulk water deliveries, and the Internet. The supporting reasons for why each method identified is appropriate and the feasibility of each method as described in comments are discussed in the subsequent sections. Further, FDA's evaluation of each method is presented.

A. Information on the Label

Several comments identified the use of the label as an appropriate method because labels are designed specifically to convey information to customers. In fact, a few comments stated that the

only appropriate method was the label because it allows customers to have access to all available information at the point of purchase.

Alternatively, several comments stated that it would be inappropriate to place the information contained in a CCR on the label of bottled water. These comments noted that all food labels are required by law to carry certain pieces of information. Requiring additional information on the labels of bottled water would not be in keeping with labeling requirements for all other food products. Some comments also contended that additional information on the label might frighten or confuse customers because they would not understand the significance of information such as levels of trace contaminants in bottled water.

A few comments indicated that it would be feasible to include all of the information which would appear in a CCR on the label if the size of the label were increased or a fold-out label were used. However, the majority of comments indicated that it was not feasible to place significantly more information on a label based upon current label sizes.

1. Costs Associated With the Method

One comment estimated that, because of the amount of information, the cost of adding comprehensive CCR information would cost significantly more than the cost of adding a nutrition facts panel to a label (i.e., would cost more than \$24,000 for a medium-sized bottled water company with eight product labels and three package sizes). Several comments stated that changing a label significantly could be an economic hardship for small companies.

We estimate the average cost of making a label change for firms in this industry to be between \$2,200 and \$17,900, depending upon the complexity of the label change, the number of labels a company uses, and the time parameters for implementing the changes. Costs would be higher if testing that the company currently does not perform was necessary to generate additional information that may be of interest to customers. These costs could be substantially greater if it became necessary to make multiple label changes in response to changing test results, for example, from ongoing monitoring for chemical and microbiological contaminants. Bottled water regulations for monitoring for chemical and microbiological contaminants require weekly monitoring for some contaminants and yearly monitoring for others. A change in the levels detected from week-to-

week or year-to-year would necessitate a label change.

2. FDA's Evaluation

We agree that placing information on the label is an appropriate method of informing customers about the contents of bottled water. However, we question the feasibility of placing all of the information on the contents of bottled water, that is analogous to that contained in a CCR, on the label of bottled water. The amount of information contained in a CCR, as outlined by EPA, is considerable (see section II of this document). We believe that the placement of all analogous CCR information on the label would lead to label clutter due to space requirements for such information. Therefore, we believe it is not feasible to place all such information on the contents of bottled water on the product label.

The agency also has concerns about the economic feasibility of placing information on a label that has the potential to change on a frequent basis as a result of ongoing monitoring that is required under its "Processing and Bottling of Bottled Drinking Water" regulations (21 CFR part 129). Labeling changes for information that may change frequently could result in an economic hardship to companies and, in addition, would result in the possibility that a product might bear a label that was no longer accurate, due to changing test results, which may cause the product to be misbranded under section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343). Therefore, we believe placing all analogous CCR information on bottled water on the label is not economically feasible.

B. Information Available by Company Contact

Several comments considered an appropriate method for informing customers of the contents of bottled water to be through a customer request by calling a phone number or writing to an address provided on the label. It was noted that the customer would have to go to some effort to get the information in this case, but comments still considered the method to be appropriate because customers who were interested in receiving information could do so. Several comments indicated that historically there has been little customer interest in information on the contents of bottled water.

Comments also stated that this would be a feasible method of conveying information to customers. This method was considered feasible because it is already being employed by a number of

bottlers and, therefore, neither costly label changes nor greatly increasing the size of the product label would be necessary.

1. Costs Associated With the Method

The costs associated with providing information in response to requests made by calling a phone number or writing to an address on the label depend upon how the company chooses to provide this information (e.g., operation of a toll number, a toll-free number, or a mail-response system), the volume of customer requests for information, and the amount of time required to answer requests. FDA estimates that costs for this option would be between \$1,200 and \$4,200 annually, depending on the method chosen. In addition, any product label that does not already provide contact information will have to be changed to provide that information. We estimate the average cost of making a simple one-time label change for firms in this industry to be between \$2,200 and \$12,800. Finally, FDA notes that the customer will incur costs for acquiring information on bottled water if a company chooses to provide a toll number, rather than a toll-free number, on the label.

2. FDA's Evaluation

We agree that a phone number or an address on the label directing customers on how to obtain information from the company is an appropriate method of providing information to customers. Telephones and mail are available to almost all customers. The information would be accessible to customers with this method, although the agency does note that some effort will be required on the part of the customer to obtain the information. Dissemination of information in this manner may be less likely to confuse customers if the system allowed customers to be selective by obtaining only information in which they have an interest rather than all the information that may be available. Information provided in this manner can also be kept current.

We believe that providing information through a phone number or an address is feasible. It is the least costly method to industry of providing information to customers because it does not require frequent label changes and is therefore less costly to maintain. Moreover, the start up costs would only apply to a portion of the industry since many firms already provide information to customers in this manner.

C. Information Available by the Combination Approach

Many comments advocated placing certain individual pieces of information, such as information on source of the water, information about the suitability of the water for consumption by immunocompromised individuals or fluoride levels, on the label, while making other CCR-type information available to customers through contact with the company (i.e., a combination approach). Comments stated that this would be both appropriate and feasible and noted that this would give customers access to certain pieces of information that may be of interest to them at point of purchase.

1. Costs Associated With the Method

The costs associated with providing information in response to customer requests for the information through company contact would be similar to those listed in the previous section. This option would also entail a label change for companies, estimated to cost a minimum of between \$2,200 and \$12,800 for the initial change. Whether or not there would be additional costs for subsequent label changes would depend upon whether the information required to be on the label could change as a result of ongoing monitoring of the product.

2. FDA's Evaluation

We agree that the combination approach is an appropriate method of providing information to customers. We also agree that this method is feasible as long as the particular information that is placed on the label does not require frequent changes as a result of ongoing monitoring for contaminants.

Comments that advocated the combination approach requested that particular pieces of information, that may be of interest to customers at point of purchase, be placed on the label. The agency notes that, in order to fully explore the combination approach in the final feasibility report, advocates of the combination approach should provide information on which pieces of CCR-type information should go on the label and which should be available through company contact.

D. Information in a Pamphlet

None of the comments considered placement of a pamphlet containing information about bottled water at the point of purchase an appropriate method. The comments stated that retail establishments might not want to provide the necessary display space.

1. Costs Associated With the Method

Costs associated with providing information on bottled water to customers in a pamphlet depend upon the quality of the paper and printing, the size of the pamphlet, and the use of color. We estimate that it would cost a company between \$3,500 and \$16,500 per year to distribute 10,000 pamphlets.

2. FDA's Evaluation

The agency is not aware that retailers necessarily would not want to provide space for pamphlets. The agency does believe, however, that this would not be the most feasible method when other methods of conveying information are available. Information on bottled water contained in a pamphlet would be subject to the same frequent changes that may be necessary for label information due to changing test results from ongoing monitoring. In addition, there would be practical concerns regarding assuring that the pamphlets were consistently available at point of purchase. Therefore, we do not believe that pamphlets would be the most feasible method of providing information on the contents of bottled water to customers.

E. Distribution of an Information Package With Bulk Water Deliveries

The majority of the comments indicated that it would be appropriate for bulk water deliverers to include an information package with a bill or deliver it with an invoice. Comments also stated that this would be feasible since bulk water deliverers have regular contact with their customers.

1. Costs Associated With the Method

If an informal information package were prepared for delivery or inclusion with an invoice, we estimate the cost to be between \$1 and \$2 per package. If a firm makes 20 bulk deliveries per week, then the yearly cost would be \$1,000 to \$2,000.

2. FDA's Evaluation

The agency believes that it would be appropriate and feasible for bulk water deliverers to include an information package with a bill or deliver it with an invoice. An information package could be prepared in response to any changes in information about the delivered product, rather than printed in advance as labels typically are. The information also could be provided to customers by bulk deliverers only in response to customer request. This would reduce the chance for customers who are not seeking additional information on the contents of bottled water to be confused by information that may not be relevant

to them or in which they have no interest.

F. Information Available on the Internet

A small number of comments indicated that the Internet was an appropriate method for conveying information to customers. However, the majority of comments stated that the Internet was not appropriate as the sole source of information because some customers may not have access to it.

1. Costs Associated With the Method

The cost of creating and maintaining a web site also was considered prohibitive for small companies. Comments stated that the cost of creating a web site is approximately \$7,500.

We estimate the cost of creating and maintaining an Internet website to be between \$2,000 and \$7,500. For firms that already maintain a website, the cost of adding information on the contents of bottled water would be negligible.

2. FDA's Evaluation

Although the Internet is increasingly popular, FDA agrees that the Internet may not be appropriate as the sole source of information about the contents of bottled water. According to the 1999 Economic Report of the President (Washington, DC, 1999), approximately 70 million Americans (26 percent of the U.S. population) have access to the Internet. Since many customers may not have access to the Internet, the agency believes that it may not be appropriate for the Internet to be the sole source of information on the contents of bottled water for customers. The Internet is an appropriate and feasible method of providing information to customers; however, it may need to be used in combination with another method to ensure that all bottled water customers have access to the information.

IV. Summary

We believe that much of the information contained in a CCR is applicable to bottled water. However, we recognize that certain information contained in a CCR is relevant only to public drinking water systems regulated by EPA. For example, a CCR includes the definition and statement of MCLG's, information on public drinking water systems operating under a variance, and information on EPA's drinking water hotline.

The agency has tentatively determined that certain methods are appropriate and feasible for informing customers of the contents of bottled water. We believe that providing analogous CCR information on bottled

water by company contact through an address or phone number on the label is an appropriate and feasible method. We believe that the combination approach (providing some content information on the label along with a company contact) is an appropriate and feasible method of providing customers with information and, in addition, has the benefit of delivering certain pieces of information to customers at the point of purchase. The agency also believes that it would be an appropriate method and is feasible for bulk deliverers to provide an information package with a bill or an invoice.

The agency has tentatively determined that certain methods are not appropriate and feasible for informing customers of the contents of bottled water. We believe that placing all of the information analogous to that contained in a CCR on the label of bottled water is not feasible. Moreover, there is a potential economic burden of frequent label changes if the particular information that is placed on the label requires frequent label changes as a result of ongoing monitoring of contaminants. We have the same concerns regarding changing test results for information provided in a pamphlet at point of purchase. We also question the practicality of ensuring that pamphlets are consistently available at retail. Further, the agency does not believe that the Internet may be appropriate as the sole method of providing information on the contents of bottled water to customers because not all customers may have access to it.

Comments received on this draft report will be evaluated and considered in preparation of the final report on the feasibility of appropriate methods, if any, for providing information about the contents of bottled water to customers. Based on the comments received, the agency plans to discuss the possibility of further action on this subject, if any is necessary, in the final report.

Dated: February 11, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.
[FR Doc. 00-4025 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-1060-N2]

RIN 0938-AJ57

Medicaid Program; Additional Comment Period for the Schedules of Per-Visit and Per-Beneficiary Limitations on Home Health Agency Costs for Cost Reporting Periods Beginning on or After October 1, 1999 and Portions of Cost Reporting Periods Beginning October 1, 2000

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of an additional 15-day comment period for notice with comment period.

SUMMARY: This notice announces an additional 15-day comment period for a notice with comment period published in the **Federal Register** on August 5, 1999 (64 FR 42766). In that notice, we set forth cost limitations for cost reporting periods beginning on or after October 1, 1999 and portions of cost reporting periods beginning before October 1, 2000.

DATE: The comment period closes 5 p.m. On March 8, 2000.

ADDRESSEES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-1060-NC, P.O. Box 8018, Baltimore, Maryland 21207-8018

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, or Room C5-16-03, Central Building, 7500 Security Boulevard, Baltimore, Maryland 21244-1850

Comments may also be submitted electronically to the following E-mail address: HCFA1060NC@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the reference address in order to be considered. All comments must be incorporated in the E-mail message because we may not be able to access attachments.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to the file code HCFA-1060-NC. Comments received timely will be available for public

inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443-G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690-7890).

FOR FURTHER INFORMATION CONTACT:

Michael Bussacca, (410) 786-4602.

SUPPLEMENTARY INFORMATION: On August 5, 1999, we published a notice with comment period in the **Federal Register** (64 FR 42766) setting forth revised schedules of limitations on home health agency costs that may be paid under the Medicare program for cost reporting periods beginning on or after October 1, 1999 and portions of cost reporting periods beginning before October 1, 2000. These limitations replaced the limitations that were set forth in our August 11, 1998 notice with comment period (63 FR 42912). Under the August 5, 1999 notice with comment period, written or electronic comments were acceptable. The comment period ended on October 4, 1999. Due to technical difficulties, however, it is unclear whether or not we received all of the electronic comments that may have been submitted to us. Therefore, we are announcing an additional 15-day comment period from the date of publication of this notice (that is, March 8, 2000).

Authority: Section 1861 (v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)); section 4207(d) of Pub. L. 101-508 (42 U.S.C. 1395x (note)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance)

Dated: December 6, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00-4071 Filed 2-18-00; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-2058-FN]

RIN 0938-AJ68

Medicare and Medicaid Programs; Reapproval of the Deeming Authority of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for Home Health Agencies (HHAs)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice announces the reapproval of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) as a national accreditation organization for home health agencies (HHAs) that request participation in the Medicare program. We have found that JCAHO's standards for HHAs meet or exceed those established by the Medicare program. Therefore, HHAs accredited by JCAHO will be granted deemed status under the Medicare program.

EFFECTIVE DATE: This final notice is effective February 22, 2000, through March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Joan C. Berry, (410) 786-7233.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1861(o) and 1891 of the Social Security Act (the Act) and part 484 of the Medicare regulations specify the conditions that a home health agency (HHA) must meet in order to participate in the Medicare program. Generally, in order to enter into an agreement with Medicare, an HHA must first be certified by a State survey agency as complying with the conditions or standards set forth in part 484 of the regulations. Then, the HHA is subject to routine surveys by a State survey agency to determine whether it continues to meet Medicare requirements.

There is an alternative, however, to surveys by State agencies. Section 1865(b)(1) of the Act permits "accredited" HHAs to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions of participation. Accreditation by an accreditation organization is voluntary and is not required for Medicare certification. Section 1865(b)(1) of the Act provides that, if a provider is accredited by a national accreditation body under a set of standards that meet or exceed the Medicare conditions, the Secretary can "deem" that HHA as having met the Medicare requirements for those conditions.

Our regulations concerning reapproval of accrediting organizations are set forth at 42 CFR 488.4 and 488.8(d)(3). Section 488.8(d)(3) requires reapplication at least every 6 years and permits the Secretary to determine the required materials from those enumerated in § 488.4, as well as the deadline to reapply for continued approval of deeming authority. We have determined that the procedures set out

in section 1865(b)(3)(A) of the Act for initial applications for deeming authority should apply to renewals as well. These procedures require us to— (1) publish a notice in the **Federal Register** within 60 days after receiving an accreditation organization's written request that we make a determination regarding whether its accreditation requirements continue to meet or exceed Medicare requirements; (2) identify in the notice the organization and the nature of the request and allow a 30-day public comment period; and (3) publish a notice of our approval or disapproval within 210 days after we receive the organization's application and complete package of information.

II. Provisions of the Proposed Notice

On September 10, 1999, we published a proposed notice in the **Federal Register** (64 FR 49197) announcing the receipt of an application from JCAHO for renewal of its privileges as a national accreditation organization for HHAs. In the proposed notice, we detailed the factors on which we would base our evaluation. Under section 1865(b)(2) of the Act and our regulations at § 488.8(d)(3)(i), our review and evaluation of the JCAHO application were conducted in accordance with the following procedures:

- An on-site administrative review of the following: (1) The accrediting organization's corporate policies; (2) its financial and human resources available to accomplish the proposed surveys; (3) the training, monitoring, and evaluation of its surveyors; (4) its ability to investigate and respond appropriately to complaints against accredited facilities; and (5) its survey review and decision-making process for accreditation.

- A determination of the equivalency of JCAHO's standards for an HHA to our comparable HHA conditions of participation.

- A review, both through documentation and on-site observation, of JCAHO's survey processes to determine the following:

- The comparability of JCAHO's processes to those of State agencies, including survey frequency and whether surveys are announced or unannounced;
- The adequacy of the guidance and instructions and survey forms JCAHO provides to surveyors; and
- JCAHO's procedures for monitoring providers or suppliers found to be out of compliance with our requirements (these procedures are used when JCAHO identifies noncompliance).

- JCAHO's procedures for responding to complaints and for coordinating these

activities with appropriate Federal, State, and local licensing bodies and ombudsmen programs.

- JCAHO's policies and procedures for identifying potential fraud and abuse, and its coordination with or reporting to us.

- JCAHO's survey team, the content and frequency of the in-service training provided, the evaluation systems used to assess the performance of surveyors, and potential conflict-of-interest policies and procedures.

- JCAHO's data management system and reports used to—

- Assess its surveys and accreditation decisions; and

- Provide us with electronic data and new statistical validation information including—

- + The number, accreditation status, and resurvey cycle for facilities;

- + The number, types, and resolution times for follow-up when deficiencies are detected during surveys;

- + The 10 most common deficiencies found in surveyed HHAs; and

- + The number of actionable cases of noncompliance and an indication of the method and timeframe for resolution including plans of correction, if any.

- A review of all types of accreditation status JCAHO offers and the extent to which each type corresponds with HCFA's standards of compliance.

- The adequacy of JCAHO's staff and other resources to perform the surveys, and its financial viability.

- JCAHO's written agreement to—

- Meet our requirements to provide to all relevant parties timely notifications of changes to accreditation status or ownership, to report to all relevant parties remedial actions or situations of immediate jeopardy, and to conform its requirements to changes in Medicare requirements; and

- Permit its surveyors to serve as witnesses for us in adverse actions against its accredited facilities.

In accordance with section 1865(b)(3)(A) of the Act the proposed notice also solicited public comment regarding whether JCAHO's requirements meet or exceed the Medicare conditions of participation for HHAs. We received no public comments in response to our proposed notice.

III. Provisions of the Final Notice

A. Differences between JCAHO and Medicare's Conditions and Survey Requirements

Our review and evaluation of the JCAHO application, which were conducted as detailed in section II of

this notice, yielded the following information.

We compared the standards contained in JCAHO's "1999-2000 Comprehensive Accreditation Manual for Home Care" and its "Deemed Status Education Program" supplemented by flow charts comparing the survey process, deficiency resolution, complaint monitoring, and accreditation decision making with the Medicare conditions of participation and our "State and Regional Operations Manual."

Under its current authority, JCAHO had used informal procedures and its technical advisory groups to inform us in advance of potential changes to its standards. It had routinely provided us with its updated manuals after, rather than before, the effective date as required by § 488.4(b)(3)(iii). In response to our request, JCAHO put procedures in place which would require a more formal submission of proposed manual changes to our director of the Center for Medicaid and State Operations (CMSO) 30 days in advance of their effective dates to fully meet the requirements of § 488.4(b)(3)(iii). JCAHO has also agreed to provide us with an updated crosswalk (a table showing the match between their standards and our standards) any time changes are made in the substance or numbering of its standards that changes the mapping to Medicare requirements.

In 11 areas JCAHO has made the following revisions or clarifications:

- *Ownership information.* JCAHO has revised its policies to retain detailed ownership information encompassing the names and addresses of all persons with an ownership or controlling interest in the HHA. In addition, JCAHO has created new forms for use by its surveyors to validate and document ownership information, and requires the surveyors to send any changes to the JCAHO central office to update its files.

- *Crosswalk references.* JCAHO has submitted evidence of changes to its crosswalk references, to assure that incorrect advertisement of services by a provider, or decisions by a provider not to provide certified services because of reimbursements, are correctly cited and reported to our regional offices.

- *Group of professional personnel.* JCAHO has changed its survey requirements and submitted appropriate documentation of this change through a policy letter, to review not only the composition of the professional group participating in the HHA, but also to evaluate the attendance, participation of all required disciplines, and the appropriate exercise of the professional group's advisory functions.

- *Comprehensive assessment condition.* JCAHO has clarified that "When a Joint Commission standard is 'cross walked', the interpretation of that standard is supplanted *exactly* by the Medicare Condition of Participation or standard." This makes the Medicare interpretation the one used by the JCAHO. Specifically, standards governing patient eligibility for home health care (including home bound status) and the incorporation of data management requirements found in § 484.55 are crosswalked, to comply with our interpretation of the requirements. They state, "you may consider that we add to the evaluation of the Joint Commission's standard and intent, the exact wording of the Medicare condition or standard." The evaluation of such standards becomes the sum of the requirements, not one set or the other. Both sets of criteria must be met.

- *Early survey option.* When an HHA elects to use the JCAHO's Early Survey Option II approved by us, the HHA must provide skilled nursing and at least one other therapeutic service. JCAHO standards require that the HHA must serve at least ten patients. JCAHO has added to its standard that seven active patients must be receiving at least one skilled service (nursing assessments do not count as a skilled service). These requirements conform to our policy. In addition, JCAHO has provided documentation that it requires its surveyors to perform home visits using the HCFA's sampling methodology to select the correct number of home visits, as JCAHO does on standard deemed status HHA surveys.

- *Corrective action timeframes.* JCAHO's timeframes for corrective actions have been revised to conform to those limits set by statute and the our State Operations Manual.

- JCAHO has provided documentation that its administrative and survey procedures state that *all* findings of immediate and serious jeopardy, as defined by us, must be reported to the appropriate regional office within 24 hours of discovery. These incidents would include any "sentinel events" that meet the definition of immediate and serious threats to health or safety.
- JCAHO will provide the listings of facilities and the letters containing the results of surveys to the appropriate HCFA regional office and to our CMSO contact when the notification goes to the facility.

- JCAHO has revised its notification letter to the facility to indicate any Medicare condition or standard level deficiencies separate from any Type I recommendations (JCAHO accreditation deficiencies). This will

allow our staff in the central office or the regional office to identify clearly the level and type of Medicare deficiency, and initiate action to resolve condition level deficiencies as we judge necessary.

- JCAHO has explained the process by which its preliminary nonaccreditation (PNA) decisions are validated and the timeframes for doing so.

- JCAHO has created a Medicare timeframe for resolution of deficiencies in its deemed status facilities and supplied us with a clear outline of this process, that includes timeframes for all steps. This new procedure provides a more efficient process and includes sending all relevant communications to our regional offices in accordance the policy parameters found in our policies and procedures. JCAHO has clarified that it will use the Medicare timeframe for evaluating survey findings (for both Medicare and JCAHO standards) and processing letters to deemed status agencies. This new process eliminates the situation where a finding would be identified after a listing of Medicare deficiencies had been sent to us and cited only in the JCAHO portion of the report, even when the finding was relevant to Medicare. JCAHO's commitment to a 30-day maximum for each follow-up cycle until correction (of all Type I recommendations) is achieved (within the procedural limits of 6 months set by Medicare) meets our requirements.

- *Documentation of deficiencies.* JCAHO has revised its documentation requirements by adding the language "all relevant scope and severity information, including a description of the findings, to present a clear picture of events and outcomes. Documentation will be consistent with Medicare regulation, and a demonstration of investigative techniques." This addition to JCAHO's documentation requirements makes these rules comparable to the Medicare requirements. To validate this goal JCAHO has provided training materials and an agenda for January 2000 training of HHA deemed status surveyors which instructs that the documentation of its surveyors will meet or exceed our 1999 "Principles of Documentation."

- *Systemic problems.* JCAHO has clarified that its philosophy and process are directed at identifying underlying systemic problems and then securing correction. This is accomplished for accreditation standards through the use of a computerized algorithm which weighs and combines compliance with

standards to create an overall "score." Surveyors evaluate and document the Medicare requirements by hand-entering data on printed forms, while the JCAHO standards are evaluated using data entry into a computerized algorithm. JCAHO is reinforcing correct identification and documentation of Medicare problems by its surveyors in its January 2000 training. These Medicare findings are supported and expanded by the results of the JCAHO computerized assessment, which aids in the identification of systemic problems. Validation of these systemic problems is done through appropriate follow-up, either by on-site survey or through documented evidence, as appropriate, within 30 days.

- *Complaint process.* JCAHO has provided us with detailed information about its current definitions of and criteria for determining the severity of complaints and the process for handling complaints for each severity level. This process does not include any routine reporting of such complaints to us. JCAHO appropriately is postponing changing this complaint process so that its changes will conform to our new requirements for an improved complaint interface process, currently under development, as soon as it is promulgated.

- *State and local requirements.* JCAHO has clarified that "[w]hen any Joint Commission standard has the phrase, 'applicable law and regulation' included within the standard or intent, surveyors are instructed that the requirements of the most stringent law or regulation are those to be followed and surveyed for compliance." It has also provided us with the procedures it uses to instruct its surveyors to apply when they are unsure of whether or not a facility meets these requirements.

- *Fraud and abuse identification and reporting.* JCAHO confirmed that its "survey process specifically evaluates the billing and eligibility practices of organizations, as well as ethical behaviors." Any violation would be included in the routine reports subsequent to any survey to the regional office within 10 days of the last survey.

In addition to these changes, JCAHO provided a revised crosswalk incorporating all the changes necessitated by our requests.

B. Term of Approval

Based on the review and observations described in section III.A of this notice we have determined that JCAHO's requirements for HHAs meet or exceed our requirements. Therefore, we recognize JCAHO as a national accreditation organization for HHAs that request participation in the Medicare

program, effective February 22, 2000, through March 31, 2005.

IV. Paperwork Reduction Act

This document does not impose any information collection and recordkeeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation organizations, codified in 42 CFR part 488, "Survey, Certification, and Enforcement Procedures," are currently approved by OMB under OMB approval number 0938-0690, with an expiration date of June 30, 2002.

V. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice recognizes JCAHO as a national accreditation organization for HHAs that request participation in the Medicare program. There are neither significant costs nor savings for the program and administrative budgets of Medicare. Therefore, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we

are not preparing analyses for either the RFA or section 1102(b) of the Act.

In an effort to better assure the health, safety, and services of beneficiaries in HHAs already certified, as well as to provide relief to State budgets in this time of tight fiscal constraints, we deem HHAs accredited by JCAHO as meeting our Medicare requirements. Thus, we continue our focus on assuring the health and safety of services by providers and suppliers already certified for participation in a cost-effective manner.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by OMB.

In accordance with Executive Order 13132, we have determined that this notice will not significantly affect the rights of States, local or tribal governments.

(**Authority:** Sec. 1865(b)(3)(A) of the Social Security Act (42 U.S.C. 1395bb(b)(3)(A)) (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance) (Catalog of Federal Domestic Assistance Program No. 93.778—Medical Assistance Programs)

Dated: February 7, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00-4155 Filed 2-18-00; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-2059-FN]

RIN 0938-AJ69

Medicare and Medicaid Programs; Reapproval of the Deeming Authority of the Community Health Accreditation Program, Incorporated (CHAP) for Home Health Agencies (HHAs)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice announces the reapproval of the Community Health Accreditation Program, Incorporated (CHAP) as a national accreditation organization for home health agencies (HHAs) that request participation in the Medicare program. We have found that CHAP's standards for HHAs meet or exceed those established by the Medicare program. Therefore, HHAs accredited by CHAP will be granted deemed status under the Medicare program.

EFFECTIVE DATE: This final notice is effective February 22, 2000, through March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Joan C. Berry, (410) 786-7233.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1861(o) and 1891 of the Social Security Act (the Act) and part 484 of the Medicare regulations specify the conditions that a home health agency (HHA) must meet in order to participate in the Medicare program. Generally, in order to enter into an agreement with Medicare, an HHA must first be certified by a State survey agency as complying with the conditions or standards set forth in part 484 of the regulations. Then, the HHA is subject to routine surveys by a State survey agency to determine whether it continues to meet Medicare requirements.

There is an alternative, however, to surveys by State agencies. Section 1865(b)(1) of the Act permits "accredited" HHAs to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions of participation. Accreditation by an accreditation organization is voluntary and is not required for Medicare certification. Section 1865(b)(1) of the Act provides that, if a provider is accredited by a national accreditation body under a set of standards that meet or exceed the Medicare conditions, the Secretary can "deem" that HHA as having met the Medicare requirements for those conditions.

Our regulations concerning reapproval of accrediting organizations are set forth at 42 CFR 488.4 and 488.8(d)(3). Section 488.8(d)(3) requires reapplication at least every 6 years and permits the Secretary to determine the required materials from those enumerated in § 488.4, as well as the deadline to reapply for continued approval of deeming authority. We have determined that the procedures set out in section 1865(b)(3)(A) of the Act for initial applications for deeming authority should apply to renewals as well. These procedures require us to— (1) publish a notice in the **Federal Register** within 60 days after receiving an accreditation organization's written request that we make a determination regarding whether its accreditation requirements continue to meet or exceed Medicare requirements; (2) identify in the notice the organization and the nature of the request and allow a 30-day public comment period; and (3) publish a notice of our approval or

disapproval within 210 days after we receive the organization's application and complete package of information.

II. Provisions of the Proposed Notice

On September 10, 1999, we published a proposed notice in the **Federal Register** (64 FR 49198) announcing the receipt of an application from CHAP for renewal of its privileges as a national accreditation organization for HHAs. In the proposed notice, we detailed the factors on which we would base our evaluation. Under section 1865(b)(2) of the Act and our regulations at § 488.8(d)(3)(i), our review and evaluation of the CHAP application were conducted in accordance with the following procedures:

- An on-site administrative review of the following: (1) The accrediting organization's corporate policies; (2) its financial and human resources available to accomplish the proposed surveys; (3) the training, monitoring, and evaluation of its surveyors, (4) its ability to investigate and respond appropriately to complaints against accredited facilities; and (5) its survey review and decision-making process for accreditation.

- A determination of the equivalency of CHAP's standards for an HHA to our comparable HHA conditions of participation.

- A review, both through documentation and on-site observation, of CHAP's survey processes to determine—

- The comparability of CHAP's processes to those of State agencies, including survey frequency and whether surveys are announced or unannounced;
- The adequacy of the guidance, instructions, and survey forms CHAP provides to surveyors; and
- CHAP's procedures for monitoring providers or suppliers found to be out of compliance with our requirements (these procedures are used when CHAP identifies noncompliance).

- CHAP's procedures for responding to complaints and for coordinating these activities with appropriate Federal, State, and local licensing bodies and ombudsmen programs.

- CHAP's policies and procedures for identifying potential fraud and abuse, and its coordination with or reporting to us.

- CHAP's survey team, the content and frequency of the in-service training provided, the evaluation systems used to assess the performance of surveyors, and potential conflict-of-interest policies and procedures.

- CHAP's data management system and reports used to—

- Assess its surveys and accreditation decisions; and
- Provide us with electronic data and new statistical validation information including—
 - + The number, accreditation status, and resurvey cycle for facilities;
 - + The number, types, and resolution times for follow-up when deficiencies are detected during surveys;
 - + The 10 most common deficiencies found in surveyed HHAs; and
 - + The number of actionable cases of noncompliance and an indication of the method and timeframe for resolution including plans of correction, if any.

- A review of all types of accreditation status CHAP offers and the extent to which each type corresponds with HCFA's standards of compliance.

- The adequacy of CHAP's staff and other resources to perform the surveys, and its financial viability.

- CHAP's written agreement to—
- Meet our requirements to provide to all relevant parties timely notifications of changes to accreditation status or ownership, to report to all relevant parties remedial actions or situations of immediate jeopardy, and to conform its requirements to changes in Medicare requirements; and

- Permit its surveyors to serve as witnesses for us in adverse actions against its accredited facilities.

In accordance with section 1865(b)(3)(A) of the Act the proposed notice also solicited public comment on whether CHAP's requirements meet or exceed the Medicare conditions of participation for HHAs. We received no public comments in response to our proposed notice.

III. Provisions of the Final Notice

A. Differences between CHAP and Medicare's Conditions and Survey Requirements

Our review and evaluation of the CHAP application, which were conducted as detailed in section II of this notice, yielded the following information.

We compared the standards contained in CHAP's "1999 Standards of Excellence for HHA Organizations," in both the "Core" (section regarding administrative standards applicable to all facilities deemed by CHAP) and "Home Health Organizations Standards" sections and CHAP's survey process as outlined in its "Site Visitor Training Manual," supplemented by flow charts comparing the survey process, deficiency resolution, complaint monitoring, and accreditation decision making with the Medicare

conditions of participation and our "State and Regional Operations Manual." In six areas CHAP has made the following revisions or clarifications:

- CHAP incorporated language to address the provisions of § 484.10(d) (Privacy Act provisions that apply when gathering OASIS data on patients).

- CHAP added specificity to its crosswalk covering provisions of § 484.14(f) and (h), to indicate that during each survey they assess contracts for services or personnel provided under arrangement. Where clinical services are supplied, CHAP clarified that it reviews an HHA's certifications and competencies as well as its backup procedures.

- CHAP provided us with revised pages to its "Core" standards reflecting the requirements at § 484.55, setting out the way in which the collection, use, and reporting of OASIS data in home health agencies will be assessed by surveyors for compliance with the regulation.

- CHAP provided us with additional information from its revised policy and procedure manual specifying its procedures and timeframes for withdrawals and involuntary termination of deemed accreditation, its requirements for reporting such withdrawals to HCFA, and when an HHA may reapply for deemed status accreditation.

- CHAP provided evidence that its fraud and abuse policy and training programs, both through teleconference updates and annual training, provide opportunities for surveyors to discuss how to identify and appropriately report instances of potential Medicare fraud and abuse.

- CHAP provided us with additional materials with respect to its appraisal of surveyor or visitor performance including the information covered, who conducts the appraisals and when, and how site visitor weaknesses are identified and corrected to assure consistency and quality in the survey process.

In addition to these changes, CHAP provided a revised crosswalk incorporating all the changes necessitated by our requests.

B. Term of Approval

Based on the review and observations described in section III. A of this notice we have determined that CHAP's requirements for HHAs meet or exceed our requirements. Therefore, we recognize CHAP as a national accreditation organization for HHAs that request participation in the Medicare program, effective February 22, 2000, through March 31, 2005.

IV. Paperwork Reduction Act

This document does not impose any information collection and recordkeeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation, codified in 42 CFR part 488, "Survey, Certification, and Enforcement Procedures," are currently approved by OMB under OMB approval number 0938-0690, with an expiration date of June 30, 2002.

V. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice recognizes CHAP as a national accreditation organization for HHAs that request participation in the Medicare program. There are neither significant costs nor savings for the program and administrative budgets of the Medicare program. This notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

In an effort to better assure the health, safety, and services of beneficiaries in HHAs already certified, as well as to provide relief to State budgets in this time of tight fiscal constraints, we deem HHAs accredited by CHAP as meeting our Medicare requirements. Thus, we continue our focus on assuring the health and safety of services by providers and suppliers already certified for participation in a cost effective manner.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by OMB.

In accordance with Executive Order 13132, Federalism, we have determined that this notice will not significantly affect the State, local or tribal governments.

(Authority: Sec. 1865(b)(3)(A) of the Social Security Act (42 U.S.C. 1395bb(b)(3)(A)) (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance) (Catalog of Federal Domestic Assistance Program No. 93.778—Medical Assistance Programs)

Dated: February 7, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00-4156 Filed 2-18-00; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-2057-FN]

RIN 0938-AJ66

Medicare and Medicaid Programs; Recognition of the American Osteopathic Association (AOA) for Continued Approval of Deeming Authority for Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice announces the reapproval of the American Osteopathic Association (AOA) as a national accreditation organization for hospitals that request participation in the Medicare program. We believe that continuing accreditation of hospitals by AOA demonstrates that all Medicare hospital conditions of participation are met or exceeded. Thus, we grant deemed status to those hospitals accredited by AOA.

EFFECTIVE DATE: This final notice is effective February 22, 2000, through March 31, 2005.

FOR FURTHER INFORMATION CONTACT:
Janice Adams-King, (410) 786-8354.

SUPPLEMENTARY INFORMATION:

I. Background

Laws and Regulations

Under the Medicare program, eligible beneficiaries may receive covered services in a hospital provided certain requirements are met. The regulations specifying the Medicare conditions of participation for hospital care are located in 42 CFR part 482. These conditions implement section 1861(e) of the Social Security Act (the Act), which specifies services covered as hospital care and the conditions that a hospital program must meet in order to participate in the Medicare program.

Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to the activities relating to the survey and certification of facilities are at 42 CFR part 488.

Generally, in order to enter into a provider agreement, a hospital must first be certified by a State survey agency as complying with the conditions or standards set forth in the statute and part 482 of the regulations. Then, the hospital is subject to regular surveys by a State survey agency to determine whether it continues to meet Medicare requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(b)(1) of the Act permits "accredited" hospitals to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions of participation. Accreditation by an accreditation organization is voluntary and is not required for Medicare participation. Section 1865(b)(1) of the Act provides that, if a provider demonstrates through accreditation that all applicable conditions are met or exceed the Medicare conditions, we can "deem" the hospital as having met the requirements.

Our regulations concerning reapproval of accrediting organizations are set forth at §§ 488.4 and 488.8(d)(3). The regulations at § 488.8(d)(3) require reapplication at least every 6 years and permit us to determine the required materials as enumerated in § 488.4 and the deadline to reapply for continued approval of deeming authority.

II. Approval of Deeming Organizations

Section 1865(b)(2) of the Act further requires that our findings concerning review of national accrediting organizations consider, among other factors, the accreditation organization's requirements for accreditation, its survey procedures, its ability to provide

adequate resources for conducting required surveys and ability to supply information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide us with necessary data for validation.

Section 1865(b)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accreditation body making the request, describing the nature of the request, and providing at least a 30-day public comment period. Subsequently, we have 210 days from receipt of the request to publish approval or denial of the application.

The purpose of this notice is to notify the public of our decision to approve AOA's request for continuation of its deeming authority. This decision is based on our finding that the AOA's separate accreditation programs for hospital care meet or exceed the Medicare hospital conditions of participation.

III. Proposed Notice

On September 10, 1999, we published a proposed notice at 64 FR 49199 announcing AOA's request for reapproval as a deeming organization for hospitals. In the notice, we detailed the evaluation criteria. Under section 1865(b)(2) of the Act and our regulations at § 488.8(d)(3)(i), our review and evaluation of the AOA application were conducted in accordance with the following criteria:

- An on-site administrative review of the corporate policies, resources to accomplish the proposed surveys, program and surveyor evaluation and monitoring, its ability to investigate and respond appropriately to complaints against accredited facilities, and the survey review and decision-making process for accreditation.
- A determination of the equivalency of AOA's standards for a hospital to our comparable hospital conditions of participation.
- A review through documentation and on-site observation of AOA's survey processes to determine the following:
 - The comparability of AOA's processes to those of State agencies, including survey frequency and whether surveys are announced or unannounced.
 - The adequacy of the guidance and instructions and survey forms AOA provides to surveyors.
 - AOA's procedures for monitoring providers or suppliers found to be out of compliance with program requirements. (These procedures are

used only when AOA identifies noncompliance.)

- AOA's procedures for responding to complaints and for coordinating these activities with appropriate licensing bodies and ombudsmen programs.

- AOA's policies and procedures for identifying potential fraud and abuse and its coordination with us or reporting to us.

- AOA's survey team, the content and frequency of the in-service training provided, the evaluation systems used to assess the performance of surveyors, and potential conflict-of-interest policies and procedures.

- AOA's data management system and reports used to assess its surveys and accreditation decisions, and its ability to provide us with electronic data and new statistical validation information including the number, accreditation status, and resurvey cycle for facilities; the number, types, and resolution times for follow up when deficiencies are detected during surveys; the top 10 deficiencies found, and the number of actionable cases of noncompliance and the method and time frame for resolution.

- A review of all types of accreditation status AOA offers and an assessment of the appropriateness of those for which AOA seeks deemed status.

- A review of the pattern of AOA's deemed facilities (that is, types and duration of accreditation and its schedule of all planned full and partial surveys).

- The adequacy of AOA's staff and other resources to perform the surveys, and its financial viability.

- AOA's written agreement to—

- Meet our requirements to provide to all relevant parties, timely notifications of changes to accreditation status or ownership, to report to all relevant parties remedial actions or immediate jeopardy, and to conform its requirements to changes in Medicare requirements; and
- Permit its surveyors to serve as witnesses for us in adverse actions against its accredited facilities.

IV. Summary of Public Comments Received on the Proposed Notice and Our Responses

Comments: We received comments in favor of renewing AOA's deeming authority from five professional osteopathic organizations. One organization stated that "The AOA is accepted as a leader in the osteopathic profession by providing quality service to its hospitals, enabling them to comply with the guidelines as set forth

by Medicare and Medicaid.” Another organization stated, “Historically, the AOA accreditation program has assured the hospitals of a program meeting, if not more stringent than, the recognized national standards.” These comments are representative of the support provided by these five osteopathic organizations, which favor the renewal of AOA’s application for deeming authority for hospitals.

Response: We are pleased that all comments received on behalf of renewing AOA’s deeming authority for hospitals were very supportive.

V. Review and Evaluation

Our review and evaluation of the AOA application, which were conducted as detailed above, yielded the following information.

Differences between the AOA and Medicare Conditions and Survey Requirements

We compared the standards contained in the AOA “Accreditation Requirements for Healthcare Facilities” and the AOA’s survey process outlined in its “Survey Team Handbook” supplemented by flow charts of the survey process with the Medicare conditions of participation and the “State and Regional Operations Manual.” The AOA has made the following revisions or clarifications:

- Patients’ Rights

AOA developed and implemented the New Patients’ Rights Condition of Participation in accordance with 42 CFR 482.13.

- Survey Process

AOA redesigned its standards and survey process for Life Safety Code to ensure that its surveyors assess hospitals for compliance to its standards. The AOA also made minor revisions to its standards for the survey process, excluding Life Safety Code, to ensure that hospitals surveyed met their standards.

- Fraud and Abuse

AOA developed and implemented the Fraud and Abuse standards in accordance with our renewal requirements.

In addition to these changes, AOA provided a revised crosswalk (table showing the match between AOA’s standards and ours) incorporating all the changes necessitated by our requests.

VI. Results of Evaluation

We completed a standard-by-standard comparison of AOA’s conditions or requirements for hospitals to determine whether they met or exceeded Medicare

requirements. We found that, after requested revisions were made, AOA’s requirements for hospitals did meet or exceed our requirements. In addition, we visited the corporate headquarters of AOA to validate the information it submitted and to verify that its administrative systems could adequately monitor compliance with its standards and survey processes and that its decision-making documentation and processes met our standards. We also observed a survey in real time to see that it met or exceeded our standards. As a result of our review of the documents and observations, we requested certain clarifications to AOA’s survey and communications processes. These clarifications were provided as indicated above, and changes were made to the documentation in the applications. Therefore, we recognize AOA as a national accreditation organization for hospitals that request participation in the Medicare program, effective February 22, 2000, through March 31, 2005.

VII. Paperwork Reduction Act

This document does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation, codified in part 488, “Survey, Certification, and Enforcement Procedures,” are currently approved by OMB under OMB approval number 0938-0690, with an expiration date of June 30, 2002.

VIII. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant

impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice merely recognizes AOA as a national accreditation organization for hospitals that request participation in the Medicare program. As evidenced by the following data for the cost of surveys, there are neither significant costs nor savings for the program and administrative budgets of the Medicare program. This notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

In an effort to better ensure the health, safety, and services of beneficiaries in hospitals already certified, and to provide relief to State budgets in this time of tight fiscal constraints, we deem hospitals accredited by the AOA as meeting our Medicare hospital conditions of participation.

In accordance with Executive Order 13122, Federalism, we have included various provisions throughout this regulation that demonstrate cooperation with the States. For example, while the provisions of this notice may reduce the number of surveys a State Agency performs for Medicare certification of hospitals, it may engender additional validation surveys to assess the performance of the AOA survey process and standards as the validation process expands with the growth of deemed status facilities. State officials will remain responsible for any survey and certification requirements that are allegedly not being enforced.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by OMB.

Authority: Sec. 1865(b)(3)(A) of the Social Security Act (42 U.S.C. 1395bb(b)(3)(A)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.778, Medical Assistance Program)

Dated: February 2, 2000.

Nancy-Ann Min DeParle,
*Administrator, Health Care Financing
 Administration.*

[FR Doc. 00-4154 Filed 2-18-00; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Statement of Mission, Organization, Functions and Delegation of Authority

Part G, of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services, as amended at 60 FR 56606, November 9, 1995, and most recently amended at 61 FR 67048, December 19, 1996, is amended to reflect the establishment of the Division of Information Systems and Technology (GFNAE) and the abolishment of the Information Technology Support Branch (GFNAC1) within the Tucson Area Indian Health Service (TAIHS). The changes are as follows:

Section GFN-00, Tucson Area Indian Health Service—Mission

The Tucson Area IHS provides a comprehensive health services delivery system for American Indians and Alaska Natives (AI/AN) with opportunity for maximum tribal involvement in developing and managing programs to meet their health needs. The goal of the Tucson Area IHS is to raise the health level of the AI/AN people to the highest possible level.

Section GFN-10, Functions. Office of the Director (GFNA)

(1) Plans, develops, and directs the Area program within the framework of the Indian Health Service (IHS) policy and in pursuit of the mission; (2) delivers and ensures the delivery of high quality health services, allowing for alternative methods and techniques of health services management and delivery with maximum Tribal participation; (3) coordinates and advocates for IHS activities and resources internally and externally with those of other Government and nongovernmental programs; (4) promotes optimum utilization of health care services through management and delivery of services to American Indians and Alaska Natives; (5) applies the principles of Indian Preference and Equal Employment Opportunity (EEO); (6) provides liaison, consultative and administrative service to officials of Tribes, inter-tribal and urban Indian

organizations related to the provision of health and health related services, and supports the implementation of Self-Governance and Self-Determination; (7) assures the provision of access to the Internet and World Wide Web; as well as, basic automated information and telecommunications systems to facilitate effective program and health care administration; (8) supports the development of individual and Tribal capacities to participate in Indian health programs through means and modalities that they deem appropriate to their health needs and circumstances; and (9) participates with Indian tribes and other Indian community groups in developing goals and objectives for the Tucson Area IHS.

Division of Administration and Management (GFNAB)

(1) Plans, directs, coordinates and evaluates Area administrative and management services; (2) promotes, evaluates and monitors Area internal control activities; (3) provides for a sound financial management program including budget, general accounting, and accounts control; (4) provides overall management of supply program, office services and personal and real property, insuring proper documentation and reporting of all relative transactions; (5) plans, coordinates, administers, directs and evaluates the Area Civil Service and Commissioned Corps personnel management program; (6) provides human resource management support to Area office and Service Unit managers including recruitment, placement, position management, position classification, training, labor relations and employee relations, employee services, and public relations; (7) assures the full application of the Indian Preference policy in all personnel practices; (8) provides direction for acquisition management including monitoring of tribal/urban Indian, commercial and small purchase contracts.

Financial Management Branch (GFNAB1)

(1) Interprets policies, guidelines, manual issuances, OMB Circulars, and other directives or instructions issued by IHS, PHS, DHHS, OMB, Treasury, GAO and Congress relating to the fiscal management of resources; (2) provides direction for the organization, coordination and execution of all budget and financial operations; (3) provides technical guidance to Service Unit administration staff; (4) provides technical assistance and guidance to tribal organizations; (5) monitors funds

control for the operation of the Service Unit, program offices, and P.L. 93-638 contracted facilities; and (6) advises executive staff on status of funds and recommends action to maintain utilization of resources and to obtain maximum health care services.

Acquisition Management Branch (GFNAB2)

(1) Plans, organizes, and manages the acquisition services for the Area and makes recommendations on acquisition policies and procedures; (2) provides guidance to field personnel on the interpretation of acquisition laws, regulations, procedures and policies; (3) plans, develops, and coordinates all Area tribal contracts and grant awards including negotiation, administration and close-outs; (4) executes and administers Buy Indian contracts; (5) executes and administers construction contracts; and (6) executes and administers purchase orders for small procurement.

Human Resources Management Branch (GFNAB3)

(1) Provides overall human resource management support to Area Office and Service Unit managers; (2) maintains position classification and wage administration programs for the Area; (3) provides a centralized employee development program that includes planning, administering, supervising, and evaluating; (4) directs employee relations/services programs for the entire Area; (5) maintains and processes all Area Integrated Management of Personnel Administration through Computer Technology (IMPACT), Terminal Data Control Systems; (6) provides overall recruitment and employment information; (7) provides technical assistance in personnel management to American Indian organizations; (8) manages the IHS Indian Health Care Improvement Act (P.L. 94-437) Scholarship Program and Management Development Program coordination; (9) ensures that Indian Preference statutes are adhered to and that all legal and regulatory requirements are properly applied; and (10) provides liaison with IHS Field Support Personnel.

Division of Public Health Services (GFNAC)

(1) Provides leadership and guidance to IHS direct, tribal, and urban public health programs on IHS goals, objectives, policies, standards, and priorities; (2) coordinates and evaluates professional standards and reporting requirements, e.g., Health Care Finance Administration (HCFA), Joint

Commission on Accreditation of Health Care Organizations (JCAHO), and Government Performance and Results Act (GPRA), for service delivery in the direct care and contract health care programs; (3) assures the provision of technical assistance and consultation to Service Units and tribal governments concerning health service delivery, epidemiological investigation and surveillance, the interpretation and application of health and safety standards, as well as, third-party reimbursements, contract health, and other service agreements; (4) collaborates with Tribes, Departmental entities, other Federal and State agencies, and voluntary professional health organizations to identify, develop, and apply new approaches for prevention programs and for the delivery and financing of health care; and (5) provides health services and facilities planning, evaluation, and statistical functions for the Area.

Division of Environmental Health and Engineering (GFNAD)

(1) Provides a broad range of environmental health and engineering services directed at the prevention and reduction of disease and injuries among the Indian population in the Tucson Area; (2) directs, plans, implements, monitors and evaluates environmental health service activities to eliminate or reduce health hazards in homes and communities; (3) directs, plans, and implements engineering activities to design and construct water, sewer and solid waste systems for Indian homes and communities, provides training and technical assistance for the operation and maintenance of sanitation facilities; (4) administers the management, maintenance and repair of IHS health care facilities; (5) provides biomedical engineering support to the IHS health care facilities; (6) manages the operation of the administrative activities that include the budget, personnel, acquisition and property within the office; and (7) serves as the principal advisor to the Area for all environmental health issues affecting the Tribes and IHS employees.

Division of Information Systems and Technology (GFNAE)

(1) Provides leadership and guidance in the area of information technology to tribal, and urban public health programs, Area Office and Service Unit managers; (2) plans, coordinates and manages automated information designed to facilitate effective program and health care management; (3) plans, procures, supports and evaluates telecommunications systems for

program management and medical operation; (4) supports access to the Internet and World Wide Web; (5) provides advice on the installation and maintenance services to the Area managers and tribal and urban health programs on operational automated information systems used in the IHS, i.e., RPMS, CHSMIS, CDMIS, etc. for improved personal productivity and health services data collection; (6) provides reports and information on a priority basis and gathers, consolidates and transmits automated RPMS data to central processing centers; and (7) serves as the focal point for clearance of requests to purchase information systems, hardware and software for the Tucson Area IHS.

Sells Service Unit (GFNE)

Pascua Yaqui Service Unit (GFNG)

(1) Plans, develops, and directs health programs within the framework of IHS policy and mission; (2) promotes activities to improve and maintain the health and welfare of the service population; (3) delivers quality health services within available resources; (4) coordinates Service Unit activities and resources with those of other governmental and non-governmental programs; (5) participates in the development and demonstration of alternative means and techniques of health services management and health care delivery, including the implementation and maintenance of automated information systems, telecommunication and business systems designed to facilitate effective program administration and health care management; (6) provides Indian tribes and other Indian community groups with optimal means of participating in Service Unit programs; and (7) encourages and supports the development of individual and tribal entities in the management of the Service Unit.

Section GFN-20, The Order of Succession to the Area Director

Director, Division of Administration and Management
Director, Division of Public Health Services
Director, Division of Information Systems and Technology
Director, Division of Environmental Health and Engineering

Section GFN-30, Tucson Area IHS—Delegations of Authority

All delegations and redelegations of authority made to officials in the Tucson Area Office that were in effect immediately prior to this reorganization, and that are consistent with this

reorganization, shall continue in effect pending further redelegation.

This reorganization shall be effective on the date of signature.

Dated: February 14, 2000.

Michael H. Trujillo,

Director.

[FR Doc. 00-4096 Filed 2-18-00; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*).

Permit No. TE-022227

Applicant: Harry Franklin Smead, Lemon Grove, California.

The applicant requests a permit to take (capture, handle, and release) the arroyo southwestern toad (*Bufo microscaphus californicus*) in conjunction with field recovery activities throughout its range for the purpose of enhancing its survival.

Permit No. TE-022251

Applicant: Patricia A. Cole, Costa Mesa, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout its range for the purpose of enhancing its survival.

Permit No. TE-022183

Applicant: Los Angeles World Airports, Los Angeles, California.

The applicant requests a permit to take (survey by pursuit) the El Segundo blue butterfly (*Euphilotes battoides allyni*) in conjunction with presence or absence surveys throughout its range for the purpose of enhancing its survival.

Permit No. TE-022181

Applicant: David J. Ezell, Hemet, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with

presence or absence surveys throughout its range for the purpose of enhancing its survival.

Permit No. TE-022230

Applicant: Jeff Kidd, Laguna Niguel, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys and take (capture, handle, and release) the arroyo southwestern toad (*Bufo microscaphus californicus*) for scientific studies throughout their range for the purpose of enhancing their survival.

Permit No. TE-009066

Applicant: Thomas Alan Benson, Buena Park, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout its range for the purpose of enhancing its survival.

Permit No. TE-702631

Applicant: Assistant Regional Director-Ecological Services, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon.

The permittee requests a permit amendment to remove and reduce to possession specimens of the following plant species: *Erigeron decumbens* var. *decumbens* (Willamette daisy), *Plagiobothrys hirtus* (rough popcornflower), *Delphinium bakeri* (Baker's larkspur), *Delphinium luteum* (yellow larkspur), and *Phlox hirsuta* (Yreka phlox). Authorization is also requested to take the following species: the Fender's blue butterfly (*Icaricia icarioides fenderi*) and the Blackburn's sphinx moth (*Manduca blackburni*). Collection and take activities will be conducted throughout the species range in conjunction with recovery efforts for the purpose of enhancing their propagation and survival.

Permit No. TE-799558

Applicant: Idaho Power Company, Boise, Idaho.

The permittee requests a permit amendment to extend the geographic area authorized to take (survey and collect voucher specimens) the Banbury Springs limpet (*Lanx undescribed species*), Bliss Rapids snail (*Taylorconcha serpenticola*), Idaho springsnail (*Pyrgulopsis idahoensis*), Snake River physa snail (*Physa natricina*), and the Utah valvata snail (*Valvata utahensis*), to include throughout the species range in

conjunction with ecological research for the purpose of enhancing their survival.

Permit No. TE-798003-1

Applicant: North State Resources, Redding, California.

The applicant requests a permit amendment to take (harass by survey, collect, and sacrifice) the San Diego fairy shrimp (*Branchinecta sandiegonensis*) throughout its range in California, in conjunction with surveys for the purpose of enhancing their survival.

Permit No. TE-022686

Applicant: David Mayer, San Diego, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*); take (harass by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey, collect, and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardii*) throughout the species range in conjunction with surveys for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received on or before March 23, 2000.

ADDRESSES: Written data or comments should be submitted to the Chief—Endangered Species, Ecological Services, Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181; Fax: (503) 231-6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT:

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231-2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: February 11, 2000.

Anne Badgley,

Regional Director, Region 1, Portland, Oregon.
[FR Doc. 00-4067 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-690-00-5101-01-B109; CACA-CACA-40467]

Proposed Cadiz Groundwater Storage Dry-Year Supply Program, Pipeline Right of Way and Plan Amendment

AGENCY: Bureau of Land Management, Needles Field Office, Desert District, California Department of the Interior.

ACTION: Notice of extension of comment period for draft environmental impact statement for proposed Cadiz groundwater storage and dry-year supply program pipeline right-of-way and plan amendment.

SUMMARY: In a Notice of Availability published in the **Federal Register** November 26, 1999 (Volume 64, page 66474) the end of the public comment period was February 22, 2000. However, public interest has indicated a need to extend the public review.

DATES: Written comments must be received in writing to the Metropolitan Water District no later than March 8, 2000.

ADDRESSES: Written comments on the Draft EIR/EIS should be mailed to: Metropolitan Water District of Southern California, Post Office Box 54153, Los Angeles, California 90054-0153, Attention: Mr. Jack Safely.

FOR ADDITIONAL INFORMATION CONTACT: Further information regarding the project may be obtained from Mr. Jack Safely of MWD at (213) 217-6981 or James Williams of BLM at (909) 697-5390.

Dated: February 14, 2000.

Douglas Romoli,

Acting District Manager.

[FR Doc. 00-4069 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(UT-941-1420-00-241A)

Survey Plat Filings: Utah

AGENCY: Bureau of Land Management.

ACTION: Notice of filing cadastral survey township plats.

SUMMARY: Notice is hereby given that the Utah Bureau of Land Management, Cadastral Survey Branch has transmitted the following list of Original Cadastral Survey Plats to the Chief for Public Services and Land Records

Section, Utah State Office, Bureau of Land Management on February 2, 2000. The following list of official documents was also transmitted by certified mail to the Director for the Denver Service Center (SC-675), Bureau of Land

Management on January 26, 2000. The memorandum addressed a request for copies of microfilm for each survey group, that can be put on file with the Information Access Center, Utah State Office, Bureau of Land Management.

Group	Township	Range	Meridian	Approved	Type
0780	T29S	R24E	SLM	99-05-14	Dep. Res.
0781	T01N	R04W	USM	99-03-30	Dep. Res.
0799	T03S	R05W	USM	99-05-18	Dep. Res.
0799	T04S	R05W	USM	99-05-18	Dep. Res.
0800	T01S	R03W	USM	99-05-18	Dep. Res.
0814	T02S	R04E	SLM	99-06-16	Dep. Res.
0814	T02S	R05E	SLM	99-06-16	Dep. Res.
0814	T03S	R05E	SLM	99-06-16	Dep. Res.
0814	T02S	R04E	SLM	99-06-16	Dep. Res.
0814	T02S	R05E	SLM	99-06-16	Dep. Res.
0814	T03S	R04E	SLM	99-06-16	Dep. Res.
0815	T02N	R01E	USM	99-01-11	Dep. Res.
0816	T02N	R02W	USM	99-01-11	Dep. Res.
0817	T02S	R01E	USM	99-01-11	Dep. Res.
0818	T03S	R03W	USM	99-01-11	Dep. Res.
0820	T31S	R02W	SLM	99-02-01	Dep. Res.
0826	T11N	R07W	SLM	98-06-01	Dep. Res.
0826	T11N	R08W	SLM	98-06-01	Dep. Res.
0826	T12N	R07W	SLM	98-06-01	Dep. Res.
0826	T12N	R08W	SLM	98-06-01	Dep. Res.
0837	T04S	R08W	USM	99-02-01	Dep. Res.
0837	T04S	R08W	USM	99-02-01	Dep. Res.
0837	T04S	R09W	USM	99-02-01	Dep. Res.
0841	T26S	R09W	SLM	99-02-01	Dep. Res.
0841	T27S	R10W	SLM	99-02-01	Dep. Res.
0845	T02N	R22E	SLM	99-04-30	Dep. Res.
0845	T02N	R22E	SLM	99-04-30	Dep. Res.
0845	T02N	R22E	SLM	99-04-30	Dep. Res.
0845	T02N	R22E	SLM	99-04-30	Dep. Res.
0845	T02N	R22E	SLM	99-04-30	Dep. Res.
0845	T02N	R22E	SLM	99-11-30	Dep. Res.
0847	T43S	R16W	SLM	98-06-25	Dep. Res.
0849	T12S	R03W	SLM	99-05-21	Dep. Res.
0850	T11S	R03W	SLM	99-05-21	Dep. Res.
0861	T14S	R02W	SLM	99-02-01	Dep. Res.
0861	T15S	R02W	SLM	99-02-01	Dep. Res.
0862	T15S	R03W	SLM	99-02-01	Dep. Res.
0863	T15S	R01W 1/2	SLM	99-02-01	Dep. Res.
0865	T11S	R05W	SLM	99-05-28	Dep. Res.
0867	T18S	R14E	SLM	99-05-21	Dep. Res.
0873	T12S	R05W	SLM	99-05-18	Dep. Res.
0879	T30S	R03W	SLM	99-03-17	Dep. Res.
0881	T42S	R14W	SLM	98-05-18	Dep. Res.
0882	T35S	R12W	SLM	99-03-11	Dep. Res.
0882	T35S	R12W	SLM	99-03-11	Dep. Res.
0883	T41S	R13W	SLM	98-10-13	Dep. Res.
0889	T21S	R10W	SLM	98-12-08	Dep. Res.
0889	T22S	R10W	SLM	98-12-08	Dep. Res.
0891	T12N	R02E	SLM	99-02-01	Dep. Res.
0893	T09S	R08E	SLM	00-01-12	Dep. Res.
0894	T25S	R18E	SLM	99-05-18	Dep. Res.
0900	T41S	R14W	SLM	00-01-12	Dep. Res.
0900	T42S	R12W	SLM	00-01-12	Dep. Res.
0246S	T43S	R15W	SLM	98-05-19	Supplemental.
0247S	T43S	R16W	SLM	98-09-22	Supplemental.
0248S	T41S	R13W	SLM	98-09-22	Supplemental.
0249S	T28S	R04W	SLM	99-06-08	Supplemental.
7371C	T13N	R13W	SLM	99-07-30	Mineral.
7377B	T13S	R12W	SLM	99-02-26	Mineral.
7386	T03S	R03W	SLM	98-02-20	Mineral.
7387	T03S	R03W	SLM	98-02-20	Mineral.
7388	T03S	R03W	SLM	98-02-20	Mineral.
7390A	T21S	R10W	SLM	99-01-27	Mineral.
7390B	T21S	R10W	SLM	99-01-27	Mineral.
7390C	T21S	R10W	SLM	99-01-27	Mineral.
7391A	T22S	R10W	SLM	99-01-27	Mineral.
7391B	T22S	R10W	SLM	99-01-27	Mineral.

Group	Township	Range	Meridian	Approved	Type
7392A	T22S	R10W	SLM	99-01-27	Mineral.
7392B	T22S	R10W	SLM	99-01-27	Mineral.
7393A	T21S	R09W	SLM	99-01-27	Mineral.
7393B	T21S	R09W	SLM	99-01-27	Mineral.
7394	T22S	R10W	SLM	99-01-27	Mineral.
7395A	T22S	R10W	SLM	99-01-27	Mineral.
7395B	T22S	R10W	SLM	99-01-27	Mineral.
0032P	TOWNSHIP INDEX		SLM	98-05-22	Protraction.
0033P	T15N	R02E	SLM	98-05-22	Protraction.
0034P	T14N	R02E	SLM	98-05-22	Protraction.
0035P	T13N	R02E	SLM	98-05-22	Protraction.
0036P	T15N	R03E	SLM	98-05-22	Protraction.
0037P	T13N	R03E	SLM	98-05-22	Protraction.
0038P	T15N	R04E	SLM	98-05-22	Protraction.
0039P	TOWNSHIP INDEX		SLM	98-05-22	Protraction.
0040P	T03S	R08W	SLM	98-05-22	Protraction.
0041P	T03S	R07W	SLM	98-05-22	Protraction.
0042P	T04S	R07W	SLM	98-05-22	Protraction.

Dated: February 15, 2000.

Daniel W. Webb,

Chief, Cadastral Surveyor for Utah.

[FR Doc. 00-4068 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-DQ-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-930-1430-ET; COC-63081]

Notice of Meeting on Proposed Withdrawal; Upper Colorado River Special Recreation Management Area; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and agenda for a forthcoming meeting for the Bureau of Land Management Upper Colorado River Special Recreation Management Area near Kremmling, Colorado. This meeting will provide the opportunity for public involvement in this proposed action as required by regulation. All comments will be considered when a final determination is made on whether this land should be withdrawn.

DATES: Meeting will be held on April 13, 2000, at 7:00 p.m. All comments or requests to be heard should be received by close of business on Friday, April 7, 2000, at the Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7093, or David Atkins at the Grand Junction Field Office, 2815 H Road, Grand Junction, Colorado 81506.

ADDRESSES: The meeting will be held at the Grand County Fairgrounds, Extension Building, 210 11th Street, Kremmling, Colorado 80459.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM, in Denver at

303-239-3706, or David Atkins, BLM, in Grand Junction at 970-244-3074.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal for the Upper Colorado River Special Recreation Management Area which was published in the **Federal Register** on September 3, 1999, (64 FR 48416-48417), is hereby modified to schedule a public meeting as provided by 43 U.S.C. 1714, and 43 CFR 2310.

This meeting will be open to all interested persons; those who desire to be heard in person and those who desire to submit written comments on this subject. Please indicate if you want to speak so time can be scheduled. All comments should be submitted to the Colorado State Director, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215-7093, or David Atkins, Grand Junction Field Office, 2815 H Road, Grand Junction, Colorado 81506.

Jenny L. Saunders,
Realty Officer.

[FR Doc. 00-4057 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-180-1430-ET; CACA 41334]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 2,238.49 acres of public lands in El Dorado County to protect the South Fork of the American River. This notice

closes the lands for up to 2 years from mining. The lands will remain open to mineral leasing and the Materials Act of 1947.

DATES: Comments and requests for a public meeting must be received by May 22, 2000.

ADDRESS: Comments and meeting requests should be sent to the Field Manager, BLM Folsom Field Office (CA-180), 63 Natoma Street, Folsom, California 95630.

FOR FURTHER INFORMATION CONTACT: John Beck, BLM Folsom Field Office, 916-985-4474.

SUPPLEMENTARY INFORMATION: On December 3, 1997, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from location and entry under the United States mining laws, subject to valid existing rights:

Mount Diablo Meridian, California

T. 11 N., R. 9 E.,
Sec. 10, NW $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;
Sec. 12, lots 1 to 9 inclusive,
NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.
Sec. 20, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
Sec. 28, SW $\frac{1}{4}$ NW $\frac{1}{4}$ excluding Mineral Survey 5163, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$.
Sec. 30, lots 1 to 4 inclusive, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$.
Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 11 N., R. 10 E.,
Sec. 18, lots 5, 6, and 7, and
NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.
Sec. 22, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, and that portion of the E $\frac{1}{2}$ NW $\frac{1}{4}$ excluding lots 1, 4, and 5.
Sec. 26, SW $\frac{1}{4}$.P='02'<

The areas described aggregate 2,238.49 acres, more or less, in El Dorado County.

The purpose of the proposed withdrawal is to assure long term protection and preservation of the riparian areas, wildlife habitat, scenic

quality, and high recreation values of the public lands located in the corridor of the South Fork of the American River. This proposed withdrawal is a new action which would supplement the withdrawal authorized by Public Land Order number 7423.

Until May 22, 2000, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Field Manager, Folsom Field Office of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director by May 22, 2000. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are those which are compatible with the use of the lands, as determined by BLM.

Dated: February 11, 2000.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 00-3983 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Request for Reinstatement and Revision of a Currently Approved Information Collection

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Park Service's intention to request reinstatement and revision of a currently approved information collection in support of its Concession Management Program based on reestimates.

DATES: Comments on this notice must be received no later than April 24, 2000.

ADDITIONAL INFORMATION OR COMMENTS: Contact Cynthia Orlando, Chief, Concession Program Division, National Park Service, 1849 C Street, NW, Washington, DC 20013 or 202/565-1210.

SUPPLEMENTARY INFORMATION:

Title: Submission of Offers for Concession Opportunities.

OMB Number: 1024-0125.

Expiration Date of Approval: March 31, 2000.

Type of Request: Reinstatement and revision of a currently approved information collection.

Abstract: The National Park Service (NPS) authorizes private businesses known as concessioners to provide necessary and appropriate visitor facilities and services in areas of the National Park System. The NPS issues prospectuses to advise interested parties of concession business opportunities and to solicit offers from all parties interested in specific opportunities.

Section 403(1) of the National Park Service Concessions Management Improvement Act of 1998 (P.L. 105-391) requires that proposed concession contracts be awarded by the Secretary of the Interior to the person or entity submitting the best proposal as determined by the Secretary through a competitive selection process. Section 403(5) of the Act further provides that in selecting the best proposal, the Secretary shall consider the following principal factors:

a. The responsiveness of the proposal to the objectives of protecting, conserving and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates;

b. The experience and related background of the person, corporation or entity submitting the proposal, including past performance and expertise of such person, corporation or entity in providing the same or similar facilities or services;

c. The financial capability of the person, corporation, or entity submitting the proposal; and

d. The proposed franchise fee, except that consideration of revenue to the United States shall be subordinate to the objectives of protecting, conserving, and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities to the public at reasonable rates.

The information requested in each prospectus is used to evaluate all offers received and determine which among them is the best offer for purposes of contract award. Specific information on

the experience and background of the person(s) or entity, the financial capabilities of each offeror, their financial and operational plans, the franchise fee offered, and the proposed term of contract are requested in each prospectus issued by the NPS. The amount of information or degree of detail requested varies widely, depending upon the size and scope of the business opportunity. For example, a much greater amount of detailed information would be required for a multi-unit food and lodging operation such as that at Yellowstone, than would be required for a small firewood sales operation. Without such information, the NPS would be unable to objectively evaluate offers received for a particular business opportunity, and would be unable to assure that the park resources will be adequately protected, or to determine which offeror would provide the best service to visitors at reasonable rates, and the greatest overall return to the Government.

Estimate of Burden:

For large operations—approximately 480 hours per response.

For small operations—approximately 240 hours per response.

Estimated Number of Respondents:

Large operations—approximately 150.

Small operations—approximately 200.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents:

Large operations—72,000 hours.

Small operations—47,000 hours.

A sample copy of this information collection can be obtained from Cynthia Orlando, Chief, Concession Program Division, at 202/565-1212.

Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to Cynthia Orlando, Chief, Concession Program Division, National Park Service, 1849 C Street, NW, Washington, DC 20240.

All responses to this notice will be summarized and included in the request for OMB Approval. All comments will also become a matter of public record.

Dated: February 11, 2000.

Denis P. Galvin,

Acting Director, National Park Service.

[FR Doc. 00-4054 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR**National Park Service****General Management Plan,
Environmental Impact Statement,
Coronado National Memorial, Arizona**

AGENCY: National Park Service,
Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) for the general management plan, Coronado National Memorial (NM).

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement for the general management plan (GMP) for Coronado NM. The Director, Intermountain Region will approve this statement. The planning effort will result in a comprehensive general management plan that encompasses preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. In cooperation with local interests, attention will also be given to resources outside the boundaries that affect the integrity of Coronado NM. Alternatives to be considered include no action, the preferred alternative and other alternatives addressing the following major issues:

- How can the important natural and cultural resources be best protected and preserved, while providing for visitor use for present and future generations?
- What level and type of use is appropriate to be consistent with the memorial's purpose, and to relate to the memorial's significance?
- What facilities are needed to meet the mission goals of the memorial regarding natural and cultural resource management, visitor use and interpretation, partnerships, and operations?

The National Park Service is planning to hold public scoping meetings regarding the GMP during the week of April 3rd. Specific dates, times, and locations will be announced in the local media, and can be obtained by contacting the park superintendent. The purpose of these meetings is to explain the planning process and to obtain comments concerning appropriate resource management; desired visitor use, interpretation, and facilities; and issues that need to be resolved.

Comments: If you wish to submit issues or provide input to this initial phase of developing the GMP, you may do so by any one of several methods. In addition to attending scoping meetings, you may mail comments to

Superintendent, National Park Service, Coronado National Memorial, 4101 East Montezuma Canyon Road, Hereford, Arizona 85615. You may comment via the Internet to CORO__Superintendent@NPS.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: GMP Team" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Superintendent James K. Bellamy directly at telephone (520) 366-5515 extension 21. Finally you may hand-deliver your comments to park headquarters, 4101 East Montezuma Canyon Road, Hereford, Arizona. Scoping comments should be received no later than 60 days from the publication of this Notice of Intent. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Superintendent, National Park Service, Coronado National Memorial, Telephone: (520) 366-5515 extension 21; Fax: (520) 366-5705.

Dated: February 10, 2000.

Karen P. Wade,

Director, Intermountain Region, National Park Service.

[FR Doc. 00-4052 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR**National Park Service****National Capital Memorial
Commission; Notice of Public Meeting**

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission (the

Commission) will be held at 1 p.m. on Tuesday, March 7, at the National Building Museum, Room 312, 5th and F Streets, NW., Washington, DC.

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

In addition to discussing general matters and routine business, the Commission will review:

(a) S. 1921 and H.R. 3292, bills to authorize the placement, within the site of the Vietnam Veterans memorial, of a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

(b) H.R. 2879, a bill to provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the "I have Dream" speech.

The Commission will also continue deliberations of its review of the Commemorative Works Act of 1986. This review was requested by the Subcommittee on National Parks, Historic Preservation, and Recreation, United States Senate Committee on Energy and Natural Resources. The Commission's review is in conjunction with the National Capital Planning Commission/National Capital Memorial Commission/Commission of Fine Arts Joint Task Force on Memorials which convened to coordinate the evaluation of the Act.

The Commission was established by Public Law 99-652, the Commemorative Works Act, to advise the Secretary and the Administrator, General Services Administration, (the Administrator) on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters as it may deem appropriate concerning commemorative works.

The Commission examines each memorial proposal for conformance to the Commemorative Works Act, and makes recommendations to the Secretary and the Administrator and to Members and Committees of Congress. The Commission also serves as a source of information for persons seeking to establish memorials in Washington, DC., and its environs.

The members of the Commission are as follows: P= '02' ≤

Director, National Park Service
Chairman, National Capital Planning Commission
Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts

Mayor of the District of Columbia
Administrator, General Services
Administration
Secretary of Defense

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Ms. Nancy Young, Executive Secretary to the Commission, at (202) 619-7097.

Dated: February 14, 2000.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 00-4053 Filed 2-18-00; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Office of Attorney Personnel Management, Justice Management Division; Agency Information Collection Activities; Extension of a Currently Approved Collection; Comment Request

ACTION: Application booklets—Attorney General's Honor Program, Summer Law Intern Program.

The Department of Justice, Justice Management Division, Office of Attorney Personnel Management, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until April 24, 2000.

Pursuant to 28 CFR 0.15(b)(2), the Deputy Attorney General of the United States Department of Justice has the responsibility of administering the "Attorney General's recruitment program for honor law graduates and judicial law clerks." This includes the hiring of third-year law students and judicial law clerks for full-time employment following graduation or completion of a clerkship, and primarily second-year law students for summer employment. This program has been in existence for 46 years, and is considered the Federal Government's premier legal recruitment program. The Department of Justice currently hires approximately 150-160 third-year law students/judicial law clerks and 135 second-year law students each year under these programs. The Department of Justice is the largest legal employer in the

country. Approximately 5,000 applications are received for these positions annually.

The responsibility for running these programs has been delegated by the Deputy Attorney General to the Director, Office of Attorney Personnel Management (OAPM) pursuant to 28 CFR §§ 0.15(c) and 0.15(e). OAPM together with other Department of Justice representatives who make the ultimate hiring determinations have developed these application booklets to distribute information on the programs and in turn collect the information they consider essential to make an informed hiring decision on legal applicants.

Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of the 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.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to the Office of Attorney Personnel Management, U.S. Department of Justice, Attn: Eleanor Barry, Room 3525, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application Booklets—Attorney General's Honor Program, Summer Law Intern Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Office of Attorney Personnel Management, Justice Management Division, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: None. This data collection is the only vehicle for the Department of Justice (DOJ) to hire graduating law students. This application form is submitted voluntarily, submitted only once a year by students/judicial law clerks who will be in this applicant pool only once; and the information sought only relates to the hiring criteria established as an internal matter by DOJ personnel.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,000 respondents at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 5,000 annual hours.

If additional information is required contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, 1331 Pennsylvania Avenue, NW, Washington, DC 20530.

Dated: February 16, 2000.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 00-4105 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-26-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 30, 1999, B.I. Chemical, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methadone-intermediate (9254), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture methadone-intermediate for conversion into methadone.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United

States Department of Justice,
Washington, D.C. 20537, Attention: DEA
Federal Register Representative (CCR),
and must be filed no later than April 24,
2000.

Dated: February 11, 2000.

John H. King,

*Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.*

[FR Doc. 00-4144 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title
21 of the Code of Federal Regulations
(CFR), this is notice that on November
23, 1999, Isotec, Inc., 3858 Benner Road,
Miamisburg, Ohio 45342, made
application by renewal to the Drug
Enforcement Administration (DEA) for
registration as a bulk manufacturer of
the basic classes of controlled
substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N- ethylamphetamine (7404).	I
3,4- Methylenedioxymethamphetam- ine (7405).	I
4-Methoxyamphetamine (7411) ...	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo- Alphacetylmethadol (9603).	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II

Drug	Schedule
1-Piperidinocyclo- hexanecarbonitrile (8603).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylcegonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254) ...	II
Dextropropoxyphene, bulk (non- dosage forms) (9273).	II
Morphine (9300)	II
Levo-Alphacetylmethadol (9648) ..	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to manufacture small
quantities of the listed controlled
substances to produce standards for
analytical laboratories.

Any other such applicant and any
person who is presently registered with
DEA to manufacture such substances
may file comments or objections to the
issuance of the proposed registration.

Any such comments or objections
may be addressed, in quintuplicate, to
the Deputy Assistant Administrator,
Office of Diversion Control, Drug
Enforcement Administration, United
States Department of Justice,
Washington, D.C. 20537, Attention: DEA
Federal Register Representative (CCR),
and must be filed no later than April 24,
2000.

Dated: February 14, 2000.

John H. King,

*Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.*

[FR Doc. 00-4145 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: New Collection; Comment Request

ACTION: Notice of Information Collection
Under Review; Emergency Law
Enforcement Services Vulnerability;
New Collection.

The Department of Justice, Federal
Bureau of Investigation, has submitted
the following information collection
request for review and clearance in
accordance with the Paperwork
Reduction Act of 1995. The proposed
information collection is published to
obtain comments from the public and

affected agencies. Comments are
encouraged and will be accepted for
"thirty days" until March 23, 2000. The
60-day notice was previously published
in the **Federal Register** on December 17,
1999, allowing for a 60-day public
comment period. No comments were
received by the FBI or the Justice
Department.

Written comments and suggestions
from the public and affected agencies
concerning the proposed collection of
information should address one or more
of the following four points:

(1) Evaluate whether the proposed
collection of information is necessary
for the proper performance of the
functions of the agency, including
whether the information will have
practical utility;

(2) Evaluate the accuracy of the
agency's estimate of the burden of the
proposed collection of information;
including the validity of the
methodology and assumptions used;

(3) Enhance the quality, utility, and
clarity of the information to be
collected; and

(4) Minimize the burden of the
collection of information on those who
are to respond, including through the
use of appropriate automated,
electronic, mechanical, or other
technological collection techniques or
forms of information technology, e.g.,
permitting electronic submission of
responses.

Overview of this information
collection:

(1) *Type of Information Collection:*
New collection.

(2) *Title of the Form/Collection:*
Emergency Law Enforcement Services
Vulnerability.

(3) *Agency form number, if any, and
the applicable component of the
Department of Justice sponsoring the
collection:* Form number 2-240. Federal
Bureau of Investigation, FBI Academy.

(4) *Affected public who will be asked
or required to respond, as well as a brief
abstract:* Primary: State and Local Law
Enforcement Agencies. This form is
used to collect feedback from state and
local law enforcement agencies
regarding their infrastructure
vulnerabilities.

(5) *An estimate of the total number of
respondents and the amount of time
estimated for an average respondent to
respond:* 3,200 responses at 30 minutes
(0.50) per response.

(6) *An estimate of the total public
burden (in hours) associated with the
collection:* 1,600.00 annual burden
hours.

If you have additional comments,
suggestions, or need a copy of the

proposed information collection instrument with instructions, or additional information, please contact Department of Justice Desk Officer, Office of Management and Budget. Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, New Executive Office Building, Washington, DC 20530.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, suite 1220, National Place Building, 1331 Pennsylvania Avenue N.W., Washington DC 20530.

Dated: February 14, 2000.

Robert B. Briggs,
Department Clearance Officer, Department of Justice.

[FR Doc. 00-4019 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Comment Request

ACTION: Notice of Information Collection Under Review; Application for Waiver of Ground of Excludability.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until April 24, 2000.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Waiver of Ground of Excludability.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-601. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be used by the Immigration and Naturalization Service to determine whether the applicant is eligible for a waiver of excludability under section 212 of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center,

1001 G Street, NW., Washington, DC 20530.

Dated: February 16, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00-4102 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Comment Request

ACTION: Notice of Information Collection Under Review; Application—Alternative Inspection Services.

The Department of Justice, Immigration and Naturalization Service, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until April 24, 2000.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application—Alternative Inspection Services.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-823, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be used by the Immigration and Naturalization Service to determine eligibility for automated inspections programs and to secure those data elements necessary to confirm enrollment at the time of application for admission to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 500,000 responses at 70 minutes (1.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 583,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: February 16, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00-4103 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Comment Request

ACTION: Notice of Information Collection Under Review; Application for Advance Permission to Return to Unrelinquished Domicile.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until April 24, 2000.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Advance Permission to Return to Unrelinquished Domicile.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form 1-191. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected

on this form will be used by the Immigration and Naturalization Service to determine whether the applicant is eligible for discretionary relief under section 212(c) of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 300 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 150 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: February 16, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00-4104 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

AGENCY: Request OMB Emergency Approval; Application for Naturalization.

ACTION: Agency Information Collection Activities; Proposed Collection; Comment Request

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request utilizing emergency review procedures to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance

procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, OMB approval has been requested by February 25, 2000. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Stuart Shapiro, 202-395-7316, Department of Justice Desk Officer, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Mr. Shapiro at 202-385-6974.

The information collection was previously published in the **Federal Register** on January 8, 1999 at 64 FR 1219-1238, allowing for a 60-day public comment period on a proposed revision. Numerous comments were received prompting further program evaluation of the Form N-400 (Application for Naturalization). Accordingly, to prevent the disruption of this information collection, OMB approved the continuation without change of the current information collection, rather than the revision of the Form N-400.

It should be noted that the INS is in the process of continuing the evaluation and the revision of the Form N-400 program, to include system changes to allow for data entry of the information from the new form into the tracking system. Upon completion of the new Form N-400, another notice announcing the revision of the Form N-400 will be published in the **Federal Register** to solicit and obtain public comment. Until such action is taken, the public is instructed to continue to use the current Form N-400 (dated 1-15-99). Questions regarding the proposed revision of the Form N-400 should be directed to Gerard Casale of the Information Services Division on (202) 514-0788.

With publication of this notice, the INS is continuing the approval process of the current information collection by allowing an additional 30 days for public comments. Comments are encouraged and will be accepted until March 23, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer,

Room 10235, Washington, DC 20530; 202-395-7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

- (1) *Type of Information Collection:* Reinstatement of a previously approved collection.
- (2) *Title of the Form/Collection:* Application for Naturalization.
- (3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N-400, Office of Naturalization Operations, Immigration and Naturalization Service.
- (4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected is used by the INS to determine eligibility for naturalization.
- (5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 700,000 responses at 4 hours and 30 minutes per response.
- (6) *An estimate of the total public burden (in hours) associated with the collection:* 3,031,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally,

comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Office, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: February 19, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00-4272 Filed 2-17-00; 4:14 pm]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice of information collection under review; (revision of a currently approved collection); Local Enforcement Block Grants Program, request for draw down.

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until April 24, 2000.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lluana McCann, 202-305-1772, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of Information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Local Law Enforcement Block Grants Program—Request for Drawdown (RFD).

(3) *The agency form number, if any, and the applicable components of the Department sponsoring the collection:* None.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Government.

Other: None.

The Local Law Enforcement Block Grants (LLEBG) Act of 1996 authorizes the Director of the Bureau of Justice Assistance to make funds available to local units of government in order to reduce crime and improve public safety.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 3,500 respondents will request the one lump-sum draw down of their annual LLEBG grant funds by completing the no more than sixty minutes on-line process.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the application is 3.500.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place Building, 1331 Pennsylvania Avenue, NW, Washington, D.C. 20530, or via facsimile at (202) 514-1534.

Dated: February 15, 2000.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 00-4106 Filed 2-18-00; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-37,144]

AlliedSignal, Mishawaka, Indiana; Notice of Revised Determination on Reopening

On February 8, 2000, the Department, at the request of the company, reopened its investigation for workers and former workers of the subject firm. The workers were engaged in the manufacture of guided missile targets.

The initial investigation resulted in a negative determination issued on January 31, 2000, because the investigation revealed that the company's primary customer was not purchasing imported missile targets which were like or directly competitive with those manufactured by the subject firm. The notice soon will be published in the **Register**.

New information provided by the company and the primary customer of the subject firm revealed that the customer is purchasing imported guided missile targets which are like those previously manufactured at the Mishawaka, Indiana facility.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with guided missile targets produced by the subject firm contributed importantly to the decline in sales to the total or partial separation of workers of the subject firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination.

All workers of AlliedSignal, located in Mishawaka, Indiana who become totally or partially separated from employment on or after November 17, 1998, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of February, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-4130 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-37,109]

DMI Furniture, Inc., Plant #4, Ferdinand, Indiana; Notice of Revised Determination on Reopening

By letter of February 4, 2000, the United Steelworkers of America, District 7, Sub District 3, Indianapolis, Indiana, requested administrative reconsideration of the Department's negative determination applicable to workers of the subject firm. In the meantime, the Department obtained information relevant to the petition investigation. Consequently, the petition investigation for workers of DMI Furniture, Inc. Plant #4, Ferdinand, Indiana was reopened.

The initial investigation resulted in a negative determination issued on January 26, 1999, based on the finding that criterion (3) of Section 222 of the Trade Act was not met. The separation of workers at the Ferdinand, Indiana plant of the subject firm was attributable to the shift in production of commercial office furniture to other domestic facilities of DMI, Furniture, Inc.

New information obtained on reopening shows that a major declining customer of the subject firm has increased its reliance on imports of commercial office furniture.

Conclusion

After careful review of the additional facts obtained on reopening, I conclude that increased imports of articles like or directly competitive with commercial office furniture contributed importantly to the declines in sales or production and to the total or partial separation of workers of DMI Furniture, Inc., Ferdinand, Indiana. In accordance with the provisions of the Act, I make the following revised determination:

"All workers of DMI Furniture, Inc., Plant #4, Ferdinand, Indiana, who became totally or partially separated from employment on or after November 9, 1998, through two years from the date of this issuance are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, D.C. this 8th day of February 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-4132 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-37,047]

**Marathon Ashland Pipe Line LLC
Bridgeport, Illinois; Notice of Negative
Determination Regarding Application
for Reconsideration**

By application dated December 16, 1999, a representative for one of the petitioners (herein after referred to as the petitioner) requested administrative reconsideration of the Department's negative determination regarding eligibility for workers of the subject firm to apply for worker adjustment assistance. The denial notice applicable to workers of Marathon Ashland Pipe Line LLC, transporting crude oil and petroleum products via pipeline in Bridgeport, Illinois, was signed on December 2, 1999 and published in the **Federal Register** on December 28, 1999 (64 FR 72691).

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 denial of TAA for workers of Marathon Ashland Pipe Line LLC, Bridgeport, Illinois, was based on the finding that the workers provided a service and did not produce an article as required by Section 222(3) of the Trade Act of 1974, as amended.

The petitioner asserts that the workers in Bridgeport were gaugers for the subject firm and tested the oil before it could be transported into the pipeline. The petitioner also asserts that the crude oil acquisition department of Marathon Oil Company (the parent company of the subject firm) worked directly with and set the perimeter for the acceptance or rejection of the crude oil.

The 1988 Omnibus Trade and Competitiveness Act amendments to the Trade Act of 1974 extended coverage to service workers engaged in exploration and drilling for crude oil and natural gas. The same consideration cannot be given to those workers engaged in employment related to the transmission of crude oil or natural gas after drilling.

The petitioner also states that layoffs at the subject firm were caused by a reduced demand for services by the parent company.

Service workers may be certified for TAA only if there is a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control. Although there have been TAA certifications for some Marathon Oil Company workers, the subject firm did not serve the locations under existing certification.

Findings in the initial investigation but not elaborated on in the decision document showed that worker separations were the result of the sale of the subject firm assets to another company.

Conclusion

After review of the application and investigative finds, 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, D.C. this 11th day of February 2000.

Grant D. Beale,

*Program Manager, Division of Trade
Adjustment Assistance.*

[FR Doc. 00-4131 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-36,947]

**Smurfit-Stone Container Corp., A/K/A
Stone Container Corp, El Paso, Texas;
Amended Certification Regarding
Eligibility To Apply for Worker
Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 18, 2000, applicable to workers of Smurfit-Stone Container Corp., El Paso, Texas. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of non-corrugated folding boxes, a.k.a. paperboard. New information provided by the State shows that some of the claimants' wages are being reported under the Unemployment Insurance

(UI) tax account for Stone Container Corp., El Paso, Texas.

The intent of the Department's certification is to include all workers of Smurfit-Stone Container Corp. who were adversely affected by imports.

Accordingly, the Department is amending the certification to cover the workers of Smurfit-Stone Corp., also known as Stone Container Corp., El Paso, Texas.

The amended notice applicable to TA-W-36,947 is hereby issued as follows:

All workers of Smurfit-Stone Container Corp., also known as Stone Container Corp., El Paso, Texas who became totally or partially separated from employment on or after September 27, 1998 through January 18, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 11th day of February, 2000.

Grant D. Beale,

*Program Manager, Division of Trade
Adjustment Assistance.*

[FR Doc. 00-4126 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training
Administration****Investigations Regarding Certifications
of Eligibility To Apply for Worker
Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 3, 2000.

Interested persons are invited to submit written comments regarding the

subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 3, 2000.

The petitions filed in this case are available for inspection at the Office of

the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 7th day of February, 2000.

Grant D. Beale,
Program Manager, Division of Trade Adjustment Assistance.

Appendix

PETITIONS INSTITUTED ON 02/07/2000

TA-W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
37,301	Western Moulding Co (Comp)	Snowflake, AZ	01/28/2000	Raw Lumber.
37,302	Schmalbach Lubeca Plastic (Comp)	Novi, MI	01/20/2000	Plastic Bottles.
37,303	Motor Coils Manufacturing (Wrks)	Emporium, PA	01/18/2000	Rebuilt Traction Motor Armature and Coil.
37,304	Nova Bus (Wrks)	Roswell, NM	01/11/2000	Busses.
37,305	Kemmer Prazision (Wrks)	Janessville, WI	01/21/2000	Carbide Drills.
37,306	Ordociian Association (Comp)	Midland, TX	01/21/2000	Provide Geologic and Engineering Info.
37,307	Vivid Publishing, Inc (Wrks)	Montoursville, PA	01/19/2000	State Waterway Maps.
37,308	Tweco Products (Comp)	Wichita, KS	01/28/2000	Welding Accessories.
37,309	Wharton Knitting/Rita (Comp)	Ridgewood, NY	01/20/2000	Men's and Ladies' Sweaters.
37,310	Boyt Harness Co LLC (Wrks)	Arlington, SD	01/18/2000	Gun Cases and Men's Hunting Sports-wear.
37,311	Gale River Designs (Wrks)	Franconia, NH	01/26/2000	Ladies' Evening Dresses, Tops.
37,312	Florence Eiseman, Inc (Wrks)	Milwaukee, WI	01/18/2000	Girls Dresses, Coats and Baby Clothes.
37,313	PacifiCorp (Wrks)	Portland, OR	01/12/2000	Electricity.
37,314	Shell Chemical Co (Comp)	Apple Grove, WV	01/12/2000	Polyester Resins.
37,315	Jantzen, Inc (Wrks)	Vancouver, WA	01/25/2000	Swimwear.
37,316	Lower Umpqua Federal (Comp)	Reedsport, OR	01/20/2000	Credit Union Services.
37,317	Sewell Clothing Co., Inc (Comp)	Bremen, GA	01/26/2000	Men's Dress Pants.
37,318	Grifel and Lobel (Wrks)	New York, NY	01/10/2000	Buttons.
37,319	Furon Co (Comp)	Laguna Niguel, CA	01/17/2000	Develop and Mfr Highly Engineered Products.
37,320	Coats American (Comp)	Bristol, RI	01/07/2000	Industrial Sewing Thread.
37,321	Cedarbrook Mfg Corp (Wrks)	Philadelphia, PA	01/29/2000	Decorative Metal Accent Furniture.
37,322	Herbert Grossman Ent. Inc (UNITE)	New York, NY	01/26/2000	Ladies' Suits.
37,323	Durashield USA (Wrks)	Sunbury, OH	01/28/2000	Baking Pans and Cookwear.
37,324	Williamson Co (The) (Wrks)	Fairfield, IL	01/26/2000	Lumber.
37,325	Surrett International (Wrks)	Galesburg, IL	01/24/2000	Plastic Pond Liners.
37,326	Monterey, Inc (UNITE)	Janesville, WI	01/25/2000	Fake Fur Fabrics.

[FR Doc. 00-4124 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-36,623]

Interplast Universal Industries, Lodi, New Jersey; Notice of Revised Determination on Reconsideration

On December 6, 1999, the Department issued an Affirmative Determination Regarding Application for Reconsideration applicable to workers of the subject firm. The petitioners presented information that warranted further examination of imports of articles competitive with the expanded vinyl produced by workers of Interplast Universal Industries. The notice was published in the **Federal Register** on December 23, 1999 (64 FR 72104).

The Department initially denied TAA to workers producing expanded vinyl at

Interplast Universal Industries located in Lodi, New Jersey, based on the finding that the "contributed importantly" test of the worker group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. The investigation revealed that the company did not import, nor where significant customer imports of expanded vinyl in the relevant time period. Some customers reported increased imports of finished articles produced with expanded vinyl. Imports of finished articles, however, cannot be considered like or directly competitive with the expanded vinyl produced by the Interplast Universal Industries workers.

The petitioners claim that the subject firm imported expanded vinyl from India. The petitioners further add that a foreign source is supplying expanded vinyl to former customers of Interplast Universal Industries.

New information obtained on reconsideration revealed that the subject did purchase indirect imports of

expanded vinyl from foreign sources during the time period relevant to the investigation.

Conclusion

After careful review of the new facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with expanded vinyl produced by the subject firm contributed importantly to the decline in sales and to the total or partial separation of workers of the subject firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Interplast Universal Industries, Lodi, New Jersey, who became totally or partially separated from employment on or after July 19, 1998, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of February, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-4127 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-36,989]

Mobile Energy Services Corporation, Mobile, Alabama; Notice of Negative Determination Regarding Application for Reconsideration

By application dated December 27, 1999, a representative for the company (herein after referred to as the petitioner) requested administrative reconsideration of the Department's negative determination regarding eligibility for workers of the subject firm to apply for worker adjustment assistance. The denial notice applicable to workers of Mobile Energy Services Corporation producing electricity, steam and chemicals in Mobile, Alabama, was signed on November 4, 1999 and published in the **Federal Register** on December 28, 1999 (64 FR 72691).

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 negative TAA determination for workers of the subject firm was issued based on the finding that criterion (3) of Section 222 of the Trade Act of 1974 was not met. Declines in employment at the subject firm were attributed to the closure of the pulp mill to which the subject firm provided the power source. The workers at the pulp mill were certified eligible to apply for TAA.

The petitioner claims that the energy recovery complex at the plant provided both electricity and steam produced from fuel derived from the pulp operations and provided material to be reused in the paper-making process. As such, the petitioner asserts that the energy recovery was an integrated part of the manufacturing process.

Under the Trade Act of 1974, the Department is required to examine imports of articles like and directly competitive with those produced by the workers of the firm. Workers of Mobile Energy Services Corporation were primarily engaged in the production of steam and electricity. Imports of pulp and paper products or the raw materials used to reproduce these articles cannot be considered like or directly competitive with steam, electricity or the by-product, black-liquor as described by the petitioner.

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, D.C. this 11th day of February 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-4129 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-37,033]

United Technologies Automotive, Inc., A/K/A Lear Corporation, Ceramic Avenue Plant, Zanesville, Ohio; 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 January 26, 2000, applicable to workers of United Technologies Automotive, Inc., a/k/a Lear Corporation, Zanesville, Ohio. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce electrical wiring harnesses for automobiles. New findings show that there was a previous certification, TA-W-33,043, issued on February 6, 1997, for workers of United Technologies, Zanesville, Ohio, who were engaged in employment related to the production of electrical wiring harnesses for automobiles. That

certification expired February 6, 1999. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from October 18, 1998 to February 7, 1999, for workers of the subject firm.

The amended notice applicable to TA-W-37,033 is hereby issued as follows:

All workers of United Technologies Automotive, Inc., also known as Lear Corporation, Ceramic Avenue Plant, Zanesville, Ohio, who became totally or partially separated from employment on or after February 7, 1999 through January 26, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 11th day of February, 2000.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 00-4128 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-03689 and NAFTA-03689A]

Victor Equipment Company, Division of Thermadyne Holdings Corporation, Denton, Texas and Victor Equipment Company, Division of Thermadyne Holdings Corporation, Abilene Texas; 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 (NAFTA-TAA), and 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), an investigation was initiated on January 28, 2000 in response to a petition filed on behalf of workers at Victor Equipment Company, Division of Thermadyne Holdings Corporation, Denton, Texas (NAFTA-3689), and Victor Equipment Company, Division of Thermadyne Holdings Corporation, Abilene, Texas (NAFTA-3689A).

In a letter dated February 3, 2000, the petitioner requested that the petition for NAFTA-TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 10th day of February, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-4125 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Unemployment Compensation for Ex-servicemembers (UCX) Program: Unemployment Insurance Program Letter Amending the Consolidated List of "Acceptable" Narrative Reasons for Separation Transmitted in UIPL No. 3-95, Change 2 To Include Separations From the Army Under the Army National Guard Combat Reform Initiative Program

ETA has responsibility for administration of the UCX program, providing unemployment compensation benefits for ex-servicemembers. ETA issues interpretations affecting the UCX program in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 9-95, Change 3

To be eligible for UCX, an ex-servicemember must, among other requirements, meet the definition of "Federal service." This requires that the servicemember be separated under honorable conditions and have completed a first full term of service. If separated before completing the first full term, the separation must be for, among other reasons, "the convenience of the Government under an early release program."

The Department of Labor was recently notified by the Department of the Army of an ongoing program called the Army National Guard Combat Reform Initiative (ANGCRI). It is an early release program for the convenience of the Government mandated by Congress that directs the Army to release at least 150 lieutenants each year so they can serve the remainder of their active duty obligation in the National Guard. The narrative reason, Miscellaneous/General Reasons, is used on DD Forms 214 for those lieutenants who separate from active duty before completing their first full term under the ANGCRI program. The program started with separations occurring May 1, 1999, through September 30, 1998 (FY 98 Program), and May 1, 1999, through September 30,

1999 (FR 99 Program) program. This program will be ongoing. Consequently, UIPL No. 3-95 Change 3 was transmitted to all SESAs to amend the consolidated list of narrative reasons for separation transmitted to all SESAs in UIPL 3-95 Change 2.

Dated: February 15, 2000.

Raymond L. Bramucci,

Assistant Secretary of Labor.

U.S. Department of Labor, Employment and Training Administration, Washington, D.C. 20210

Classification: UI

Correspondence Symbol: TEUPDI

Date: February 17, 2000

Directive: Unemployment Insurance Program

Letter No. 3-95, Change 3

To: All State Employment Security Agencies

From: Grace A. Kilbane, Administrator,

Office of Workforce Security

Subject: UCX Narrative Reasons for Separation from Military Service

1. *Purpose.* to amend the consolidated list of "acceptable" narrative reasons for separation transmitted in Unemployment Insurance Program Letter (UIPL) No. 3-95 and UIPL No. 3-95, Changes 1 and 2 to include separations from the Army under the Army National Guard Combat Reform Initiative (ANGCRI) program.

2. *References.* UIPL No. 3-95; UIPL No. 3-95, Changes 1 and 2; 5 U.S.C. 8521(a)(1); 20 CFR Part 614; Section 1111 of P.L. 102-484; and Section 514 of P.L. 104-106.

3. *Background.* The Department of the Army recently notified the Department of Labor (DOL) of an ongoing program, ANGCRI, under which Congress directed the Army to release early at least 150 lieutenants each year so they can serve the remainder of their active duty obligation in the National Guard. This program started with separations occurring May 1, 1998, through September 30, 1998 (FY 98 Program) and May 1, 1999, through September 30, 1999, (FY 99 Program). This program will be ongoing every year. The narrative reason "Miscellaneous/General Reasons" is used on DD Forms 214 of those lieutenants separating from active duty before completing their first full term under this program. However, there is no other information on these lieutenants' DD Forms 214 to indicate that they are separated under the ANGCRI program.

4. *Instructions.* DOL has determined that separations under the ANGCRI program are for the convenience of the government under an early release/force reduction program. Thus, Army lieutenants separated from active duty under this program meet the definition of "Federal service" under 5 U.S.C. 8521(a)(1)(B)(ii)(I). Separations under the ANGCRI program occurred between May 1, 1998, through September 30, 1998, and May 1, 1999, through September 30, 1999, and they will continue every year thereafter for the May 1 through September 30 period. Item (Block) 28 ex-servicemembers DD Forms 214 separated under the ANGCRI program will contain the narrative reason for separation "Miscellaneous/General Reasons." However,

since there is no information on the DD Form 214 that indicates separation from active duty under the ANGCRI program, the SESA must require the ex-servicemember to provide it with "Orders to Report" and "Orders of Release" or "Orders to Report" containing an endorsement of release which contain information that the servicemember was discharged under the ANGCRI program.

The contents of this directive will also be issued as a Change 19 to *ET Handbook No. 384, Second Edition.*

5. *Effective Date.* The amendment to the consolidated list of "acceptable" narrative reasons for separation contained in this Change 3 to UIPL 3-95 shall be effective for all initial claims filed on and after the date of this directive. However, where State law permits, monetary determination or redetermination must be issued when a claimant requests a determination or redetermination on a new or previously denied claim or files an additional or renewed claim for benefits. Any determination or redetermination of monetary eligibility must be based on the list of "acceptable" narrative reasons for separation attached to this Change 3 of UIPL 3-95.

Determinations or redeterminations required by this Change 3 to UIPL 3-95 may result in the payment of benefits for retroactive weeks of unemployment to ex-servicemembers separated under the ANGCRI program. The reason for this is that the category of servicemembers separated under the ANGCRI program (which fits within the scope of discharges for the convenience of the government under an early release program) was inadvertently left off the list of narrative reasons for separation issued with UIPL 3-95, Change 2.

6. *Action Required.* SESAs are required to:

a. Distribute the contents of this directive and the attachment to all appropriate staff members.

b. Destroy the Attachment to UIPL 3-95 Change 2 and utilize the Attachment to this Change 3 to UIPL 3-95.

c. Announce in a newspaper of general circulation, and in other appropriate media such as veterans publications, the application of the operating instructions contained in this directive and their effect on UCX eligibility. The announcements shall include mention of the authority under 20 CFR 614.9(a) to issue determinations or redeterminations.

7. *Inquiries.* Direct inquiries to the appropriate Regional Office.

8. *Attachment.* Revised List of "Acceptable" Narrative Reasons for Separation Meeting the Requirements of 5 U.S.C. 8521(a)(1)(B)(ii)(I)-(IV).

Attachment

Narrative Reasons for Separation

"Acceptable" Narrative Reasons for Separation Meeting the Requirements of 5 U.S.C. 8521(a)(1)(B)(ii)(I)-(IV).

For the convenience of the government under an early release program (5 U.S.C. 8521(a)(1)(b)(ii)(I)):

Medal of Honor Recipient
Completion of Required Active Service
Insufficient Retainability (Economic Reasons)

Reduction in Force
To Attend School
Holiday Early Release Program
Defective Enlistment Agreement
Erroneous Entry (Other)
Intradepartmental Transfer*

Miscellaneous/General Reasons** (see below)
Because of medical disqualification, pregnancy, parenthood, or Service-incurred injury or disability (5 U.S.C. 8521(a)(1)(B)(ii)(II)):

Pregnancy or Childbirth
Parenthood or Custody of Minor Children
Conditions, not Disability
Disability, Severance Pay
Disability, Permanent
Disability, Temporary
Disability, Existed Prior to Service, PEB
Disability, Existed Prior to Service, Med BD
Disability, Aggravated
Disability, Other

Because of hardship (5 U.S.C. 8521(a)(1)(B)(ii)(III)):
Surviving Member
Hardship

Because of personality disorders or inaptitude, but only if the service was continuous for 365 days or more (5 U.S.C. 8521(a)(1)(B)(ii)(IV)):

Personality Disorder

The following are narrative reasons for separation that DOL has determined constitute "inaptitude" within the meaning of 5 U.S.C. 8521(a)(1)(b)(ii)(IV):

Conscientious Objector
Weight Control Failure
Ecclesiastical Endorsement
Secretarial Authority
Physical Standards
Erroneous Entry, Alcohol Abuse
Erroneous Entry, Drug Abuse
Non-selection, Permanent Promotion
Non-selection, Temporary Promotion
Failure to Complete a Commission or Warrant Program
Failure to Complete a Course of Instruction
Unsatisfactory Performance
Substandard Performance
Personal Alcohol Abuse
Alcohol Rehabilitation Failure
Drug Rehabilitation Failure
Military Personnel Security Program
Homosexual Admission
Homosexual Act
Non-retention on Active Duty

Effective Date: The narrative reasons for separation that the Department of Labor (DOL) has determined constitute "inaptitude" within the meaning of 5 U.S.C. 8521(a)(1)(B)(ii)(IV), listed above, shall be effective for all initial claims filed on and after the November 10, 1998, issuance date of UIPL No. 3-95, Change 2.

* Effective for separations on or after September 1, 1994.

** Pertaining only to Army Lieutenants' separations under the ANGCR program occurring May 1, 1998 through September 30, 1998 and May 1, 1999 through September 30, 1999, and every year thereafter for the May 1 through September 30 period. Also requires "Orders to Report" and "Orders of Release" or "Orders to Report" containing an endorsement of release to be presented to the SESA indicating the servicemember was discharged under the ANGCR program.

Where State law permits, new eligibility determinations must be issued when: (1) a claimant requests a determination or redetermination on a new or previously denied claim, or files an additional or renewed claim for benefits, and (2) the claimant's military service is recent enough to support a current claim for unemployment benefits.

However, benefits payable based upon a narrative reason for separation that DOL has determined constitutes "inaptitude" will be payable only for weeks of unemployment beginning after November 10, 1998.

[FR Doc. 00-4133 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218-0007 2000]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Reporting of Fatality or Multiple Hospitalization Incidents (1218-0007)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirements of 29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESS** section of this notice.

DATES: Written comments must be submitted to the office listed below in the **ADDRESS** section on or before April 24, 2000.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 1218-0007 2000, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 693-2350. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 693-1648.

FOR FURTHER INFORMATION CONTACT: Dave Schmidt, Directorate of Information Technology, Office of Statistics, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3644, 200 Constitution Avenue, NW, Washington, DC 20210, telephone: (202) 693-1886. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Dave Schmidt at (202) 693-1886 or Todd Owen at (202) 693-2444. Contact OSHA's WebPage on the Internet at http://www.osha-slc.gov/OCIS/Info_coll.html for electronic copies of the Reporting of Fatality or Multiple Hospitalization Incidents information collection request.

SUPPLEMENTARY INFORMATION:

I. Background

OSHA promulgated regulation 29 CFR 1904.8 which currently requires employers to report any death of an employee from a work related incident or the in-patient hospitalization of three or more employees as a result of a work related incident to OSHA within 8 hours. OSHA investigates such incidents in order to provide the Agency with information on the causes of employment fatalities and serious injuries, to identify and require

correction of serious hazards, and to prevent the occurrence of such incidents in the future. Such information can also be a source of support for new and revised safety and health standards. Investigators will determine whether there was a violation of OSHA standards, and, if so, whether the violation may have contributed to the incident. Therefore, such investigations must be prompt and thorough if they are to provide valid, useful information and achieve their intended purposes.

OSHA currently has approval from the Office of Management and Budget (OMB) for information collection requirements contained in 29 CFR 1904.8. That approval will expire on July 31, 2000. This notice initiates the process of OSHA to request an extension of the current OMB approval. This notice also solicits public comment on OSHA's paperwork burden estimates from interested parties and seeks public response to several questions related to the development of OSHA's estimation. Interested parties are requested to review OSHA's estimates, which are based upon the most current data available, and to comment on their accuracy or appropriateness in today's workplace.

II. Current Actions

This notice requests an extension of the current OMB approval of the paperwork requirements in 29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents.

Type of Review: Extension of currently approved collection.

Agency: Occupational Safety and Health Administration.

Title: Reporting of Fatality or Multiple Hospitalization Incidents.

OMB Number: 1218-0007.

Agency Number: Docket No. ICR 1218-0007 2000.

Affected Public: Business or other for-profit; Farms; Non-profit institutions; Small businesses or organizations.

Cite/Reference/Form/etc.: 29 CFR 1904.8.

Total respondents: 3,064.

Frequency: On occasion.

Average Time Per Respondent: 15 minutes.

Estimated Total Burden Hours: 766. Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

Dated: February 15, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00-4134 Filed 2-18-00; 8:45 am]

BILLING CODE 4510-20-M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings; Notice of Meetings

TIME AND DATE: 10 a.m., Thursday, February 24, 2000.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from a Federal Credit Union to convert to a Community Charter.
2. Request from a Corporate Credit Union for a Waiver under Part 704, NCUA's Rules and Regulation.
3. Proposed Rule: Amendment to Parts 709, NCUA's Rules and Regulations, Involuntary Liquidation.
4. Proposed Rule: Part 716, NCUA's Rules and Regulations, Privacy Regulation.
5. Final Rule: Amendments to Parts 724 and 745, NCUA's Rules and Regulations, Individual Retirement Accounts (IRAs) in Several U.S. Territories and Possessions.
6. NCUA's "Results Act" Strategic Plan and Annual Performance Plan.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, February 24, 2000.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

NRC EXPORT LICENSE APPLICATION

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).

2. Three (3) Personnel Actions. Closed pursuant to exemptions (2), (5), (6), (7) and (9)(B).

FOR FURTHER INFORMATION CONTACT:

Becky Baker, Secretary of the Board, Telephone (703) 518-6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 00-4274 Filed 2-17-00; 3:32 pm]

BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

Application for a License To Export Radioactive Waste

Pursuant to 10 CFR 110.70(b)(4) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link <<http://www.nrc.gov/NRC/ADAMS/index.html>> at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington D.C. 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

The information concerning the application follows:

Name of applicant Date of application Date received Application No.	Description of material			Country of destination
	Material type	Total Qty.	End use	
Bayou Steel Corp., October 6, 1999, January 24, 2000, XW004.	Radioactive waste Class A mixed hazardous waste.	70.73 tons of arc furnace dust containing <1300 pCi/g Cesium-137.	For disposal at Stablex Canada, Inc..	Canada.

For the Nuclear Regulatory Commission.
Dated this 15th day of February 2000 at
Rockville, Maryland.

Ronald D. Hauber,

*Deputy Director, Office of International
Programs.*

[FR Doc. 00-4082 Filed 2-18-00; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-454 and STN 50-455]

Commonwealth Edison Company, Byron Station, Units 1 and 2; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Commonwealth Edison Company (ComEd, the licensee) to withdraw its October 16, 1997, application for proposed amendments to Facility Operating Licenses Nos. NPF-37 and NPF-66 for the Byron Station, Unit Nos. 1 and 2, located in Ogle County, Illinois.

The proposed amendments would have revised the license of Byron, Unit 1, to incorporate an exemption from 10 CFR 70.24(a) consistent with the Unit 2 license. The Unit 2 license would have been amended accordingly.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on April 22, 1998 (63 FR 19966). However, by letter dated January 6, 2000, the licensee withdrew the proposed changes.

For further details with respect to this action, see the application for amendments dated October 16, 1997, and the licensee's letter dated January 6, 2000, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 15th day of February 2000.

For the Nuclear Regulatory Commission.

George F. Dick, Jr.,

*Sr. Project Manager, Section 2, Project
Directorate III, Division of Licensing Project
Management, Office of Nuclear Reactor
Regulation.*

[FR Doc. 00-4081 Filed 2-18-00; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station (VY) located in Vernon, Vermont.

The proposed amendment would delete the requirement to exercise main steam isolation valves (MSIVs) twice weekly by partial closure and subsequent re-opening. The quarterly full-stroke testing TS requirements are retained.

Beginning with partial closure testing performed on January 17, 2000, MSIV 80-C has exhibited slower than normal re-opening time during the test. Closing times and the quarterly full stroke testing of this MSIV in accordance with the inservice testing (IST) program have been acceptable. However, the re-opening time has continued to be erratic since the January 17 test and is trending up (i.e., taking longer to re-open). This is evidenced by two other tests indicating slower than expected re-opening times. If the MSIV were to fail to re-open and continue closing, a plant transient could result. Therefore, the licensee stated that exigent circumstances exist because continued partial-closure testing of inboard MSIV 80-C has the potential to induce an operational transient, considering the probable degraded condition of its test pilot valve. The test pilot valve is not used to test the safety function of the MSIV; its use is required to perform the twice-weekly partial closure exercise of the MSIV.

Prior to January 17, 2000, there was no indication of degradation of MSIV partial-closure testing performance. A review of inservice testing data for all MSIVs since 1996 indicates all MSIVs have met acceptance criteria relative to demonstrating isolation (full closure) times within 3-5 seconds as required by Technical Specifications and assumed in accident analyses. The licensee could not have anticipated the need for processing this change under 10 CFR 50.91(a)(6) since the circumstance described above is recently occurring

and is only evident in three recent partial-closure tests. The situation was unavoidable considering the past reliable performance of the MSIVs and their pneumatic actuators. The subject test pilot valve was refurbished in 1998 as part of scheduled preventive maintenance on the MSIV pneumatic actuator unit. Again, prior to January 17, 2000, VY had no indication of degradation of the suspected test pilot valve.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The frequency of MSIV testing is not assumed to be an initiator of any analyzed event. This change will not alter the basic operation of process variables, structures, systems, or components as described in the safety analyses. The twice-weekly exercise of MSIVs is not intended to verify the safety function of the MSIVs. The safety function testing will continue to be conducted during the quarterly, full-stroke fast closure MSIV test. However, eliminating unnecessary testing of the MSIVs may reduce the probability of occurrence of an inadvertent valve closure that could lead to a plant transient condition.

Deleting the twice-weekly MSIV test is not considered to have any measurable effect on the reliability of the MSIVs to perform their safety function; therefore, the mitigating function of the MSIVs is maintained. The consequences of accidents previously evaluated will not be affected by this change because the surveillances to test MSIVs in accordance with the IST [inservice testing] program and Section XI of the ASME Code will still be performed, assuring that MSIVs will perform their intended safety function.

Since reactor operation with the deleted surveillance specification is fundamentally unchanged, no design or analytical acceptance criteria will be exceeded. As such, this change does not impact initiators of analyzed events nor assumed mitigation of design basis accident or transient events.

These changes do not affect the initiation of any event, nor do they negatively impact the mitigation of any event. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not affect any parameters or conditions that could contribute to the initiation of an accident. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). No new accident modes are created since the manner in which the plant is operated is fundamentally unchanged. This change to surveillance requirements does not affect the design or function of safety-related equipment, nor does it eliminate testing to verify a safety function. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Testing the MSIVs by full stroke closure on a quarterly basis is adequate to maintain reliability of the MSIVs to perform their safety function. This has been demonstrated through industry operating experience. Since frequency or method of MSIV testing is not specifically considered in any safety analysis, current safety analysis assumptions are being maintained. The reduction in testing from a twice-weekly exercise (partial closure and re-opening) while maintaining the quarterly full-stroke test is adequate to maintain the reliability of this safety function while reducing unnecessary valve wear and the potential for inducing an inadvertent transient. Consequently, margins of safety are maintained.

There is no impact on equipment design or operation, and there are no changes being made to safety limits or safety system settings that would adversely affect plant safety because of the proposed changes. Since the changes have no effect on any safety analysis assumption or initial condition, the margins of safety in the safety analyses are maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 23, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS

Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to

matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037-1128, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 11, 2000, which is 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 15th day of February 2000.

For the Nuclear Regulatory Commission.

Richard P. Croteau,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00-4080 Filed 2-18-00; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

National Materials Program Working Group; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of formation of working group and public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) has formed a working group to provide the Commission with options for maintaining the infrastructure of supporting regulations, guidance and other program elements needed for the nationwide materials program considering the anticipated increase in the number of Agreement States. The working group will be composed of representatives from the Organization of Agreement States (OAS), the Conference of Radiation Control Program Directors, Inc. (CRCPD), and the NRC. The working group will produce a report for the Commission's consideration.

DATES: The working group's first meeting will be held on March 6-8, 2000, at the NRC Headquarters Office, 11555 Rockville Pike, Rockville, Maryland. To facilitate maximum participation and information sharing the working group's meetings will be announced and open to the public. Future meeting notices will be noticed at the NRC web site, News and Information, Public Meetings, Other Meetings: (<http://www.nrc.gov/NRC/PUBLIC/meet.html#OTHER>).

ADDRESSES: Members of the public may submit comments to David L. Meyer, Chief, Rules and Directives Branch, T-6-D59, U. S. Nuclear Regulatory

Commission, Washington, DC 20555-0001. Comments may also be submitted via e-mail at nrcprep@nrc.gov. Comments may be submitted at any time.

Comments received after February 1, 2001 will be considered if practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

To help ensure coordination and sharing of information with the OAS, the CRCPD, and the public, the working group will place information at the Office of State Programs' web site at <http://www.hsrdo.ornl.gov/nrc/home.html>.

FOR FURTHER INFORMATION CONTACT:

James Myers, Project Manager, Office of State Programs, U. S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-2328, E-mail: jhm@nrc.gov.

SUPPLEMENTARY INFORMATION: The 31 Agreement States regulate about 70% of the total number of radioactive materials licensees. NRC is forecasting four more Agreement States by FY 2003. This will bring the percentage of licensees regulated by Agreement States to more than 80%. With this increase, NRC and States need to examine options to maintain the infrastructure of supporting regulations, guidance and other program elements, such as event follow-up, information technology sharing and technical support needed for implementation of a nationwide materials program. In addition, current NRC activities in support of the national program infrastructure will have a potentially increased impact on the smaller number of NRC materials licensees in the future.

Additional background information is contained in SECY-99-250, "National Materials Program * * *" dated October 14, 1999 and the Staff Requirements Memorandum (SRM) for SECY-99-250 dated November 23, 1999. (Both documents are available on the Office of State Programs' web site identified earlier in this notice). The Commission has requested that the project be completed by May 1, 2001.

Dated at Rockville, Maryland, this 14th day of February 2000.

For the Nuclear Regulatory Commission.

Paul H. Lohaus,

Director, Office of State Programs.

[FR Doc. 00-4078 Filed 2-18-00; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Draft Final Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is soliciting public comment on the "Draft Final Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants."

As the number of power reactors involved in the decommissioning process increases, the ability to address regulatory issues generically has become more important. After a nuclear power plant permanently shuts down and the reactor is defueled, the traditional accident sequences that dominate operating reactor risk are no longer applicable. The predominant source of risk remaining at permanently shutdown plants involves accidents associated with spent fuel stored in the spent fuel pool.

Following a Commission meeting held on March 17, 1999, the NRC staff formed a technical working group to evaluate spent fuel pool accident risk at decommissioning plants. The staff set out to develop a risk-informed technical basis that could be used to develop rulemaking and to establish a predictable method for reviewing future exemption requests and to identify the need for any research in areas of large uncertainty. The staff intends for this approach to meet the NRC outcome goals of maintaining safety, reducing unnecessary regulatory burden, increasing public confidence, and improving efficiency and effectiveness.

The NRC released a preliminary draft version of the technical basis study in June 1999. A public workshop to discuss the report was held in July 1999. Numerous comments and other input were received from the public and the nuclear industry. The NRC has revised the report to address the comments received and to incorporate needed changes based on the results of outside technical reviews.

All comments received will be considered before the final report is published as the basis for initiation of rulemaking activities.

DATES: The comment period expires April 7, 2000. Comments received after this date will be considered if practical to do so, but the staff is able to assure

consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments may also be sent electronically by completing the online comment form available on the NRC Internet web page at the address below. Comments may also be hand delivered to Room 6D59, Two White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

The report is available at the NRC Public Document Room, 2120 L Street NW., Washington, DC. and through the NRC Agencywide Documents Access and Management System (ADAMS). The report is also available via the Internet on the NRC web page at <http://www.nrc.gov/NRC/REACTOR/DECOMMISSIONING/SF/index.html>. Requests for single copies may be made to Richard Dudley, U. S. Nuclear Regulatory Commission, Mail Stop O-11D19, Washington, DC 20555-0001 or by telephone at 301-415-1116 or email to rfd@nrc.gov.

FOR FURTHER INFORMATION CONTACT: George Hubbard, U.S. NRC, Office of Nuclear Reactor Regulation, Mail Stop O-11A11, Washington, DC, 20555-0001; telephone 301-415-2870; email: gth@nrc.gov.

Dated at Rockville, Maryland, this 15th day of February, 2000.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Director, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00-4079 Filed 2-18-00; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration (American Heritage Life Investment Corporation, FELINE PRIDES); File No. 1-7255

February 15, 2000.

American Heritage Life Investment Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 12d2-2(d)

promulgated thereunder,² to withdraw its FELINE PRIDES ("PRIDES") from listing and registration on the New York Stock Exchange, Inc. ("NYSE" or "Exchange").

The PRIDES were issued by the Company and its wholly owned subsidiary, AHL Financing, a Delaware business trust, and were listed for trading on the NYSE pursuant to a registration statement on Form 8-A which became effective on June 23, 1997. Trading in the PRIDES commenced on the NYSE at the opening of business on June 24, 1997, subject to official notice of issuance.

In October 1999, the Company was merged with and into a subsidiary of The Allstate Corporation ("Allstate"). This Allstate subsidiary became the successor obligor on the PRIDES and successor registrant with the Commission, changing its name to "American Heritage Life Investment Corporation." In connection with the merger, Allstate became a co-obligor and guarantor with respect to the obligations of the Company under the PRIDES. In addition, as required by the terms of the PRIDES' purchase contract agreement, Allstate agreed to issue its common stock upon settlement of the PRIDES' purchase contracts. The purchase contracts are scheduled to settle in August 2000. The common stock of Allstate issued on settlement of the purchase contracts will be listed on the NYSE.

In making the decision to withdraw its PRIDES from listing and registration at this time, the Company has stated its wish to eliminate the costs associated with both continued listing and its related reporting requirements. As required by the Act, Allstate files with the Exchange and the Commission periodic reports containing consolidated financial statements which include the Company's results. Although Allstate does not intend to list the PRIDES on another exchange, the Company does not believe that its determination to withdraw the PRIDES from listing and registration on the NYSE will affect an investor's ability to trade them in the over-the-counter market.

The Company has stated in its application to the Commission that it has complied with the requirements of NYSE Rule 500 and that the Exchange has indicated it will not interpose any objection to the withdrawal of the PRIDES.

This application relates solely to the withdrawal from listing and registration of the Company's PRIDES and shall have no effect upon the continued

¹ 15 U.S.C. 78l(d).

² 17 CFR 240.12d2-2(d).

listing and registration of Allstate's common stock on the NYSE. By reason of Section 12(b) of the Act³ and the rules and regulations of the Commission thereunder, Allstate shall continue to be obligated to file reports with the Commission under Section 13 of the Act.⁴

Any interested person may, on or before March 8, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz,
Secretary.

[FR Doc. 00-4149 Filed 2-18-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration (Southwestern Bell Telephone Company, Forty Year 6⅞% Debentures, Due February 1, 2011), File No. 1-2346

February 15, 2000.

Southwestern Bell Telephone Company, a Missouri corporation ("Company") and an indirect, wholly owned subsidiary of SBC Communications, Inc. ("SBC"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 12d2-2(d) promulgated thereunder,² to withdraw the security specified above ("Security") from listing and registration on the American Stock Exchange LLX ("Amex" or "Exchange").

On September 27, 1999, the Company's Board of Directors adopted a resolution to withdraw the Security from listing and registration on the

Amex. The Company, in making the determination to seek such withdrawal, has cited the following factors in its application to the Commission:

- The Security currently has a limited number of registered holders.
- The Security trades infrequently on the Exchange and the Company does not anticipate that such trading volume might increase appreciably.
- The costs associated with the continued listing of the Security are prohibitive, given the limited trading volume.
- The Company's parent, SBC, has agreed to guarantee the Company's Security. The Commission's Division of Corporation Finance, in response to a request by the Company, issued a "no-action" letter on December 23, 1999, in which it took the position that it would not object if the Company did not file reports under Sections 13(a) and 15(d) of the Act with respect to the Security, noting that (1) SBC is subject to the reporting requirements of the Act, (2) the Company is a wholly owned subsidiary of SBC, and (3) SBC has fully and unconditionally guaranteed the Security. The Company has requested such exemption in order to save the costs of continuing to prepare such periodic and annual reports for filing with the Commission.
- The Company is not obligated by the terms of the indenture under which the Security was issued or by any other document to maintain the Security's listing on the Amex or any other exchange.

The Company has stated in its application to the Commission that it has complied with the requirements of Amex Rule 18 and that the Exchange has indicated it will not interpose any objection to the withdrawal of the Security. Furthermore, the Company has stated in its application that the firm of Merrill Lynch, Pierce, Fenner & Smith Incorporated has agreed to act as a market maker in the Security after its withdrawal from listing and registration on the Amex.

Any interested person may, on or before March 8, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Jonathan G. Katz,
Secretary.

[FR Doc. 00-4148 Filed 2-18-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42226; File No. SR-NASD-99-54]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc. Creating a Voluntary Single Arbitrator Pilot Program

February 15, 2000.

I. Introduction

On October 5, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² In its proposal, NASD Regulation seeks to implement a voluntary single arbitrator pilot program for cases involving claims of \$50,000.01 to \$200,000. Notice of the proposal, as amended by Amendment No. 1, was published in the **Federal Register** December 7, 1999 ("Notice").³ The Commission received one comment letter on the filing.⁴

II. Description of the Proposal

NASD Regulation proposes to implement a two-year voluntary pilot arbitration program in which parties may choose to use a single arbitrator for public customer cases involving claims of \$50,000.01 to \$200,000 ("Pilot Program"). Currently, NASD Rule 10308 calls for the appointment of three arbitrators for claims greater than \$50,000.⁵ NASD Regulation anticipates

³ 17 CFR 200.30-3(a)(1).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 42185 (November 30, 1999), 64 FR 68400 (File No. SR-NASD-99-54).

⁴ See letter from Richard T. Chase, General Counsel and Managing Director, US Bancorp Piper Jaffray, to Jonathan G. Katz, Secretary, Commission, dated October 27, 1999 ("US Bancorp Letter").

⁵ See NASD Rule 10308(b)(1)(B).

³ 15 U.S.C. 78j(b).

⁴ 15 U.S.C. 78m.

⁵ 17 CFR 200.30-3(a)(1).

¹ 15 U.S.C. 78j(d).

² 17 CFR 240.12d2-2(d).

that the Pilot Program should result in lower arbitration fees and quicker resolution of arbitration claims for participants.

Amount in Controversy/Punitive Damages

The Pilot Program is limited to disputes between public customers and associated persons or firms and will not be available for the resolution of employment disputes or other intra-industry disputes. The Pilot Program will be limited to claims seeking between \$50,000.01 and \$200,000. This \$200,000 limitation includes attorneys' fees, interest, and other costs. Further, the aggregate dollar amount of all claims by all parties—including any counterclaims, third-party claims, and cross-claims—will be counted toward the \$200,000 limitation. Forum fees will not be counted in the \$200,000 limitation, and the arbitrator will allocate forum fees among the parties, as already provided in the Code. In addition, cases involving punitive damages will not be eligible for the Pilot Program unless all parties agree to use a single arbitrator and to allow that arbitrator to award punitive damages.

Arbitrator Selection Process

Pursuant to the procedures in the NASD's Code of Arbitration Procedure ("Code"), parties will go through the process of choosing arbitrators to serve on a three-person panel. After the arbitrators have been chosen, NASD Regulation staff will inform the parties of the terms of the voluntary Pilot Program if their case appears to fit the criteria for the Pilot Program.⁶ Parties then will have 15 days from the date the Director sends notice of the arbitrator names to agree on a single arbitrator. Because the parties may choose any one of the three arbitrators, it is possible that the single arbitrator will not be a public arbitrator. That person will, however, be a person agreed to by all parties.

The 15 day period corresponds with the 15 days period that parties have to select a chairperson of the panel. NASD Regulation expects that the arbitrator who would have been chosen as the chairperson is most likely the same person who will be chosen as the single arbitrator. Thus, if the parties decide not to proceed in the Pilot Program, they can proceed under normal procedures without delay.

⁶ Parties may have received information about the Pilot Program earlier in the process, and if so, they will be reminded that this option is available. Parties also may have informally agreed to participate in the Pilot Program.

Communications With Arbitrators

Unlike the procedures normally used, the Pilot Program will allow parties to communicate directly with the arbitrator without NASD Regulation staff involvement. To expedite case resolution, parties will be permitted to send written materials, including information (discovery) requests and motions, directly to the selected arbitrator. If the arbitrator and all parties agree, written materials may be served by facsimile (fax) or other electronic means provided that all parties have access to such means of communication.

NASD Regulation have established procedures to guard against improper *ex parte* communications with the arbitrator. Copies of written materials must be sent simultaneously and in the same manner to all parties⁷ and to the Director. Parties also must send the Director, Arbitrator, and all parties proof of service of such written materials, indicating the time, date, and manner of service upon the arbitrator and all parties. No particular format is prescribed; parties may use the same type of Certificate of Service used in state or federal courts or another format that includes the necessary information (including the address to which the materials were sent). As is true under the Federal Rules of Civil Procedure,⁸ service by mail is complete upon mailing.

If the arbitrator agrees, parties may initiate conference calls with the arbitrator, provided that all parties are on the line before the arbitrator joins the call. Similarly, the arbitrator may initiate conference calls with the parties, provided all parties are on the line before the conference begins. At the discretion of the arbitrator, conference calls may be tape recorded. Under NASD Regulation practice, the arbitrator also prepares a written summary of the decisions reached during the call or may direct one of the parties to summarize the call and send the summary by facsimile to the arbitrator and all parties within a short period of time while memories are still fresh.

Filing Fees, Member Surcharges, and Hearing Session Deposits

Filing fees, member surcharges, and member processing fees will not change under the Pilot Program. Rather, the Pilot Program provides that such fees will be the same as in Rules 10332 and 10333. However, hearing session fees

⁷ Since parties may be represented by counsel at any stage of an NASD arbitration proceeding (see Rule 10316), service upon a party's counsel of record will be considered to be service on the party.

⁸ See Fed. R. Civ. P. 5(b).

will be reduced in the Pilot Program to reflect lower arbitrator costs.⁹ Regardless of the amount in controversy in the Pilot Program, the fee for a pre-hearing conference call with an arbitrator will be the same as at present, \$450. The hearing session fees are as follows:

- For claims of \$50,000.01 to \$100,000.00, hearing session fees under the Pilot Program will be \$550 per session or \$1,100 per typical two session day. The new fee structure represents a reduction of \$200 per session for the parties as compared with normal case procedures (or a \$400 reduction per typical two session day).

- For claims of \$100,000.01 to \$200,000.00, hearing session fees under the Pilot Program will be \$750 per session or \$1,500 per typical two session day. The new fee structure represents a reduction of \$375 per session for the parties as compared with normal case procedures (or a \$750 reduction per typical two session day).

Limitations on the Amount of the Award

The single arbitrator may not award the parties more than a total of \$200,000, including damages, interest, costs, and attorneys' fees, unless all parties agree that the arbitrator may award a larger amount. In addition, the arbitrator will allocate forum fees to the parties as provided in Rule 10332(c). Therefore, NASD Regulation recommends that parties evaluate their claims carefully to ensure that they fit within the parameters of the Pilot Program.

In the unlikely event that, during the course of the arbitration, a claimant learns of information that leads the claimant to believe there are additional claims, or higher claims than originally made, which would raise the total amount in controversy over the \$200,000 maximum, the claimant has the option of (i) asking the arbitrator to dismiss the case without prejudice under Rule 10305 and, if that request is granted, re-filing the revised claim as a regular, three-arbitrator case,¹⁰ or (ii) asking the other parties to stipulate that the single arbitrator may award more than \$200,000. NASD Regulation does

⁹ For each hearing session, NASD Regulation will save \$400 in arbitrator honoraria. Conversation between Linda Fienberg, Executive Vice President, NASD Regulation, and Joseph P. Corcoran, Attorney, Division of Market Regulation ("Division"), Commission on November 29, 1999.

¹⁰ Rule 10305(a) provides that arbitrators may dismiss a proceeding at the request of a party or on the arbitrators' own initiative. Therefore, the single arbitrator has the discretion to determine whether or not to grant a request for dismissal. Rule 10305(c) provides that arbitrators shall dismiss a proceeding at the joint request of all the parties.

not anticipate that such issues will arise with any frequency.¹¹

Applicability of Code and Effectiveness of the Pilot Program

The Pilot Program rules provide that, except as otherwise provided for in the rules of the Pilot Program, the remaining provisions of the Code will apply to the Pilot Program. This means that the normal arbitration rules and procedures will apply unless they are specifically superseded by the rules of the Pilot Program. Additionally, the NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval. Once the Pilot Program has become effective, it will remain in effect for two years. Prior to the expiration of the Pilot Program, NASD Regulation may decide to extend the Program, and would then request SEC approval for an extension.

III. Summary of Comments and Discussion

The Commission received one comment letter on the proposal and this letter supports the Pilot Program.¹² The commenter endorses the Pilot Program as a means of simplifying and expediting the arbitration process. Further, the commenter suggests that the use of a single arbitrator should be expanded in the future, and states that US Bancorp would support mandating the use of a single arbitrator down the road.

The commenter raises a question as to whether punitive damages, if all parties agree to use a single arbitrator, are

included in the \$200,000 limitation. According to the Pilot Program Rules, cases involving punitive damages are not eligible for the Pilot Program unless all of the parties agree to use a single arbitrator. However, if the parties in a case involving punitive damages agree to use a single arbitrator, the punitive damages *will* be counted toward the \$200,000 limitation.¹³

Lastly, the commenter expresses disappointment that the NASD has not further reduced fees to encourage participation in the Pilot Program. The commenter notes its view that arbitration fees are not strictly cost-based. As an example, the commenter states that hearing session fees vary depending on the dollar amount of the claims in the matter even though the costs of the hearing sessions are the same. The commenter believes that reduced fees would be an appropriate incentive to help the Pilot Program succeed and suggests that the NASD revisit its fee schedule if the Pilot Program were made permanent. This issue was addressed in an earlier filing by the NASD, SR-NASD-97-79, which involved a comprehensive revision of the NASD's arbitration fee schedule.¹⁴ In this filing, NASD Regulation stated that the Office of Dispute Resolution's experience shows that the costs of conducting hearings vary as the amount in dispute and the number of parties involved increase.¹⁵

The Pilot Program procedures should help expedite the arbitration process for claims that fit within the Pilot Program. For example, the Pilot Program allows parties to communicate directly with the arbitrator without NASD Regulation staff involvement while also providing procedures that should guard against improper *ex parte* communications with the arbitrator. To speed up case resolution, parties will be permitted to send written material, including information requests and motions, directly to the arbitrator. However, parties must send copies of the written material simultaneously and in the same manner to all parties and the Director. Further, parties must send proof of service to the Director, arbitrator, and all parties. Phone calls with the arbitrator

are also permitted, provided that all of the parties are on the line before the arbitrator joins the call or before the conference begins. These procedures should help expedite case resolution and at the same time, protect against improper *ex parte* communications.

The reduction of fees is an appropriate means to encourage participation in the Pilot Program. By using one arbitrator, NASD Regulation will save \$400 in arbitrator honoraria for each hearing session.¹⁶ For claims of \$50,000.01 to \$100,000, the parties will save \$200 per hearing session.¹⁷ NASD Regulation is passing approximately one half of its savings in arbitrator honoraria to the parties in these claims. For claims of \$100,000.01 to \$200,000, the parties will save \$375 per hearing session.¹⁸ In these claims, NASD Regulation is passing on almost all of its savings in arbitrator honoraria to the parties. The reduced fees should help encourage parties to participate in the Pilot Program and are reasonable under the circumstances.

Based on the foregoing reasons, the Commission finds that the proposal is consistent with the requirements of Section 15A of the Act¹⁹ and the rules and regulations thereunder that govern the NASD.²⁰ In particular, the Commission finds that the proposal is consistent with Section 15A(b)(6) of the Act²¹ which requires, among other things, that the rules of an association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination among customers, issuers, brokers, or dealers.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change (SR-NASD-99-54) is here approved.

¹⁶ See *supra* note 9.

¹⁷ Under the current NASD fee schedule, the hearing session fee for a claim between \$50,000.01 and \$100,000 is \$750. Under the Pilot Program, the hearing session fee for a claim in this dollar amount would be \$550.

¹⁸ Under the current NASD fee schedule, the hearing session fee for a claim between \$100,000.01 and \$200,000 is \$1,125. Under the Pilot Program, the hearing session fee for a claim in this dollar amount would be \$750.

¹⁹ 15 U.S.C. 78o-3.

²⁰ In addition, pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²¹ 15 U.S.C. 78o3(b)(6).

²² 15 U.S.C. 78s(b)(2).

¹¹ Under the Code, the single arbitrator has discretion to determine whether to allow a party to file a new or amended pleading except when a party is responding to a new or amended pleading. See Rule 10328(b). Accordingly, if a party seeks to amend a pleading to raise the total amount in controversy over the \$200,000 maximum, the party must first receive the arbitrator's consent. Because the Pilot Program is designed to add flexibility to the Code, parties and arbitrators faced with these facts could, for example, agree to continue with a single arbitrator, or ascertain whether two other arbitrators already ranked in the initial list selection process might still be available, allowing the case to continue without serious interruption. In the alternative, a party can request to have the case dismissed and the adverse party can contest the request. If that request is granted, the party can re-file the revised claim as a regular, three-arbitrator case. Parties considering this step should understand that filing a new case would involve the payment of the initial filing fees and hearing session deposit for the new case. They should also consider any applicable eligibility or statute of limitations defenses the new filing date might raise.

¹² See US Bancorp Letter.

¹³ Conversation between Jean I. Feeney, Office of General Counsel, NASD Regulation, and Joseph P. Corcoran, Attorney, Division, Commission on January 11, 2000.

¹⁴ See Securities Exchange Act Release No. 39346 (November 21, 1997), 62 FR 63580 (December 1, 1997) (Notice of filing of SR-NASD-97-79); Securities Exchange Act Release No. 14056 (February 16, 1999), 64 FR 10041 (March 1, 1999) (Order approving SR-NASD-97-79) ("SR-NASD-97-79 Order").

¹⁵ See SR-NASD-97-79 Order, at note 94.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Jonathan G. Katz,

Secretary.

[FR Doc. 00-4150 Filed 2-18-00; 8:45 am]

BILLING CODE 8010-01-M

STATE JUSTICE INSTITUTE

Sunshine Act Meeting

DATE: Friday, March 3, 2000, 9 am–5 pm.

PLACE: 1650 King Street Suite 600, Alexandria, VA.

MATTERS TO BE CONSIDERED:

Consideration of proposals submitted for Institute funding.

PORTIONS OPEN TO THE PUBLIC: All matters other than those noted as closed below.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters and Board of Directors' committee meetings.

CONTACT PERSON: David Tevelin, Executive Director, State Justice Institute, 1650 King Street Suite 600, Alexandria, VA 22314, (703) 684-6100.

David I. Tevelin,

Executive Director.

[FR Doc. 00-4273 Filed 2-17-00; 3:30 pm]

BILLING CODE 6820-SC-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

COUNCIL ON ENVIRONMENTAL QUALITY

Request for Public Comment Regarding Implementation of Executive Order 13141: Environmental Review of Trade Agreements

AGENCY: Office of the United States Trade Representative and Council on Environmental Quality.

ACTION: Notice of request for written public comment.

SUMMARY: On November 16, 1999, President Clinton signed Executive Order 13141. 64 FR 63169 (Nov. 18, 1999). The Order states that the United States is committed to a policy of ongoing assessment and evaluation of the environmental impacts of trade agreements, and in certain instances, written environmental reviews. The Order directs the Office of the United States Trade Representative (USTR) and the Council on Environmental Quality (CEQ) to oversee implementation of the

Order, including the development of procedures pursuant to the Order, in consultation with appropriate foreign policy, environmental, and economic agencies. For convenience, the text of the Order is reproduced below.

USTR and CEQ seek the written views of the public concerning the issues the agencies should consider with respect to implementing the Order, including such matters as: general views on how the environmental review process should work, mechanisms for involving the public, including the role of USTR's advisory committees in the process; timing and process for conducting a written environmental review for those agreements requiring it; and appropriate methodologies for assessing environmental impacts in the context of trade negotiations.

USTR and CEQ will use this information, in part, to develop implementing guidelines, with the goal of completing the guidelines by mid-year. USTR and CEQ also intend to hold a public hearing concerning the implementation of the Executive Order, and to request public comment on draft guidelines. The public will be notified of those opportunities in subsequent **Federal Register** notices.

DATE: Comments are due no later than April 7, 2000.

ADDRESSES: Comments must be submitted to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Implementation of Executive Order 13141—Environmental Review of Trade Agreements, Office of the U.S. Trade Representative, room 122, 600 Seventeenth Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT:

Office of the U.S. Trade Representative, Environment and Natural Resources Section, telephone 202-395-7320 or Council on Environmental Quality, telephone 202-456-6224.

SUPPLEMENTARY INFORMATION: Executive Order 13141 provides as follows:

Environmental Review of Trade Agreements

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the environmental and trade policy goals of the United States, it is hereby ordered as follows:

Section 1. Policy. The United States is committed to a policy of careful assessment and consideration of the environmental impacts of trade agreements. The United States will factor environmental considerations into the development of its trade negotiating objectives. Responsible agencies will accomplish these goals through a process of ongoing assessment and evaluation, and, in certain instances, written environmental reviews.

Sec. 2. Purpose and Need. Trade agreements should contribute to the broader goal of sustainable development. Environmental reviews are an important tool to help identify potential environmental effects of trade agreements, both positive and negative, and to help facilitate consideration of appropriate responses to those effects whether in the course of negotiations, through other means, or both.

Sec. 3 (a) Implementation. The United States Trade Representative ("Trade Representative") and the Chair of the Council on Environmental Quality shall oversee the implementation of this order, including the development of procedures pursuant to this order, in consultation with appropriate foreign policy, environmental, and economic agencies.

(b) Conduct of Environmental Reviews. The Trade Representative, through the interagency Trade Policy Staff Committee (TPSC), shall conduct the environmental reviews of the agreements under section 4 of this order.

Sec. 4. Trade Agreements.

(a) Certain agreements which the United States may negotiate shall require an environmental review. These include:

- (i) comprehensive multilateral trade rounds;
- (ii) bilateral or plurilateral free trade agreements; and
- (iii) major new trade liberalization agreements in natural resource sectors.

(b) Agreements reached in connection with enforcement and dispute resolution actions are not covered by this order.

(c) For trade agreements not covered under subsections 4 (a) and (b), environmental reviews will generally not be required. Most sectoral liberalization agreements will not require an environmental review. The Trade Representative, through the TPSC, shall determine whether an environmental review of an agreement or category of agreements is warranted based on such factors as the significance of reasonably foreseeable environmental impacts.

Sec. 5. Environmental Reviews.

(a) Environmental reviews shall be:

- (i) written;
- (ii) initiated through a Federal Register notice, outlining the proposed agreement and soliciting public comment and information on the scope of the environmental review of the agreement;
- (iii) undertaken sufficiently early in the process to inform the development of negotiating positions, but shall not be a condition for the timely tabling of particular negotiating proposals;
- (iv) made available in draft form for public comment, where practicable; and
- (v) made available to the public in final form.

(b) As a general matter, the focus of environmental reviews will have impacts in the United States. As appropriate and prudent, reviews may also examine global and transboundary impacts.

Sec. 6. Resources. Upon request by the Trade Representative, Federal agencies shall, to the extent permitted by law and subject to the availability of appropriations, provide analytical and financial resources and

²³ 17 CFR 200.30-3(a)(12).

support, including the detail of appropriate personnel, to the Office of the Trade Representative to carry out the provisions of this order.

Sec. 7. General Provisions. This order is intended only to improve the internal management of the executive branch and does not create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

The White House

SUBMISSION OF WRITTEN COMMENTS:

Persons wishing to submit written comments in response to this notice should provide 20 copies no later than 45 days from the date of this notice to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Implementation of Executive Order 13141—Environmental Review of Trade Agreements, Office of the U.S. Trade Representative, room 122, 600 Seventeenth Street, NW, Washington, DC 20508.

Submissions will be available for public inspection at the USTR Reading Room, Room 101, Office of the U.S. Trade Representative, 600 Seventeenth Street, NW, Washington, D.C. An appointment to review the file may be made by calling Brenda Webb at (202) 395-6186. The Reading Room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday.

Carmen Suro-Bredie,

Acting Chair, Trade Policy Staff Committee.

Dinah Bear,

General Counsel, Council on Environmental Quality.

[FR Doc. 00-4151 Filed 2-18-00; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA; Special Committee 192; National Airspace Review Planning and Analysis

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 192 meeting to be held March 15, 2000, starting at 9 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

The agenda will be as follows: (1) Welcome and Introductory Remarks; (2) Overview and Coordination with Free Flight Select Committee; (3) Review Working Group 1 Status; (4) Review Working Group 2 Status; (5) Review

Working Group 3 Status; (6) High-altitude Concept Review; (7) Date and Location of Next Meeting; (10) closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; (202) 833-9339 (phone), (202) 833-9434 (fax), or <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 15, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00-4108 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA; Special Committee 194; ATM Data Link Implementation

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 194 meeting to be held March 13, 2000, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Ave., NW, Suite 1020, Washington, DC 20036.

The agenda will include: March 13: Plenary Session: (1) Welcome and Introductory Remarks; (2) Review Meeting; Agenda; (3) Continue Review, Discussion, and Disposition of Ballot Comments on Working Group 3 Document, Human Factors Minimum Operational Performance Standards for Controller Pilot Data Link Communications Systems: Build 1 and Build 1A; (4) Other Business; (5) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833-9339 (phone); (202) 833-9434 (fax); or <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 15, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00-4109 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA; Special Committee 186; Automatic Dependent Surveillance—Broadcast (ADS-B)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)-186 meeting to be held March 13-17, 2000, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

The agenda will include: (1) Welcome and Introductory Remarks; (2) Review of Meeting Agenda; (3) Review and Approval of the Previous Meeting Minutes; (4) Proposed Revision to Terms of References for SC-186; (5) Review SC-186 Activity Reports for Working Groups (WG) 1, 3 and 4; (6) Review EUROCAE WG-51 Reports for Subgroups 1 and 2; (7) Report on ADS-B "Road Map" per System Architecture; (8) Link Decision Update; (9) Update and Initial Review of 1090 MHz Minimum Operational Performance Standards—Finalized Sections; (10) Review/Approve Operational Concepts for Cockpit Display of Traffic Information (CDTI) Initial Applications, RTCA Paper No. 020-00/SC-186-145; (11) Review Action Items/Work Program; (12) Date and Location of Next Meeting; (13) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833-9339 (phone); (202) 833-9434 (fax); or <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 15, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00-4110 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In January 2000, there were six applications approved. Additionally, 10 approved amendments to previously approved applications are listed

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of San Jose, California.

Application Number: 99-08-C-00-SJC.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in This Decision: \$23,598,000.

Earliest Charge Effective Date: July 1, 2002.

Estimated Charge Expiration Date: September 1, 2003.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800-31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at San Jose International Airport.

Brief Description of Project Approved for Collection and Use: Interim Federal Inspection Services facility.

Decision Date: January 13, 2000.

FOR FURTHER INFORMATION CONTACT: Marlys Vanvervelde, San Francisco Airports District Office, (650) 876-2806.

Public Agency: County of Natrona, Casper, Wyoming.

Application Number: 99-04-C-00-CPR.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in This Decision: \$471,251.

Earliest Charge Effective Date: October 1, 2004.

Estimated Charge Expiration Date: May 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Project Approved for Collection and Use:

Rehabilitate runway 3/21.

Airport terminal building assessment.

Purchase of 20-foot runway sweeper.

Brief Description of Project Approved in Part for Collection and Use: Purchase of 14-foot loader.

Determination: Partially approved. The FAA has determined that certain requested attachments, in particular the hydraulic compactor, hydraulic breaker, forks, and rear quick coupler, are airport maintenance items and are not an allowable cost under paragraph 501 of FAA Order 5100.38A, Airport Improvement Program (AIP) Handbook (October 24, 1989). Therefore, the approved amount has been reduced from that requested due to the ineligible items.

Brief Description of Project Disapproved: Purchase of snow removal equipment.

Determination: Disapproved. The FAA has determined that the acquisition of replacement snow plow blades is a maintenance expense, associated with an expendable item, and is ineligible under paragraphs 501 and 565c of FA Order 5100.38A, AIP Handbook (October 24, 1989).

Decision Date: January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342-1258.

Public Agency: City of Rhinelander and County of Oneida, Rhinelander, Wisconsin.

Application Number: 00-06-C-00-RHI.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in This Decision: \$335,056.

Earliest Charge Effective Date: March 1, 2000.

Estimated Charge Expiration Date: February 1, 2003.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators filing FAA Form 1800-31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Rhinelander-Oneida County Airport.

Brief Description of Project Approved for Collection and Use:

Runway 5/23 demolition.

Year 2000 compliance audit.

Airfield electrical improvements.

Terminal apron expansion.

PFC administration costs.

Decision Date: January 20, 2000.

FOR FURTHER INFORMATION CONTACT:

Daniel Millenacker, Minneapolis Airports District Office, (612) 713-4350.

Public Agency: Metropolitan Airports Commission, Minneapolis Minnesota.

Application Number: 00-05-C-00-MSP.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in This Decision: \$106,873,838.

Earliest Charge Effective Date: August 1, 2000.

Estimated Charge Expiration Date: March 1, 2003.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800-31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Minneapolis-St. Paul International Airport.

Brief Description of Projects Approved for Collection and Use:

Runway 17 deicing pad site preparation.

Runway 30L deicing pad.

Runway 12R deicing pad.

Runway 17/35 site preparation.

Runway 4/22 reconstruction—segment 3.

Green concourse apron construction—phase 1.

Green concourse apron construction—phase 2.

Humphrey terminal development.

Inbound/outbound roadway realignment.

Northwest Drive improvements.

Runway 30L safety area improvements.

Decision Date: January 25, 2000.

FOR FURTHER INFORMATION CONTACT:

Gordon Nelson, Minneapolis Airports District Office, (612) 713-4358.

Public Agency: City of Fayetteville, Arkansas.

Application Number: 99-03-C-00-FYV.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in This Decision: \$960,303.

Earliest Charge Effective Date: April 1, 2000.

Estimated Charge Expiration Date: January 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved for Collection and Use:

Localizer-type directional aid with glide slope.

Reconstruct taxiways D, E, F, and segment TB-3 of taxiway B.

PFC administrative costs.

Decision Date: January 26, 2000.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222-5614.

Public Agency: Valdosta-Lowndes County Airport Authority, Valdosta, Georgia.

Application Number: 00-04-C-00-VLD.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in This Decision: \$230,300.

Earliest Charge Effective Date: April 1, 2000.

Estimated Charge Expiration Date: January 1, 2002.

Class of Air Carriers Not Required to Collect PFC's: Unscheduled Part 121 charter carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Valdosta Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Security fencing.

T-hanger taxiway.

Rehabilitate runway 17/35 (design only).

Disadvantaged business enterprise plan.

Drainage study.

Rehabilitate runway 17/35.

Brief Description of Project Disapproved: Terminal building.

Determination: Disapproved. The new terminal building had been previously approved for PFC collection under application number 92-01-I-00-VLD. The total eligible costs for the terminal were collected under this application and there are no new eligible costs associated with the terminal.

Decision Date: January 27, 2000.

FOR FURTHER INFORMATION CONTACT: Larry Clark, Atlanta Airports District Office, (404) 305-7144.

AMENDMENTS TO PFC APPROVALS

Amendment No. City, State	Amendment Approved Date	Original Approved Net PFC Revenue	Amended Approved Net PFC Revenue	Original Estimated Charge Exp. Date	Amended Estimated Charge Exp. Date
93-01-C-02-CPR; Casper, WY.	01/04/00	\$543,974	\$524,438	10/01/01	10/01/01
98-02-C-01-FYV; Fayetteville, AR.	01/05/00	2,726,590	118,886	03/01/04	04/01/00
95-01-C-01-FYV; Fayetteville, AR.	01/10/00	2,584,339	1,149,945	03/01/04	04/01/00
93-01-C-04-TYS; Knoxville, TN.	01/12/00	4,829,227	4,881,882	06/01/98	06/01/98
97-04-U-01-TYS; Knoxville, TN.	01/12/00	NA	NA	06/01/98	06/01/98
93-01-C-03-BGM; Binghamton, NY	01/20/00	311,759	305,752	04/01/06	04/01/06
95-02-C-04-BGM; Binghamton, NY	01/20/00	1,021,843	1,021,843	04/01/06	04/01/06
98-03-C-02-BGM; Binghamton, NY	01/20/00	1,813,334	1,811,886	04/01/06	04/01/06
94-02-C-01-INL; International Falls, MN.	01/24/00	243,537	280,066	03/01/00	07/01/00
97-02-C-02-DSM; Des Moines, IA.	01/26/00	9,713,654	9,786,654	12/01/01	12/01/01

Issued in Washington, DC, on February 11, 2000.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 00-4111 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2000-6941]

Notice of Receipt of Petition for Decision That Nonconforming 1998 Jeep Wrangler Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1998 Jeep Wrangler multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1998 Jeep Wrangler

manufactured for the European and other foreign markets 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 March 23, 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 am to 5 pm].

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**.

Wallace Environmental Testing Laboratories, Inc., of Houston, Texas ("Wallace") (Registered Importer 90-005) has petitioned NHTSA to decide whether 1998 Jeep Wrangler MPVs manufactured for the European and other foreign markets are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1998 Jeep Wrangler that was manufactured for sale in the United States and certified by its manufacturer, Chrysler Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1998 Jeep Wrangler 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.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1998 Jeep Wrangler, 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 1998 Jeep Wrangler is identical to its U.S. certified counterpart 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*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 119 *New Pneumatic Tires*, 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*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: inscription of the word "Brake" on the brake failure warning light. Petitioner states that the vehicle conforms to the standard even though it is equipped with an odometer that is calibrated in kilometers, because the

odometer is labeled to show that its reading is in kilometers.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Replacement of the headlight assemblies with U.S.-model components; (b) replacement of the taillights with units that conform to the standard; (c) installation of sidemarkers that conform to the standard; (d) installation of a high mounted stop lamp.

Standard No. 111 *Rearview Mirrors*: inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection*: installation of a warning device that activates whenever the key is left in the ignition and the driver's door is opened.

Standard No. 120 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection*: (a) installation of a seat belt warning system with a flashing light that displays the appropriate symbol; (b) installation of U.S.-model driver's and passenger's side air bags and knee bolsters if the vehicle is not already so equipped. The petitioner states that the vehicle is equipped with Type 2 seat belts in the front and rear outboard designated seating positions and that there are no center seating positions in the vehicle.

Standard No. 301 *Fuel System Integrity*: installation of a rollover valve assembly.

Additionally, the petitioner states that a vehicle identification number 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. 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 February 16, 2000.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.
[FR Doc. 00-4095 Filed 2-18-00; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Section 5a Application No. 1 (Sub-No. 10)]

Household Goods Carriers Bureau Committee—Agreement

AGENCY: Surface Transportation Board, DOT.

ACTION: Request for comments.

SUMMARY: The Surface Transportation Board published a document in the **Federal Register** of February 11, 2000, concerning the reply due date. This document contained an incorrect date.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1600.

Correction

In the **Federal Register** February 11, 2000, in Section 5a Application No. 1 (Sub-No. 10), on page 7098, in the third column, correct the "Dates" to read:

DATE: Comments are due by March 27, 2000; replies are due April 26, 2000.

Dated: February 16, 2000.

Vernon A. Williams,

Secretary.

[FR Doc. 00-4100 Filed 2-18-00; 8:45 am]

BILLING CODE 4915-00-M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-534 (Sub-No. 2X)]

Lake State Railway Company—Abandonment Exemption—in Alpena and Presque Isle Counties, MI

On February 2, 2000, Lake State Railway Company (Lake State) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon: (1) a portion of its main line Huron Subdivision extending from the U.S. Highway 23 crossing in Alpena (milepost 125.2) northward to the end of the main line just north of Metz, MI (milepost 151.25); and (2) its entire Rogers City Branch, which extends northward from Lake State's main line at Posen, MI (milepost 141.8), to Rogers City, MI, where it ends at RCB milepost 11.5, a total distance of 37.55 miles in Alpena and Presque Isle Counties, MI. The line segments traverse

U.S. Postal Zip Codes 49707, 49776, and 49779, and include the stations of Posen (milepost 140), Larocque (milepost 150), and Calcite (milepost 10.9).

The line does not contain federally granted rights-of-way. Any documentation in Lake State's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 22, 2000.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the filing fee, which currently is set at \$1,000. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 13, 2000. Each trail use request must be accompanied by a \$150 filing fee. *See* 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to STB Docket No. AB-534 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Andrew B. Kolesar III, 1224 Seventeenth Street, N.W., Washington, DC 20036. Replies to the Lake State petition are due on or before March 13, 2000.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings

normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: February 14, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 00-3941 Filed 2-18-00; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Submission for OMB review; comment request.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that has been extended, revised, or implemented unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comments concerning an extension, without change, of an information collection titled (MA)—Securities Exchange Act Disclosure Rules (12 CFR 11). The OCC also gives notice that it has sent the information collection to OMB for review.

DATES: You should submit your written comments to both OCC and the OMB Reviewer by March 23, 2000.

ADDRESSES: You should send your written comments to the Communications Division, Attention: 1557-0106, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, you can send comments by facsimile transmission to (202) 874-5274, or by electronic mail to regs.comments@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: You may request additional information, a

copy of the collection, or a copy of the supporting documentation submitted to OMB by contacting Jessie Dunaway or Camille Dixon, (202) 874-5090, Legislative and Regulatory Activities Division (1557-0106), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: (MA)—Securities Exchange Act Disclosure Rules (12 CFR 11).

OMB Number: 1557-0106.

Form Numbers: SEC Forms 3, 4, 5, 8-K, 10, 10-K, 10-Q, Schedules 13D, 13G, 14A, 14B, and 14C.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

This information collection covers the OCC's Securities Exchange Act Disclosure Rules (12 CFR Part 11) which require national banks to make public disclosures and file with the OCC certain Securities Exchange Commission forms. Publicly-owned national banks must make disclosures and filings to comply with applicable banking and securities law and regulatory requirements. The OCC reviews the information to ensure that it complies with Federal law and makes public all information required to be filed. Investors, depositors, and the public use the information to make informed investment decisions.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit; Individuals or households.

Estimated Number of Respondents: 97.

Estimated Total Annual Responses: 568.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 4,986 burden hours.

OCC Contact: Jessie Dunaway or Camille Dixon, (202) 874-5090, Legislative and Regulatory Activities Division, OMB No. 1557-0106, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

OMB Reviewer: Alexander Hunt, (202) 395-7340, Paperwork Reduction Project 1557-0106, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Comments

Your comment will become a matter of public record. You are invited to comment on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) Whether the OCC's burden estimate is accurate;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Whether the OCC's estimates of the capital or startup costs and costs of operation, maintenance, and purchase of services to provide information are accurate.

Dated: February 11, 2000.

Mark J. Tenhundfeld,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 00-4055 Filed 2-18-00; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service**

[FI-46-93]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI-46-93 (TD 8555), Hedging Transactions (§ 1.1221-2).

DATES: Written comments should be received on or before April 24, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622-6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Hedging Transactions.

OMB Number: 1545-1403.

Regulation Project Number: FI-46-93.

Abstract: This regulation clarifies the character of gain or loss from the sale or exchange of property that is part of a business hedge. A taxpayer must identify the hedging transaction on its books and records before the close of the day on which the taxpayer enters into it and must also identify the item, items, or aggregate risk being hedged. The information will be used to verify that a taxpayer is properly reporting its business hedging transactions.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time Per Respondent: 52 minutes.

Estimated Total Annual Burden Hours: 95,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval.

All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4032 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY**Internal Revenue Service**

[INTL-372-88; INTL-401-88]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulations, INTL-372-88 (TD 8632), Section 482 Cost Sharing Regulations (§ 1.482-7); INTL-401-88 (TD 8552), Intercompany Transfer Pricing Regulations Under Section 482 (§§ 1.482-1, 1.482-4).

DATES: Written comments should be received on or before April 24, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of these regulations should be directed to Faye Bruce, (202) 622-6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: (INTL-372-88) Section 482 Cost Sharing Regulations; (INTL-401-88) Intercompany Transfer Pricing Regulations Under Section 482.

OMB Number: 1545-1364.

Regulation Project Number: INTL-372-88; INTL-401-88.

Abstract: The information collections in INTL-372-88 are necessary to

determine whether an entity is an eligible participant of a qualified cost sharing arrangement and whether each eligible participant is sharing the costs and benefits of intangible development on an arm's length basis. INTL-401-88 relates to the pricing of transfers of tangible property, intangible property, or services between related parties to ensure that taxpayers clearly reflect income and to prevent the avoidance of taxes with respect to such transactions.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 7 hrs., 51 minutes.

Estimated Total Annual Burden Hours: 7,850 hours.

The following paragraph applies to all of the collections of information covered by this notice:

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

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 11, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4033 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI-34-91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI-34-91 (TD 8396), Conclusive Presumption of Worthlessness of Debts Held by Banks (Section 1.166-2).

DATES: Written comments should be received on or before April 24, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Conclusive Presumption of Worthlessness of Debts Held by Banks.
OMB Number: 1545-1254.

Regulation Project Number: FI-34-91.
Abstract: Section 1.166-2(d)(3) of this regulation allows a bank to elect to determine the worthlessness of debts by using a method of accounting that conforms worthlessness for tax purposes to worthlessness for regulatory purposes, and establish a conclusive presumption of worthlessness. An election under this regulation is treated as a change in accounting method.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4034 Filed 2-22-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS-92-90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS-92-90 (TD 8395), Special Valuation Rules (Sections 25.2701-2, 25.2701-4, and 301.6501(c)-1).

DATES: Written comments should be received on or before April 24, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Special Valuation Rules.

OMB Number: 1545-1241.

Regulation Project Number: PS-92-90.

Abstract: Section 2701 of the Internal Revenue Code allows various elections by family members who make gifts of common stock or partnership interests and retain senior interests in the same entity. This regulation provides guidance on how taxpayers make these elections, what information is required, and how the transfer is to be disclosed on the gift tax return (Form 709).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 496.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4035 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97-19

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97-19, Timely Mailing Treated as Timely Filing.

DATES: Written comments should be received on or before April 24, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the revenue procedure should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Timely Mailing Treated as Timely Filing.

OMB Number: 1545-1535.

Revenue Procedure Number: Revenue Procedure 97-19.

Abstract: Revenue Procedure 97-19 provides the criteria that will be used by the Internal Revenue Service to determine whether a private delivery service qualifies as a designated private delivery service under section 7502 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5.

Estimated Time Per Respondent: 613 hours, 48 minutes.

Estimated Total Annual Burden

Hours: 3,069.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 11, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4036 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1096

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1096, Annual Summary and Transmittal of U.S. Information Returns.

DATES: Written comments should be received on or before April 24, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622-6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Summary and Transmittal of U.S. Information Returns.

OMB Number: 1545-0108.

Form Number: 1096.

Abstract: Form 1096 is used to transmit information returns (Forms 1099, 1098, 5498, and W-2G) to the IRS service centers. Under Internal Revenue Code section 6041 and related regulations, a separate Form 1096 is used for each type of return sent to the service center by the payer. It is used by IRS to summarize, categorize, and process the forms being filed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions,

farms, Federal government, and State, local or tribal governments.

Estimated Number of Responses: 4,420,919.

Estimated Time Per Response: 10 min.

Estimated Total Annual Burden

Hours: 751,557.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4037 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO-62-89]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO-62-89 (TD 8407), Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards (Section 1.382-3).

DATES: Written comments should be received on or before April 24, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards.

OMB Number: 1545-1260.

Regulation Project Number: CO-62-89 (final).

Abstract: Internal Revenue Code section 382(l)(5) provides relief from the application of the section 382 limitation for bankruptcy reorganizations in which the pre-change shareholders and qualified creditors maintain a substantial continuing interest in the loss corporation. These regulations concern the election a taxpayer may make to treat as the change date the effective date of a plan of reorganization in a title 11 or similar case rather than the confirmation date of a plan.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden

Hours: 1.
The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4038 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO-30-92]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO-30-92 (TD 8560), Consolidated Returns—Stock

Basis and Excess Loss Accounts, Earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss, Nonapplicability of Section 357(c), (§§ 1.1502-31, 1.1502-32, 1.1502-33, 1.1502-76).

DATES: Written comments should be received on or before April 24, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622-6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Consolidated Returns—Stock Basis and Excess Loss Accounts, Earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss, Nonapplicability of Section 357(c).

OMB Number: 1545-1344.

Regulation Project Number: CO-30-92.

Abstract: These regulations amend the consolidated return investment adjustment system, including the rules for earnings and profits and excess loss accounts. In addition, the regulations provide special rules for allocating consolidated income tax liability among members and modify the method for allocating income when a corporation enters or leaves a consolidated group.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 52,049.

Estimated Time Per Respondent: 22 minutes.

Estimated Total Annual Burden Hours: 18,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4039 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL-21-91]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing temporary and final regulation, INTL-21-91 (TD 8656), Section 6662—Imposition of the Accuracy-Related Penalty (§ 1.6662-6).

DATES: Written comments should be received on or before April 24, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622-6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Section 6662—Imposition of the Accuracy-Related Penalty.

OMB Number: 1545-1426.

Regulation Project Number: INTL-21-91.

Abstract: These regulations provide guidance on the accuracy-related penalty imposed on underpayments of tax caused by substantial and gross valuation misstatements as defined in Internal Revenue Code sections 6662(e) and 6662(h). Under section 1.6662-6(d) of the regulations, an amount is excluded from the penalty if certain requirements are met and a taxpayer maintains documentation of how a transfer price was determined for a transaction subject to Code section 482.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 8 hours, 3 minutes.

Estimated Total Annual Burden Hours: 20,125.

The following paragraph applies to all of the collections of information covered by this notice:

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

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-4040 Filed 2-18-00; 8:45 am]

BILLING CODE 4830-01-P

Corrections

Federal Register

Vol. 65, No. 33

Tuesday, February 22, 2000

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. ER99-4392-000]

Southwest Power Pool, Inc.; Notice of Settlement Conference

Correction

In notice document 00-1691 appearing on page 3953 in the issue of Tuesday, January 25, 2000, the docket number should read as set forth above.

[FR Doc. C0-1691 Filed 2-18-00; 8:45 am]

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6513-4]

RIN 2060-AE36

National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production

Correction

In rule document 00-1 beginning on page 3275 in the issue of January 20, 2000, make the following corrections:

1. On page 3279, in Table 1, in the first column, under the heading "Emission point", the phrase "OR alternative standard of venting to a control device continuously achieving a 50 ppmv outlet organic HAPS concentration or 20 ppmv outlet organic HAPS concentration for combustion devices." should be removed. The phrase is correctly located in the third column under the heading "Standard".

§63.1413 [Corrected]

2. On page 3308, in the first column, after line 6 of paragraph(e)(2)(i)(C) at the bottom of the column, insert the following equation:

$$ER = \frac{\sum_{i=1}^n E_i}{RP_M} \quad [\text{Eq. 2}]$$

[FR Doc. C0-1 Filed 2-18-00; 8:45 am]

BILLING CODE 1505-01-D

FEDERAL TRADE COMMISSION

[File No. 992 3228]

DBC Financial, Inc., et al.; Analysis To Aid Public Comment

Correction

In notice document 00-3236 beginning on page 7017 in the issue of Friday, February 11, 2000, make the following corrections:

1. On page 7017, in the third column, six lines from the bottom, "DATE:" should read "DATES: Comments must be received on or before March 6, 2000."

2. On the same page, in the same column, the line beneath "DATES" should read "ADDRESSES: Comments should be directed to FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580."

[FR Doc. C0-3236 Filed 2-18-00; 8:45 am]

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42325; File No. SR-NASD-99-60]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers Inc. Relating to Trading in Hot Equity Offerings

Correction

In notice document 00-995, beginning on page 2656, in the issue of Tuesday,

January 18, 2000, make the following corrections:

1. On page 2656, in the third column, in the 18th line, "Withholding" should read "Withholding"]".

2. On the same page, in the same column, in paragraph (a)(2), in the last line, "The receipt of a management or performance based fee for operating a collective investment account shall not be considered a beneficial interest in the account" should be added after "interest."

3. On page 2657, in the second column, in paragraph (b)(1), in the seventh line, "expect" should read "except".

4. On the same page, in the third column, in the first paragraph under paragraph "(e) General Exemptions", in the second line, "with a member" should be removed.

5. On page 2658, in the first column, in the fourth line, "this" should read "the".

6. On the same page, in the same column, in paragraph (f)(2), in the second line, "not" should be added after "shall".

7. On the same page, in the second column, in paragraph (e)(1), in the fifth line "through" should read "though".

8. On the same page, in the same column, in paragraph (d)(1), in the first line, "2520" should be added after "2450".

9. On the same page, in the same column, in paragraph (a), in the second line, "Rules" should read "Rule".

[FR Doc. C0-995 Filed 2-18-00; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Tuesday,
February 22, 2000**

Part II

Department of the Treasury

**Officer of the Comptroller of the
Currency
Office of Thrift Supervision
12 CFR Parts 40 and 573**

Federal Reserve System

**12 CFR Part 216
Federal Deposit
Insurance
Corporation**

**12 CFR Part 332
Privacy of Consumer Financial
Information; Proposed Rule**

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 40**

[Docket No. 00-05]

RIN 1557-AB77

FEDERAL RESERVE SYSTEM**12 CFR Part 216**

[Docket No. R-1058]

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 332**

RIN 3064-AC32

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Part 573**

[Docket No. 2000-13]

RIN 1550-AB36

Privacy of Consumer Financial Information

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, (collectively, the Agencies) are requesting comment on proposed privacy rules published pursuant to section 504 of the Gramm-Leach-Bliley Act (the G-L-B Act or Act). Section 504 authorizes the Agencies to issue regulations as may be necessary to implement notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties. Pursuant to section 503 of the G-L-B Act, a financial institution must provide its customers with a notice of its privacy policies and practices. Section 502 prohibits a financial institution from disclosing nonpublic personal information about a consumer to nonaffiliated third parties unless the institution satisfies various disclosure and opt-out requirements and the consumer has not elected to opt out

of the disclosure. These proposed rules implement the requirements outlined above.

DATES: Comments must be received by March 31, 2000.

ADDRESSES: Comments should be directed to: *Office of the Comptroller of the Currency (OCC):* Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219, Attention: Docket No. 00-05; FAX number (202) 874-5274 or Internet address: regs.comments@occ.treas.gov. Comments may be inspected and photocopied at the same location.

Board of Governors of the Federal Reserve System (Board): Comments, which should refer to Docket No. R-1058, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP-500 between 9 a.m. and 5 p.m., pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding the Availability of Information, 12 CFR 261.12 and 261.14.

Federal Deposit Insurance Corporation (FDIC): Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m. (Fax number (202) 898-3838). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.

Comments may be submitted to the FDIC electronically over the Internet at www.fdic.gov. Further information concerning this option may be found below at "FDIC's New Electronic Public Comment Site." Comments also may be mailed electronically to comments@fdic.gov.

Office of Thrift Supervision (OTS): Send comments to Manager,

Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2000-13. Hand deliver comments to Public Reference Room, 1700 G Street, NW., lower level, from 9:00 A.M. to 5:00 P.M. on business days. Send facsimile transmissions to FAX Number (202) 906-7755 or (202) 906-6956 (if the comment is over 25 pages). Send e-mails to public.info@ots.treas.gov and include your name and telephone number. Interested persons may inspect comments at 1700 G Street, NW., from 9 a.m. until 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:*OCC*

Amy Friend, Assistant Chief Counsel (202) 874-5200

Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division (202) 874-5090

Michael Bylsma, Director, Community and Consumer Law (202) 874-5750

Steve Van Meter, Senior Attorney, Community and Consumer Law (202) 874-5750

Karen Furst, Policy Analyst, Economic and Policy Analysis (202) 874-4509

Paul Utterback, National Bank Examiner, Bank Supervision Policy (202) 874-5461, or

Jeffery Abrahamson, Attorney, Legislative and Regulatory Activities Division (202) 874-5090

Board

Oliver I. Ireland, Associate General Counsel (202) 452-3625

Stephanie Martin, Managing Senior Counsel (202) 452-3198, or Thomas Scanlon, Attorney (202) 452-3594, Legal Division, or Adrienne D. Hurt, Assistant Director (202) 452-2412

Jane J. Gell, Managing Counsel (202) 452-3667, or

James H. Mann, Attorney (202) 452-2412, Division of Consumer and Community Affairs.

For the hearing impaired only, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC

Deanna Caldwell, Community Affairs Officer, Division of Compliance and Consumer Affairs, (202) 736-0141

James K. Baebel, Senior Review Examiner, Division of Compliance and Consumer Affairs, (202) 736-0229

Robert A. Patrick, Counsel, Regulations and Legislation Section, (202) 898-3757

Marc J. Goldstrom, Counsel, Regulations and Legislation Section, (202) 898-8807

Marilyn E. Anderson, Senior Counsel, Regulations and Legislation Section, (202) 898-3522

Nancy Schucker Recchia, Counsel, Regulations and Legislation Section, (202) 898-8885.

OTS

Christine Harrington, Counsel (Banking and Finance), (202) 906-7957

Paul Robin, Assistant Chief Counsel, (202) 906-6648, Regulations and Legislation Division; or

Cindy Baltierra, Program Analyst, Compliance Policy (202) 906-6540, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

- I. Background
- II. Section-by-Section Analysis
- III. FDIC's New Electronic Public Comment Site
- IV. Regulatory Analysis
 - A. Paperwork Reduction Act
 - B. Regulatory Flexibility Act
 - C. Executive Order 12866
 - D. Unfunded Mandates Act of 1995
- V. Solicitation of Comments on Use of "Plain Language"

I. Background

On November 12, 1999, President Clinton signed the G-L-B Act (Pub. L. 106-102, codified at 15 U.S.C. 6801 *et seq.*) into law. Subtitle A of Title V of the Act, captioned Disclosure of Nonpublic Personal Information, limits the instances in which a financial institution may disclose nonpublic personal information about a consumer to nonaffiliated third parties, and requires a financial institution to disclose to all of its customers the institution's privacy policies and practices with respect to information sharing with both affiliates and nonaffiliated third parties. Title V also requires the Agencies, the Secretary of the Treasury, the National Credit Union Administration (NCUA), the Federal Trade Commission (FTC), and the Securities and Exchange Commission (SEC), after consulting with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, to prescribe such regulations as may be necessary to carry out the purposes of the provisions in Title V that govern disclosure of nonpublic personal information.

The Agencies have prepared proposed rules to implement Subtitle A that are consistent and comparable to the extent

possible, as is required by the statute.¹ Except where noted in the discussion of the proposed definitions of "nonpublic personal information," "personally identifiable financial information," and "publicly available information," the texts of the Agencies' proposed regulations are substantively identical. The Agencies request comment on all aspects of the proposed rules as well as comment on the specific provisions and issues highlighted in the section-by-section analysis below.

II. Section-by-Section Analysis

The discussion that follows applies to each of the Agencies' proposed rules. Given that each agency will assign a different part to its privacy rule, the citations are to sections only, leaving citations to part numbers blank.

§ __.1 Purpose and Scope

Proposed paragraph (a) of this section identifies three purposes of the rules. First, the rules require a financial institution to provide notice to consumers about the institution's privacy policies and practices. Second, the rules describe the conditions under which a financial institution may disclose nonpublic personal information about a consumer to a nonaffiliated third party. Third, the rules provide a method for a consumer to "opt out" of the disclosure of that information to nonaffiliated third parties, subject to the exceptions in proposed §§ __.9, __.10, and __.11, as discussed below.

Proposed paragraph (b) sets out the scope of the banking agencies' rules and tracks the scope of enforcement set out in section 505(a) of the G-L-B Act. This paragraph notes that the rules apply only to information about individuals who obtain a financial product or service from a financial institution to be used for personal, family, or household purposes.

The G-L-B Act and the proposed rules apply to domestic offices of United States banks and domestic branches and agencies of foreign banks. The Agencies request comment on whether the rules should apply to foreign financial institutions that solicit business in the United States but that do not have an office in the United States.

§ __.2 Rule of Construction

Proposed § __.2 of the rules sets out a rule of construction intended to clarify the effect of the examples used in the rules. Given the wide variety of transactions that Title V of the G-L-B

Act covers, the Agencies propose to adopt rules of general applicability and provide examples of conduct that would, and would not, comply with the rule. While the general rules are consistent among the Agencies' proposals to the extent possible, the examples used by the Federal banking agencies differ on occasion from those used by the other agencies in order to provide guidance that may be most meaningful to entities within a given agency's jurisdiction.

The examples are provided in furtherance of the Federal banking agencies' obligation under section 722 of the G-L-B Act to use "plain language" in all proposed and final rules published after January 1, 2000. These examples are not intended to be exhaustive; rather, they are intended to provide guidance about how the rules would apply in specific situations. The Agencies invite comment on whether including examples in the rule is useful and suggestions on additional or different examples that may be helpful in illustrating compliance with the rule.

§ __.3 Definitions

a. *Affiliate.* The proposed rules adopt the definition of "affiliate" that is used in section 509(6) of the G-L-B Act. An affiliation will be found when one company "controls" (which is defined in § __.3(g), below), is controlled by, or is under common control with another company. The definition includes both financial institutions and entities that are not financial institutions.

b. *Clear and conspicuous.* Title V of the G-L-B Act and the proposed rules require that various notices be "clear and conspicuous." The proposed rules define this term to mean that the notice is reasonably understandable and designed to call attention to the nature and significance of the information contained in the notice.

The proposed rules do not mandate the use of any particular technique for making the notices clear and conspicuous, but instead allow each financial institution the flexibility to decide for itself how best to comply with this requirement. Ways in which a notice may satisfy the clear and conspicuous standard would include, for instance, using a plain-language caption, in a type set easily seen, that is designed to call attention to the information contained in the notice. Other plain language principles are provided in the examples that follow the general rule.

c. *Collect.* The proposed rules define "collect" to mean obtaining any information that is organized or retrievable on a personally identifiable

¹ The NCUA, FTC, SEC, and the Treasury Department also have participated in the rulemaking process, and the NCUA, FTC, and SEC will separately issue comparable proposed rules.

basis, irrespective of the source of the underlying information. Several sections of the proposed rule (*see, e.g.*, §§ __.6 and __.7) impose obligations that arise when a financial institution collects information about a consumer. This proposed definition clarifies that these obligations arise when the information enables the user to identify a particular consumer. It also clarifies that the obligations arise regardless of whether the financial institution obtains the information from a consumer or from some other source.

d. *Company.* The proposed rules define “company,” which is used in the definition of “affiliate,” as any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

e. *Consumer.* The proposed rules define “consumer” to mean an individual who obtains, from a financial institution, financial products or services that are to be used primarily for personal, family, or household purposes. An individual also will be deemed to be a consumer for purposes of a financial institution if that institution purchases the individual’s account from some other institution. The definition also includes the legal representative of an individual.

The G–L–B Act distinguishes “consumers” from “customers” for purposes of the notice requirements imposed by the Act. As explained more fully in the discussion of proposed § __.4, below, a financial institution is required to give a “consumer” the notices required under Title V only if the institution intends to disclose nonpublic personal information about the consumer to a nonaffiliated third party for a purpose that is not authorized by one of several exceptions set out in proposed §§ __.10 and __.11. By contrast, a financial institution must give all “customers,” at the time of establishing a customer relationship and annually thereafter during the continuation of the customer relationship, a notice of the institution’s privacy policy.

A person is a “consumer” under the proposed rules if he or she obtains a financial product or service from a financial institution. The definition of “financial product or service” in proposed § __.3(k), below, includes, among other things, the evaluation by a financial institution of an application that a person submits to obtain a financial product or service. Thus, a financial institution that intends to share nonpublic personal information about a consumer with nonaffiliated third parties outside of the exceptions

described in §§ __.10 and __.11 will have to give the requisite notices, even if the consumer does not enter into a customer relationship with the institution.

The examples that follow the definition of “consumer” clarify when someone is a consumer. They include situations where someone applies for a loan or provides information for the purpose of determining whether he or she prequalifies for a loan, a person providing information in connection with seeking to obtain financial advisory services, and a person who negotiates a workout of a loan. The examples also clarify the status of someone whose loan has been sold.

f. *Consumer reporting agency.* The proposed rules adopt the definition of “consumer reporting agency” that is used in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)). This term is used in proposed §§ __.11 and __.13.

g. *Control.* The proposed rules define “control” using the tests applied in section 23A of the Federal Reserve Act (12 U.S.C. 371c). This definition is used to determine when companies are affiliated (*see* discussion of proposed § __.3(a), above), and would result in financial institutions being considered as affiliates regardless of whether the control is by a company or individual.

h. *Customer.* The proposed rules define “customer” as any consumer who has a “customer relationship” with a particular financial institution. As is explained more fully in the discussion of proposed § __.4, below, a consumer becomes a customer of a financial institution at the time of entering into a continuing relationship with the institution. Thus, for instance, a consumer would become a customer at the time the consumer executes the documents needed to open a deposit account or borrow money from a financial institution.

The distinction between consumers and customers determines what notices a financial institution must provide. If a consumer never becomes a customer, the institution is not required to provide any notices to the consumer unless the institution intends to disclose nonpublic personal information about that consumer to nonaffiliated third parties outside of the exceptions as set out in §§ __.10 and __.11. By contrast, if a consumer becomes a customer, the institution must provide a copy of its privacy policy prior to the time it establishes the customer relationship and at least annually thereafter during the continuation of the customer relationship.

i. *Customer relationship.* The proposed rules define “customer

relationship” as a continuing relationship between a consumer and a financial institution whereby the institution provides a financial product or service that is to be used by the consumer primarily for personal, family, or household purposes.² Because the G–L–B Act requires annual notices of the financial institution’s privacy policies to its customers, the Agencies have interpreted the Act as requiring more than isolated transactions between a bank and a consumer to establish a customer relationship, unless it is reasonable to expect further contact about that transaction between the bank and consumer afterwards. Thus, the proposed rules define “customer relationship” as one that generally is of a continuing nature. As noted in the examples that follow the definition, this would include, for instance, maintaining a deposit, loan, trust, or investment account.

A one-time transaction may be sufficient to establish a customer relationship, depending on the nature of the transaction. The examples that follow the definition of “customer relationship” clarify, for instance, that a purchase of an insurance policy would be sufficient to establish a customer relationship because of the continuing nature of the product, whereas using an automated teller machine (ATM) at a bank at which a consumer transacts no other business, purchasing traveler’s checks or money orders, or cashing a check would not. While a person engaging in one of these latter types of transactions would be a consumer under the regulation (thereby requiring the financial institution to provide notices *if* the institution intends to disclose nonpublic personal information about the consumer to nonaffiliated third parties outside of the exceptions), the consumer would not be a customer. A consumer would not necessarily become a customer simply by repeatedly engaging in isolated transactions, such as withdrawing funds at regular intervals from an ATM owned by an institution with whom the consumer has no account.

The examples also clarify that a consumer will have a customer relationship with a financial institution that makes a loan to the consumer and then sells the loan but retains the servicing rights. In that case, the person will be a customer of both the institution that sold the loan and the institution that bought it.

² A “customer” may be defined differently for purposes of other regulations. *See, e.g.*, 12 CFR 7.4002.

j. *Financial institution.* The proposed rules define “financial institution” as any institution the business of which is engaging in activities that are financial in nature, or incidental to such financial activities, as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). The proposed rules also exempt from the definition of “financial institution” those entities specifically excluded by the G–L–B Act.

k. *Financial product or service.* The proposed rules define “financial product or service” as a product or service that a financial institution could offer as an activity that is financial in nature, or incidental to such a financial activity, under section 4(k) of the Bank Holding Company Act of 1956, as amended. An activity that is complementary to a financial activity, as described in section 4(k), is not included in the definition of “financial product or service” under this part. The proposed rules’ definition includes the financial institution’s evaluation of information collected in connection with an application by a consumer for a financial product or service even if the application ultimately is rejected or withdrawn. It also includes the distribution of information about a consumer for the purpose of assisting the consumer to obtain a financial product or service.

l. *Government regulator.* The proposed rules adopt the definition of “government regulator” that includes each of the Agencies participating in this rulemaking, the Secretary of the Treasury, the NCUA, FTC, SEC, and State insurance authorities under the circumstances identified in the definition. This term is used in the exception set out in proposed § __.11(a)(4) for disclosures to law enforcement agencies, “including government regulators.”

m. *Nonaffiliated third party.* Paragraph (1) of the proposed definition of “nonaffiliated third party” provides that the term means any person (which includes natural persons as well as corporate entities such as corporations, partnerships, trusts, and so on) except: (1) An affiliate of a financial institution, and (2) a joint employee of a financial institution and a third party. This paragraph is intended to be substantively the same as the definition used in section 509(5) of the G–L–B Act. Paragraph (2) of the proposed definition provides that “nonaffiliated third party” includes any company that is an affiliate by virtue of the direct or indirect ownership or control of the company by the financial institution or one of its affiliates in conducting merchant banking or investment banking activities

of the type described in section 4(k)(4)(H) or insurance company activities of the type described in section 4(k)(4)(I) of the Bank Holding Company Act, whether or not the financial institution is affiliated with a bank or is relying on the authority of those sections.

n. *Nonpublic personal information.* Section 509(4) of the G–L–B Act defines “nonpublic personal information” to mean “personally identifiable financial information” (which term is not defined in the Act) that is provided by a consumer to a financial institution, results from any transaction with the consumer or any service performed for the consumer, or is otherwise obtained by the financial institution. Any list, description, or other grouping of consumers—and “publicly available information” (which also is undefined in the G–L–B Act) pertaining to them—that is derived using any nonpublic personal information other than publicly available information also is included in the definition of “nonpublic personal information.”

The proposed rules implement this provision of the G–L–B Act by restating, in paragraph (1) of proposed § __.3(n), the categories of information described above. However, the proposed rules present two alternatives concerning the treatment, for purposes of the definition of “nonpublic personal information,” of information that can be obtained from sources available to the general public. The alternatives are based on differences in the definitions of “personally identifiable financial information” and “publicly available information” which, when read together, result in more information being treated as “nonpublic personal information” under Alternative A than would be the case under Alternative B.

Alternative A excludes publicly available information from the scope of “nonpublic personal information” only in two circumstances. The first is when the information is part of a list, description, or other grouping of consumers that is derived without using personally identifiable financial information. The second is when information, not provided by a consumer and not resulting from a transaction with the consumer, is otherwise obtained by a financial institution in connection with providing a financial product or service to the consumer. However, in order for the information to be considered “publicly available” under Alternative A, the information must be obtained from government records, widely distributed media, or government-mandated disclosures. The fact that the

information is available from those sources is immaterial if the financial institution does not actually obtain the information from one of them.

Alternative B³ similarly excludes publicly available information from the scope of “nonpublic personal information” when the information is part of a list, description, or other grouping of consumers that is derived without using personally identifiable financial information. However, Alternative B also excludes any other publicly available information, unless the information is part of a list, description, or other grouping of consumers that is derived using personally identifiable financial information. Under Alternative B, information need only be available from a public source for it to be considered “publicly available.” If the information is lawfully available to the general public, then it will be publicly available and excluded from the scope of “nonpublic personal information” regardless of whether the institution obtains it from a publicly available source (unless, as previously noted, it is part of a list of consumers that is derived using personally identifiable information). As a result of this approach, the fact that information has been given to a financial institution by a consumer does not automatically extend to that information the protections afforded to nonpublic personal information.

The two alternatives will produce the same results in many instances. Under Alternative A, a person’s name, address, and other information that typically is thought of as publicly available is treated as *nonpublic* if that information is provided by the person to a bank in connection with obtaining a financial product or service. Thus, a bank would be unable to disclose such information under Alternative A to a nonaffiliated third party unless the bank complies with the notice and opt out requirements discussed below. Under Alternative B, if the person’s name and address were available from public sources, they would be *publicly available* information. However, even under Alternative B, the bank would have to comply with the notice and opt out requirements before sharing that information with nonaffiliated third parties if the information was included on a customer list.

The two alternatives will produce different results, however, in the situation where a bank wants to disclose the name, address, or other information

³ The Board’s proposed rule sets out Alternative B only.

available to the general public about an individual. In that situation, Alternative A would require compliance with the notice and opt out requirements. Alternative B would not, because the information would not be part of a list, description, or other grouping of consumers. The Agencies invite comment on both alternatives.

The Agencies also specifically invite comment on whether either definition of "nonpublic personal information" would cover information about a consumer that contains no indicators of a consumer's identity. For instance, if a mortgage lender provided information about its mortgage loans (such as loan-to-value ratios, interest rates, census tracts of mortgaged property, payment history, credit scores, and income) to a nonaffiliated third party for the purpose of preparing market studies, would the lender, without notice or opt out to the consumer, be permitted to do so if the information contains no personal identifiers?

o. Personally identifiable financial information. As discussed above, the G-L-B Act defines "nonpublic personal information" to include, among other things, "personally identifiable financial information" but does not define the latter term.

As a general matter, the proposed rules treat any personally identifiable information as financial if it is obtained by a financial institution in connection with providing a financial product or service to a consumer. The Agencies believe that this approach reasonably interprets the word "financial" and creates a workable and clear standard for distinguishing information that is financial from other personal information. The Agencies recognize that this interpretation may result in certain information being covered by the rules that may not be considered intrinsically financial, such as health status, and specifically invite comment on the proposed definition of "personally identifiable financial information."

The proposed rules define "personally identifiable financial information" to include three categories of information. While these three categories are for the most part identical in both alternatives (see discussion of category 3, below, concerning a difference between the categories), the differences in how Alternatives A and B treat publicly available information result in different applications of what personally identifiable financial information is included within the definition of "nonpublic personal information."

The first category of information considered to be "personally identifiable financial information" is any information that a consumer provides a financial institution in order to obtain a financial product or service. As noted in the examples that follow the definition, this would include information provided on an application to obtain a loan, credit card, or other financial product or service. If, for instance, medical information is provided on an application to obtain a financial product or service (such as would be the case if a consumer applies for a life insurance policy), that information would be considered "personally identifiable financial information" for purposes of the proposed rules.

The second category of information covered by the proposed definition of "personally identifiable financial information" includes any information resulting from any transaction between the consumer and the financial institution involving a financial product or service. This would include, as noted in the examples following the definition, account balance information, payment or overdraft history, and credit or debit card purchase information.

The third category includes any financial information about a consumer otherwise obtained by the financial institution in connection with providing a financial product or service to the consumer. This would include, for example, information obtained from a consumer report or from an outside source to verify information a consumer provides on an application to obtain a financial product or service. There is a difference in the statement of the third category between Alternatives A and B. Alternative A expressly excludes from this category publicly available information, while Alternative B does not. However, given the definitions of "nonpublic personal information" and "publicly available information" in Alternative B, the result is that any of the three categories of personally identifiable information in Alternative B will exclude publicly available information from the personally identifiable financial information that is considered "nonpublic personal information."

The examples clarify that the definition of "personally identifiable financial information" does not include a list of names and addresses of people who are customers of an entity that is not a financial institution. Thus, the names and addresses of people who subscribe, for instance, to a particular magazine fall outside the definition. If, however, a financial institution includes

those names and addresses as part of a list of the institution's customers, then the names and addresses become nonpublic personal information.

The Agencies note that there are other laws that may impose limitations on disclosures of nonpublic personal information in addition to those imposed by the G-L-B Act and these proposed rules. For instance, the Fair Credit Reporting Act imposes conditions on the sharing of application information between affiliates and nonaffiliated third parties. The recently proposed Department of Health and Human Services regulations⁴ that implement the Health Insurance Portability and Accountability Act of 1996 would, if adopted in final form, limit the circumstances under which medical information may be disclosed. There may be State laws that affect a financial institution's ability to disclose information. Thus, financial institutions will need to monitor and comply with applicable legislative and regulatory developments that affect the disclosure of consumer information.

The Agencies seek comment on whether further definition of "personally identifiable financial information" would be helpful.

p. Publicly available information. The proposed rules contain two versions of the definition of "publicly available information." For the most part, the definitions are identical, and differ only in that Alternative A does not treat information as publicly available unless it is obtained from one of the public sources listed in the proposed rules. Alternative B, by contrast, treats information as publicly available if it *could* be obtained from one of the public sources listed in the rules, even if it was obtained from a source not listed in the definition. The Agencies invite comments on which alternative is more appropriate.

The remaining parts of the two alternative versions are identical. Thus, under either alternative, the definition of "publicly available information" includes information from official public records, such as real estate recordations or security interest filings. It also includes information from widely distributed media (such as a telephone book, television or radio program, or newspaper) and information that is required to be disclosed to the general public by Federal, State, or local law (such as securities disclosure documents). The proposed rules state that information obtained over the Internet will be considered publicly available information if the information

⁴ 64 FR 59918 (Nov. 3, 1999).

is obtainable from a site available to the general public without requiring a password or similar restriction. The Agencies invite comment on what information is appropriately considered publicly available, particularly in the context of information available over the Internet.

q. *You*. For those Agencies that use the pronoun “you” to refer to entities within their primary jurisdiction,⁵ the definition of this term will vary with each of the Agencies’ regulations based upon the financial institutions under their jurisdictions.

§ __.4 Initial Notice to Consumers of Privacy Policies and Practices Required

Initial notice required. The G–L–B Act requires a financial institution to provide an initial notice of its privacy policies and practices in two circumstances. For customers, the notice must be provided at the time of establishing a customer relationship. For consumers who do not become customers, the notice must be provided prior to disclosing nonpublic personal information about the consumer to a nonaffiliated third party.

Paragraph (a) of proposed § __.4 states the general rule regarding these notices. Pursuant to that paragraph, a financial institution must provide a clear and conspicuous notice (*i.e.*, a notice that is reasonably understandable and designed to call attention to the nature and significance of the information it provides) that accurately reflects the institution’s privacy policies and practices. Thus, a financial institution may not fail to maintain the protections that it represents in the notice that it will provide. The Agencies expect that financial institutions will take appropriate measures to adhere to their stated privacy policies and practices.

The proposed rules do not prohibit affiliated institutions from using a common initial, annual, or opt out notice, so long as the notice is delivered in accordance with the rule and is accurate for all recipients. Similarly, the rules do not prohibit an institution from establishing different privacy policies and practices for different categories of consumers, customers, or products, so long as each particular consumer or customer receives a notice that is accurate with respect to him or her.

Notice to customers. The proposed rules require that a financial institution provide an individual a privacy notice prior to the time that it establishes a customer relationship. Thus, the notices may be provided at the same time a

financial institution is required to give other notices, such as those required by the Board’s regulations implementing the Truth in Lending Act (12 CFR 226.6). This approach is intended to strike a balance between: (1) Ensuring that consumers will receive privacy notices at a meaningful point along the continuum of “establishing a customer relationship”; and (2) minimizing unnecessary burdens on financial institutions that may result if a financial institution is required to provide a consumer with a series of notices at different times in a transaction. Nothing in the proposed rules is intended to discourage a financial institution from providing an individual with a privacy notice at an earlier point in the relationship if the institution wishes to do so in order to make it easier for the individual to compare its privacy policies and practices with those of other institutions in advance of conducting transactions.

Paragraph (c) of proposed § __.4 identifies the time a customer relationship is established as the point at which a financial institution and a consumer enter into a continuing relationship. The examples that are provided after the statement of the general rule inform the reader that, for customer relationships that are contractual in nature (including, for instance, deposit accounts, loans, or purchases of a nondeposit product), a customer relationship is established upon the execution by the consumer of the contract that is necessary to conduct the transaction in question. In the case of a credit card account, the customer relationship is established when the consumer opens the account. A consumer opens a credit card account when he or she becomes obligated on the account, such as when he or she makes the first purchase, receives the first advance, or becomes obligated for any fee or charges under the account other than an application fee or refundable membership fee. For transactions that may not involve a contract (including, for instance, providing investment advisory services), a customer relationship will be established if the consumer pays or agrees to pay a fee or commission for the service.

Notice to consumers. For consumers who do not establish a customer relationship, the initial notice may be provided at any point before the financial institution discloses nonpublic personal information to nonaffiliated third parties. As provided in paragraph (b) of the proposed rule, if the institution does not intend to disclose the information in question or intends

to make only those disclosures that are authorized by one of the exceptions set out in §§ __.10 and __.11 of the proposed rule, it is not required to provide the initial notice.

How to provide notice. Paragraph (d) of proposed § __.4 sets out the rules governing how financial institutions must provide the initial notices. The general rule requires that the initial notice be provided so that each recipient can reasonably be expected to receive actual notice. The Agencies invite comment on who should receive a notice in situations where there is more than one party to an account.

The notice may be delivered in writing or, if the consumer agrees, electronically. Oral notices alone are insufficient. In the case of customers, the notice must be given in a way so that the customer may either retain it or access it at a later time. This requirement that the notice be given in a manner permitting access at a later time does not preclude a financial institution from changing its privacy policy. See proposed § __.8(c), below. Rather, the rules are intended only to require that a customer be able to access the most recently adopted privacy policy.

Examples of acceptable ways the notice may be delivered include hand-delivering a copy of the notice, mailing a copy to the consumer’s last known address, or sending it via electronic mail to a consumer who obtains a financial product or service from the institution electronically. It would not be sufficient to provide only a posted copy of the notice in a lobby. Similarly, it would not be sufficient to provide the initial notice only on a Web page, unless the consumer is required to access that page to obtain the product or service in question. Electronic delivery generally should be in the form of electronic mail so as to ensure that a consumer actually receives the notice. In those circumstances where a consumer is in the process of conducting a transaction over the Internet, electronic delivery also may include posting the notice on a Web page as described above. If a financial institution and consumer orally agree to enter into a contract for a financial product or service over the telephone, the institution may provide the consumer with the option of receiving the initial notice after providing the product or service so as not to delay the transaction. The Agencies invite comment on the regulatory burden of providing the initial notices and on the methods financial institutions anticipate using to provide the notices.

⁵ The OCC has used the term “bank” instead of “you” in its regulation.

The Agencies recognize that in some circumstances a customer does not have a choice as to the institution with which he or she has a customer relationship, such as when an institution purchases the customer's loan in the secondary market. In these situations, it may not be practicable for the institution to provide a notice prior to establishing the customer relationship. The proposed rules provide that if a financial institution purchases a loan or assumes a deposit liability from another financial institution or in the secondary market and the customer does not have a choice about the purchase or assumption, the acquiring financial institution may provide the initial notice within a reasonable time thereafter. The Agencies invite comment on whether there are other similar situations for which an exception is necessary.

The Agencies also recognize that certain consumers may have requested that a financial institution not send statements, notices, or other communications to them, such as in certain private banking relationships. The Agencies request comment on whether and how the rules should address these situations with respect to the notices required by these rules. The Agencies also request comment on whether there are other situations where providing notice by mail is impracticable.

§ __.5 Annual Notice to Customers Required

Section 503 of the G–L–B Act requires a financial institution to provide notices of its privacy policies and practices at least annually to its customers. The proposed rules implement this requirement by requiring a clear and conspicuous notice that accurately reflects the privacy policies and practices then in effect to be provided at least once during any period of twelve consecutive months. The rules governing how to provide an initial notice also apply to annual notices.

Section 503(a) of the G–L–B Act requires that the annual notices be provided “during the continuation” of a customer relationship. To implement this requirement, the proposed rules state that a financial institution is not required to provide annual notices to a customer with whom it no longer has a continuing relationship. The examples that follow this general rule provide guidance on when there no longer is a continuing relationship for purposes of the rules. These include, for instance, deposit accounts that are treated as dormant by a financial institution, loans that are paid in full or charged off, or

assets sold without retaining servicing rights.

There will be certain customer relationships (such as obtaining investment advice from a stock broker) that do not present a clear event after which there is no longer a customer relationship. The proposed rules contain an example intended to cover these situations, stating that a relationship will no longer be deemed continuing for purposes of the proposed rules if the financial institution has not communicated with a customer, other than providing an annual privacy policy notice, for a period of 12 consecutive months.

The Agencies invite comment generally on whether the examples provided in proposed § __.5 are adequate and on whether the proposed standard deeming an account relationship to have terminated after 12 months of no communication is appropriate. The Agencies specifically request comment on whether, in the example of dormant accounts, the applicable standard should be the institution's policies or applicable State law. The Agencies also invite comment on the regulatory burden of providing the annual notices and on the methods financial institutions anticipate using to provide the notices.

§ __.6 Information To Be Included in Initial and Annual Notices of Privacy Policies and Practices

Section 503 of the G–L–B Act identifies the items of information that must be included in a financial institution's initial and annual notices. Section 503(a) of the G–L–B Act sets out the general requirement that a financial institution must provide customers with a notice describing the institution's policies and practices with respect to, among other things, disclosing nonpublic personal information to affiliates and nonaffiliated third parties. Section 503(b) of the Act identifies certain elements that must be addressed in that notice.

The required content is the same for both the initial and annual notices of privacy policies and practices. While the information contained in the notices must be accurate as of the time the notices are provided, a financial institution may prepare its notices based on current and anticipated policies and practices.

The information to be included is as follows:

1. Categories of Nonpublic Personal Information That a Financial Institution May Collect

Section 503(b)(2) requires a financial institution to inform its customers about the categories of nonpublic personal information that the institution collects. The proposed rules implement this requirement in § __.6(a)(1) and provide an example of how to comply with this requirement that focuses the notice on the source of the information collected. As noted in the example, a financial institution will satisfy this requirement if it categorizes the information according to the sources, such as application information, transaction information, and consumer report information. Financial institutions may provide more detail about the categories of information collected but are not required to do so by the proposed rules.

2. Categories of Nonpublic Personal Information That a Financial Institution May Disclose

Section 503(a)(1) of the G–L–B Act requires the financial institution's initial and annual notice to provide information about the categories of nonpublic personal information that may be disclosed either to affiliates or nonaffiliated third parties.

The proposed rules implement this requirement in proposed § __.6(a)(2). The examples of how to comply with this rule focus on the content of information to be disclosed. As stated in the relevant examples, a financial institution may satisfy this requirement by categorizing information according to source and providing illustrative examples of the content of the information. These categories might include application information (such as assets and income), identifying information (such as name, address, and social security number), transaction information (such as information about account activity, account balances, and purchases), and information from consumer reports (such as credit history).

Financial institutions are free to provide more detailed information in the initial and annual notices if they choose to do so. Conversely, if a financial institution does not disclose, and does not intend to disclose, nonpublic personal information to affiliates or nonaffiliated third parties, its initial and annual notices may simply state this fact without further elaboration about categories of information disclosed.

3. Categories of Affiliates and Nonaffiliated Third Parties to Whom a Financial Institution Discloses Nonpublic Personal Information

As previously noted, section 503(a) includes a general requirement that a financial institution provide a notice to its customers of the institution's policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties. Section 503(b) states that the notice required by section 503(a) shall include certain specified items. Among those is the requirement, set out in section 503(b)(1), that a financial institution inform its customers about its policies and practices with respect to disclosing nonpublic personal information to nonaffiliated third parties. The Agencies believe that, when read together, sections 503(a) and 503(b) of the G–L–B Act require a financial institution's notice to address disclosures of nonpublic personal information to both affiliates and nonaffiliated third parties.

The proposed rules implement this requirement in § __.6(a)(3). The example illustrating how a financial institution may comply with the rules states that a financial institution will adequately categorize the affiliates and nonaffiliated third parties to whom it discloses nonpublic personal information about consumers if it identifies the types of businesses in which they engage. Types of businesses may be described by general terms, such as financial products or services, if the financial institution provides illustrative examples of the significant lines of businesses of the recipient, such as retail banking, mortgage lending, life insurance, or securities brokerage.

The G–L–B Act does not require a financial institution to list the categories of persons to whom information may be disclosed pursuant to one of the exceptions set out in proposed §§ __.10 and __.11. The proposed rules state that a financial institution is required only to inform consumers that it makes disclosures as permitted by law to nonaffiliated third parties in addition to those described in the notice. The Agencies invite comment on whether such a notice would be adequate.

If a financial institution does not disclose, and does not intend to disclose, nonpublic personal information to affiliates or nonaffiliated third parties, its initial and annual notices may simply state this fact without further elaboration about categories of third parties.

4. Information About Former Customers

Section 503(a)(2) of the Act requires the financial institution's initial and annual privacy notices to include the institution's policies and practices with respect to disclosing nonpublic personal information of persons who have ceased to be customers of the institution. Section 503(b)(1)(B) requires that this information be provided with respect to information disclosed to nonaffiliated third parties.

The Agencies have concluded that, when read together, sections 503(a)(2) and 503(b)(1)(B) require a financial institution to include in the initial and annual notices the institution's policies and practices with respect to sharing information about former customers with all affiliates and nonaffiliated third parties. This requirement is set out in the proposed rules at § __.6(a)(4). This requirement does not require a financial institution to provide a notice and opportunity to opt out to a former customer before sharing nonpublic personal information about that former customer with an affiliate.

5. Information Disclosed to Service Providers

Section 502(b)(2) of the G–L–B Act permits a financial institution to disclose nonpublic personal information about a consumer to a nonaffiliated third party for the purpose of the third party performing services for the institution, including marketing financial products or services under a joint agreement between the financial institution and at least one other financial institution. In this case, a consumer has no right to opt out, but the financial institution must inform the consumer that it will be disclosing the information in question unless the service falls within one of the exceptions listed in section 502(e) of the Act.

The proposed rules implement these provisions, in § __.6(a)(5), by requiring that, if a financial institution discloses nonpublic personal information to a nonaffiliated third party pursuant to the exception for service providers and joint marketing, the institution is to include in the initial and annual notices a separate description of the categories of information that are disclosed and the categories of third parties providing the services. A financial institution may comply with these requirements by providing the same level of detail in the notice as is required to satisfy the requirements in proposed §§ __.6(a)(2) and (3).

6. Right to Opt Out

As previously noted, sections 503(a)(1) and 503(b)(1) of the G–L–B Act require a financial institution to provide customers with a notice of its privacy policies and practices concerning, among other things, disclosing nonpublic personal information consistent with section 502 of the Act.

The proposed rules implement this requirement, in proposed § __.6(a)(6), by requiring the initial and annual notices to explain the right to opt out of disclosures of nonpublic personal information to nonaffiliated third parties, including the methods available to exercise that right.

7. Disclosures Made Under the Fair Credit Reporting Act (FCRA)

Section 503(b)(4) of the G–L–B Act requires a financial institution's initial and annual notice to include the disclosures required, if any, under section 603(d)(2)(A)(iii) of the FCRA. Section 603(d)(2)(A)(iii) excludes from the definition of "consumer report" the communication of certain consumer information among affiliated entities if the consumer is notified about the disclosure of such information and given an opportunity to opt out of that information sharing. The information that can be shared among affiliates under this provision includes, for instance, information from consumer reports and applications for financial products or services. In general, this information represents personal information provided directly by the consumer to the institution, such as income and social security number, in addition to information contained within credit bureau reports.

The proposed rules implement section 503(b)(4) of the G–L–B Act by including the requirement that a financial institution's initial and annual notice include any disclosures a financial institution makes under section 603(d)(2)(A)(iii) of the FCRA.

8. Confidentiality, Security, and Integrity

Section 503(a)(3) of the G–L–B Act requires the initial and annual notices to provide information about a financial institution's policies and practices with respect to protecting the nonpublic personal information of consumers. Section 503(b)(3) of the Act requires the notices to include the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information, in accordance with section 501 (which requires the Agencies to establish standards governing the administrative,

technical, and physical safeguards of customer information).

The proposed rules implement these provisions by requiring a financial institution to include in the initial and annual notices the institution's policies and practices with respect to protecting the confidentiality, security, and integrity of nonpublic personal information. The relevant example in the proposed rules states that a financial institution may comply with the requirement as it concerns confidentiality and security if the institution explains matters such as who has access to the information and the circumstances under which the information may be accessed. The information about integrity should focus on the measures the institution takes to protect against reasonably anticipated threats or hazards. The proposed rules do not require a financial institution to provide technical or proprietary information about how it safeguards consumer information.

The Agencies are in the process of preparing the section 501 standards relating to administrative, technical, and physical safeguards, and anticipate having those standards in place at the time of the issuance of the final privacy rules. This will enable financial institutions to develop the initial and annual notices in light of those standards.

§ __.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.

Section 502(a) of the G-L-B Act generally prohibits a financial institution from sharing nonpublic personal information about a consumer with a nonaffiliated third party unless the institution provides the consumer with a notice of the institution's privacy policies and practices. Section 502(b) further requires that the financial institution provide the consumer with a clear and conspicuous notice that the consumer's nonpublic personal information may be disclosed to nonaffiliated third parties, that the consumer be given an opportunity to opt out of that disclosure, and that the consumer be informed of how to opt out.

Section __.7 of the proposed rules implements these provisions. Paragraph (a)(1) of § __.7 sets out the criteria that a financial institution must satisfy before disclosing nonpublic personal information to nonaffiliated third parties. As stated in the text of the proposed rules, these criteria apply to direct and indirect disclosures through an affiliate. The Agencies invite comment on how the right to opt out

should apply in the case of joint accounts. Should, for instance, a financial institution require all parties to an account to opt out before the opt out becomes effective? If not and only one of the parties opts out, should the opt out apply only to information about the party opting out or should it apply to information about all parties to the account? The Agencies also request comment on how the opt out right should apply to commingled trust accounts, where a trustee manages a single account on behalf of multiple beneficiaries.

Paragraph (a)(2) defines "opt out" in a way that incorporates the exceptions to the right to opt out stated in proposed §§ __.9, __.10, and __.11.

The proposed rules implement the requirement that a consumer be given an opportunity to opt out before information is disclosed by requiring that the opportunity be reasonable. The examples that follow the general rule provide guidance in situations involving notices that are mailed and notices that are provided in connection with isolated transactions. In the former case, a consumer will have a reasonable opportunity to opt out if the financial institution provides 30 days in which to opt out. In the latter case, an opportunity will be reasonable if the consumer must decide as part of the transaction whether to opt out before completing the transaction. The Agencies invite comment on whether 30 days is a reasonable opportunity to opt out in the case of notices sent by mail, and on whether an example in the context of transactions conducted using an electronic medium would be helpful.

The requirement that a consumer have a reasonable opportunity to opt out does not mean that a consumer forfeits that right once the opportunity lapses. The consumer always has the right to opt out (as discussed further in proposed § __.8, below). However, if an individual does not exercise that opt out right when first presented with an opportunity, the financial institution would be permitted to disclose nonpublic personal information to nonaffiliated third parties for the period of time necessary to implement the consumer's opt out direction.

Paragraph (b) of proposed § __.7 clarifies that the right to opt out applies regardless of whether a consumer has established a customer relationship with a financial institution. As noted above, all customers are consumers under the proposed rules. Thus, the fact that a consumer establishes a customer relationship with a financial institution does not change the institution's obligations to comply with the

requirements of proposed § __.7(a) before sharing nonpublic personal information about that consumer with nonaffiliated third parties. This also applies in the context of a consumer who had a customer relationship with a financial institution but then terminated that relationship. Paragraph (b) also clarifies that the consumer protections afforded by paragraph (a) of proposed § __.7 apply to all nonpublic personal information collected by a financial institution, regardless of when collected. Thus, if a consumer elects to opt out of information sharing with nonaffiliated third parties, that election applies to all nonpublic personal information about that consumer in the financial institution's possession, regardless of when the information is obtained.

Paragraph (c) of proposed § __.7 states that a financial institution may, but is not required to, provide consumers with the option of a partial opt out in addition to the opt out required by this section. This could enable a consumer to limit, for instance, the types of information disclosed to nonaffiliated third parties or the types of recipients of the nonpublic personal information about that consumer. If the partial opt out option is provided, a financial institution must state this option in a way that clearly informs the consumer about the choices available and consequences thereof.

§ __.8 Form and Method of Providing Opt Out Notice to Consumers

Paragraph (a) of proposed § __.8 requires that any opt out notice provided by a financial institution pursuant to proposed § __.7 be clear and conspicuous and accurately explain the right to opt out. The notice must inform the consumer that the institution may disclose nonpublic personal information to nonaffiliated third parties, state that the consumer has a right to opt out, and provide the consumer with a reasonable means by which to opt out.

The examples that follow the general rule state that a financial institution will adequately provide notice of the right to opt out if it identifies the categories of information that may be disclosed and the categories of nonaffiliated third parties to whom the information may be disclosed and that the consumer may opt out of those disclosures. A financial institution that plans to disclose only limited types of information or to only a specific type of nonaffiliated third party may provide a correspondingly narrow notice to consumers. However, to minimize the number of opt out notices a financial institution must provide, the institution may wish to

base its notices on current and anticipated information sharing plans. A new opt out notice is not required for disclosures to different types of nonaffiliated third parties or of different types of information, provided that the most recent opt out notice is sufficiently broad to cover the entities or information in question. Nor is a financial institution required to provide subsequent opt out notices when a consumer establishes a new type of customer relationship with that financial institution, unless the institution's opt out policies differ depending on the type of customer relationship.

The examples also suggest several ways in which a financial institution may provide reasonable means to opt out, including check-off boxes, reply forms, and electronic mail addresses. A financial institution does not provide a reasonable means to opt out if the only means provided is for a consumer to write his or her own letter to the institution to exercise the right, although an institution may honor such a letter if received.

Paragraph (b) applies the same rules to delivery of the opt out notice that apply to delivery of the initial and annual notices. In addition, paragraph (b) clarifies that the opt out notice may be provided together with, or on the same form as, the initial and annual notices. However, if the opt out notice is provided after the initial notice, a financial institution must provide a copy of the initial notice along with the opt out notice. If a financial institution and consumer orally agree to enter into a customer relationship, the institution may provide the opt out notice within a reasonable time thereafter if the consumer agrees. The Agencies invite comment on whether a more specific time by which the notice must be given would be appropriate.

Paragraph (c) sets out the rules governing a financial institution's obligations in the event the institution changes its disclosure policies. As stated in that paragraph, a financial institution may not disclose nonpublic personal information to a nonaffiliated third party unless the institution first provides a revised notice and new opportunity to opt out. The institution must wait a reasonable period of time before disclosing information according to the terms of the revised notice in order to afford the consumer a reasonable opportunity to opt out. A financial institution must provide the revised notice of its policies and practices and opt out notice to a consumer using the means permitted for providing the initial notice and opt out

notice to that consumer under § __.4(c) and § __.8(b), respectively, which require that the notices be given in a manner so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form.

Paragraph (d) states that a consumer has the right to opt out at any time. The Agencies considered whether to include a time limit by which financial institutions must effectuate a consumer's opt out election, but decided that the wide variety of practices of financial institutions made one limit inappropriate. Instead, the Agencies' rules require that disclosures stop as soon as reasonably practicable.

Paragraph (e) states that an opt out will continue until a consumer revokes it. The rules require that such revocation be in writing, or, if the consumer has agreed, electronically.

The Agencies invite comment on the likely burden of complying with the requirement to provide opt out notices, the methods financial institutions anticipate using to deliver the opt out notices, and the approximate number of opt out notices they expect to deliver and process.

§ __.9 Exception to Opt Out Requirements for Service Providers and Joint Marketing

Section 502(b) of the G-L-B Act creates an exception to the opt out rules for the disclosure of information to a nonaffiliated third party for use by the third party to perform services for, or functions on behalf of, the financial institution, including the marketing of the financial institution's own products or services or financial products or services offered pursuant to a joint agreement between two or more financial institutions. A consumer will not have the right to opt out of disclosing nonpublic personal information about the consumer to nonaffiliated third parties under these circumstances, if the financial institution satisfies certain requirements.

First, the institution must, as stated in section 502(b), "fully disclose" to the consumer that it will provide this information to the nonaffiliated third party before the information is shared. This disclosure should be provided as part of the initial notice that is required by § __.4. The Agencies invite comment on whether the proposed rules appropriately implement the "fully disclose" requirement in section 502(b)(2).

Second, the financial institution must enter into a contract with the third party that requires the third party to maintain

the confidentiality of the information. This contract should be designed to ensure that the third party: (a) Will maintain the confidentiality of the information at least to the same extent as is required for the financial institution that discloses it; and (b) will use the information solely for the purposes for which the information is disclosed or as otherwise permitted by §§ __.10 and __.11 of the proposed rules. The Agencies invite comment on the application of proposed § __.9(a)(2)(ii) in the context of financial institutions that contract with credit scoring vendors to evaluate borrower creditworthiness. Specifically, would that section prohibit the vendor from also using the consumers' information without the indicators of personal identity to help improve its scoring models?

The G-L-B Act allows the Agencies to impose requirements on the disclosure of information pursuant to the exception for service providers beyond those imposed in the statute. The Agencies have not done so in the proposed rules, but invite comment on whether additional requirements should be imposed, and, if so, what those requirements should address. The Agencies note, for instance, that joint agreements have the potential to create reputation risk and legal risk for a financial institution entering into such an agreement. The Agencies seek comment on whether the rules should require a financial institution to take steps to assure itself that the product being jointly marketed and the other participants in the joint marketing agreement do not present undue risks for the institution. These steps might include, for instance, ensuring that the financial institution's sponsorship of the product or service in question is evident from the marketing of that product or service. The Agencies also invite comments on any other requirements that would be appropriate to protect a consumer's financial privacy, and on whether the rules should provide examples of the types of joint agreements that are covered.

§ __.10 Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions

Section 502(e) of the G-L-B Act creates exceptions to the requirements that apply to the disclosure of nonpublic personal information to nonaffiliated third parties. Paragraph (1) of that section sets out certain exceptions for disclosures made, generally speaking, in connection with the administration, processing, servicing, and sale of a consumer's account.

Paragraph (a) of proposed § __.10 sets out those exceptions, making only stylistic changes to the statutory text that are intended to make the exceptions easier to read. Paragraph (b) sets out the definition of “necessary to effect, administer, or enforce” that is contained in section 509(7) of the G–L–B Act, making only stylistic changes intended to clarify the definition.

The exceptions set out in proposed § __.10, and the exceptions discussed in proposed § __.11, below, do not affect a financial institution’s obligation to provide initial notices of its privacy policies and practices prior to the time it establishes a customer relationship and annual notices thereafter. Those notices must be provided to all customers, even if the institution intends to disclose the nonpublic personal information only pursuant to the exceptions in proposed § __.10.

§ __.11 Other exceptions to notice and opt out requirements.

As noted above, section 502(e) contains several exceptions to the requirements that otherwise would apply to the disclosures of nonpublic personal information to nonaffiliated third parties. Proposed § __.11 sets out those exceptions that are not made in connection with the administration, processing, servicing, and sale of a consumer’s account, and makes stylistic changes intended to clarify the exceptions.

One of the exceptions stated in proposed § __.11 is for disclosures made with the consent or at the direction of the consumer, provided the consumer has not revoked the consent. Following the list of exceptions is an example of consent in which a financial institution that has received an application from a consumer for a mortgage loan informs a nonaffiliated insurance company that the consumer has applied for a loan so that the insurance company can contact the person about homeowner’s insurance. Consent in such a situation would enable the financial institution to make the disclosure to the third party without first providing the initial notice required by § __.4 or the opt out notice required by § __.7, but the disclosure must not exceed the purposes for which consent was given. The example also states that consent may be revoked by a consumer at any time by the consumer exercising the right to opt out of future disclosures. The Agencies invite comment on whether safeguards should be added to the exception for consent in order to minimize the potential for consumer confusion. Such safeguards might include, for instance, a requirement that consent be written,

that it be indicated on a separate signature line in a relevant document or on a distinct Web page, or that it may be effective for only a limited period of time.

§ __.12 Limits on Redisclosure and Reuse of Information

Section __.12 of the proposed rules implements the Act’s limitations on redisclosure and reuse of nonpublic personal information about consumers. Section 502(c) of the Act provides that a nonaffiliated third party that receives nonpublic personal information from a financial institution shall not, directly or indirectly through an affiliate, disclose the information to any person that is not affiliated with either the financial institution or the third party, unless the disclosure would be lawful if made directly by the financial institution. Paragraph (a)(1) sets out the Act’s redisclosure limitation as it applies to a financial institution that receives information from another nonaffiliated financial institution. Paragraph (b)(1) mirrors the provisions of paragraph (a)(1), but applies the redisclosure limits to any nonaffiliated third party that receives nonpublic personal information from a financial institution.

The Act appears to place the institution that receives the information into the shoes of the institution that disclosed the information for purposes of determining whether redisclosures by the receiving institution are “lawful.” Thus, the Act appears to permit the receiving institution to redisclose the information to: (1) An entity to whom the original transferring institution could disclose the information pursuant to one of the exceptions in §§ __.9, __.10, or __.11, or (2) an entity to whom the original transferring institution could have disclosed the information as described under its notice of privacy policies and practices, unless the consumer has exercised the right to opt out of that disclosure. Because a consumer can exercise the right to opt out of a disclosure at any time, the Act may effectively preclude third parties that receive information to which the opt out right applies from redisclosing the information, except pursuant to one of the exceptions in §§ __.9, __.10, or __.11. The Agencies invite comment on whether the rules should require a financial institution that discloses nonpublic personal information to a nonaffiliated third party to develop policies and procedures to ensure that the third party complies with the limits on redisclosure of that information.

Sections 502(b)(2) and 502(e) (as implemented by §§ __.9, __.10, and

__.11 of the proposed rules) describe when a financial institution may disclose nonpublic personal information without providing the consumer with the initial privacy notice and an opportunity to opt out, but those exceptions apply only when the information is used for the specific purposes set out in those sections. Paragraph (a)(2) of proposed § __.12 clarifies this limitation on reuse as it applies to financial institutions. Paragraph (a)(2) provides that a financial institution may use nonpublic personal information about a consumer that it receives from a nonaffiliated financial institution in accordance with an exception under §§ __.9, __.10, or __.11 only for the purpose of that exception. Paragraph (b)(2) applies the same limits on reuse to any nonaffiliated third party that receives nonpublic personal information from a financial institution. The Agencies request comment on whether proposed §§ __.12(a)(2) and __.12(b)(2) would restrict a nonaffiliated third party from using information obtained in accordance with the exceptions in §§ __.9, __.10, and __.11 for purposes beyond the scope of those exceptions if the information is not used in a personally identifiable form. This might occur, for example, in the case of a credit scoring vendor using information to improve its scoring models.

The Agencies invite comments on the meaning of the word “lawful” as that term is used in section 502(c). The Agencies specifically solicit comment on whether it would be lawful for a nonaffiliated third party to disclose information pursuant to the exception provided in proposed § __.9 of the rules. Under that exception, a financial institution must comply with certain requirements before disclosing information to a nonaffiliated third party. Given that the statute and proposed rules impose those requirements on the financial institution making the initial disclosure, the Agencies invite comment on whether subsequent disclosures by the third party could satisfy the requirement that those disclosures be lawful when the financial institution is not party to the subsequent disclosure.

§ __.13 Limits on Sharing of Account Number Information for Marketing Purposes

Section 502(d) of the G–L–B Act prohibits a financial institution from disclosing, other than to a consumer reporting agency, account numbers or similar form of access number or access code for a credit card account, deposit account, or transaction account of a

consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer. Proposed § __.13 applies this statutory prohibition to disclosures made directly or indirectly by a financial institution.

The Agencies note that there is no exception in Title V to the flat prohibition established by section 502(d). The Statement of Managers contained in the Conference Report to S. 900 encourages the Agencies to adopt an exception to section 502(d) to permit disclosures of account numbers in limited instances. It states:

In exercising their authority under section 504(b) [which vests the Agencies with authority to grant exceptions to section 502(a)–(d) beyond those set out in the statute], the agencies and authorities described in section 504(a)(1) may consider it consistent with the purposes of this subtitle to permit the disclosure of customer account numbers or similar forms of access numbers or access codes in an encrypted, scrambled, or similarly coded form, where the disclosure is expressly authorized by the customer and is necessary to service or process a transaction expressly requested or authorized by the customer.

Managers' Statement at 18. The Agencies have not proposed an exception to the prohibition of section 502(d) because of the risks associated with third parties' direct access to a consumer's account. The Agencies seek comment on whether an exception to the section 502(d) prohibition that permits third parties access to account numbers is appropriate, the circumstances under which an exception would be appropriate, and how such an exception should be formulated to provide consumers with adequate protection. The Agencies also seek comment on whether a flat prohibition as set out in section 502(d) might unintentionally disrupt certain routine practices, such as the disclosure of account numbers to a service provider who handles the preparation and distribution of monthly checking account statements for a financial institution coupled with a request by the institution that the service provider include literature with the statement about a product. In addition, the Agencies invite comment on whether a consumer ought to be able to consent to the disclosure of his or her account number, notwithstanding the general prohibition in section 502(d) and, if so, what standards should apply. The Agencies also seek comment on whether section 502(d) prohibits the disclosure by a financial institution to a marketing firm of encrypted account numbers if

the financial institution does not provide the marketer the key to decrypt the number.

§ __.14 Protection of Fair Credit Reporting Act

Section 506 makes several amendments to the FCRA to vest rulemaking authority in various agencies and to restore the Agencies' regular examination authority. Paragraph (c) of section 506 states that, except for the amendments noted regarding rulemaking authority, nothing in Title V is to be construed to modify, limit, or supersede the operation of the FCRA, and no inference is to be drawn on the basis of the provisions of Title V whether information is transaction or experience information under section 603 of the FCRA.

Proposed § __.14 implements section 506(c) of the G–L–B Act by restating the statute, making only minor stylistic changes intended to make the rule clearer.

§ __.15 Relation to State Laws

Section 507 of the G–L–B Act states, in essence, that Title V does not preempt any State law that provides greater protections than are provided by Title V. Determinations of whether a State law or Title V provides greater protections are to be made by the Federal Trade Commission (FTC) after consultation with the agency that regulates either the party filing a complaint or the financial institution about whom the complaint was filed. Determinations of whether State or Federal law afford greater protections may be initiated by any interested party or on the FTC's own motion.

Proposed § __.15 is substantively identical to section 507, noting that the proposed rules (as opposed to the statute) do not preempt State laws that provide greater protection for consumers than do the rules.

§ __.16 Effective Date; Transition Rule

Section 510 of the G–L–B Act states that, as a general rule, the relevant provisions of Title V take effect 6 months after the date on which rules are required to be prescribed. However, section 510(1) authorizes the Agencies to prescribe a later date in the rules enacted pursuant to section 504.

Proposed § __.16 states, in paragraph (a), an effective date of November 13, 2000. This assumes that a final rule will be adopted within the time frame prescribed by section 504(a)(3). The Agencies intend to provide at least six months following the adoption of a final rule for financial institutions to bring their policies and procedures into

compliance with the requirements of the final rule. The Agencies invite comment on whether six months following adoption of final rules is sufficient to enable financial institutions to comply with the rules.

Paragraph (b) of proposed § __.16 provides a transition rule for consumers who were customers as of the effective date of the rules. Since those customer relationships already will have been established as of the rules' effective date (thereby making it inappropriate to require a financial institution to provide those customers with a copy of the institution's initial notice at the time of establishing a customer relationship), the rules require instead that the initial notice be provided within 30 days of the effective date. The Agencies invite comment on whether 30 days is enough time to permit a financial institution to deliver the required notices, bearing in mind that the G–L–B Act contemplates at least a six-month delayed effective date from the date the rules are adopted.

If a financial institution intends to disclose nonpublic personal information about someone who was a consumer before the effective date, the institution must provide the notices required by §§ __.4 and __.7 and provide a reasonable opportunity to opt out before the effective date. If, in this instance, the institution already is disclosing information about such a consumer, it may continue to do so without interruption until the consumer opts out, in which case the institution must stop disclosing nonpublic personal information about that consumer to nonaffiliated third parties as soon as reasonably practicable.

III. FDIC's New Electronic Public Comment Site

The FDIC has developed a new page on its web site to facilitate the submission of electronic comments in response to this general solicitation (the EPC site). The EPC site provides an alternative to the written letter and may be a more convenient way for you to submit your comments. Commenting through the EPC site will assist the FDIC to more accurately and efficiently analyze comments submitted electronically. If you submit your comments through the EPC site your comments will receive the same consideration that they would receive if submitted in hard copy to the FDIC's street address. Information provided through the EPC site will be used by the FDIC only to assist in its analysis of the proposed regulation. The FDIC will not use an individual's name or any other personal identifier of an individual to retrieve records or information

submitted through the EPC site. Like comments submitted in hard copy to the FDIC's street address, EPC site comments will be made available in their entirety (including the commenter's name and address if the commenter chooses to provide them) for public inspection.

The EPC site will be available on the FDIC's home page at <http://www.fdic.gov>. You will be able to provide general comments or comments on any specific sections of, or questions on, the proposed rule. You will also be able to view the regulation and Supplementary Information sections that relate to your comments directly on the site. Once you have finished commenting on the sections of interest to you, you may indicate your general approval or disapproval of the proposed regulation by answering the following question: Does the proposed regulation appropriately implement the G-L-B Act to provide the full extent of privacy protections intended by the Act? [Yes/No].

If you choose to answer this question, your response will be used in the FDIC's analysis of public comment on the regulation. The FDIC encourages you to provide written comments in the spaces provided in addition to responding to this specific question. Written comments enable the FDIC to thoughtfully consider possible changes to the proposed regulation.

The FDIC is also interested in your feedback on the EPC site. We have provided a space for you to comment on the site itself. Answers to this question will help the FDIC evaluate the EPC site for use in future rulemaking.

At the conclusion of the EPC site you will have an opportunity to provide us with your name, indicate whether you are an individual, bank, trade association, or government agency, and provide the name of the organization you represent, if applicable. Whether you choose to respond to these questions is entirely up to you. Any responses received may help the FDIC to better understand the public comments it receives.

IV. Regulatory Analysis

A. Paperwork Reduction Act

The Agencies invite comment on:

(1) Whether the collections of information contained in this notice of proposed rulemaking are necessary for the proper performance of each Agency's functions, including whether the information has practical utility;

(2) The accuracy of each Agency's estimate of the burden of the proposed information collections;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collections on respondents, including the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Recordkeepers are not required to respond to these collections of information unless they display a currently valid Office of Management and Budget (OMB) control number. The agencies are currently requesting their respective control numbers for these information collections from OMB.

This proposed regulation contains several disclosure requirements. The respondents must prepare and provide the initial notice to all current customers and all new customers at the time of establishing a customer relationship (proposed § __.4(a)). Subsequently, an annual notice must be provided to all customers at least once during a twelve-month period during the continuation of the customer relationship (proposed § __.5(a)). The opt out notice (and partial opt out notice, if applicable; *see* proposed § __.7(a)(1)(iii)) must be provided prior to disclosing nonpublic personal information to certain nonaffiliated third parties. If a financial institution wishes to disclose information in a way that is inconsistent with the notices previously given to a consumer, the institution must provide consumers with revised notices (proposed § __.8(c)).

The proposed regulation also contains consumer reporting requirements. In order for consumers to opt out, they must respond to the institution's opt out notice (proposed §§ __.7(a)(2), (a)(3)(i), and (c)). At any time during their continued relationship with the institution, consumers have the right to change or update their opt out status with the institution (proposed §§ __.8(d) and (e)). The Agencies request public comment on all aspects of the collections of information contained in this proposed rule, including consumer responses to the opt-out notice and consumer changes to their opt-out status with an institution. In light of the uncertainty regarding what institutions will do to comply with the opt-out requirements and how consumers will react, the Agencies estimate a nominal burden stemming from consumer responses of one hour per institution,

and will revisit this estimate in light of the comments received.

OCC: The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557—to be assigned), Washington, DC 20503, with copies to the Legislative and Regulatory Activities Division (1557—to be assigned), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

The likely respondents are national banks, District of Columbia banks, and Federal branches and agencies of foreign banks.

Estimated average annual burden hours per bank respondent: 45.

Estimated number of bank respondents: 2,400.

Estimated total annual reporting burden: 108,000 hours.

Board: In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320, appendix A.1), the Board reviewed the notice of proposed rulemaking under the authority delegated to the Board by the OMB. Comments on the collections of information should be sent to Mary M. West, Chief, Financial Reports Section, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551, with a copy to the Office of Management and Budget, Paperwork Reduction Project (7100—to be assigned), Washington, DC 20503.

The likely respondents are state member banks, bank holding companies, affiliates and certain non-bank subsidiaries of bank holding companies, uninsured state agencies and branches of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge and agreement corporations.

Estimated number of respondents: 9500.

Estimated average annual burden hours per respondent: 45 hours.

Estimated total annual reporting and disclosure burden: 427,500.

FDIC: The collections of information contained in the notice of proposed rulemaking will be submitted to the OMB in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. The FDIC will use any comments received to develop its new burden estimates. Comments on the collections

of information should be sent to Steven F. Hanft, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429, with a copy to the Office of Management and Budget, Paperwork Reduction Project (3064—to be assigned), Washington, DC 20503.

The likely respondents are insured nonmember banks.

Estimated number of respondents: 5,764.

Estimated average annual burden hours per respondent: 45 hours.

Estimated total annual reporting and disclosure burden: 259,380 hours.

OTS: The collection of information requirements contained in the notice of proposed rulemaking will be submitted to the OMB in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. The OTS will use any comments received to develop its new burden estimates. Comments on the collection of information should be sent to the Dissemination Branch (1550–AB36), Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1550–AB36), Washington, DC 20503.

The likely respondents are savings associations.

Estimated number of respondents: 1,104.

Estimated average annual burden hours per respondent: 45 hours.

Estimated total annual disclosure and recordkeeping burden: 49,680 hours.

B. Regulatory Flexibility Act

OCC: Under the Regulatory Flexibility Act (RFA), the OCC must either provide an Initial Regulatory Flexibility Analysis (IRFA) with a proposed rule or certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. The OCC has decided to publish the following analysis and invites the public's comments on the proposed rule's impact on small entities (*i.e.*, for purposes of RFA, small entities include banks with less than \$100 million in assets).

A. Reasons for and Objectives of the Proposed Rule; Legal Basis for Rule

The proposed rule implements provisions of Title V, Subtitle A of the G–L–B Act addressing consumer privacy. In general, these statutory provisions require banks to provide notice to consumers about an institution's privacy policies and practices, restrict the ability of a bank to share nonpublic personal information about consumers to nonaffiliated third

parties, and permit consumers to prevent the institution from disclosing nonpublic personal information about them to certain non-affiliated third parties by “opting out” of that disclosure.

The notice and opt out requirements are imposed by Title V, Subtitle A of the G–L–B Act, and are to become effective within one year from the date the Act was signed into law. Section 504 of the G–L–B Act authorizes the OCC to prescribe “such regulations as may be necessary” to carry out the purposes of Title V, Subtitle A. The OCC believes that a regulatory promulgation gives the private sector greater certainty on how to comply with the statute and clearer guidance regarding how it will be enforced.

B. Requirements of the Proposed Rule; Description of Small Entities to Whom Rule Would Apply

Subject to certain exceptions explained below, the proposed rule generally requires that a bank provide all of its *customers* the following notices: (1) An initial privacy notice (prior to the time the customer relationship is established or, for existing customers, within 30 days of the rule's effective date); (2) an opt out notice (prior to the disclosing of the individual's nonpublic personal information to nonaffiliated third parties); and (3) an annual privacy notice for the duration of the customer relationship. A bank's “customer” is a consumer with whom the bank has a “continuing relationship” (*e.g.*, an ongoing deposit or loan relationship—but does not include a transient relationship, such as the mere purchase of traveler's checks from the bank).

The proposed rule also requires a bank to provide its *consumers* an initial privacy notice and an opt out notice prior to disclosing the individual's nonpublic personal information with nonaffiliated third parties. If the bank does not intend to share such information about its consumers, then no privacy or opt out notice need be given. A bank's “consumer,” which is a broader concept than “customer,” includes: (1) Individuals who have applied to the bank for a financial service or product; and (2) individuals who have purchased a product or service that results in a transient (as opposed to continuing) relationship (*e.g.*, mere purchase of traveler's checks from a bank).

There are a host of exceptions to the general rules stated above. A bank may share a consumer's nonpublic personal information with nonaffiliated third parties without having to give a privacy

and opt out notice if, for example, such sharing is necessary: (1) To effect, administer, or enforce a transaction requested or authorized by the consumer; (2) to protect the security of records pertaining to the consumer, service, product, or transaction; (3) to protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability; or (4) to provide information to rating agencies or the bank's attorneys, auditors, and accountants. Also, in cases where a bank enters into a contract with a nonaffiliated third party to undertake joint marketing or to have the third party perform certain functions on behalf of the bank, no opt out notice must be given. In such an instance, the bank must disclose to the consumer that it is providing the information and enter into a contract with the third party that restricts the third party's use of the information and requires the third party to maintain confidentiality of the information.

Because the relevant statute did not provide a general exception for small banks, the proposed rule would apply to all banks, regardless of size, including those with assets of \$100 million or less. As of September 30, 1999, 1213 (of 2,383 total) national banks had assets of \$100 million or less.

Compliance requirements will vary depending, for example, upon a bank's information sharing practices, whether the bank already has or discloses a privacy policy, and whether the bank already has an opt-out mechanism in place pursuant to the Fair Credit Reporting Act.

As part of the requirement to provide a privacy notice, a bank's practices regarding its collection, sharing, and safeguarding of certain nonpublic personal information must be summarized in writing in a form that is required or permitted by the proposed regulation. However, if the bank does not share such information (or shares only to the extent permitted under the exceptions), its privacy notice may be streamlined. Various surveys suggest that a majority of banks already have privacy policies in place as part of usual and customary business practices. For these institutions, the costs for translating that policy into a notice format should be minimal.

Further, to minimize the burden and costs of distributing privacy policies, the proposed regulation allows each bank to choose the method by which it will distribute required notices. For example, banks may include an annual privacy notice with periodic account statements that the bank already sends to the customer. Also, the initial privacy

notice may be provided with other already-required disclosure statements, such as those required under the Truth in Lending Act.

The OCC believes that the burden imposed by the opt out requirement will be minimized to the extent that a bank must give opt out notices under the FCRA. Under the FCRA, a bank must have an opt out mechanism in place if the bank: (1) Shares certain consumer information (*i.e.*, application or credit report information) with its affiliates, and (2) does not want to be treated as a consumer reporting agency (as will usually be the case). For a bank that gives FCRA notices and that wants to share nonpublic personal information with nonaffiliated third parties, the bank should be able to adapt its existing opt out mechanism to accommodate the requirements of the proposed rule. Of course, a bank need not provide any opt-out notices or set up any opt-out mechanism if it will only be sharing nonpublic information with nonaffiliated third parties to the extent permitted by one of the many exceptions permitted in the proposed rule.

Professional skills needed to comply with the proposed rule may include clerical, computer systems, personnel training, as well as legal drafting and advice. The information collection requirements imposed by the G-L-B Act and the proposed rule are further addressed in the section titled, "Paperwork Reduction Act."

C. Relevant Federal Rules Which May Duplicate, Overlap or Conflict With the Proposed Rule

While the scope of the proposed regulation (pursuant to the G-L-B Act) is unique, there may be some overlap in certain circumstances with the following: As noted above, the Fair Credit Reporting Act requires a bank that: (1) Does not want to be treated as a consumer reporting agency; and (2) desires to share certain consumer information (*i.e.*, application or credit report information) with its affiliates, to provide the consumer with a clear and conspicuous notice and an opportunity to opt out of such information sharing. Also, at the time a consumer contracts for an electronic fund transfer service, the Electronic Funds Transfer Act requires the terms and conditions of such transfer to be disclosed, including under what circumstances the bank will in the ordinary course of business disclose information concerning the consumer's account to third persons. The recently proposed Department of Health and Human Services

regulations⁶ that implement the Health Insurance Portability and Accountability Act of 1996 would, if adopted in final form, limit the circumstances under which medical information may be disclosed. Finally, the Children's Online Privacy Protection Act (under which the Federal banking agencies are charged with enforcement of implementing regulations promulgated by the Federal Trade Commission) generally requires online service operators collecting personal information from a child to obtain parental consent and post a privacy notice on the web site. The OCC seeks comment on additional Federal rules that may duplicate, overlap, or conflict with the proposal.

D. Significant Alternatives to the Proposed Rule That Minimize the Impact on Small Entities

As previously noted, the proposed rule's requirements are expressly mandated by the G-L-B Act. The proposed rule attempts to clarify, consolidate, and simplify the statutory requirements for all covered entities, including small entities. The proposed rule also provides substantial flexibility so that any bank, regardless of size, may tailor its practices to its individual needs. While the OCC may grant exceptions to the opt out requirements set out in sections 502 (a) through (d), section 504(b) of the G-L-B Act requires such exceptions to be "consistent with the purposes of this subtitle [*i.e.*, Subtitle A of Title VI]." As stated in section 501(a) of the Act, "It is the policy of the Congress that *each* financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information." (Emphasis added.) The OCC believes that an exception that would create different levels of protections for consumers based on the size of the institution with whom they conduct business would not be consistent with the purposes of Subtitle A. The OCC welcomes comment on any significant alternatives, consistent with the G-L-B Act, that would minimize the impact on small entities.

Board: The Regulatory Flexibility Act (5 U.S.C. 603) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. A description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the

supplementary material above. The Board's proposed rule will apply to the following institutions (numbers approximate):

Type of institution	Approx. No.
State member banks	1,000
Bank holding companies	5,900
Bank holding company subsidiaries	2,100
U.S. branches and agencies of foreign banks	400
Edge/Agreement corporations, commercial lending companies	100
Total	9,500

The Board estimates that over 4,500 of the respondents could be considered small institutions with assets less than \$100 million.

Overlap with other Federal rules.

While the scope of the proposed regulation (pursuant to the G-L-B Act) is unique, it may, in certain circumstances, overlap with the following statutes and regulations:

1. The Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)) requires a bank that: (1) Does not want to be treated as a consumer reporting agency; and (2) desires to share certain consumer information (that is, application or credit report information) with its affiliates, to provide the consumer with a clear and conspicuous notice and an opportunity to opt out of such information sharing.

2. At the time a consumer contracts for an electronic fund transfer service, the Electronic Funds Transfer Act (15 U.S.C. 1693c(a)(9)) requires the terms and conditions of such transfer to be disclosed, including under what circumstances the bank will in the ordinary course of business disclose information concerning the consumer's account to third persons.

3. The recently proposed Department of Health and Human Services regulations⁷ that implement the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 3120d-1 *et seq.*) would, if adopted in final form, limit the circumstances under which medical information may be disclosed.

4. The Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6502) (under which the Federal banking agencies are charged with enforcement of implementing regulations promulgated by the Federal Trade Commission) generally requires online service operators collecting personal information from a child to obtain

⁶ 64 FR 59918 (Nov. 3, 1999).

⁷ 64 FR 59918 (Nov. 3, 1999).

parental consent and post a privacy notice on the web site.

New compliance requirements. The proposed rule contains new compliance requirements for all covered institutions, most of which are required by the G-L-B Act. The institutions will be required to prepare notices of their privacy policies and practices and provide those notices to consumers as specified in the rule. Institutions that disclose nonpublic personal information about consumers to nonaffiliated third parties will be required to provide opt out notices to consumers as well as a reasonable opportunity to opt out of certain disclosures. These institutions will have to develop systems for keeping track of consumers' opt out directions. Some institutions, particularly those that disclose nonpublic information about consumers to nonaffiliated third parties, will likely need the advice of legal counsel to ensure that they comply with the rule, and may also require computer programming changes and additional staff training. The Board does not have a practicable or reliable basis for quantifying the costs of the proposed rule or any alternatives, but seeks comment on the potential costs.

Exemptions for small institutions. The Board believes the requirements of the Act and this rule will create additional burden for covered institutions, particularly those that disclose nonpublic personal information about consumers to nonaffiliated third parties. The rule applies to all covered institutions, regardless of size. The Act does not provide the Board with the authority to exempt a small institution from the requirement to provide a notice of its privacy policies and practices to a consumer with whom it establishes a customer relationship. Although the Board could exempt small institutions from providing a notice and opportunity for consumers to opt out of certain information disclosures, the Board does not believe that such an exemption would be appropriate, given the purpose of the Act to protect the confidentiality and security of nonpublic personal information about consumers. The Board believes that the burden is relatively small for institutions that do not disclose nonpublic personal information about consumers to nonaffiliated third parties. These institutions may provide relatively simple initial and annual notices to consumers with whom they establish customer relationships.

The Board recognizes that the Congressional Conferees on the Act wished to ensure that smaller financial institutions are not placed at a

competitive disadvantage by a statutory regime that permits certain information to be shared freely within an affiliate structure while limiting the ability to share that same information with nonaffiliated third parties. The Conferees stated that, in prescribing regulations, the federal regulatory agencies should take into consideration any adverse competitive effects upon small commercial banks, thrifts, and credit unions.⁸ At this time, it is not clear the extent to which small institutions will be placed at a disadvantage by information-sharing among affiliates in large institutional families. The Board believes that further experience under the regulation would be appropriate before considering any exemptions in this area for small institutions.

The Board requests comment on the burdens associated with the proposed rule and whether any exemptions for small institutions would be appropriate.

FDIC: The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) requires an agency to publish an initial regulatory flexibility analysis with this proposed rule, except to the extent provided in the RFA, whenever the agency is required to publish a general notice of proposed rulemaking for a proposed rule. The FDIC cannot at this time determine whether the proposed rule would have a significant economic impact on a substantial number of small entities as defined by the RFA.⁹ Therefore, pursuant to subsections 603 (b) and (c) of the RFA, the FDIC provides the following initial regulatory flexibility analysis.

Reasons for Proposed Rule

The FDIC is requesting comment on proposed privacy rules published pursuant to section 504 of the G-L-B Act. Section 504 requires the Agencies in consultation with representatives of State insurance authorities to issue regulations implementing notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties. These requirements are expressly mandated by the G-L-B Act. It is the view of the FDIC that the G-L-B Act's requirements account for most, if not, all of the economic impact of the proposed rule.

⁸ H. R. Conf. Rep. No. 106–434, at 173 (1999).

⁹ The RFA defines the term "small entity" in 5 U.S.C. 601 by reference to definitions published by the Small Business Administration (SBA). The SBA has defined a "small entity for banking purposes as a national or commercial bank, savings institution or credit union with less than \$100 million in assets." See 13 CFR 121.201.

Statement of Objectives and Legal Basis

The **SUPPLEMENTARY INFORMATION** section above contains this information. The legal basis for the proposed rule is the G-L-B Act.

Description/Estimate of the Small Entities to Which the Rule Applies

The proposed rule would apply to all FDIC-insured State nonmember banks, approximately 3,700 of which are small entities as defined by the RFA.

Projected Reporting, Recordkeeping and Other Compliance Requirements

The information collection requirements imposed by G-L-B Act and the proposed rule are discussed above in the section titled, "Paperwork Reduction Act."

General Requirements

Pursuant to section 503 of the G-L-B Act and §§ 332.4–332.6 of the regulation, a financial institution must provide its customers with a notice of its privacy policies and practices. Section 502 of the G-L-B Act and §§ 332.7–332.12 of the regulation prohibit a financial institution from disclosing nonpublic personal information about a consumer to nonaffiliated third parties unless the institution satisfies various disclosure requirements and the consumer has elected not to opt out of the disclosure.

The statute and proposed rule require a financial institution to disclose to all of its customers the institution's privacy policies and practices with respect to information sharing with both affiliates and non-affiliated third parties. Institutions are required to provide this notice at the time of establishing a customer relationship and annually thereafter. Recent experience has shown that it is a usual and customary business practice of financial institutions. KPMG reported in a recent industry survey of large and small banks that 71% of bankers said their institutions already had privacy policies in place either company-wide or in some selected units.¹⁰ Another recent survey of Internet banking sites conducted by federal banking regulators concluded that over 62% of financial institutions that collected personal information online provided a privacy policy or information practice statement.¹¹ Furthermore, a number of industry groups have developed model privacy policies that are available as part of their

¹⁰ "KPMG Analysis Consumer Privacy Policies: Write Now." Online Reuters 19 Jan. 2000.

¹¹ "Interagency Financial Institution Web Site Privacy Survey Report." FDIC Press Release 9 November 1999.

self-regulatory efforts in the privacy area.¹² The FDIC believes the establishment of a privacy policy is a usual and customary business practice and the costs for translating that policy into a disclosure format should be minimal. The FDIC seeks any information or comment on the costs for creating privacy policy disclosures.

To minimize the burden and costs to financial institutions of distributing privacy policies, the proposed regulation allows each bank to choose the method by which it will distribute required disclosure statements. Institutions may provide customers with a privacy disclosure statement with periodic statements, with other required disclosure statements, via electronic mail to consumers who obtain a financial product or service electronically, and other acceptable means described in the proposed regulation. The FDIC believes that the cost of distributing privacy disclosure statements will be minimal and seeks any information or comment on the costs for distributing privacy policy disclosures.

The statute and proposed rule describe the conditions under which a financial institution may disclose nonpublic personal information about a consumer to a nonaffiliated third party. A number of exceptions are provided for nonaffiliated third parties performing services for the institution. The rules require institutions to develop a method to allow customers to opt out of non-affiliated third party information sharing. Only those institutions that intend to share nonpublic personal information with third parties outside of the exemptions provided are required to establish "opt out" disclosure and processing procedures. Furthermore, only those institutions that share nonpublic personal information with third parties outside of the exemptions provided could be expected to encounter any reduction in revenue as a result of the diminished value of information sales. The FDIC informally surveyed its regional offices to determine the costs of implementing the opt out provisions of the proposed regulation. Based on the observations by FDIC examiners, the FDIC believes that the costs to implement opt out provisions of the regulation for small insured nonmember banks will be minimal. Few nonaffiliated third party information sharing arrangements could be identified that would fall outside the exceptions provided in the regulation. Congress recognized the lack of

information available on affiliate information sharing practices by requiring the regulators to conduct a "Study of Information Sharing Among Financial Affiliates" that focuses on the practice of institutions sharing confidential customer information with affiliates and non-affiliated third parties. This study is due subsequent to release of this regulation. The FDIC seeks further comment on the information sharing practices and actual costs of implementing the opt out disclosure and processing requirements of the proposed regulation.

Identification of Duplicative, Overlapping, or Conflicting Federal Rules

While the scope of the proposed regulation (pursuant to the G-L-B Act) is unique, there may be some overlap in certain circumstances with the following: As noted above, the FCRA requires a bank that: (1) Does not want to be treated as a consumer reporting agency; and (2) desires to share certain consumer information (*i.e.*, application or credit report information) with its affiliates, to provide the consumer with a clear and conspicuous notice and an opportunity to opt out of such information sharing. Also, at the time a consumer contracts for an electronic fund transfer service, the Electronic Funds Transfer Act requires the terms and conditions of such transfer to be disclosed, including under what circumstances the bank will in the ordinary course of business disclose information concerning the consumer's account to third persons. Finally, the Children's Online Privacy Protection Act (under which the Federal banking agencies are charged with enforcement of implementing regulations promulgated by the Federal Trade Commission) generally requires online service operators collecting personal information from a child to obtain parental consent and post a privacy notice on the web site. The FDIC seeks comments and information about any such rules, as well as any other state, local, or industry rules or policies that require financial institutions to implement business practices that would comply with the requirements of the proposed rule.

Discussion of Significant Alternatives

As previously noted, the proposed rule's requirements are expressly mandated by the G-L-B Act. The proposed rule attempts to clarify, consolidate, and simplify the statutory requirements for all covered entities, including small entities. The proposed rule also provides substantial flexibility so that any bank, regardless of size, may

tailor its practices to its individual needs. While the FDIC may grant exceptions to the opt out requirements set out in sections 502(a) through (d), section 504(b) of the G-L-B Act requires such exceptions to be "consistent with the purposes of this subtitle [*i.e.*, Subtitle A of Title V]." As stated in section 501(a) of the Act, "It is the policy of the Congress that *each* financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information." (Emphasis added.) The FDIC believes that an exception that would create different levels of protections for consumers based on the size of the institution with whom they conduct business would not be consistent with the purposes of Subtitle A. The FDIC welcomes comment on any significant alternatives, consistent with the G-L-B Act, that would minimize the impact on small entities.

OTS: The Regulatory Flexibility Act requires federal agencies to either prepare an initial regulatory flexibility analysis (IRFA) with this proposed rule or certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.¹³ The OTS cannot, at this time, determine whether the proposed rule would have a significant economic impact on a substantial number of small institutions. Therefore, OTS includes the following IRFA.

A description of the reasons why OTS is considering this action, and a statement of the objectives of, and legal basis for, the proposed rule are in the supplementary material above.

A. Small Entities to Which the Proposed Rule Would Apply

The proposed rule would apply to all financial institutions, without regard to the institutions' size. Small depository institutions are generally defined, for Regulatory Flexibility Act purposes, as those with assets under \$100 million.¹⁴ This proposed rule would apply to approximately 500 small savings associations.

B. Requirements of the Proposed Rule

As described more fully above, the proposed rule contains new compliance requirements for all savings associations. Most of the requirements are mandated by the G-L-B Act. Savings associations will be required to prepare

¹² "Banks Should Tell Customers of Policies to Protect Privacy, Banking Groups Say." Online *BNAL Electronic Commerce & Law* 16 September 1998.

¹³ 5 U.S.C. 605(b).

¹⁴ 13 CFR 121.201, Division H (1999).

notices of their privacy policies and practices and provide those notices to consumers. Savings associations that disclose nonpublic personal information about consumers to nonaffiliated third parties will be required to provide opt out notices to consumers as well as a reasonable opportunity to opt out of certain disclosures. These savings associations will have to develop systems for keeping track of consumers' opt out directions.

C. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rule would require savings associations to disclose their privacy policies to consumers, and to keep track of any opt out notices the consumers submit.

Many financial institutions may already have established privacy policies and practices and may already be partly or fully prepared to meet the requirements of this proposed rule. Additionally, OTS anticipates that trade associations and others will prepare compliance materials and guidance that financial institutions can use to meet the requirements of this proposed rule.

To the extent that existing practices and available resources are insufficient, financial institutions would need professional skills to comply with this proposed rule. To prepare the required privacy disclosures and opt out notices, financial institutions may need legal or other professional advice and drafting. This would be true for the initial disclosures and notices, and for any subsequent changes to those documents. For financial institutions that publish privacy notices electronically or accept electronic opt outs, computer expertise would be necessary to convert the documents to the appropriate electronic form.

The proposed regulation would allow financial institutions to share consumers' nonpublic personal information with a nonaffiliated third party to perform services for the financial institution. However, § 573.9(a)(2) of the regulation would require institutions in that event to contractually require the third party recipient to maintain the privacy of shared information. In these cases, financial institutions may require legal advice and drafting to ensure that their contracts meet the requirements of the proposed rule.

Financial institutions may further need professional skills to process opt out notices that consumers submit. Some financial institutions may use clerical or computer programmer skills to perform these tasks. Some degree of personnel training may be necessary, such as to train staff on the procedures

for entering opt out data into a computer database.

OTS does not have a practicable or reliable basis for quantifying the costs of this proposed rule, or of any alternative to the rule. OTS cannot predict how savings associations would comply with the proposed notice requirements, or how many opt out notices savings associations would receive and need to process. Some savings associations may currently derive revenue from selling information about their customers, and this rule may decrease the amount of that revenue. OTS has no reliable basis for determining the amount of this decrease in revenue at savings associations. The costs of this proposed rule or any alternative to the rule are unpredictable for two reasons. First, Congress has required this regulation to be finalized within six months after G-L-B's enactment. This short time period makes it difficult to survey savings associations or trade organizations for reliable information. Second, and more importantly, the G-L-B Act and this rulemaking are so new that the industry has not had enough time to learn what the law requires and decide how to proceed. Rather than merely guess at the regulatory burden of this proposed rule, OTS solicits comment on the burden and on ways to minimize it, consistent with the G-L-B Act.

D. Significant Alternatives

The requirements in the proposed rule parallel those in the G-L-B Act. The proposed regulation would clarify the statutory requirements in certain areas, and would restate the requirements in a more understandable manner, but would not impose any substantially different requirements.

Congress has decided that "each" financial institution must protect consumers' privacy, without regard to the size of the financial institutions with which consumers interact.¹⁵ OTS believes it does not have authority to exempt small entities from Subtitle V of the G-L-B Act.

Although OTS could exempt small savings associations from providing a notice and opportunity for consumers to opt out of certain information disclosures, OTS does not believe that such an exemption would be appropriate, given the purpose of the G-L-B Act to protect the confidentiality and security of nonpublic personal information about consumers. Savings associations that do not disclose nonpublic personal information about

consumers to nonaffiliated third parties may provide relatively simple initial and annual notices to their customers.

OTS recognizes that the Congressional Conferees on the Act wished to ensure that smaller financial institutions are not placed at a competitive disadvantage by a statutory regime that permits certain information to be shared freely within an affiliate structure while limiting the ability to share that same information with nonaffiliated third parties. The Conferees stated that, in prescribing regulations, the federal regulatory agencies should take into consideration any adverse competitive effects upon small commercial banks, thrifts, and credit unions.¹⁶ At this time, it is not clear the extent to which small institutions will be placed at a disadvantage by information-sharing among affiliates in large institutional families. OTS believes that further experience under the regulation would be appropriate before considering any exemptions in this area for small institutions.

To reduce regulatory burden, consistent with the statutory requirements, this proposed regulation would provide financial institutions with substantial flexibility to use privacy practices tailored to their individual needs. For example, the Agencies considered setting a certain time within which financial institutions that receive opt out notices must comply with them. Because the Agencies thought a certain time limit might impose undue regulatory burden, the proposed rule would require compliance with opt out notices "as soon as reasonably practicable." § 573.8(e). Similarly, the proposed rule would become effective on November 13, 2000. This is designed to allow financial institutions one year after G-L-B was enacted, and six months after this rule's expected effective date, to come into compliance. § 573.16(a). The Agencies are soliciting comments on whether these time limits would allow financial institutions sufficient time to comply with the rules.

OTS requests comment on the burdens associated with the proposed rule and whether any exceptions for small institutions would be appropriate.

E. Other Matters

While the scope of the proposed regulation (pursuant to the G-L-B Act) is unique, there may be some overlap in certain circumstances with certain Federal rules. As noted above, the Fair Credit Reporting Act requires a savings

¹⁵ G-L-B Act, Pub. Law. No. 106-102, 113 Stat. 1338, § 501(a) (1999) (to be codified at 15 USC 6801).

¹⁶ H. R. Conf. Rep. No. 106-434, at 173 (1999).

association that (1) does not want to be treated as a consumer reporting agency and (2) desires to share certain consumer information (*i.e.*, application or credit report information) with its affiliates, to provide the consumer with a clear and conspicuous notice and an opportunity to opt out of such information sharing. Also, at the time a consumer contracts for an electronic fund transfer service, the Electronic Funds Transfer Act requires the terms and conditions of such transfer to be disclosed, including under what circumstances the bank will in the ordinary course of business disclose information concerning the consumer's account to third persons. Finally, the Children's Online Privacy Protection Act (under which the Federal banking agencies are charged with enforcement of implementing regulations promulgated by the Federal Trade Commission) generally requires online service operators collecting personal information from a child to obtain parental consent and post a privacy notice on the web site. OTS seeks comment on additional Federal rules that may duplicate, overlap or conflict with the proposal.

C. Executive Order 12866

OCC: The Comptroller of the Currency has determined that this proposed rule, if adopted as a final rule, does not constitute a "significant regulatory action" for the purposes of Executive Order 12866. The rule follows closely the requirements of title V, subtitle A of the G-L-B Act. Since, the G-L-B Act establishes the minimum requirements for this activity, the OCC has little discretion to propose regulatory options that might significantly reduce costs or other burdens. However, even absent the requirements of the G-L-B Act, if the OCC issued the rule under its own authority, the rule would not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

Nevertheless, the OCC acknowledges that the rule would impose costs on national banks by requiring them to make notifications and take other actions impacting their day to day operations. Therefore, the OCC invites national banks and the public to provide any cost estimates and related data that they think would be useful to the agency in evaluating the overall costs of the rule. The OCC will review carefully the comments and cost data that you provide and will revisit the cost aspects of the G-L-B Act as implemented by this proposal in developing the final rule.

OTS: OTS has determined that this proposed rule, if adopted as a final rule,

would not constitute a "significant regulatory action" for the purposes of Executive Order 12866. The rule follows closely the requirements of title V, subtitle A of the G-L-B Act. Since the G-L-B Act establishes the minimum requirements for this activity, OTS has little discretion to propose regulatory options that might significantly reduce costs or other burdens.

Nevertheless, OTS acknowledges that the rule would impose costs on the thrift industry by requiring savings associations to make notifications and take other actions impacting their day to day operations. Therefore, OTS invites the thrift industry and the public to provide any cost estimates and related data that they think would be useful to the agency in evaluating the overall costs of the rule. OTS will review carefully the comments and cost data that you provide and will revisit the cost aspects of the G-L-B Act as implemented by this proposal in developing the final rule.

D. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. However, an agency is not required to assess the effects of its regulatory actions on the private sector to the extent that such regulations incorporate requirements specifically set forth in law. 2 U.S.C. 1531. Most of the proposed rule's provisions are already mandated by the applicable provisions in Title V of the G-L-B Act, which would become effective and binding on the private sector without a regulatory promulgation. Therefore, the OCC and OTS have determined that this proposed regulation will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, the OCC and OTS have not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

V. Solicitation of Comments on Use of "Plain Language"

Section 722 of the G-L-B Act requires the Federal banking agencies to use "plain language" in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposed rule easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Does the rule contain technical language or jargon that isn't clear? If not, which language requires clarification? For example, is the phrase "opt out" confusing to the average reader? Should the Agencies require financial institutions to use a different phrase in their notices, such as "choose not to have information shared"?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?
- Would more (but shorter) sections be better? If so, which sections should be changed?
- What else could we do to make the rule easier to understand?
- The Agencies solicit comment on whether the inclusion of examples in the regulation is appropriate. Elevating the fact patterns to safe harbors in the rule may generate certain problems over time. For example, changes in technology or practices may ultimately impact the fact patterns contained in the examples and require changes to the regulation. Are there alternative methods to offer illustrative guidance of the concepts portrayed by the examples?

List of Subjects

12 CFR Part 40

Banks, banking, Consumer protection, National banks, Privacy, Reporting and recordkeeping requirements.

12 CFR Part 216

Banks, banking, Consumer protection, Federal Reserve System, Foreign banking, Holding companies, Information, Privacy, Reporting and recordkeeping requirements.

12 CFR Part 332

Banks, banking, Privacy.

12 CFR Part 573

Consumer protection, Privacy, Savings associations.

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set out in the joint preamble, the OCC proposes to amend chapter I of title 12 of the Code of Federal Regulations by adding a new part 40 to read as follows:

PART 40—PRIVACY OF CONSUMER FINANCIAL INFORMATION

Sec.

- 40.1 Purpose and scope.
- 40.2 Rule of construction.
- 40.3 Definitions.
- 40.4 Initial notice to consumers of privacy policies and practices required.
- 40.5 Annual notice to customers required.
- 40.6 Information to be included in initial and annual notices of privacy policies and practices.
- 40.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.
- 40.8 Form and method of providing opt out notice to consumers.
- 40.9 Exception to opt out requirements for service providers and joint marketing.
- 40.10 Exceptions to notice and opt out requirements for processing and servicing transactions.
- 40.11 Other exceptions to notice and opt out requirements.
- 40.12 Limits on redisclosure and reuse of information.
- 40.13 Limits on sharing of account number information for marketing purposes.
- 40.14 Protection of Fair Credit Reporting Act.
- 40.15 Relation to State laws.
- 40.16 Effective date; transition rule.

Authority: 12 U.S.C. 93a; 15 U.S.C. 6801 *et seq.*

§ 40.1 Purpose and scope.

(a) *Purpose.* This part governs the treatment of nonpublic personal information about consumers by the financial institutions listed in paragraph (b) of this section. This part:

- (1) Requires a financial institution to provide notice to consumers about its privacy policies and practices;
- (2) Describes the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and
- (3) Provides a method for consumers to prevent a financial institution from disclosing that information to certain nonaffiliated third parties by "opting out" of that disclosure, subject to the exceptions in §§ 40.9, 40.10, and 40.11.

(b) *Scope.* The rules established by this part apply only to nonpublic personal information about individuals who obtain financial products or services for personal, family or

household purposes from the institutions listed below. This part does not apply to information about companies or about individuals who obtain financial products or services for business purposes. This part applies to entities for which the Office of the Comptroller of the Currency has primary supervisory authority. They are referred to in this part as "the bank." These are national banks, District of Columbia banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities except a broker or dealer that is registered under the Securities Exchange Act of 1934, a registered investment adviser (with respect to the investment advisory activities of the adviser and activities incidental to those investment advisory activities), an investment company registered under the Investment Company Act of 1940, an insurance company that is subject to supervision by a State insurance regulator (with respect to insurance activities of the company and activities incidental to those insurance activities), and an entity that is subject to regulation by the Commodity Futures Trading Commission.

§ 40.2 Rule of construction.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

§ 40.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company.

(b)(1) *Clear and conspicuous* means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information contained in the notice.

(2) *Examples.* (i) The bank makes it notice reasonably understandable if, to the extent applicable, the bank:

- (A) Presents the information contained in the notice in clear, concise sentences, paragraphs and sections;
 - (B) Uses short explanatory sentences and bullet lists, whenever possible;
 - (C) Uses definite, concrete, everyday words and active voice, whenever possible;
 - (D) Avoids multiple negatives;
 - (E) Avoids legal and highly technical business terminology; and
 - (F) Avoids boilerplate explanations that are imprecise and readily subject to different interpretations.
- (ii) The bank designs its notice to call attention to the nature and significance

of the information contained in the notice if, to the extent applicable, the bank:

- (A) Uses a plain-language heading to call attention to the notice;
 - (B) Uses a typeface and type size that are easy to read; and
 - (C) Provides wide margins and ample line spacing.
- (iii) If the bank provides a notice on the same form as another notice or other document, the bank designs its notice to call attention to the nature and significance of the information contained in the notice if the bank uses:
- (A) Larger type size(s), boldface or italics in the text;
 - (B) Wider margins and line spacing in the notice; or
 - (C) Shading or sidebars to highlight the notice, whenever possible.

(c) *Collect* means to obtain information that is organized or retrievable on a personally identifiable basis, irrespective of the source of the underlying information.

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association or similar organization.

(e) (1) *Consumer* means an individual who obtains or has obtained a financial product or service from the bank that is to be used primarily for personal, family or household purposes, and that individual's legal representative.

(2) *Examples.* (i) An individual who applies to a bank for credit for personal, family or household purposes is a consumer of a financial service, regardless of whether the credit is extended.

(ii) An individual who provides nonpublic personal information to a bank in order to obtain a determination about whether he or she may qualify for a loan to be used primarily for personal, family, or household purposes is a consumer of a financial service, regardless of whether the loan is extended by the bank or another financial institution.

(iii) An individual who provides nonpublic personal information to a bank in connection with obtaining or seeking to obtain financial, investment or economic advisory services is a consumer regardless of whether the bank establishes an ongoing advisory relationship.

(iv) An individual who negotiates a workout with a bank for a loan that the bank owns is a consumer regardless of whether the bank originally extended the loan to the individual.

(v) An individual who has a loan from a bank is the bank's consumer even if the bank:

- (A) Hires an agent to collect on the loan;

(B) Sells the rights to service the loan; or

(C) Bought the loan from the financial institution that originated the loan.

(vi) An individual is not a bank's consumer solely because the bank processes information about the individual on behalf of a financial institution that extended the loan to the individual.

(f) *Consumer reporting agency* has the same meaning as in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(g) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as determined by the OCC.

(h) *Customer* means a consumer who has a customer relationship with a bank.

(i) (1) *Customer relationship* means a continuing relationship between a consumer and a bank under which the bank provides one or more financial products or services to the consumer that are to be used primarily for personal, family, or household purposes.

(2) *Examples.* (i) A consumer has a continuing relationship with a bank if the consumer:

(A) Has a deposit, credit, trust or investment account with the bank;

(B) Purchases an insurance product from the bank;

(C) Holds an investment product through the bank;

(D) Enters into an agreement or understanding with the bank whereby the bank undertakes to arrange or broker a home mortgage loan for the consumer;

(E) Has a loan that the bank services where the bank owns the servicing rights;

(F) Enters into a lease of personal property with the bank; or

(G) Obtains financial, investment or economic advisory services from the bank for a fee.

(ii) A consumer does not, however, have a continuing relationship with a bank if:

(A) The consumer only obtains a financial product or service in an isolated transaction, such as withdrawing cash from the bank's automated teller machine (ATM) or

purchasing a cashier's check or money order;

(B) The bank sells the consumer's loan and does not retain the rights to service that loan; or

(C) The bank sells the consumer airline tickets, travel insurance or traveler's checks in an isolated transaction.

(j) (1) *Financial institution* means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial institution* does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(k) (1) *Financial product or service* means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial service* includes a bank's evaluation, brokerage or distribution of information that the bank collects in connection with a request or an application from a consumer for a financial product or service.

(l) *Government regulator* means:

(1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Board of Directors of the Federal Deposit Insurance Corporation;

(4) The Director of the Office of Thrift Supervision;

(5) The National Credit Union Administration Board;

(6) The Securities and Exchange Commission;

(7) The Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping);

(8) A State insurance authority, with respect to any person domiciled in that insurance authority's State that is engaged in providing insurance; and

(9) The Federal Trade Commission.

(m) (1) *Nonaffiliated third party* means any person except:

(i) A bank's affiliate; or

(ii) A person employed jointly by a bank and any company that is not the bank's affiliate (but *nonaffiliated third party* includes the other company that jointly employs the person).

(2) *Nonaffiliated third party* includes any company that is an affiliate by virtue of the direct or indirect ownership or control of the company by the financial institution or any affiliate of the financial institution in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

Alternative A

(n) (1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information.

(2) *Nonpublic personal information* does not include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information.

(3) *Example.* Nonpublic personal information includes any list of individuals' street addresses and telephone numbers that is derived using any information consumers provide to you on an application for a financial product or service.

(o) (1) *Personally identifiable financial information* means any information:

(i) Provided by a consumer to a bank to obtain a financial product or service from the bank;

(ii) Resulting from any transaction involving a financial product or service between a bank and a consumer; or

(iii) The bank otherwise obtains about a consumer in connection with providing a financial product or service to that consumer, other than publicly available information.

(2) *Examples.* (i) Personally identifiable financial information includes:

(A) Information a consumer provides to a bank on an application to obtain a loan, credit card, insurance or other financial product or service, including, among other things, medical information;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of a bank's customers or has obtained a financial product or service from the bank, unless that fact is derived using only publicly available information, such as government real estate records or bankruptcy records;

(D) Other information about a bank's consumer if it is disclosed in a manner that indicates the individual is or has been the bank's consumer;

(E) Any information provided by a consumer or otherwise obtained by the bank or its agent in connection with collecting on a loan or servicing a loan; and

(F) Information from a consumer report.

(ii) Personally identifiable financial information does not include a list of names and addresses of customers of an entity that is not a financial institution.

(p) (1) *Publicly available information* means any information that is lawfully made available to the general public that is obtained from:

(i) Federal, State or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by Federal, State or local law.

(2) *Examples*—(i) *Government records*. Publicly available information contained in government records includes information contained in government real estate records and security interest filings.

(ii) *Widely distributed media*. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or an Internet site that is available to the general public without requiring a password or similar restriction.

Alternative B

(n) (1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information.

(2) *Nonpublic personal information* does not include any:

(i) Publicly available information, except as provided in paragraph (n)(1)(ii) of this section; or

(ii) List, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information.

(3) *Example*. Nonpublic personal information includes any list of individuals' street addresses and telephone numbers that is derived using personally identifiable financial information, such as account numbers.

(o) (1) *Personally identifiable financial information* means any information:

(i) Provided by a consumer to a bank to obtain a financial product or service from the bank;

(ii) About a consumer resulting from any transaction involving a financial product or service between the bank and a consumer; or

(iii) The bank otherwise obtains about a consumer in connection with providing a financial product or service to that consumer.

(2) *Examples*. (i) Personally identifiable financial information includes:

(A) Information a consumer provides to a bank on an application to obtain a loan, credit card, insurance or other financial product or service, including, among other things, medical information;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of the bank's customers or has obtained a financial product or service from the bank, unless that fact is derived using only publicly available information, such as government real estate records or bankruptcy records;

(D) Other information about a bank's consumer if it is disclosed in a manner that indicates the individual is or has been the bank's consumer;

(E) Any information provided by a consumer or otherwise obtained by a bank or its agent in connection with collecting on a loan or servicing a loan; and

(F) Information from a consumer report.

(ii) Personally identifiable financial information does not include a list of names and addresses of customers of an entity that is not a financial institution.

(p) (1) *Publicly available information* means any information that is lawfully made available to the general public from:

(i) Federal, State or local government records;

(ii) Widely distributed media; or
(iii) Disclosures to the general public that are required to be made by Federal, State or local law.

(2) *Examples*—(i) *Government records*. Publicly available information contained in government records includes information contained in government real estate records and security interest filings.

(ii) *Widely distributed media*. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or an Internet site that is available to the general public without requiring a password or similar restriction.

§ 40.4 Initial notice to consumers of privacy policies and practices required.

(a) *When initial notice is required*. A bank must provide a clear and conspicuous notice that accurately reflects the bank's privacy policies and practices to:

(1) An individual who becomes the bank's customer, prior to the time that the bank establishes a customer relationship, except as provided in paragraph (d)(2) of this section; and

(2) A consumer, prior to the time that a bank discloses any nonpublic personal information about the consumer to any nonaffiliated third party, if the bank makes such a disclosure other than as authorized by §§ 40.10 and 40.11.

(b) *When initial notice to a consumer is not required*. The bank is not required to provide an initial notice to a consumer under paragraph (a)(1) of this section if:

(1) The bank does not disclose any nonpublic personal information about the consumer to any nonaffiliated third party, other than as authorized by §§ 40.10 and 40.11; and

(2) The bank does not have a customer relationship with the consumer.

(c) *When the bank establishes a customer relationship*—(1) *General rule*. A bank establishes a customer relationship at the time the bank and the consumer enter into a continuing relationship.

(2) *Examples*. The bank establishes a customer relationship when the consumer:

(i) Opens a credit card account with the bank;

(ii) Executes the contract to open a deposit account with the bank, obtains credit from the bank, or purchases insurance from the bank;

(iii) Agrees to obtain financial, economic or investment advisory services from the bank for a fee; or

(iv) Becomes the bank's client for the purpose of the bank providing credit counseling or tax preparation services.

(d) *How to provide notice*—(1) *General rule.* A bank must provide the privacy notice required by paragraph (a) of this section so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form.

(2) *Exceptions to allow subsequent delivery of notice.* The bank may provide the initial notice required by paragraph (a)(1) of this section within a reasonable time after it establishes a customer relationship if:

(i) The bank purchases a loan or assumes a deposit liability from another financial institution and the customer of that loan or deposit account does not have a choice about the bank's purchase or assumption; or

(ii) The bank and the consumer orally agree to enter into a customer relationship and the consumer agrees to receive the notice thereafter.

(3) *Oral description of notice insufficient.* The bank may not provide the initial notice required by paragraph (a) of this section solely by orally explaining, either in person or over the telephone, the bank's privacy policies and practices.

(4) *Retention or accessibility of initial notice for customers.* For customers only, the bank must provide the initial notice required by paragraph (a)(1) of this section so that it can be retained or obtained at a later time by the customer, in a written form or, if the customer agrees, in electronic form.

(5) *Examples.* (i) A bank may reasonably expect that a consumer will receive actual notice of its privacy policies and practices if the bank:

(A) Hand-delivers a printed copy of the notice to the consumer;

(B) Mails a printed copy of the notice to the last known address of the consumer;

(C) For the consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial product or service;

(D) For an isolated transaction with the consumer, such as an ATM transaction, posts the notice on the ATM screen and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular financial product or service.

(ii) A bank may *not*, however, reasonably expect that a consumer will receive actual notice of the bank's privacy policies and practices if the bank:

(A) Only posts a sign in its branch or office or generally publishes

advertisements of its privacy policies and practices;

(B) Sends the notice via electronic mail to a consumer who obtains a financial product or service from the bank in person or through the mail and who does not agree to receive the notice electronically.

(iii) A bank provides the initial privacy notice to the customer so that it can be retained or obtained at a later time if the bank:

(A) Hand-delivers a printed copy of the notice to the customer;

(B) Mails a printed copy of the notice to the last known address of the customer upon request of the customer; or

(C) Maintains the notice on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and who agrees to receive the notice electronically.

§ 40.5 Annual notice to customers required.

(a) *General rule.* A bank must provide a clear and conspicuous notice to customers that accurately reflects the bank's privacy policies and practices not less than annually during the continuation of the customer relationship. *Annually* means at least once in any period of 12 consecutive months during which that relationship exists.

(b) *How to provide notice.* A bank must provide the annual notice required by paragraph (a) of this section to a customer using a means permitted for providing the initial notice to that customer under § 40.4(d).

(c) (1) *Termination of customer relationship.* A bank is not required to provide an annual notice to a customer with whom the bank no longer has a continuing relationship.

(2) *Examples.* A bank no longer has a continuing relationship with an individual if:

(i) In the case of a deposit account, the account is dormant under the bank's policies;

(ii) In the case of a closed-end loan, the consumer pays the loan in full, the bank charges off the loan, or the bank sells the loan without retaining servicing rights;

(iii) In the case of a credit card relationship or other open-end credit relationship, the bank no longer provides any statements or notices to the consumer concerning that relationship or the bank sells the credit card receivables without retaining servicing rights; or

(iv) For other types of relationships, the bank has not communicated with

the consumer about the relationship for a period of 12 consecutive months, other than to provide annual notices of privacy policies and practices.

§ 40.6 Information to be included in initial and annual notices of privacy policies and practices.

(a) *General rule.* The initial and annual notices that a bank provides about its privacy policies and practices under §§ 40.4 and 40.5 must include each of the following items of information:

(1) The categories of nonpublic personal information about the bank's consumers that the bank collects;

(2) The categories of nonpublic personal information about the bank's consumers that the bank discloses;

(3) The categories of affiliates and nonaffiliated third parties to whom the bank discloses nonpublic personal information about its consumers, other than those parties to whom the bank discloses information under §§ 40.10 and 40.11;

(4) The categories of nonpublic personal information about the bank's former customers that it discloses and the categories of affiliates and nonaffiliated third parties to whom the bank discloses nonpublic personal information about its former customers, other than those parties to whom it discloses information under §§ 40.10 and 40.11;

(5) If the bank discloses nonpublic personal information to a nonaffiliated third party under § 40.9 (and no other exception applies to that disclosure), a separate description of the categories of information the bank discloses and the categories of third parties with whom the bank has contracted;

(6) An explanation of the right under § 40.8(a) of the consumer to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the methods by which the consumer may exercise that right;

(7) Any disclosures that the bank makes under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates); and

(8) The bank's policies and practices with respect to protecting the confidentiality, security, and integrity of nonpublic personal information.

(b) *Description of nonaffiliated third parties subject to exceptions.* If a bank discloses nonpublic personal information about a consumer to third parties as authorized under §§ 40.10 and 40.11, the bank is not required to list those exceptions in the initial or annual

privacy notices required by §§ 40.4 and 40.5. When describing the categories with respect to those parties, the bank is only required to state that it makes disclosures to other nonaffiliated third parties as permitted by law.

(c) *Future disclosures.* The bank's notice may include:

(1) Categories of nonpublic personal information that the bank reserves the right to disclose in the future, but does not currently disclose; and

(2) Categories of affiliates or nonaffiliated third parties to whom the bank reserves the right in the future to disclose, but to whom the bank does not currently disclose, nonpublic personal information.

(d) *Examples*—(1) *Categories of nonpublic personal information that the bank collects.* A bank adequately categorizes the nonpublic personal information it collects if it categorizes the information according to the source of the information, such as application information, information about transactions (such as information regarding a deposit, loan, or credit card account), and consumer reports.

(2) *Categories of nonpublic personal information the bank discloses.* A bank adequately categorizes nonpublic personal information it discloses if the bank categorizes the information according to source, and provides illustrative examples of the content of the information. These might include application information, such as assets and income; identifying information, such as name, address, and social security number; and transaction information, such as information about account balance, payment history, parties to the transaction, and credit card usage; and information from consumer reports, such as a consumer's creditworthiness and credit history. A bank does not adequately categorize the information that it discloses if it uses only general terms, such as transaction information about the consumer.

(3) *Categories of affiliates and nonaffiliated third parties to whom the bank discloses.* A bank adequately categorizes the affiliates and nonaffiliated third parties to whom it discloses nonpublic personal information about consumers if the bank identifies the types of businesses that they engage in. Types of businesses may be described by general terms only if the bank uses illustrative examples of significant lines of business. For example, a bank may use the term "financial products or services" if the bank includes appropriate examples of significant lines of businesses, such as consumer banking, mortgage lending, life insurance, or securities brokerage.

The bank also may categorize the affiliates and nonaffiliated third parties to whom the bank discloses nonpublic personal information about consumers using more detailed categories.

(4) *Simplified notices.* If the bank does not disclose, and does not intend to disclose, nonpublic personal information to affiliates or nonaffiliated third parties, the bank may simply state that fact, in addition to the information the bank must provide under paragraphs (a)(1), (a)(8), and (b) of this section.

(5) *Confidentiality, security, and integrity.* A bank adequately describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information if it explains who has access to the information and the circumstances under which the information may be accessed. The bank adequately describes its policies and practices with respect to protecting the integrity of nonpublic personal information if it explains measures the bank takes to protect against reasonably anticipated threats or hazards. A bank is not required to describe technical information about the safeguards the bank uses.

§ 40.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.

(a) (1) *Conditions for disclosure.*

Except as otherwise authorized in this part, a bank may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless:

(i) The bank has provided to the consumer an initial notice as required under § 40.4;

(ii) The bank has provided to the consumer an opt out notice as required in § 40.8;

(iii) The bank has given the consumer a reasonable opportunity, before the time that the bank discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) *Opt out definition.* Opt out means a direction by the consumer that the bank not disclose nonpublic personal information about that consumer to a nonaffiliated third party, other than as permitted by §§ 40.9, 40.10, and 40.11.

(3) *Examples of reasonable opportunity to opt out*—(i) *By mail.* A bank provides a consumer with whom it has a customer relationship with a reasonable opportunity to opt out if the bank mails the notices required in paragraph (a)(1) of this section to the consumer and allows the consumer a reasonable period of time, such as 30 days, to opt out.

(ii) *Isolated transaction with a consumer.* For an isolated transaction, such as the purchase of a cashier's check by a consumer, a bank provides a reasonable opportunity to opt out if the bank provides the consumer with the required notices at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(b) *Application of opt out to all consumers and all nonpublic personal information.* (1) A bank must comply with this section regardless of whether the bank and the consumer have established a customer relationship.

(2) Unless a bank complies with this section, it may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer that the bank has collected, regardless of whether it collected the information before or after receiving the direction to opt out from the consumer.

(c) *Partial opt out.* A bank may allow a consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§ 40.8 Form and method of providing opt out notice to consumers.

(a)(1) *Form of opt out notice.* A bank must provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under § 40.7(a)(1). The notice must state:

(i) That the bank discloses or reserves the right to disclose nonpublic personal information about its consumer to a nonaffiliated third party;

(ii) That the consumer has the right to opt out of that disclosure; and

(iii) A reasonable means by which the consumer may exercise the opt out right.

(2) *Examples.* (i) A bank provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal information to a nonaffiliated third party if the bank identifies all of the categories of nonpublic personal information that the bank discloses or reserves the right to disclose to nonaffiliated third parties as described in § 40.6 and states that the consumer can opt out of the disclosure of that information.

(ii) A bank provides a reasonable means of opting out if it:

(A) Designates check-off boxes in a prominent position on the relevant forms with the opt out notice;

(B) Includes a reply form together with the opt out notice; or

(C) Provides an electronic means to opt out, such as a form that can be sent

via electronic mail or a process at the bank's web site, if the consumer agrees to the electronic delivery of information.

(iii) A bank does not provide a reasonable means of opting out if the only means of opting out is for the consumer to write his or her own letter to exercise that opt out right.

(b) *How to provide opt out notice*—(1) *Delivery of notice.* A bank must provide the opt out notice required by paragraph (a) of this section in a manner so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form. If the bank and the consumer orally agree to enter into a customer relationship, the bank may provide the opt out notice required by paragraph (a) of this section within a reasonable time thereafter if the consumer agrees.

(2) *Oral description of opt out right insufficient.* A bank may not provide the opt out notice solely by orally explaining, either in person or over the telephone, the right of the consumer to opt out.

(3) *Same form as initial notice permitted.* A bank may provide the opt out notice together with or on the same written or electronic form as the initial notice the bank provides in accordance with § 40.4.

(4) *Initial notice required when opt out notice delivered subsequent to initial notice.* If the bank provides the opt out notice at a later time than required for the initial notice in accordance with § 40.4, the bank must also include a copy of the initial notice in writing or, if the consumer agrees, in an electronic form with the opt out notice.

(c) *Notice of change in terms*—(1) *General rule.* Except as otherwise authorized in this part, the bank must not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party other than as described in the initial notice that the bank provided to the consumer under § 40.4, unless:

(i) The bank has provided to the consumer a revised notice that accurately describes the bank's policies and practices;

(ii) The bank has provided to the consumer a new opt out notice;

(iii) The bank has given the consumer a reasonable opportunity, before the time that the bank discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) *How to provide notice of change in terms.* A bank must provide the revised notice of its policies and practices and

opt out notice to a consumer using the means permitted for providing the initial notice and opt out notice to that consumer under § 40.4(d) and paragraph (b) of this section, respectively.

(3) *Examples*—(i) Except as otherwise permitted by §§ 40.9, 40.10 and 40.11, a change-in-terms notice is required if a bank:

(A) Discloses a new category of nonpublic personal information to any nonaffiliated third party; or

(B) Discloses nonpublic personal information to a new category of nonaffiliated third party.

(ii) A change-in-terms notice is not required if a bank discloses nonpublic personal information to a new nonaffiliated third party that is adequately described by the bank's prior notice.

(d) *Continuing right to opt out.* A consumer may exercise the right to opt out at any time, and the bank receiving the opt out direction must comply with that direction as soon as reasonably practicable.

(e) *Duration of consumer's opt out direction.* A consumer's direction to opt out under this section is effective until revoked by the consumer in writing, or if the consumer agrees, in electronic form.

§ 40.9 Exception to opt out requirements for service providers and joint marketing.

(a) *General rule.* The opt out requirements in §§ 40.7 and 40.8 do not apply when a bank provides nonpublic personal information about a consumer to a nonaffiliated third party to perform services for the bank or functions on the bank's behalf, if the bank:

(1) Provides the initial notice in accordance with § 40.4; and

(2) Enters into a contractual agreement with the third party that:

(i) Requires the third party to maintain the confidentiality of the information to at least the same extent that the bank must maintain that confidentiality under this part; and

(ii) Limits the third party's use of information the bank discloses solely to the purposes for which the information is disclosed or as otherwise permitted by §§ 40.10 and 40.11 of this part.

(b) *Service may include joint marketing.* The services performed for a bank by a nonaffiliated third party under paragraph (a) of this section may include marketing of the bank's own products or services or marketing of financial products or services offered pursuant to joint agreements between the bank and one or more financial institutions.

(c) *Definition of joint agreement.* For purposes of this section, *joint agreement*

means a written contract pursuant to which a bank and one or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

§ 40.10 Exceptions to notice and opt out requirements for processing and servicing transactions.

(a) *Exceptions for processing transactions at consumer's request.* The requirements for initial notice in § 40.4(a)(2), the opt out in §§ 40.7 and 40.8 and service providers and joint marketing in § 40.9 do not apply if the bank discloses nonpublic personal information:

(1) As necessary to effect, administer, or enforce a transaction requested or authorized by the consumer;

(2) To service or process a financial product or service requested or authorized by the consumer;

(3) To maintain or service the consumer's account with the bank, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

(4) In connection with a proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer.

(b) *Necessary to effect, administer, or enforce a transaction* means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce the bank's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the financial service or financial product;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by the bank or any other party;

(v) To underwrite insurance at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: Account administration,

reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law;

(vi) In connection with settling a transaction, including:

(A) The authorization, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(B) The transfer of receivables, accounts or interests therein; or

(C) The audit of debit, credit or other payment information.

§ 40.11 Other exceptions to notice and opt out requirements.

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § 40.4(a)(2), the opt out in §§ 40.7 and 40.8 and service providers and joint marketing in § 40.9 do not apply when a bank discloses nonpublic personal information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) (i) To protect the confidentiality or security of the bank's records pertaining to the consumer, service, product or transaction;

(ii) To protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability;

(iii) For required institutional risk control or for resolving consumer disputes or inquiries;

(iv) To persons holding a legal or beneficial interest relating to the consumer; or

(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(3) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating the bank, persons that are assessing the bank's compliance with industry standards, and the bank's attorneys, accountants and auditors;

(4) To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including government regulators), self-regulatory organizations, or for an investigation on a matter related to public safety;

(5)(i) To a consumer reporting agency in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*); or

(ii) From a consumer report reported by a consumer reporting agency;

(6) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or

(7)(i) To comply with Federal, State or local laws, rules and other applicable legal requirements;

(ii) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by Federal, State or local authorities; or

(iii) To respond to judicial process or government regulatory authorities having jurisdiction over the bank for examination, compliance or other purposes as authorized by law.

(b) *Examples of consent and revocation of consent.* (1) A consumer may specifically consent to a bank's disclosure to a nonaffiliated insurance company of the fact that the consumer has applied to the bank for a mortgage so that the insurance company can offer homeowner's insurance to the consumer.

(2) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under § 40.8(d).

§ 40.12 Limits on redisclosure and reuse of information.

(a) *Limits on the bank's redisclosure and reuse.* (1) Except as otherwise provided in this part, if a bank receives nonpublic personal information about a consumer from a nonaffiliated financial institution, the bank must not, directly or through an affiliate, disclose the information to any other person that is not affiliated with either the bank or the other financial institution, unless the disclosure would be lawful if the financial institution made it directly to such other person.

(2) A bank may use nonpublic personal information about a consumer that it receives from a nonaffiliated financial institution in accordance with an exception under §§ 40.9, 40.10, or 40.11 only for the purpose of that exception.

(b) *Limits on redisclosure and the reuse by other persons.* (1) Except as otherwise provided in this part, if a bank discloses nonpublic personal information about a consumer to a nonaffiliated third party, that party must not, directly or through an affiliate,

disclose the information to any other person that is a nonaffiliated third party of both the bank and that party, unless the disclosure would be lawful if the bank made it directly to such other person.

(2) A nonaffiliated third party may use nonpublic personal information about a consumer that it receives from a bank in accordance with an exception under §§ 40.9, 40.10, or 40.11 only for the purpose of that exception.

§ 40.13 Limits on sharing of account number information for marketing purposes.

A bank must not, directly or through an affiliate, disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

§ 40.14 Protection of Fair Credit Reporting Act.

Nothing in this part shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), and no inference shall be drawn on the basis of the provisions of this part regarding whether information is transaction or experience information under section 603 of that Act.

§ 40.15 Relation to State laws.

(a) *In general.* This part shall not be construed as superseding, altering, or affecting any statute, regulation, order or interpretation in effect in any State, except to the extent that such State statute, regulation, order or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this section, a State statute, regulation, order or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Federal Trade Commission, after consultation with the OCC, on the Federal Trade Commission's own motion or upon the petition of any interested party.

§ 40.16 Effective date; transition rule.

(a) *Effective date.* This part is effective November 13, 2000.

(b) *Notice requirement for consumers who were customers on the effective*

date. No later than 30 days after the effective date of this part, a bank must provide an initial notice, as required by § 40.4, to consumers who were the bank's customers on the effective date of this part.

Dated: February 2, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

Board of Governors of the Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set out in the joint preamble, Title 12, Chapter II, of the Code of Federal Regulations is proposed to be amended by adding a new part 216 to read as follows:

PART 216—PRIVACY OF CONSUMER FINANCIAL INFORMATION (REGULATION P)

Sec.

- 216.1 Purpose and scope.
- 216.2 Rule of construction.
- 216.3 Definitions.
- 216.4 Initial notice to consumers of privacy policies and practices required.
- 216.5 Annual notice to customers required.
- 216.6 Information to be included in initial and annual notices of privacy policies and practices.
- 216.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.
- 216.8 Form and method of providing opt out notice to consumers.
- 216.9 Exception to opt out requirements for service providers and joint marketing.
- 216.10 Exceptions to notice and opt out requirements for processing and servicing transactions.
- 216.11 Other exceptions to notice and opt out requirements.
- 216.12 Limits on redisclosure and reuse of information.
- 216.13 Limits on sharing of account number information for marketing purposes.
- 216.14 Protection of Fair Credit Reporting Act.
- 216.15 Relation to State laws.
- 216.16 Effective date; transition rule.

Authority: 15 U.S.C. 6801 *et seq.*

§ 216.1 Purpose and scope.

(a) *Purpose*. This part governs the treatment of nonpublic personal information about consumers by the financial institutions listed in paragraph (b) of this section. This part:

- (1) Requires a financial institution to provide notice to consumers about its privacy policies and practices;
- (2) Describes the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and

(3) Provides a method for consumers to prevent a financial institution from disclosing that information to most nonaffiliated third parties by "opting out" of that disclosure, subject to the exceptions in §§ 216.9, 216.10, and 216.11.

(b) *Scope*. The rules established by this part apply only to nonpublic personal information about individuals who obtain financial products or services for personal, family or household purposes from the institutions listed below. This part does not apply to information about companies or about individuals who obtain financial products or services for business purposes. This part applies to entities for which the Board has primary supervisory authority. They are referred to in this part as "you." These are: State member banks, bank holding companies and certain of their nonbank subsidiaries or affiliates, State uninsured branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge and Agreement corporations.

§ 216.2 Rule of construction.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

§ 216.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company.

(b) (1) *Clear and conspicuous* means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information contained in the notice.

(2) *Examples*. (i) You make your notice reasonably understandable if, to the extent applicable, you:

(A) Present the information contained in the notice in clear, concise sentences, paragraphs and sections;

(B) Use short explanatory sentences and bullet lists, whenever possible;

(C) Use definite, concrete, everyday words and active voice, whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology; and

(F) Avoid boilerplate explanations that are imprecise and readily subject to different interpretations.

(ii) You design your notice to call attention to the nature and significance of the information contained in it if, to the extent applicable, you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read; and

(C) Provide wide margins and ample line spacing.

(iii) If you provide a notice on the same form as another notice or other document, you design your notice to call attention to the nature and significance of the information contained in the notice if you use:

(A) Larger type size(s), boldface or italics in the text;

(B) Wider margins and line spacing in the notice; or

(C) Shading or sidebars to highlight the notice, whenever possible.

(c) *Collect* means to obtain information that is organized or retrievable on a personally identifiable basis, irrespective of the source of the underlying information.

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association or similar organization.

(e)(1) *Consumer* means an individual who obtains or has obtained a financial product or service from you that is to be used primarily for personal, family or household purposes, and that individual's legal representative.

(2) *Examples*. (i) An individual who applies to you for credit for personal, family or household purposes is a consumer of a financial service, regardless of whether the credit is extended.

(ii) An individual who provides nonpublic personal information to you in order to obtain a determination about whether he or she may qualify for a loan to be used primarily for personal, family or household purposes is a consumer of a financial service, regardless of whether the loan is extended by you or another financial institution.

(iii) An individual who provides nonpublic personal information to you in connection with obtaining or seeking to obtain financial, investment or economic advisory services is a consumer regardless of whether you establish an ongoing advisory relationship.

(iv) An individual who negotiates a workout with you for a loan that you own is a consumer regardless of whether you originally extended the loan to the individual.

(v) An individual who has a loan from you is your consumer even if you:

(A) Hire an agent to collect on the loan;

(B) Sell the rights to service the loan; or

(C) Bought the loan from the financial institution that originated the loan.

(vi) An individual is not your consumer solely because you process information about the individual on behalf of a financial institution that extended the loan to the individual.

(f) *Consumer reporting agency* has the same meaning as in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(g) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as determined by the Board.

(h) *Customer* means a consumer who has a customer relationship with you.

(i)(1) *Customer relationship* means a continuing relationship between a consumer and you under which you provide one or more financial products or services to the consumer that are to be used primarily for personal, family or household purposes.

(2) *Examples.* (i) A consumer has a continuing relationship with you if the consumer:

(A) Has a deposit, credit, trust or investment account with you;

(B) Purchases an insurance product from you;

(C) Holds an investment product through you;

(D) Enters into an agreement or understanding with you whereby you undertake to arrange or broker a home mortgage loan for the consumer;

(E) Has a loan that you service where you own the servicing rights;

(F) Enters into a lease of personal property with you; or

(G) Obtains financial, investment or economic advisory services from you for a fee.

(ii) A consumer does not, however, have a continuing relationship with you if:

(A) The consumer only obtains a financial product or service in an isolated transaction, such as withdrawing cash from your ATM or purchasing a cashier's check or money order;

(B) You sell the consumer's loan and do not retain the rights to service that loan; or

(C) You sell the consumer airline tickets, travel insurance or traveler's checks in an isolated transaction.

(j) (1) *Financial institution* means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial institution* does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(k) (1) *Financial product or service* means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial service* includes your evaluation, brokerage or distribution of information that you collect in connection with a request or an application from a consumer for a financial product or service.

(l) *Government regulator* means:

(1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Board of Directors of the Federal Deposit Insurance Corporation;

(4) The Director of the Office of Thrift Supervision;

(5) The National Credit Union Administration Board;

(6) The Securities and Exchange Commission;

(7) The Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping);

(8) A State insurance authority, with respect to any person domiciled in that insurance authority's State that is engaged in providing insurance; and

(9) The Federal Trade Commission.

(m) (1) *Nonaffiliated third party* means any person except:

(i) Your affiliate; or

(ii) A person employed jointly by you and any company that is not your affiliate (but *nonaffiliated third party* includes the other company that jointly employs the person).

(2) *Nonaffiliated third party* includes any company that is an affiliate by virtue of the direct or indirect ownership or control of the company by the financial institution or any affiliate of the financial institution in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

(n) (1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information.

(2) *Nonpublic personal information* does not include:

(i) Publicly available information, except as provided in paragraph (n)(1)(ii) of this section; or

(ii) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information.

(3) *Example.* Nonpublic personal information includes any list of individuals' street addresses and telephone numbers that is derived using personally identifiable financial information, such as account numbers.

(o) (1) *Personally identifiable financial information* means any information:

(i) Provided by a consumer to you to obtain a financial product or service from you;

(ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or

(iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.

(2) *Examples.* (i) Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to obtain a loan, credit card, insurance or other financial product or service, including, among other things, medical information;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you, unless that fact is derived using only publicly available information, such as government real estate records or bankruptcy records;

(D) Other information about your consumer if it is disclosed in a manner that indicates the individual is or has been your consumer;

(E) Any information provided by a consumer or otherwise obtained by you or your agent in connection with collecting on a loan or servicing a loan; and

(F) Information from a consumer report.

(ii) Personally identifiable financial information does not include a list of names and addresses of customers of an entity that is not a financial institution.

(p) (1) *Publicly available information* means any information that is lawfully made available to the general public from:

(i) Federal, State or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by Federal, State or local law.

(2) *Examples*—(i) *Government records*. Publicly available information contained in government records includes information contained in government real estate records and security interest filings.

(ii) *Widely distributed media*. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or an Internet site that is available to the general public without requiring a password or similar restriction.

(g) *You* means:

(1) A State member bank, as defined in 12 CFR 208.3(g) and its subsidiaries;

(2) A bank holding company, as defined in 12 CFR 225.2(c);

(3) A subsidiary (as defined in 12 CFR 225.2(o)) or affiliate of a bank holding company, except for a:

(i) National bank or a State bank that is not a member of the Federal Reserve System;

(ii) Broker, as defined in 15 U.S.C. 78c(a)(4);

(iii) Dealer, as defined in 15 U.S.C. 78c(a)(5);

(iv) Person, to the extent that person is engaged in the business of insurance in a State as principal or agent and required to be licensed by the appropriate State insurance authority;

(v) Investment company, as defined in 15 U.S.C. 80a–3; or

(vi) Investment adviser, as defined in 15 U.S.C. 80b–2(a)(11);

(4) A State agency or State branch of a foreign bank, as those terms are defined in 12 U.S.C. 3101(b)(11) and (12), the deposits of which agency or branch are not insured by the Federal Deposit Insurance Corporation;

(5) A commercial lending company, as defined in 12 CFR 211.21(f), that is owned or controlled by a foreign bank, as defined in 12 CFR 211.21(m); or

(6) A corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611–631) or a corporation having an agreement or undertaking with the Board under section 25 of the Federal Reserve Act (12 U.S.C. 601–604a).

§ 216.4 Initial notice to consumers of privacy policies and practices required.

(a) *When initial notice is required.*

You must provide a clear and conspicuous notice that accurately reflects your privacy policies and practices to:

(1) An individual who becomes your customer, prior to the time that you establish a customer relationship, except as provided in paragraph (d)(2) of this section; and

(2) A consumer, prior to the time that you disclose any nonpublic personal information about the consumer to any nonaffiliated third party, if you make such a disclosure other than as authorized by §§ 216.10 and 216.11.

(b) *When initial notice to a consumer is not required.* You are not required to provide an initial notice to a consumer under paragraph (a)(1) of this section if:

(1) You do not disclose any nonpublic personal information about the consumer to any nonaffiliated third party, other than as authorized by §§ 216.10 and 216.11; and

(2) You do not have a customer relationship with the consumer.

(c) *When you establish a customer relationship*—(1) *General rule.* You establish a customer relationship at the time you and the consumer enter into a continuing relationship.

(2) *Examples.* You establish a customer relationship when the consumer:

(i) Opens a credit card account with you;

(ii) Executes the contract to open a deposit account with you, obtains credit from you, or purchases insurance from you;

(iii) Agrees to obtain financial, economic or investment advisory services from you for a fee;

(iv) Becomes your client for the purpose of your providing credit counseling or tax preparation services.

(d) *How to provide notice*—(1)

General rule. You must provide the privacy notice required by paragraph (a) of this section so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form.

(2) *Exceptions to allow subsequent delivery of notice.* You may provide the initial notice required by paragraph (a)(1) of this section within a reasonable time after you establish a customer relationship if:

(i) You purchase a loan or assume a deposit liability from another financial institution and the customer of that loan or deposit account does not have a choice about your purchase or assumption; or

(ii) You and the consumer orally agree to enter into a customer relationship and the consumer agrees to receive the notice thereafter.

(3) *Oral description of notice insufficient.* You may not provide the initial notice required by paragraph (a) of this section solely by orally explaining, either in person or over the telephone, your privacy policies and practices.

(4) *Retention or accessibility of initial notice for customers.* For customers only, you must provide the initial notice required by paragraph (a)(1) of this section so that it can be retained or obtained at a later time by the customer, in a written form or, if the customer agrees, in electronic form.

(5) *Examples.* (i) You may reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(A) Hand-deliver a printed copy of the notice to the consumer;

(B) Mail a printed copy of the notice to the last known address of the consumer;

(C) For the consumer who conducts transactions electronically, post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial product or service;

(D) For an isolated transaction with the consumer, such as an ATM transaction, post the notice on the ATM screen and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular financial product or service.

(ii) You may *not*, however, reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(A) Only post a sign in your branch or office or generally publish advertisements of your privacy policies and practices;

(B) Send the notice via electronic mail to a consumer who obtains a financial product or service with you in person or through the mail and who does not agree to receive the notice electronically.

(iii) You provide the initial privacy notice to the customer so that it can be retained or obtained at a later time if you:

(A) Hand-deliver a printed copy of the notice to the customer;

(B) Mail a printed copy of the notice to the last known address of the customer upon request of the customer;

(C) Maintain the notice on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and who agrees to receive the notice electronically.

§ 216.5 Annual notice to customers required.

(a) *General rule.* You must provide a clear and conspicuous notice to customers that accurately reflects your privacy policies and practices not less than annually during the continuation of the customer relationship. *Annually* means at least once in any period of 12 consecutive months during which that relationship exists.

(b) *How to provide notice.* You must provide the annual notice required by paragraph (a) of this section to a customer using a means permitted for providing the initial notice to that customer under § 216.4(d).

(c)(1) *Termination of customer relationship.* You are not required to provide an annual notice to a customer with whom you no longer have a continuing relationship.

(2) *Examples.* You no longer have a continuing relationship with an individual if:

(i) In the case of a deposit account, the account is dormant under the bank's policies;

(ii) In the case of a closed-end loan, the consumer pays the loan in full, you charge off the loan, or you sell the loan without retaining servicing rights;

(iii) In the case of a credit card relationship or other open-end credit relationship, you no longer provide any statements or notices to the consumer concerning that relationship or you sell the credit card receivables without retaining servicing rights; or

(iv) For other types of relationships, you have not communicated with the consumer about the relationship for a period of 12 consecutive months, other

than to provide annual notices of privacy policies and practices.

§ 216.6 Information to be included in initial and annual notices of privacy policies and practices.

(a) *General rule.* The initial and annual notices that you provide about your privacy policies and practices under §§ 216.4 and 216.5 must include each of the following items of information:

(1) The categories of nonpublic personal information about your consumers that you collect;

(2) The categories of nonpublic personal information about your consumers that you disclose;

(3) The categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your consumers, other than those parties to whom you disclose information under §§ 216.10 and 216.11;

(4) The categories of nonpublic personal information about your former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your former customers, other than those parties to whom you disclose information under §§ 216.10 and 216.11;

(5) If you disclose nonpublic personal information to a nonaffiliated third party under § 216.9 (and no other exception applies to that disclosure), a separate description of the categories of information you disclose and the categories of third parties with whom you have contracted;

(6) An explanation of the right under § 216.8(a) of the consumer to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the methods by which the consumer may exercise that right;

(7) Any disclosures that you make under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates); and

(8) Your policies and practices with respect to protecting the confidentiality, security and integrity of nonpublic personal information.

(b) *Description of nonaffiliated third parties subject to exceptions.* If you disclose nonpublic personal information about a consumer to third parties as authorized under §§ 216.10 and 216.11, you are not required to list those exceptions in the initial or annual privacy notices required by §§ 216.4 and 216.5. When describing the categories with respect to those parties, you are only required to state that you make

disclosures to other nonaffiliated third parties as permitted by law.

(c) *Future disclosures.* Your notice may include:

(1) Categories of nonpublic personal information that you reserve the right to disclose in the future, but do not currently disclose; and

(2) Categories of affiliates or nonaffiliated third parties to whom you reserve the right in the future to disclose, but to whom you do not currently disclose, nonpublic personal information.

(d) *Examples—(1) Categories of nonpublic personal information that you collect.* You adequately categorize the nonpublic personal information you collect if you categorize it according to the source of the information, such as application information, information about transactions (such as information regarding your deposit, loan, or credit card account), and consumer reports.

(2) *Categories of nonpublic personal information you disclose.* You adequately categorize nonpublic personal information you disclose if you categorize it according to source, and provide a few illustrative examples of the content of the information. These might include application information, such as assets and income; identifying information, such as name, address, and social security number; and transaction information, such as information about account balance, payment history, parties to the transaction, and credit card usage; and information from consumer reports, such as a consumer's creditworthiness and credit history. You do not adequately categorize the information that you disclose if you use only general terms, such as transaction information about the consumer.

(3) *Categories of affiliates and nonaffiliated third parties to whom you disclose.* You adequately categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about consumers if you identify the types of businesses that they engage in. Types of businesses may be described by general terms only if you use a few illustrative examples of significant lines of business. For example, you may use the term financial products or services if you include appropriate examples of significant lines of businesses, such as consumer banking, mortgage lending, life insurance or securities brokerage. You also may categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about consumers using more detailed categories.

(4) *Simplified notices.* If you do not disclose, and do not intend to disclose,

nonpublic personal information to affiliates or nonaffiliated third parties, you may simply state that fact, in addition to the information you must provide under paragraphs (a)(1), (a)(8), and (b) of this section.

(5) *Confidentiality, security and integrity.* You describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information if you explain who has access to the information and the circumstances under which the information may be accessed. You describe your policies and practices with respect to protecting the integrity of nonpublic personal information if you explain measures you take to protect against reasonably anticipated threats or hazards. You are not required to describe technical information about the safeguards you use.

§ 216.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.

(a)(1) *Conditions for disclosure.* Except as otherwise authorized in this part, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless:

(i) You have provided to the consumer an initial notice as required under § 216.4;

(ii) You have provided to the consumer an opt out notice as required in § 216.8;

(iii) You have given the consumer a reasonable opportunity, before the time that you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) *Opt out definition.* Opt out means a direction by the consumer that you not disclose nonpublic personal information about that consumer to a nonaffiliated third party, other than as permitted by §§ 216.9, 216.10 and 216.11.

(3) *Examples of reasonable opportunity to opt out*—(i) *By mail.* You provide a consumer with whom you have a customer relationship with a reasonable opportunity to opt out if you mail the notices required in paragraph (a)(1) of this section to the consumer and allow the consumer a reasonable period of time, such as 30 days, to opt out.

(ii) *Isolated transaction with consumer.* For an isolated transaction, such as the purchase of a cashier's check by a consumer, you provide a reasonable opportunity to opt out if you provide the consumer with the required notices at the time of the transaction and request that the consumer decide,

as a necessary part of the transaction, whether to opt out before completing the transaction.

(b) *Application of opt out to all consumers and all nonpublic personal information.* (1) You must comply with this section, regardless of whether you and the consumer have established a customer relationship.

(2) Unless you comply with this section, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer that you have collected, regardless of whether you collected it before or after receiving the direction to opt out from the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§ 216.8 Form and method of providing opt out notice to consumers.

(a)(1) *Form of opt out notice.* You must provide a clear and conspicuous notice to each of your consumers that accurately explains the right to opt out under § 216.7(a)(1). The notice must state:

(i) That you disclose or reserve the right to disclose nonpublic personal information about your consumer to a nonaffiliated third party;

(ii) That the consumer has the right to opt out of that disclosure; and

(iii) A reasonable means by which the consumer may exercise the opt out right.

(2) *Examples.* (i) You provide adequate notice that the consumer can opt out of the disclosure of nonpublic personal information to a nonaffiliated third party if you identify all of the categories of nonpublic personal information that you disclose or reserve the right to disclose to nonaffiliated third parties as described in § 216.6 and state that the consumer can opt out of the disclosure of that information.

(ii) You provide a reasonable means to exercise an opt out right if you:

(A) Designate check-off boxes in a prominent position on the relevant forms with the opt out notice;

(B) Include a reply form together with the opt out notice; or

(C) Provide an electronic means to opt out, such as a form that can be sent via electronic mail or a process at your web site, if the consumer agrees to the electronic delivery of information.

(iii) You *do not* provide a reasonable means of opting out if the only means of opting out is for the consumer to write his or her own letter to exercise that opt out right.

(b) *How to provide opt out notice*—(1) *Delivery of notice.* You must provide the opt out notice required by paragraph (a) of this section in a manner so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form. If you and the consumer orally agree to enter into a customer relationship, you may provide the opt out notice required by paragraph (a) of this section within a reasonable time thereafter if the consumer agrees.

(2) *Oral description of opt out right insufficient.* You may not provide the opt out notice solely by orally explaining, either in person or over the telephone, the right of the consumer to opt out.

(3) *Same form as initial notice permitted.* You may provide the opt out notice together with or on the same written or electronic form as the initial notice you provide in accordance with § 216.4.

(4) *Initial notice required when opt out notice delivered subsequent to initial notice.* If you provide the opt out notice at a later time than required for the initial notice in accordance with § 216.4, you must also include a copy of the initial notice in writing or, if the consumer agrees, in an electronic form with the opt out notice.

(c) *Notice of change in terms*—(1) *General rule.* Except as otherwise authorized in this part, you must not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party other than as described in the initial notice that you provided to the consumer under § 216.4, unless:

(i) You have provided to the consumer a revised notice that accurately describes your policies and practices;

(ii) You have provided to the consumer a new opt out notice;

(iii) You have given the consumer a reasonable opportunity, before the time that you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) *How to provide notice of change in terms.* You must provide the revised notice of your policies and practices and opt out notice to a consumer using the means permitted for providing the initial notice and opt out notice to that consumer under § 216.4(d) and paragraph (b) of this section, respectively.

(3) *Examples.* (i) Except as otherwise permitted by §§ 216.9, 216.10 and 216.11, a change-in-terms notice is required if you:

(A) Disclose a new category of nonpublic personal information to any nonaffiliated third party; or

(B) Disclose nonpublic personal information to a new category of nonaffiliated third party.

(ii) A change-in-terms notice is not required if you disclose nonpublic personal information to a new nonaffiliated third party that is adequately described by your prior notice.

(d) *Continuing right to opt out.* A consumer may exercise the right to opt out at any time, and you must comply with the consumer's direction as soon as reasonably practicable.

(e) *Duration of consumer's opt out direction.* A consumer's direction to opt out under this section is effective until revoked by the consumer in writing, or if the consumer agrees, in electronic form.

§ 216.9 Exception to opt out requirements for service providers and joint marketing.

(a) *General rule.* The opt out requirements in §§ 216.7 and 216.8 do not apply when you provide nonpublic personal information about a consumer to a nonaffiliated third party to perform services for you or functions on your behalf, if you:

(1) Provide the initial notice in accordance with § 216.4; and

(2) Enter into a contractual agreement with the third party that:

(i) Requires the third party to maintain the confidentiality of the information to at least the same extent that you must maintain that confidentiality under this part; and

(ii) Limits the third party's use of information you disclose solely to the purposes for which the information is disclosed or as otherwise permitted by §§ 216.10 and 216.11 of this part.

(b) *Service may include joint marketing.* The services performed for you by a nonaffiliated third party under paragraph (a) of this section may include marketing of your own products or services or marketing of financial products or services offered pursuant to joint agreements between you and one or more financial institutions.

(c) *Definition of joint agreement.* For purposes of this section, *joint agreement* means a written contract pursuant to which you and one or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

§ 216.10 Exceptions to notice and opt out requirements for processing and servicing transactions.

(a) *Exceptions for processing transactions at consumer's request.* The requirements for initial notice in

§ 216.4(a)(2), the opt out in §§ 216.7 and 216.8 and service providers and joint marketing in § 216.9 do not apply if you disclose nonpublic personal information:

(1) As necessary to effect, administer, or enforce a transaction requested or authorized by the consumer;

(2) To service or process a financial product or service requested or authorized by the consumer;

(3) To maintain or service the consumer's account with you, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

(4) In connection with a proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer.

(b) *Necessary to effect, administer, or enforce a transaction* means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce your rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the financial service or financial product;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by you or any other party;

(v) To underwrite insurance at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law;

(vi) In connection with settling a transaction, including:

(A) The authorization, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(B) The transfer of receivables, accounts or interests therein; or

(C) The audit of debit, credit or other payment information.

§ 216.11 Other exceptions to notice and opt out requirements.

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § 216.4(a)(2), the opt out in §§ 216.7 and 216.8, and service providers and joint marketing in § 216.9 do not apply when you disclose nonpublic personal information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) (i) To protect the confidentiality or security of your records pertaining to the consumer, service, product or transaction;

(ii) To protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability;

(iii) For required institutional risk control or for resolving consumer disputes or inquiries;

(iv) To persons holding a legal or beneficial interest relating to the consumer; or

(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(3) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating you, persons that are assessing your compliance with industry standards, and your attorneys, accountants and auditors;

(4) To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including government regulators), self-regulatory organizations, or for an investigation on a matter related to public safety;

(5) (i) To a consumer reporting agency in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), or

(ii) From a consumer report reported by a consumer reporting agency;

(6) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information

concerns solely consumers of such business or unit; or

(7) (i) To comply with Federal, State or local laws, rules and other applicable legal requirements;

(ii) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by Federal, State or local authorities; or

(iii) To respond to judicial process or government regulatory authorities having jurisdiction over you for examination, compliance or other purposes as authorized by law.

(b) *Examples of consent and revocation of consent.* (1) A consumer may specifically consent to your disclosure to a nonaffiliated insurance company of the fact that the consumer has applied to you for a mortgage so that the insurance company can offer homeowner's insurance to the consumer.

(2) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under § 216.8(d).

§ 216.12 Limits on redisclosure and reuse of information.

(a) *Limits on your redisclosure and reuse.* (1) Except as otherwise provided in this part, if you receive nonpublic personal information about a consumer from a nonaffiliated financial institution, you must not, directly or through an affiliate, disclose the information to any other person that is not affiliated with either the financial institution or you, unless the disclosure would be lawful if the financial institution made it directly to such other person.

(2) You may use nonpublic personal information about a consumer that you receive from a nonaffiliated financial institution in accordance with an exception under §§ 216.9, 216.10 or 216.11 only for the purpose of that exception.

(b) *Limits on redisclosure and the reuse by other persons.* (1) Except as otherwise provided in this part, if you disclose nonpublic personal information about a consumer to a nonaffiliated third party, that party must not, directly or through an affiliate, disclose the information to any other person that is a nonaffiliated third party of both you and that party, unless the disclosure would be lawful if you made it directly to such other person.

(2) A nonaffiliated third party may use nonpublic personal information about a consumer that it receives from you in accordance with an exception under §§ 216.9, 216.10 or 216.11 only for the purpose of that exception.

§ 216.13 Limits on sharing of account number information for marketing purposes.

You must not, directly or through an affiliate, disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

§ 216.14 Protection of Fair Credit Reporting Act.

Nothing in this part shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), and no inference shall be drawn on the basis of the provisions of this part regarding whether information is transaction or experience information under section 603 of that Act.

§ 216.15 Relation to State laws.

(a) *In general.* This part shall not be construed as superseding, altering, or affecting any statute, regulation, order or interpretation in effect in any State, except to the extent that such State statute, regulation, order or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this section, a State statute, regulation, order or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Federal Trade Commission, after consultation with the Board, on the Federal Trade Commission's own motion or upon the petition of any interested party.

§ 216.16 Effective date; transition rule.

(a) *Effective date.* This part is effective November 13, 2000.

(b) *Notice requirement for consumers who were your customers on the effective date.* No later than thirty days after the effective date of this part, you must provide an initial notice, as required by § 216.4, to consumers who were your customers on the effective date of this part.

By order of the Board of Governors of the Federal Reserve System, February 10, 2000.

Jennifer J. Johnson,
Secretary of the Board.

Federal Deposit Insurance Corporation 12 CFR Chapter III

Authority and Issuance

For the reasons set out in the joint preamble, Title 12, Chapter III of the Code of Federal Regulations is proposed to be amended by adding a new part 332 to read as follows:

PART 332—PRIVACY OF CONSUMER FINANCIAL INFORMATION

Sec.

- 332.1 Purpose and scope.
- 332.2 Rule of construction.
- 332.3 Definitions.
- 332.4 Initial notice to consumers of privacy policies and practices required.
- 332.5 Annual notice to customers required.
- 332.6 Information to be included in initial and annual notices of privacy policies and practices.
- 332.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.
- 332.8 Form and method of providing opt out notice to consumers.
- 332.9 Exception to opt out requirements for service providers and joint marketing.
- 332.10 Exceptions to notice and opt out requirements for processing and servicing transactions.
- 332.11 Other exceptions to notice and opt out requirements.
- 332.12 Limits on redisclosure and reuse of information.
- 332.13 Limits on sharing of account number information for marketing purposes.
- 332.14 Protection of Fair Credit Reporting Act.
- 332.15 Relation to State laws.
- 332.16 Effective date; transition rule.

Authority: 12 U.S.C. 1819 (Seventh and Tenth); 15 U.S.C. 6801 *et seq.*

§ 332.1 Purpose and scope.

(a) *Purpose.* This part governs the treatment of nonpublic personal information about consumers by the financial institutions listed in paragraph (b) of this section. This part:

(1) Requires a financial institution to provide notice to consumers about its privacy policies and practices;

(2) Describes the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and

(3) Provides a method for consumers to prevent a financial institution from disclosing that information to certain nonaffiliated third parties by "opting out" of that disclosure, subject to the exceptions in §§ 332.9, 332.10, and 332.11.

(b) *Scope.* The rules established by this part apply only to nonpublic personal information about individuals who obtain financial products or services for personal, family or household purposes from the institutions listed in this paragraph (b). This part does not apply to information about companies or about individuals who obtain financial products or services for business purposes. This part applies to entities for which the Federal Deposit Insurance Corporation has primary supervisory authority. They are referred to in this part as "you." These are banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured state branches of foreign banks, and any subsidiaries of such entities, except a broker or dealer that is registered under the Securities Exchange Act of 1934, a registered investment adviser (with respect to the investment advisory activities of the adviser and activities incidental to those investment advisory activities), an investment company registered under the Investment Company Act of 1940, an insurance company that is subject to supervision by a State insurance regulator (with respect to insurance activities of the company and activities incidental to those insurance activities), and an entity that is subject to regulation by the Commodity Futures Trading Commission.

§ 332.2 Rule of construction.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

§ 332.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company.

(b)(1) *Clear and conspicuous* means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information contained in the notice.

(2) *Examples.* (i) You make your notice reasonably understandable if, to the extent applicable, you:

(A) Present the information contained in the notice in clear, concise sentences, paragraphs and sections;

(B) Use short explanatory sentences and bullet lists, whenever possible;

(C) Use definite, concrete, everyday words and active voice, whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology; and

(F) Avoid boilerplate explanations that are imprecise and readily subject to different interpretations.

(ii) You design your notice to call attention to the nature and significance of the information contained in the notice if, to the extent applicable, you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read; and

(C) Provide wide margins and ample line spacing.

(iii) If you provide a notice on the same form as another notice or other document, you design your notice to call attention to the nature and significance of the information contained in the notice if you use:

(A) Larger type size(s), boldface or italics in the text;

(B) Wider margins and line spacing in the notice; or

(C) Shading or sidebars to highlight the notice, whenever possible.

(c) *Collect* means to obtain information that is organized or retrievable on a personally identifiable basis, irrespective of the source of the underlying information.

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association or similar organization.

(e) (1) *Consumer* means an individual who obtains or has obtained a financial product or service from you that is to be used primarily for personal, family or household purposes, and that individual's legal representative.

(2) *Examples.* (i) An individual who applies to you for credit for personal, family or household purposes is a consumer of a financial service, regardless of whether the credit is extended.

(ii) An individual who provides nonpublic personal information to you in order to obtain a determination about whether he or she may qualify for a loan to be used primarily for personal, family, or household purposes is a consumer of a financial service, regardless of whether the loan is extended by you or another financial institution.

(iii) An individual who provides nonpublic personal information to you in connection with obtaining or seeking to obtain financial, investment or economic advisory services is a consumer regardless of whether you establish an ongoing advisory relationship.

(iv) An individual who negotiates a workout with you for a loan that you own is a consumer regardless of

whether you originally extended the loan to the individual.

(v) An individual who has a loan from you is your consumer even if you:

(A) Hire an agent to collect on the loan;

(B) Sell the rights to service the loan; or

(C) Bought the loan from the financial institution that originated the loan.

(vi) An individual is not your consumer solely because you process information about the individual on behalf of a financial institution that extended the loan to the individual.

(f) *Consumer reporting agency* has the same meaning as in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(g) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as determined by the FDIC.

(h) *Customer* means a consumer who has a customer relationship with you.

(i) (1) *Customer relationship* means a continuing relationship between a consumer and you under which you provide one or more financial products or services to the consumer that are to be used primarily for personal, family, or household purposes.

(2) *Examples.* (i) A consumer has a continuing relationship with you if the consumer:

(A) Has a deposit, credit, trust or investment account with you;

(B) Purchases an insurance product from you;

(C) Holds an investment product through you;

(D) Enters into an agreement or understanding with you whereby you undertake to arrange or broker a home mortgage loan for the consumer;

(E) Has a loan that you service where you own the servicing rights;

(F) Enters into a lease of personal property with you; or

(G) Obtains financial, investment or economic advisory services from you for a fee.

(ii) A consumer does not, however, have a continuing relationship with you if:

(A) The consumer only obtains a financial product or service in an

isolated transaction, such as withdrawing cash from your ATM or purchasing a cashier's check or money order;

(B) You sell the consumer's loan and do not retain the rights to service that loan; or

(C) You sell the consumer airline tickets, travel insurance or traveler's checks in an isolated transaction.

(j) (1) *Financial institution* means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial institution* does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(k) (1) *Financial product or service* means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial service* includes your evaluation, brokerage or distribution of information that you collect in connection with a request or an application from a consumer for a financial product or service.

(l) *Government regulator* means:

(1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Board of Directors of the Federal Deposit Insurance Corporation;

(4) The Director of the Office of Thrift Supervision;

(5) The National Credit Union Administration Board;

(6) The Securities and Exchange Commission;

(7) The Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions)

and 12 U.S.C. Chapter 21 (Financial Recordkeeping);

(8) A State insurance authority, with respect to any person domiciled in that insurance authority's State that is engaged in providing insurance; and

(9) The Federal Trade Commission.

(m) (1) *Nonaffiliated third party* means any person except:

(i) Your affiliate; or

(ii) A person employed jointly by you and any company that is not your affiliate (but *nonaffiliated third party* includes the other company that jointly employs the person).

(2) *Nonaffiliated third party* includes any company that is an affiliate by virtue of the direct or indirect ownership or control of the company by the financial institution or any affiliate of the financial institution in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

Alternative A

(n) (1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information.

(2) *Nonpublic personal information* does not include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information.

(3) *Example.* Nonpublic personal information includes any list of individuals' street addresses and telephone numbers that is derived using any information consumers provide to you on an application for a financial product or service.

(o) (1) *Personally identifiable financial information* means any information:

(i) Provided by a consumer to you to obtain a financial product or service from you;

(ii) Resulting from any transaction involving a financial product or service between you and a consumer; or

(iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer, other than publicly available information.

(2) *Examples.* (i) Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to obtain a loan, credit card, insurance or other financial product or service, including, among other things, medical information;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you, unless that fact is derived using only publicly available information, such as government real estate records or bankruptcy records;

(D) Other information about your consumer if it is disclosed in a manner that indicates the individual is or has been your consumer;

(E) Any information provided by a consumer or otherwise obtained by you or your agent in connection with collecting on a loan or servicing a loan; and

(F) Information from a consumer report.

(ii) Personally identifiable financial information does not include a list of names and addresses of customers of an entity that is not a financial institution.

(p) (1) *Publicly available information* means any information that is lawfully made available to the general public that is obtained from:

(i) Federal, State, or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by Federal, State, or local law.

(2) *Examples.*—(i) *Government records.* Publicly available information contained in government records includes information contained in government real estate records and security interest filings.

(ii) *Widely distributed media.* Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or an Internet site that is available to the general public without requiring a password or similar restriction.

Alternative B

(n) (1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any

personally identifiable financial information.

(2) *Nonpublic personal information* does not include:

- (i) Publicly available information, except as provided in paragraph (n)(1)(ii) of this section; or
- (ii) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information.

(3) *Example.* Nonpublic personal information includes any list of individuals' street addresses and telephone numbers that is derived using personally identifiable financial information, such as account numbers.

(o) (1) *Personally identifiable financial information* means any information:

- (i) Provided by a consumer to you to obtain a financial product or service from you;
- (ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or
- (iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.

(2) *Examples.* (i) Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to obtain a loan, credit card, insurance or other financial product or service, including, among other things, medical information;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you, unless that fact is derived using only publicly available information, such as government real estate records or bankruptcy records;

(D) Other information about your consumer if it is disclosed in a manner that indicates the individual is or has been your consumer;

(E) Any information provided by a consumer or otherwise obtained by you or your agent in connection with collecting on a loan or servicing a loan; and

(F) Information from a consumer report.

(ii) Personally identifiable financial information does not include a list of names and addresses of customers of an entity that is not a financial institution.

(p)(1) *Publicly available information* means any information that is lawfully

made available to the general public from:

- (i) Federal, State, or local government records;
- (ii) Widely distributed media; or
- (iii) Disclosures to the general public that are required to be made by Federal, State, or local law.

(2) *Examples—(i) Government records.* Publicly available information contained in government records includes information contained in government real estate records and security interest filings.

(ii) *Widely distributed media.* Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or an Internet site that is available to the general public without requiring a password or similar restriction.

(q) *You* means a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), an insured state branch of a foreign bank, and any subsidiary of either such entity except:

(1) A broker, as defined in 15 U.S.C. 78c(a)(4);

(2) A dealer, as defined in 15 U.S.C. 78c(a)(5);

(3) A person, to the extent that person is engaged in the business of insurance in a State as principal or agent and required to be licensed by the appropriate State insurance authority;

(4) An investment company, as defined in 15 U.S.C. 80a-3(a)(1); or

(5) An investment adviser, as defined in 15 U.S.C. 80b-2(a)(20).

§ 332.4 Initial notice to consumers of privacy policies and practices required.

(a) *When initial notice is required.*

You must provide a clear and conspicuous notice that accurately reflects your privacy policies and practices to:

(1) An individual who becomes your customer, prior to the time that you establish a customer relationship, except as provided in paragraph (d)(2) of this section; and

(2) A consumer, prior to the time that you disclose any nonpublic personal information about the consumer to any nonaffiliated third party, if you make such a disclosure other than as authorized by §§ 332.10 and 332.11.

(b) *When initial notice to a consumer is not required.* You are not required to provide an initial notice to a consumer under paragraph (a)(1) of this section if:

(1) You do not disclose any nonpublic personal information about the consumer to any nonaffiliated third party, other than as authorized by §§ 332.10 and 332.11; and

(2) You do not have a customer relationship with the consumer.

(c) *When you establish a customer relationship—(1) General rule.* You establish a customer relationship at the time you and the consumer enter into a continuing relationship.

(2) *Examples.* You establish a customer relationship when the consumer:

(i) Opens a credit card account with you;

(ii) Executes the contract to open a deposit account with you, obtains credit from you, or purchases insurance from you;

(iii) Agrees to obtain financial, economic or investment advisory services from you for a fee; or

(iv) Becomes your client for the purpose of your providing credit counseling or tax preparation services.

(d) *How to provide notice—(1) General rule.* You must provide the privacy notice required by paragraph (a) of this section so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form.

(2) *Exceptions to allow subsequent delivery of notice.* You may provide the initial notice required by paragraph (a)(1) of this section within a reasonable time after you establish a customer relationship if:

(i) You purchase a loan or assume a deposit liability from another financial institution and the customer of that loan or deposit account does not have a choice about your purchase or assumption; or

(ii) You and the consumer orally agree to enter into a customer relationship and the consumer agrees to receive the notice thereafter.

(3) *Oral description of notice insufficient.* You may not provide the initial notice required by paragraph (a) of this section solely by orally explaining, either in person or over the telephone, your privacy policies and practices.

(4) *Retention or accessibility of initial notice for customers.* For customers only, you must provide the initial notice required by paragraph (a)(1) of this section so that it can be retained or obtained at a later time by the customer, in a written form or, if the customer agrees, in electronic form.

(5) *Examples.* (i) You may reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(A) Hand-deliver a printed copy of the notice to the consumer;

(B) Mail a printed copy of the notice to the last known address of the consumer;

(C) For the consumer who conducts transactions electronically, post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial product or service;

(D) For an isolated transaction with the consumer, such as an ATM transaction, post the notice on the ATM screen and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular financial product or service.

(ii) You may not, however, reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(A) Only post a sign in your branch or office or generally publish advertisements of your privacy policies and practices; or

(B) Send the notice via electronic mail to a consumer who obtains a financial product or service from you in person or through the mail and who does not agree to receive the notice electronically.

(iii) You provide the initial privacy notice to the customer so that it can be retained or obtained at a later time if you:

(A) Hand-deliver a printed copy of the notice to the customer;

(B) Mail a printed copy of the notice to the last known address of the customer upon request of the customer; or

(C) Maintain the notice on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and who agrees to receive the notice electronically.

§ 332.5 Annual notice to customers required.

(a) *General rule.* You must provide a clear and conspicuous notice to customers that accurately reflects your privacy policies and practices not less than annually during the continuation of the customer relationship. *Annually* means at least once in any period of 12 consecutive months during which that relationship exists.

(b) *How to provide notice.* You must provide the annual notice required by paragraph (a) of this section to a customer using a means permitted for providing the initial notice to that customer under § 332.4(d).

(c)(1) *Termination of customer relationship.* You are not required to provide an annual notice to a customer with whom you no longer have a continuing relationship.

(2) *Examples.* You no longer have a continuing relationship with an individual if:

(i) In the case of a deposit account, the account is dormant under your policies;

(ii) In the case of a closed-end loan, the consumer pays the loan in full, you charge off the loan, or you sell the loan without retaining servicing rights;

(iii) In the case of a credit card relationship or other open-end credit relationship, you no longer provide any statements or notices to the consumer concerning that relationship or you sell the credit card receivables without retaining servicing rights; or

(iv) For other types of relationships, you have not communicated with the consumer about the relationship for a period of 12 consecutive months, other than to provide annual notices of privacy policies and practices.

§ 332.6 Information to be included in initial and annual notices of privacy policies and practices.

(a) *General rule.* The initial and annual notices that you provide about your privacy policies and practices under §§ 332.4 and 332.5 must include each of the following items of information:

(1) The categories of nonpublic personal information about your consumers that you collect;

(2) The categories of nonpublic personal information about your consumers that you disclose;

(3) The categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your consumers, other than those parties to whom you disclose information under §§ 332.10 and 332.11;

(4) The categories of nonpublic personal information about your former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your former customers, other than those parties to whom you disclose information under §§ 332.10 and 332.11;

(5) If you disclose nonpublic personal information to a nonaffiliated third party under § 332.9 (and no other exception applies to that disclosure), a separate description of the categories of information you disclose and the categories of third parties with whom you have contracted;

(6) An explanation of the right under § 332.8(a) of the consumer to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the methods by which the consumer may exercise that right;

(7) Any disclosures that you make under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of

disclosures of information among affiliates); and

(8) Your policies and practices with respect to protecting the confidentiality, security, and integrity of nonpublic personal information.

(b) *Description of nonaffiliated third parties subject to exceptions.* If you disclose nonpublic personal information about a consumer to third parties as authorized under §§ 332.10 and 332.11, you are not required to list those exceptions in the initial or annual privacy notices required by §§ 332.4 and 332.5. When describing the categories with respect to those parties, you are only required to state that you make disclosures to other nonaffiliated third parties as permitted by law.

(c) *Future disclosures.* Your notice may include:

(1) Categories of nonpublic personal information that you reserve the right to disclose in the future, but do not currently disclose; and

(2) Categories of affiliates or nonaffiliated third parties to whom you reserve the right in the future to disclose, but to whom you do not currently disclose, nonpublic personal information.

(d) *Examples—(1) Categories of nonpublic personal information that you collect.* You adequately categorize the nonpublic personal information you collect if you categorize the information according to the source of the information, such as application information, information about transactions (such as information regarding a deposit, loan, or credit card account), and consumer reports.

(2) *Categories of nonpublic personal information you disclose.* You adequately categorize nonpublic personal information you disclose if you categorize the information according to source, and provide illustrative examples of the content of the information. These might include application information, such as assets and income; identifying information, such as name, address, and social security number; and transaction information, such as information about account balance, payment history, parties to the transaction, and credit card usage; and information from consumer reports, such as a consumer's creditworthiness and credit history. You do not adequately categorize the information that you disclose if you use only general terms, such as transaction information about the consumer.

(3) *Categories of affiliates and nonaffiliated third parties to whom you disclose.* You adequately categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic

personal information about consumers if you identify the types of businesses that they engage in. Types of businesses may be described by general terms only if you use illustrative examples of significant lines of business. For example, you may use the term "financial products or services" if you include appropriate examples of significant lines of businesses, such as consumer banking, mortgage lending, life insurance, or securities brokerage. You also may categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about consumers using more detailed categories.

(4) *Simplified notices.* If you do not disclose, and do not intend to disclose, nonpublic personal information to affiliates or nonaffiliated third parties, you may simply state that fact, in addition to the information you must provide under paragraphs (a)(1), (a)(8), and (b) of this section.

(5) *Confidentiality, security, and integrity.* You adequately describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information if you explain who has access to the information and the circumstances under which the information may be accessed. You adequately describe your policies and practices with respect to protecting the integrity of nonpublic personal information if you explain measures you take to protect against reasonably anticipated threats or hazards. You are not required to describe technical information about the safeguards you use.

§ 332.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.

(a) (1) *Conditions for disclosure.* Except as otherwise authorized in this part, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless:

- (i) You have provided to the consumer an initial notice as required under § 332.4;
- (ii) You have provided to the consumer an opt out notice as required in § 332.8;
- (iii) You have given the consumer a reasonable opportunity, before the time that you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and
- (iv) The consumer does not opt out.

(2) *Opt out definition.* Opt out means a direction by the consumer that you not disclose nonpublic personal information about that consumer to a nonaffiliated

third party, other than as permitted by §§ 332.9, 332.10, and 332.11.

(3) *Examples of reasonable opportunity to opt out—(i) By mail.* You provide a consumer with whom you have a customer relationship with a reasonable opportunity to opt out if you mail the notices required in paragraph (a)(1) of this section to the consumer and allow the consumer a reasonable period of time, such as 30 days, to opt out.

(ii) *Isolated transaction with a consumer.* For an isolated transaction, such as the purchase of a cashier's check by a consumer, you provide a reasonable opportunity to opt out if you provide the consumer with the required notices at the time of the transaction and request that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(b) *Application of opt out to all consumers and all nonpublic personal information.* (1) You must comply with this section regardless of whether you and the consumer have established a customer relationship.

(2) Unless you comply with this section, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer that you have collected, regardless of whether you collected the information before or after receiving the direction to opt out from the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§ 332.8 Form and method of providing opt out notice to consumers.

(a) (1) *Form of opt out notice.* You must provide a clear and conspicuous notice to each of your consumers that accurately explains the right to opt out under § 332.7(a)(1). The notice must state:

- (i) That you disclose or reserve the right to disclose nonpublic personal information about your consumer to a nonaffiliated third party;
- (ii) That the consumer has the right to opt out of that disclosure; and
- (iii) A reasonable means by which the consumer may exercise the opt out right.

(2) *Examples.* (i) You provide adequate notice that the consumer can opt out of the disclosure of nonpublic personal information to a nonaffiliated third party if you identify all of the categories of nonpublic personal information that you disclose or reserve the right to disclose to nonaffiliated

third parties as described in § 332.6 and state that the consumer can opt out of the disclosure of that information.

(ii) You provide a reasonable means to exercise an opt out right if you:

(A) Designate check-off boxes in a prominent position on the relevant forms with the opt out notice;

(B) Include a reply form together with the opt out notice; or

(C) Provide an electronic means to opt out, such as a form that can be sent via electronic mail or a process at your web site, if the consumer agrees to the electronic delivery of information.

(iii) You *do not* provide a reasonable means of opting out if the only means of opting out is for the consumer to write his or her own letter to exercise that opt out right.

(b) *How to provide opt out notice—(1) Delivery of notice.* You must provide the opt out notice required by paragraph (a) of this section in a manner so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form. If you and the consumer orally agree to enter into a customer relationship, you may provide the opt out notice required by paragraph (a) of this section within a reasonable time thereafter if the consumer agrees.

(2) *Oral description of opt out right insufficient.* You may not provide the opt out notice solely by orally explaining, either in person or over the telephone, the right of the consumer to opt out.

(3) *Same form as initial notice permitted.* You may provide the opt out notice together with or on the same written or electronic form as the initial notice you provide in accordance with § 332.4.

(4) *Initial notice required when opt out notice delivered subsequent to initial notice.* If you provide the opt out notice at a later time than required for the initial notice in accordance with § 332.4, you must also include a copy of the initial notice in writing or, if the consumer agrees, in an electronic form with the opt out notice.

(c) *Notice of change in terms—(1) General rule.* Except as otherwise authorized in this part, you must not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party other than as described in the initial notice that you provided to the consumer under § 332.4, unless:

(i) You have provided to the consumer a revised notice that accurately describes your policies and practices;

(ii) You have provided to the consumer a new opt out notice;

(iii) You have given the consumer a reasonable opportunity, before the time that you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) *How to provide notice of change in terms.* You must provide the revised notice of your policies and practices and opt out notice to a consumer using the means permitted for providing the initial notice and opt out notice to that consumer under § 332.4(d) and paragraph (b) of this section, respectively.

(3) *Examples.* (i) Except as otherwise permitted by §§ 332.9, 332.10, and 332.11, a change-in-terms notice is required if you:

(A) Disclose a new category of nonpublic personal information to any nonaffiliated third party; or

(B) Disclose nonpublic personal information to a new category of nonaffiliated third party.

(ii) A change-in-terms notice is not required if you disclose nonpublic personal information to a new nonaffiliated third party that is adequately described by your prior notice.

(d) *Continuing right to opt out.* A consumer may exercise the right to opt out at any time, and upon receiving the opt out direction you must comply with that direction as soon as reasonably practicable.

(e) *Duration of consumer's opt out direction.* A consumer's direction to opt out under this section is effective until revoked by the consumer in writing, or if the consumer agrees, in electronic form.

§ 332.9 Exception to opt out requirements for service providers and joint marketing.

(a) *General rule.* The opt out requirements in §§ 332.7 and 332.8 do not apply when you provide nonpublic personal information about a consumer to a nonaffiliated third party to perform services for you or functions on your behalf, if you:

(1) Provide the initial notice in accordance with § 332.4; and

(2) Enter into a contractual agreement with the third party that:

(i) Requires the third party to maintain the confidentiality of the information to at least the same extent that you must maintain that confidentiality under this part; and

(ii) Limits the third party's use of information you disclose solely to the purposes for which the information is disclosed or as otherwise permitted by §§ 332.10 and 332.11 of this part.

(b) *Service may include joint marketing.* The services performed for

you by a nonaffiliated third party under paragraph (a) of this section may include marketing of your own products or services or marketing of financial products or services offered pursuant to joint agreements between you and one or more financial institutions.

(c) *Definition of joint agreement.* For purposes of this section, *joint agreement* means a written contract pursuant to which you and one or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

§ 332.10 Exceptions to notice and opt out requirements for processing and servicing transactions.

(a) *Exceptions for processing transactions at consumer's request.* The requirements for initial notice in § 332.4(a)(2), the opt out in §§ 332.7 and 332.8 and service providers and joint marketing in § 332.9 do not apply if you disclose nonpublic personal information:

(1) As necessary to effect, administer, or enforce a transaction requested or authorized by the consumer;

(2) To service or process a financial product or service requested or authorized by the consumer;

(3) To maintain or service the consumer's account with you, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

(4) In connection with a proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer.

(b) *Necessary to effect, administer, or enforce a transaction* means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce your rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate, or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the financial service or financial product;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the

transaction that are provided by you or any other party;

(v) To underwrite insurance at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law;

(vi) In connection with settling a transaction, including:

(A) The authorization, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(B) The transfer of receivables, accounts, or interests therein; or

(C) The audit of debit, credit, or other payment information.

§ 332.11 Other exceptions to notice and opt out requirements.

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § 332.4(a)(2), the opt out in §§ 332.7 and 332.8 and service providers and joint marketing in § 332.9 do not apply when you disclose nonpublic personal information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) (i) To protect the confidentiality or security of your records pertaining to the consumer, service, product, or transaction;

(ii) To protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

(iii) For required institutional risk control or for resolving consumer disputes or inquiries;

(iv) To persons holding a legal or beneficial interest relating to the consumer; or

(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(3) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating you, persons that are assessing your compliance with industry standards, and your attorneys, accountants, and auditors;

(4) To the extent specifically permitted or required under other

provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including government regulators), self-regulatory organizations, or for an investigation on a matter related to public safety;

(5) (i) To a consumer reporting agency in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*); or

(ii) From a consumer report reported by a consumer reporting agency;

(6) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or

(7) (i) To comply with Federal, State, or local laws, rules and other applicable legal requirements;

(ii) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by Federal, State, or local authorities; or

(iii) To respond to judicial process or government regulatory authorities having jurisdiction over you for examination, compliance or other purposes as authorized by law.

(b) *Examples of consent and revocation of consent.* (1) A consumer may specifically consent to your disclosure to a nonaffiliated insurance company of the fact that the consumer has applied to you for a mortgage so that the insurance company can offer homeowner's insurance to the consumer.

(2) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under § 332.8(d).

§ 332.12 Limits on redisclosure and reuse of information.

(a) *Limits on your redisclosure and reuse.* (1) Except as otherwise provided in this part, if you receive nonpublic personal information about a consumer from a nonaffiliated financial institution, you must not, directly or through an affiliate, disclose the information to any other person that is not affiliated with either you or the other financial institution, unless the disclosure would be lawful if the financial institution made it directly to such other person.

(2) You may use nonpublic personal information about a consumer that you receive from a nonaffiliated financial institution in accordance with an exception under §§ 332.9, 332.10, or 332.11 only for the purpose of that exception.

(b) *Limits on redisclosure and the reuse by other persons.* (1) Except as otherwise provided in this part, if you disclose nonpublic personal information about a consumer to a nonaffiliated third party, that party must not, directly or through an affiliate, disclose the information to any other person that is a nonaffiliated third party of both you and that party, unless the disclosure would be lawful if you made it directly to such other person.

(2) A nonaffiliated third party may use nonpublic personal information about a consumer that it receives from you in accordance with an exception under §§ 332.9, 332.10, or 332.11 only for the purpose of that exception.

§ 332.13 Limits on sharing of account number information for marketing purposes.

You must not, directly or through an affiliate, disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

§ 332.14 Protection of Fair Credit Reporting Act.

Nothing in this part shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), and no inference shall be drawn on the basis of the provisions of this part regarding whether information is transaction or experience information under section 603 of that Act.

§ 332.15 Relation to State laws.

(a) *In general.* This part shall not be construed as superseding, altering, or affecting any statute, regulation, order or interpretation in effect in any State, except to the extent that such State statute, regulation, order or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this section, a State statute, regulation, order or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Federal Trade Commission, after consultation with the FDIC, on the Federal Trade Commission's own motion or upon the petition of any interested party.

§ 332.16 Effective date; transition rule.

(a) *Effective date.* This part is effective November 13, 2000.

(b) *Notice requirement for consumers who were customers on the effective date.* No later than 30 days after the effective date of this part, you must provide an initial notice, as required by § 332.4, to consumers who were your customers on the effective date of this part.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, this 9th day of February, 2000.

Robert E. Feldman,
Executive Secretary.

OFFICE OF THRIFT SUPERVISION

12 CFR Chapter V

Authority and Issuance

For the reasons set out in the joint preamble, OTS proposes to amend Chapter V of Title 12 of the Code of Federal regulations by adding part 573 to read as follows:

PART 573—PRIVACY OF CONSUMER FINANCIAL INFORMATION

Sec.

573.1 Purpose and scope.

573.2 Rule of construction.

573.3 Definitions.

573.4 Initial notice to consumers of privacy policies and practices required.

573.5 Annual notice to customers required.

573.6 Information to be included in initial and annual notices of privacy policies and practices.

573.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.

573.8 Form and method of providing opt out notice to consumers.

573.9 Exception to opt out requirements for service providers and joint marketing.

573.10 Exceptions to notice and opt out requirements for processing and servicing transactions.

573.11 Other exceptions to notice and opt out requirements.

573.12 Limits on redisclosure and reuse of information.

573.13 Limits on sharing of account number information for marketing purposes.

573.14 Protection of Fair Credit Reporting Act.

573.15 Relation to State laws.

573.16 Effective date; transition rule.

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828; 15 U.S.C. 6801 *et seq.*

§ 573.1 Purpose and scope.

(a) *Purpose.* This part governs the treatment of nonpublic personal information about consumers by the financial institutions listed in paragraph (b) of this section. This part:

(1) Requires a financial institution to provide notice to consumers about its privacy policies and practices;

(2) Describes the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and

(3) Provides a method for consumers to prevent a financial institution from disclosing that information to most nonaffiliated third parties by "opting out" of that disclosure, subject to the exceptions in §§ 573.9, 573.10, and 573.11.

(b) *Scope.* The rules established by this part apply only to nonpublic personal information about individuals who obtain financial products or services for personal, family or household purposes from the institutions listed below. This part does not apply to information about companies or about individuals who obtain financial products or services for business purposes. This part applies to savings associations whose deposits are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such savings associations, but not to subsidiaries that are brokers, dealers, persons providing insurance, investment companies, or investment advisers. This part refers to these entities as "you."

§ 573.2 Rule of construction.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

§ 573.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company.

(b) (1) *Clear and conspicuous* means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information contained in the notice.

(2) *Examples.* (i) You make your notice reasonably understandable if, to the extent applicable, you:

(A) Present the information contained in the notice in clear, concise sentences, paragraphs and sections;

(B) Use short explanatory sentences and bullet lists, whenever possible;

(C) Use definite, concrete, everyday words and active voice, whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology; and

(F) Avoid boilerplate explanations that are imprecise and readily subject to different interpretations.

(ii) You design your notice to call attention to the nature and significance of the information contained in it if, to the extent applicable, you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read; and

(C) Provide wide margins and ample line spacing.

(iii) If you provide a notice on the same form as another notice or other document, you design your notice to call attention to the nature and significance of the information contained in the notice if you use:

(A) Larger type size(s), boldface or italics in the text;

(B) Wider margins and line spacing in the notice; or

(C) Shading or sidebars to highlight the notice, whenever possible.

(c) *Collect* means to obtain information that is organized or retrievable on a personally identifiable basis, irrespective of the source of the underlying information.

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association or similar organization.

(e) (1) *Consumer* means an individual who obtains or has obtained a financial product or service from you that is to be used primarily for personal, family or household purposes, and that individual's legal representative.

(2) *Examples.* (i) An individual who applies to you for credit for personal, family or household purposes is a consumer of a financial service, regardless of whether the credit is extended.

(ii) An individual who provides nonpublic personal information to you in order to obtain a determination about whether he or she may qualify for a loan to be used primarily for personal, family or household purposes is a consumer of a financial service, regardless of whether the loan is extended by you or another financial institution.

(iii) An individual who provides nonpublic personal information to you in connection with obtaining or seeking to obtain financial, investment or economic advisory services is a consumer regardless of whether you establish an ongoing advisory relationship.

(iv) An individual who negotiates a workout with you for a loan that you own is a consumer regardless of whether you originally extended the loan to the individual.

(v) An individual who has a loan from you is your consumer even if you:

(A) Hire an agent to collect on the loan;

(B) Sell the rights to service the loan; or

(C) Bought the loan from the financial institution that originated the loan.

(vi) An individual is not your consumer solely because you process information about the individual on behalf of a financial institution that extended the loan to the individual.

(f) *Consumer reporting agency* has the same meaning as in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(g) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as determined by OTS.

(h) *Customer* means a consumer who has a customer relationship with you.

(i) (1) *Customer relationship* means a continuing relationship between a consumer and you under which you provide one or more financial products or services to the consumer that are to be used primarily for personal, family, or household purposes.

(2) *Examples.* (i) A consumer has a continuing relationship with you if the consumer:

(A) Has a deposit, credit, trust, or investment account with you;

(B) Purchases an insurance product from you;

(C) Holds an investment product through you;

(D) Enters into an agreement or understanding with you whereby you undertake to arrange or broker a home mortgage loan for the consumer;

(E) Has a loan that you service where you own the servicing rights;

(F) Enters into a lease of personal property with you; or

(G) Obtains financial, investment or economic advisory services from you for a fee.

(ii) A consumer does not, however, have a continuing relationship with you if:

(A) The consumer only obtains a financial product or service in an isolated transaction, such as withdrawing cash from your ATM or purchasing a cashier's check or money order;

(B) You sell the consumer's loan and do not retain the rights to service that loan; or

(C) You sell the consumer travel insurance or traveler's checks in an isolated transaction.

(j) (1) *Financial institution* means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial institution* does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights), or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(k) (1) *Financial product or service* means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Financial service* includes your evaluation, brokerage or distribution of information that you collect in connection with a request or an application from a consumer for a financial product or service.

(l) *Government regulator* means:

(1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Board of Directors of the Federal Deposit Insurance Corporation;

(4) The Director of the Office of Thrift Supervision;

(5) The National Credit Union Administration Board;

(6) The Securities and Exchange Commission;

(7) The Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping);

(8) A State insurance authority, with respect to any person domiciled in that

insurance authority's State that is engaged in providing insurance; and

(9) The Federal Trade Commission.

(m) (1) *Nonaffiliated third party*

means any person except:

(i) Your affiliate; or

(ii) A person employed jointly by you and any company that is not your affiliate (but *nonaffiliated third party* includes the other company that jointly employs the person).

(2) *Nonaffiliated third party* includes any company that is an affiliate by virtue of the direct or indirect ownership or control of the company by the financial institution or any affiliate of the financial institution in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

Alternative A

(n) (1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information.

(2) *Nonpublic personal information* does not include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information.

(3) *Example.* Nonpublic personal information includes any list of individuals' street addresses and telephone numbers that is derived using any information consumers provide to you on an application for a financial product or service.

(o) (1) *Personally identifiable financial information* means any information:

(i) Provided by a consumer to you to obtain a financial product or service from you;

(ii) Resulting from any transaction involving a financial product or service between you and a consumer; or

(iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer, other than publicly available information.

(2) *Examples.* (i) Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to obtain a

loan, credit card, insurance or other financial product or service, including, among other things, medical information;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you, unless that fact is derived using only publicly available information, such as government real estate records or bankruptcy records;

(D) Other information about your consumer if it is disclosed in a manner that indicates the individual is or has been your consumer;

(E) Any information provided by a consumer or otherwise obtained by you or your agent in connection with collecting on a loan or servicing a loan; and

(F) Information from a consumer report.

(ii) Personally identifiable financial information does not include a list of names and addresses of customers of an entity that is not a financial institution.

(p) (1) *Publicly available information* means any information that is lawfully made available to the general public you obtain from:

(i) Federal, State or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by Federal, State or local law.

(2) *Examples*—(i) *Government records.* Publicly available information contained in government records includes information contained in government real estate records and security interest filings.

(ii) *Widely distributed media.* Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or an Internet site that is available to the general public without requiring a password or similar restriction.

Alternative B

(n) (1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information.

(2) *Nonpublic personal information* does not include:

(i) Publicly available information, except as provided in paragraph (n)(1)(ii) of this section; or

(ii) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information.

(3) *Example.* Nonpublic personal information includes any list of individuals' street addresses and telephone numbers that is derived using personally identifiable financial information, such as account numbers.

(o)(1) *Personally identifiable financial information* means any information:

(i) Provided by a consumer to you to obtain a financial product or service from you;

(ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or

(iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.

(2) *Examples.* (i) Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to obtain a loan, credit card, insurance or other financial product or service, including, among other things, medical information;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you, unless that fact is derived using only publicly available information, such as government real estate records or bankruptcy records;

(D) Other information about your consumer if it is disclosed in a manner that indicates the individual is or has been your consumer;

(E) Any information provided by a consumer or otherwise obtained by you or your agent in connection with collecting on a loan or servicing a loan; and

(F) Information from a consumer report.

(ii) Personally identifiable financial information does not include a list of names and addresses of customers of an entity that is not a financial institution.

(p)(1) *Publicly available information* means any information that is lawfully made available to the general public from:

(i) Federal, State, or local government records;

(ii) Widely distributed media; or
(iii) Disclosures to the general public that are required to be made by Federal, State or local law.

(2) *Examples*—(i) *Government records.* Publicly available information contained in government records includes information contained in government real estate records and security interest filings.

(ii) *Widely distributed media.* Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or an Internet site that is available to the general public without requiring a password or similar restriction.

§ 573.4 Initial notice to consumers of privacy policies and practices required.

(a) *When initial notice is required.* You must provide a clear and conspicuous notice that accurately reflects your privacy policies and practices to:

(1) An individual who becomes your customer, prior to the time that you establish a customer relationship, except as provided in paragraph (d)(2) of this section; and

(2) A consumer, prior to the time that you disclose any nonpublic personal information about the consumer to any nonaffiliated third party, if you make such a disclosure other than as authorized by §§ 573.10 and 573.11.

(b) *When initial notice to a consumer is not required.* You are not required to provide an initial notice to a consumer under paragraph (a)(1) of this section if:

(1) You do not disclose any nonpublic personal information about the consumer to any nonaffiliated third party, other than as authorized by §§ 573.10 and 573.11; and

(2) You do not have a customer relationship with the consumer.

(c) *When you establish a customer relationship*—(1) *General rule.* You establish a customer relationship at the time you and the consumer enter into a continuing relationship.

(2) *Examples.* You establish a customer relationship when the consumer:

(i) Opens a credit card account with you;

(ii) Executes the contract to open a deposit account with you, obtains credit from you, or purchases insurance from you;

(iii) Agrees to obtain financial, economic, or investment advisory services from you for a fee;

(iv) Becomes your client for the purpose of your providing credit counseling or tax preparation services.

(d) *How to provide notice*—(1) *General rule.* You must provide the

privacy notice required by paragraph (a) of this section so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form.

(2) *Exceptions to allow subsequent delivery of notice.* You may provide the initial notice required by paragraph (a)(1) of this section within a reasonable time after you establish a customer relationship if:

(i) You purchase a loan or assume a deposit liability from another financial institution and the customer of that loan or deposit account does not have a choice about your purchase or assumption; or

(ii) You and the consumer orally agree to enter into a customer relationship and the consumer agrees to receive the notice thereafter.

(3) *Oral description of notice insufficient.* You may not provide the initial notice required by paragraph (a) of this section solely by orally explaining, either in person or over the telephone, your privacy policies and practices.

(4) *Retention or accessibility of initial notice for customers.* For customers only, you must provide the initial notice required by paragraph (a)(1) of this section so that it can be retained or obtained at a later time by the customer, in a written form or, if the customer agrees, in electronic form.

(5) *Examples.* (i) You may reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(A) Hand-deliver a printed copy of the notice to the consumer;

(B) Mail a printed copy of the notice to the last known address of the consumer;

(C) For the consumer who conducts transactions electronically, post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial product or service;

(D) For an isolated transaction with the consumer, such as an ATM transaction, post the notice on the ATM screen and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular financial product or service.

(ii) You may *not*, however, reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(A) Only post a sign in your branch or office or generally publish advertisements of your privacy policies and practices;

(B) Send the notice via electronic mail to a consumer who obtains a financial

product or service with you in person or through the mail and who does not agree to receive the notice electronically.

(iii) You provide the initial privacy notice to the customer so that it can be retained or obtained at a later time if you:

(A) Hand-deliver a printed copy of the notice to the customer;

(B) Mail a printed copy of the notice to the last known address of the customer upon request of the customer; or

(C) Maintain the notice on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and who agrees to receive the notice electronically.

§ 573.5 Annual notice to customers required.

(a) *General rule.* You must provide a clear and conspicuous notice to customers that accurately reflects your privacy policies and practices not less than annually during the continuation of the customer relationship. *Annually* means at least once in any period of 12 consecutive months during which that relationship exists.

(b) *How to provide notice.* You must provide the annual notice required by paragraph (a) of this section to a customer using a means permitted for providing the initial notice to that customer under § 573.4(d).

(c)(1) *Termination of customer relationship.* You are not required to provide an annual notice to a customer with whom you no longer have a continuing relationship.

(2) *Examples.* You no longer have a continuing relationship with an individual if:

(i) In the case of a deposit account, the account is dormant under your policies;

(ii) In the case of a closed-end loan, the consumer pays the loan in full, you charge off the loan, or you sell the loan without retaining servicing rights;

(iii) In the case of a credit card relationship or other open-end credit relationship, you no longer provide any statements or notices to the consumer concerning that relationship or you sell the credit card receivables without retaining servicing rights; or

(iv) For other types of relationships, you have not communicated with the consumer about the relationship for a period of 12 consecutive months, other than to provide annual notices of privacy policies and practices.

§ 573.6 Information to be included in initial and annual notices of privacy policies and practices.

(a) *General rule.* The initial and annual notices that you provide about your privacy policies and practices under §§ 573.4 and 573.5 must include each of the following items of information:

(1) The categories of nonpublic personal information about your consumers that you collect;

(2) The categories of nonpublic personal information about your consumers that you disclose;

(3) The categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your consumers, other than those parties to whom you disclose information under §§ 573.10 and 573.11;

(4) The categories of nonpublic personal information about your former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your former customers, other than those parties to whom you disclose information under §§ 573.10 and 573.11;

(5) If you disclose nonpublic personal information to a nonaffiliated third party under § 573.9 (and no other exception applies to that disclosure), a separate description of the categories of information you disclose and the categories of third parties with whom you have contracted;

(6) An explanation of the right under § 573.8(a) of the consumer to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the methods by which the consumer may exercise that right;

(7) Any disclosures that you make under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates); and

(8) Your policies and practices with respect to protecting the confidentiality, security and integrity of nonpublic personal information.

(b) *Description of nonaffiliated third parties subject to exceptions.* If you disclose nonpublic personal information about a consumer to third parties as authorized under §§ 573.10 and 573.11, you are not required to list those exceptions in the initial or annual privacy notices required by §§ 573.4 and 573.5. When describing the categories with respect to those parties, you are only required to state that you make disclosures to other nonaffiliated third parties as permitted by law.

(c) *Future disclosures.* Your notice may include:

(1) Categories of nonpublic personal information that you reserve the right to disclose in the future, but do not currently disclose; and (2) Categories of affiliates or nonaffiliated third parties to whom you reserve the right in the future to disclose, but to whom you do not currently disclose, nonpublic personal information.

(d) *Examples—(1) Categories of nonpublic personal information that you collect.* You adequately categorize the nonpublic personal information you collect if you categorize it according to the source of the information, such as application information, information about transactions (such as information regarding your deposit, loan, or credit card account), and consumer reports.

(2) *Categories of nonpublic personal information you disclose.* You adequately categorize nonpublic personal information you disclose if you categorize it according to source, and provide a few illustrative examples of the content of the information. These might include application information, such as assets and income; identifying information, such as name, address, and social security number; and transaction information, such as information about account balance, payment history, parties to the transaction, and credit card usage; and information from consumer reports, such as a consumer's creditworthiness and credit history. You do not adequately categorize the information that you disclose if you use only general terms, such as transaction information about the consumer.

(3) *Categories of affiliates and nonaffiliated third parties to whom you disclose.* You adequately categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about consumers if you identify the types of businesses that they engage in. Types of businesses may be described by general terms only if you use a few illustrative examples of significant lines of business. For example, you may use the term financial products or services if you include appropriate examples of significant lines of businesses, such as consumer banking, mortgage lending, life insurance or securities brokerage. You also may categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about consumers using more detailed categories.

(4) *Simplified notices.* If you do not disclose, and do not intend to disclose, nonpublic personal information to affiliates or nonaffiliated third parties, you may simply state that fact, in

addition to the information you must provide under paragraphs (a)(1), (a)(8), and (b) of this section.

(5) *Confidentiality, security and integrity.* You describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information if you explain who has access to the information and the circumstances under which the information may be accessed. You describe your policies and practices with respect to protecting the integrity of nonpublic personal information if you explain measures you take to protect against reasonably anticipated threats or hazards. You are not required to describe technical information about the safeguards you use.

§ 573.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.

(a) (1) *Conditions for disclosure.* Except as otherwise authorized in this part, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless:

- (i) You have provided to the consumer an initial notice as required under § 573.4;
- (ii) You have provided to the consumer an opt out notice as required in § 573.8;
- (iii) You have given the consumer a reasonable opportunity, before the time that you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) *Opt out definition.* Opt out means a direction by the consumer that you not disclose nonpublic personal information about that consumer to a nonaffiliated third party, other than as permitted by §§ 573.9, 573.10 and 573.11.

(3) *Examples of reasonable opportunity to opt out—(i) By mail.* You provide a consumer with whom you have a customer relationship with a reasonable opportunity to opt out if you mail the notices required in paragraph (a)(1) of this section to the consumer and allow the consumer a reasonable period of time, such as 30 days, to opt out.

(ii) *Isolated transaction with consumer.* For an isolated transaction, such as the purchase of a cashier's check by a consumer, you provide a reasonable opportunity to opt out if you provide the consumer with the required notices at the time of the transaction and request that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(b) *Application of opt out to all consumers and all nonpublic personal information.*

(1) You must comply with this section, regardless of whether you and the consumer have established a customer relationship.

(2) Unless you comply with this section, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer that you have collected, regardless of whether you collected it before or after receiving the direction to opt out from the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§ 573.8 Form and method of providing opt out notice to consumers.

(a) (1) *Form of opt out notice.* You must provide a clear and conspicuous notice to each of your consumers that accurately explains the right to opt out under § 573.7(a)(1). The notice must state:

- (i) That you disclose or reserve the right to disclose nonpublic personal information about your consumer to a nonaffiliated third party;
- (ii) That the consumer has the right to opt out of that disclosure; and
- (iii) A reasonable means by which the consumer may exercise the opt out right.

(2) *Examples.* (i) You provide adequate notice that the consumer can opt out of the disclosure of nonpublic personal information to a nonaffiliated third party if you identify all of the categories of nonpublic personal information that you disclose or reserve the right to disclose to nonaffiliated third parties as described in § 573.6 and state that the consumer can opt out of the disclosure of that information.

(ii) You provide a reasonable means to exercise an opt out right if you:

- (A) Designate check-off boxes in a prominent position on the relevant forms with the opt out notice;
- (B) Include a reply form together with the opt out notice; or
- (C) Provide an electronic means to opt out, such as a form that can be sent via electronic mail or a process at your web site, if the consumer agrees to the electronic delivery of information.

(iii) You *do not* provide a reasonable means of opting out if the only means of opting out is for the consumer to write his or her own letter to exercise that opt out right.

(b) *How to provide opt out notice—(1) Delivery of notice.* You must provide the

opt out notice required by paragraph (a) of this section in a manner so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, in electronic form. If you and the consumer orally agree to enter into a customer relationship, you may provide the opt out notice required by paragraph (a) of this section within a reasonable time thereafter if the consumer agrees.

(2) *Oral description of opt out right insufficient.* You may not provide the opt out notice solely by orally explaining, either in person or over the telephone, the right of the consumer to opt out.

(3) *Same form as initial notice permitted.* You may provide the opt out notice together with or on the same written or electronic form as the initial notice you provide in accordance with § 573.4.

(4) *Initial notice required when opt out notice delivered subsequent to initial notice.* If you provide the opt out notice at a later time than required for the initial notice in accordance with § 573.4, you must also include a copy of the initial notice in writing or, if the consumer agrees, in an electronic form with the opt out notice.

(c) *Notice of change in terms—(1) General rule.* Except as otherwise authorized in this part, you must not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party other than as described in the initial notice that you provided to the consumer under § 573.4, unless:

(i) You have provided to the consumer a revised notice that accurately describes your policies and practices;

(ii) You have provided to the consumer a new opt out notice;

(iii) You have given the consumer a reasonable opportunity, before the time that you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) *How to provide notice of change in terms.* You must provide the revised notice of your policies and practices and opt out notice to a consumer using the means permitted for providing the initial notice and opt out notice to that consumer under § 573.4(d) or paragraph (b) of this section respectively.

(3) *Examples.* (i) Except as otherwise permitted by §§ 573.9, 573.10 and 573.11, a change-in-terms notice is required if you:

(A) Disclose a new category of nonpublic personal information to any nonaffiliated third party; or

(B) Disclose nonpublic personal information to a new category of nonaffiliated third party.

(ii) A change-in-terms notice is not required if you disclose nonpublic personal information to a new nonaffiliated third party that is adequately described by your prior notice.

(d) *Continuing right to opt out.* A consumer may exercise the right to opt out at any time, and you must comply with the consumer's direction as soon as reasonably practicable.

(e) *Duration of consumer's opt out direction.* A consumer's direction to opt out under this section is effective until revoked by the consumer in writing, or if the consumer agrees, in electronic form.

§ 573.9 Exception to opt out requirements for service providers and joint marketing.

(a) *General rule.* The opt out requirements in §§ 573.7 and 573.8 do not apply when you provide nonpublic personal information about a consumer to a nonaffiliated third party to perform services for you or functions on your behalf, if you:

(1) Provide the initial notice in accordance with § 573.4; and
(2) Enter into a contractual agreement with the third party that:

(i) Requires the third party to maintain the confidentiality of the information to at least the same extent that you must maintain that confidentiality under this part; and
(ii) Limits the third party's use of information you disclose solely to the purposes for which the information is disclosed or as otherwise permitted by §§ 573.10 and 573.11 of this part.

(b) *Service may include joint marketing.* The services performed for you by a nonaffiliated third party under paragraph (a) of this section may include marketing of your own products or services or marketing of financial products or services offered pursuant to joint agreements between you and one or more financial institutions.

(c) *Definition of joint agreement.* For purposes of this section, *joint agreement* means a written contract pursuant to which you and one or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

§ 573.10 Exceptions to notice and opt out requirements for processing and servicing transactions.

(a) *Exceptions for processing transactions at consumer's request.* The requirements for initial notice in § 573.4(a)(2), the opt out in §§ 573.7 and 573.8 and service providers and joint marketing in § 573.9 do not apply if you

disclose nonpublic personal information:

(1) As necessary to effect, administer, or enforce a transaction requested or authorized by the consumer;

(2) To service or process a financial product or service requested or authorized by the consumer;

(3) To maintain or service the consumer's account with you, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or
(4) In connection with a proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer.

(b) *Necessary to effect, administer, or enforce a transaction* means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce your rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate, or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service, or maintain the consumer's account in the ordinary course of providing the financial service or financial product;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by you or any other party;

(v) To underwrite insurance at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law;

(vi) In connection with settling a transaction, including:

(A) The authorization, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited, or otherwise paid

using a debit, credit, or other payment card, check or account number, or by other payment means;

(B) The transfer of receivables, accounts, or interests therein; or

(C) The audit of debit, credit, or other payment information.

§ 573.11 Other exceptions to notice and opt out requirements.

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § 573.4(a)(2), the opt out in §§ 573.7 and 573.8 and service providers and joint marketing in § 573.9 do not apply when you disclose nonpublic personal information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) (i) To protect the confidentiality or security of your records pertaining to the consumer, service, product or transaction;

(ii) To protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability;

(iii) For required institutional risk control or for resolving consumer disputes or inquiries;

(iv) To persons holding a legal or beneficial interest relating to the consumer; or

(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(3) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating you, persons that are assessing your compliance with industry standards, and your attorneys, accountants, and auditors;

(4) To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including government regulators), self-regulatory organizations, or for an investigation on a matter related to public safety;

(5) (i) To a consumer reporting agency in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*); or

(ii) From a consumer report reported by a consumer reporting agency;

(6) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or

(7) (i) To comply with Federal, State, or local laws, rules and other applicable legal requirements;

(ii) To comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by Federal, State, or local authorities; or

(iii) To respond to judicial process or government regulatory authorities having jurisdiction over you for examination, compliance or other purposes as authorized by law.

(b) *Examples of consent and revocation of consent.* (1) A consumer may specifically consent to your disclosure to a nonaffiliated insurance company of the fact that the consumer has applied to you for a mortgage so that the insurance company can offer homeowner's insurance to the consumer.

(2) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under § 573.8(d).

§ 573.12 Limits on redisclosure and reuse of information.

(a) *Limits on your redisclosure and reuse.* (1) Except as otherwise provided in this part, if you receive nonpublic personal information about a consumer from a nonaffiliated financial institution, you must not, directly or through an affiliate, disclose the information to any other person that is not affiliated with either the financial institution or you, unless the disclosure would be lawful if the financial institution made it directly to such other person.

(2) You may use nonpublic personal information about a consumer that you receive from a nonaffiliated financial institution in accordance with an exception under §§ 573.9, 573.10 or 573.11 only for the purpose of that exception.

(b) *Limits on redisclosure and the reuse by other persons.* (1) Except as otherwise provided in this part, if you disclose nonpublic personal information about a consumer to a nonaffiliated third party, that party must not, directly or through an affiliate, disclose the information to any other person that is a nonaffiliated third party of both you and that party, unless the disclosure would be lawful if you made it directly to such other person.

(2) A nonaffiliated third party may use nonpublic personal information about a consumer that it receives from you in accordance with an exception under §§ 573.9, 573.10, or 573.11 only for the purpose of that exception.

§ 573.13 Limits on sharing of account number information for marketing purposes.

You must not, directly or through an affiliate, disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

§ 573.14 Protection of Fair Credit Reporting Act.

Nothing in this part shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), and no inference shall be drawn on the basis of the provisions of this part regarding whether information is transaction or experience information under section 603 of that Act.

§ 573.15 Relation to State laws.

(a) *In general.* This part shall not be construed as superseding, altering, or affecting any statute, regulation, order, or interpretation in effect in any State, except to the extent that such State statute, regulation, order or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Federal Trade Commission, after consultation with OTS, on the Federal Trade Commission's own motion or upon the petition of any interested party.

§ 573.16 Effective date; transition rule.

(a) *Effective date.* This part is effective November 13, 2000.

(b) *Notice requirement for consumers who were your customers on the effective date.* No later than 30 days after the effective date of this part, you must provide an initial notice, as required by § 573.4, to consumers who were your customers on the effective date of this part.

Dated: February 9, 2000.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 00-3718 Filed 2-18-00; 8:45 am]

BILLING CODES 4810-33-P; 6210-01-P; 6714-01-P; 6720-01-P



Federal Register

**Tuesday,
February 22, 2000**

Part III

General Services Administration

**41 CFR Parts 101–41 and 102–118
Transportation Payment and Audit;
Proposed Rule**

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–41 and 102–118

[FPMR Amendment G–]

RIN 3090–AH15

Transportation Payment and Audit

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on transportation payment and audit into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Comments must be received by March 23, 2000 to be considered in development of the final rule.

ADDRESSES: Send written comments to Ms. Sharon Kiser, Regulatory Secretariat (MVR), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW, Washington, DC 20405. E-mail comments to RIN.3090–AH15@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Davis, Program Analyst, Transportation Management Policy Division, Office of Governmentwide Policy, General Services Administration, at 202–208–7638, or E-mail at ed.davis@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

In response to President Clinton's mandate to Federal agencies to make communication with the public more understandable, GSA proposes to revise and clarify the transportation management policies by:

- (1) Writing them in plain language and making substantive changes; and
- (2) Allowing the use of commercial bills of lading and electronic commerce.

This rewrite incorporates Public Law 105–264, section 3, which amended 31 U.S.C. 3322, 31 U.S.C. 3528, and 31 U.S.C. 3726. The major change required is the mandatory use of prepayment audits for transportation billings.

The Federal Management Regulation (FMR) is in the question and answer format. Question and answer format is an effective way to engage the reader and to break the information into

manageable pieces. The FMR asks questions in the first person, as the user would. It then answers the questions in the second and third person. The FMR addresses the agency in the singular.

B. Proposed Substantive Changes

The General Services Administration proposes to clarify existing transportation payment and audit requirements and make substantive changes.

We implement the mandatory use of prepayment audits, as required by Public Law 105–264, section 3, which amended 31 U.S.C. 3322, 31 U.S.C. 3528, and 31 U.S.C. 3726. Under a prepayment audit, the agency will keep more of its transportation dollars, by verifying transportation billings to eliminate potential overpayments.

We propose to encourage agencies to expand the use of charge cards, commercial bills of lading, and electronic payment methods in place of the Government forms (Government Bill Of Lading and General Transportation Request) used currently. The use of electronic bills of lading and existing commercial forms are the preferred methods to decrease the need for paperwork, retention of duplicate copies, and to lessen stockpiles of archived paper files and storage space.

We propose that the appeals process for a claim should begin within an agency and that the first level of appeal be handled at an appropriate level within the agency. In exchange for keeping funds through the use of prepayment audits, agencies will have responsibilities related to the setup and function of their prepayment audit programs.

FMR part 118 affects any department or establishment of the Federal Government defined by 5 U.S.C. 305, whose payment for transportation services are subject to the transportation audit provisions of section 322 of the Transportation Act of 1940, as amended (31 U.S.C. 3726). Also included are Federal entities such as mixed ownership and wholly owned corporations, if they request coverage under this part.

C. Executive Order 12866

GSA has determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Regulatory Flexibility Act

The Associate Administrator for Governmentwide Policy hereby certifies that this proposed rule will not have a significant economic impact on a

substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to internal agency management and will not have a significant affect on the public. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments invited from small entities concerning the affected FMR subparts will be considered in accordance with 5 U.S.C. 601. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.*

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does 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 (OMB) under 44 U.S.C. 3501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–41 and 102–118

Accounting, Claims, Government property management, Surplus Government property, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–41 is revised to read as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

Authority: 31 U.S.C. 3726; and 40 U.S.C. 486(c).

§ 101–41.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For transportation payment and audit policy, see FMR part 118 (41 CFR part 102–118).

CHAPTER 102—[AMENDED]

2. Part 102–118 is added to subchapter D to read as follows:

PART 102-118—TRANSPORTATION PAYMENT AND AUDIT

Subpart A—General

Introduction

Sec.

- 102-118.5 What is the purpose of this part?
- 102-118.10 What is a transportation audit?
- 102-118.15 What is a transportation payment?
- 102-118.20 Who is subject to this part?
- 102-118.25 Does GSA require my agency to submit its transportation policies for approval?
- 102-118.30 Are Government corporations bound by this part?

Definitions

- 102-118.35 What definitions apply to this part?

Subpart B—Ordering and Paying for Transportation and Transportation Services

- 102-118.40 How does my agency order transportation and transportation services?
- 102-118.45 How does a transportation service provider (TSP) bill my agency for transportation and transportation services?
- 102-118.50 How does my agency pay for transportation services?
- 102-118.55 What administrative procedures must my agency establish for payment of freight, household goods, or other transportation services?
- 102-118.60 Can my agency use electronic billing for payment of transportation services?
- 102-118.65 To what extent must my agency use electronic commerce?
- 102-118.70 Must my agency make all payments via electronic funds transfer?
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- 102-118.85 Can my agency use a charge card to pay for transportation services?
- 102-118.90 If my agency orders transportation and/or transportation services with a contractor issued charge card or charge account citation, is this subject to prepayment audit?
- 102-118.95 What standard forms can my agency use to pay transportation bills?
- 102-118.100 What must my agency ensure is on each SF 1113?
- 102-118.105 Where can I find the rules governing the use of a Government Bill of Lading?
- 102-118.110 Where can I find the rules governing the use of a Government Transportation Request?
- 102-118.115 Must my agency use a GBL?
- 102-118.120 Must my agency use a GTR?
- 102-118.125 What if my agency uses a TD other than a GBL?
- 102-118.130 Must my agency use a GBL for express, courier, or small package shipments?

- 102-118.135 How does my agency handle supplemental billings after payment of the original bill?
- 102-118.140 Who is liable for overpayment made on a transportation bill?
- 102-118.145 What must my agency do if the TSP makes an error on a bill?
- 102-118.150 Will GSA continue to maintain a centralized numbering system for transportation documents (TDs)?

Subpart C—Use of Government Billing Documents

Terms and Conditions Governing Acceptance and Use of a Government Bill of Lading (GBL) or Government Transportation Request (GTR) (Until Form Retirement)

- 102-118.155 Must my agency prepare for the GBL retirement?
- 102-118.160 Must my agency prepare for the GTR retirement?
- 102-118.165 Where are the mandatory terms and conditions governing the use of a GBL?
- 102-118.170 Where are the mandatory terms and conditions governing the use of a GTR?
- 102-118.175 When buying transportation on a GBL, must my agency reference the applicable contract or tender?
- 102-118.180 When buying transportation on a GTR, must my agency reference the applicable contract?
- 102-118.185 What documents must a transportation service provider (TSP) send to receive payment for a transportation billing?
- 102-118.190 Can a TSP demand advance payment for the transportation charges submitted on a GBL?
- 102-118.195 May my agency pay an agent functioning as a warehouseman for a principal TSP?
- 102-118.200 May my agency use bills of lading other than the GBL for a transportation shipment?
- 102-118.205 May my agency pay a TSP any added monies to pay for the preparation and use of the GBL or GTR?
- 102-118.210 If a transportation debt is owed because of loss or damage to property, does my agency report it to GSA?
- 102-118.215 What constitutes final receipt of shipment?
- 102-118.220 What if my agency creates or eliminates a field office approved to prepare transportation documents?

Agency Responsibilities When Using Government Bills of Lading (GBLs) or Government Transportation Requests (GTRs)

- 102-118.225 Must my agency keep physical control and accountability of the GBL and GTR forms or GBL and GTR numbers?
- 102-118.230 How does my agency get GBL and GTR forms?
- 102-118.235 How does my agency get an assigned set of GBL or GTR numbers?
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Quotations, Tenders or Contracts

- 102-118.250 Must my agency send a quotation, tender, or contract with a TSP to GSA?

Subpart D—Prepayment Audits of Transportation Services

Agency Requirements for Prepayment Audits

- 102-118.255 What is a prepayment audit?
- 102-118.260 Must my agency establish a prepayment audit program?
- 102-118.265 What must my agency consider when designing and implementing a prepayment audit program?
- 102-118.270 What advantages does the prepayment audit offer my agency?
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- 102-118.280 Must every electronic and paper transportation bill undergo a prepayment audit?
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- 102-118.290 How does my agency fund its prepayment audit program?
- 102-118.295 Must my agency advise the TSP of any adjustment to the TSP's bill?
- 102-118.300 Must my agency prepayment audit program establish appeal procedures whereby a TSP may appeal any reduction in the amount billed?
- 102-118.305 What must my agency do if the TSP disputes the findings and my agency cannot resolve the dispute?
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Maintaining an Approved Program

- 102-118.315 How do I get approval for my agency's prepayment audit program?
- 102-118.320 What are the elements of an acceptable prepayment audit program?
- 102-118.325 What does the GSA Audit Division consider when verifying an agency prepayment audit program?
- 102-118.330 How does my agency contact the GSA Audit Division?
- 102-118.335 If my agency chooses to change a verified prepayment audit program, does the program need to be re-verified?

Liability for Certifying and Disbursing Officers

- 102-118.340 Does establishing a prepayment audit system or program change the responsibilities of the certifying officers?
- 102-118.345 With a prepayment audit waiver, what liability does the certifying officer have?
- 102-118.350 What relief from liability is available for the certifying official under a postpayment audit?
- 102-118.355 Do the requirements of a prepayment audit change the disbursing official's liability for overpayment?
- 102-118.360 Where does relief from prepayment audit liability for certifying, accountable, and disbursing officers reside in my agency?

Waivers From Mandatory Prepayment Audit

- 102–118.365 Who has the authority to grant a waiver of the prepayment audit requirement?
- 102–118.370 How does my agency apply for a waiver from the requirement to perform a prepayment audit of transportation bills?
- 102–118.375 What must a waiver request include?
- 102–118.380 On what basis does GSA grant a waiver to the prepayment audit requirement?
- 102–118.385 How long will GSA take to respond to a waiver request?
- 102–118.390 Must my agency renew its waiver to prepayment audits?
- 102–118.395 Are my agency's prepayment audited transportation bills subject to periodic postpayment audit oversight from the GSA Audit Division?

Suspension of Agency Prepayment Audit Programs

- 102–118.400 Can GSA suspend my agency's prepayment audit program?

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- 102–118.410 Can the Administrator of General Services waive the postpayment auditing provisions of this subpart?
- 102–118.415 When is my agency allowed to use a postpayment audit on our transportation bills?
- 102–118.420 What information must be on my agency's transportation bills?
- 102–118.425 What are the procedures used to perform a postpayment audit?
- 102–118.430 What are the postpayment audit responsibilities and roles of the GSA Audit Division?
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- 102–118.455 Must my agency pay interest on a disputed amount claimed by a TSP?
- 102–118.460 Are there statutory time limits on filing an administrative claim with the GSA Audit Division?
- 102–118.465 Does interest apply after certification of payment of claims?
- 102–118.470 How does my agency settle disputes with a TSP?
- 102–118.475 Is there a time limit for my agency to issue a decision on disputed claims?
- 102–118.480 What if my agency fails to settle a dispute within 30 days?

- 102–118.485 May my agency appeal a decision by the General Services Board of Contract Appeals (GSBCA)?
- 102–118.490 What if a TSP submits a voluntary refund to my agency?
- 102–118.495 Must my agency send a voluntary refund to the Treasurer of the United States?
- 102–118.500 Can my agency revise or alter a GSA Form 7931, Certificate of Settlement?
- 102–118.505 Does my agency have any recourse not to pay a Certificate of Settlement?
- 102–118.510 Who is responsible for determining the standards for collection, compromise, termination, or suspension of collection action on any outstanding debts to my agency?
- 102–118.515 What are my agency's responsibilities for verifying the correct amount of transportation charges?
- 102–118.520 Will GSA instruct my agency's disbursing offices to offset unpaid TSP billings?
- 102–118.525 Are there principles governing my agency's collection procedures?
- 102–118.530 Who has the authority to audit, settle accounts, and/or start collection action for all transportation services provided for my agency?

Transportation Service Provider (TSP) Filing Requirements

- 102–118.535 What are the filing requirements for a TSP?
- 102–118.540 How does a TSP file an administrative claim using EDI or other electronic means?
- 102–118.545 Can a TSP file a supplemental administrative claim?
- 102–118.550 What is the required format that a TSP must use to file an administrative claim?
- 102–118.555 What documentation is required when filing an administrative claim?

Transportation Service Provider (TSP) Appeal Procedures for Prepayment Audits

- 102–118.560 If my agency denies the challenge to the statement of difference, may the TSP appeal?
- 102–118.565 If a TSP disagrees with the decision of my agency, can the TSP appeal?
- 102–118.570 If a TSP disagrees with a prepayment audit decision of the GSA Audit Division, can they appeal?
- 102–118.575 If a TSP disagrees with a prepayment audit decision of the GSBCA, can they appeal?
- 102–118.580 If my agency disagrees with a prepayment or postpayment audit decision of the GSA Audit Division can they appeal?
- 102–118.585 May my agency appeal a prepayment audit decision by the GSBCA?

Transportation Service Provider (TSP) Appeal Procedures for Postpayment Audits

- 102–118.590 When a TSP disagrees with a Notice of Overcharge resulting from a postpayment audit, what are the appeal procedures?

- 102–118.595 What if a TSP disagrees with the Notice of Indebtedness?
- 102–118.600 Is a TSP notified when GSA allows a claim?
- 102–118.605 Will GSA notify a TSP if they internally offset a payment?
- 102–118.610 How will a TSP know if the GSA Audit Division disallows a claim?
- 102–118.615 Can a TSP request a reconsideration of a settlement action by the GSA Audit Division?
- 102–118.620 How must a TSP refund amounts due to GSA?
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- 102–118.630 If a TSP fails to pay or appeal an overcharge, what actions does GSA pursue to ensure debt collection?
- 102–118.635 Can a TSP file an administrative claim on collection actions?
- 102–118.640 Can a TSP request a review of a settlement action by the Administrator of General Services?
- 102–118.645 Are there time limits on a request for an administrative review by the GSBCA?
- 102–118.650 If a TSP disagrees with a postpayment audit decision of the GSBCA, can they appeal?
- 102–118.655 May my agency appeal a postpayment audit decision by the GSBCA?

Transportation Service Provider (TSP) Non-Payment of a Claim

- 102–118.660 If a TSP cannot immediately pay a debt, can they make other arrangements for payment?
- 102–118.665 What if a TSP does not pay a transportation debt?

Authority: 31 U.S.C. 3726; and 40 U.S.C. 481, *et seq.*

Subpart A—General**Introduction****§ 102–118.5 What is the purpose of this part?**

The purpose of this part is to interpret statutes and other policies that assure that payment and payment mechanisms for agency transportation services are uniform and appropriate. This part communicates the policies clearly to agencies and transportation service providers (TSPs). (See § 102–118.35 for the definition of TSP.)

§ 102–118.10 What is a transportation audit?

A transportation audit is a thorough review and validation of transportation related bills. The audit must examine the validity, propriety, and conformity of the charges with tariffs, quotations, agreements, or tenders. Each agency must ensure that its internal procedures prevent duplicate payments, only allow payment for authorized services, and the TSP's bill is complete with required documentation.

§ 102-118.15 What is a transportation payment?

A transportation payment is a payment made by an agency to a TSP for the movement of goods or people and/or transportation related services.

§ 102-118.20 Who is subject to this part?

All agencies and TSPs defined in § 102-118.35 are subject to this part. Your agency is required to incorporate this part into its internal regulations.

§ 102-118.25 Does GSA require my agency to submit its transportation policies for approval?

GSA does not require your agency to submit its transportation policies for approval. However, GSA may from time to time request to examine your agency's transportation policies to verify the correct performance of the prepayment audit of your agency's transportation bills.

§ 102-118.30 Are Government corporations bound by this part?

No, Government corporations are not bound by this part. However, they may choose to use it if they wish.

Definitions**§ 102-118.35 What definitions apply to this part?**

The following definitions apply to this part:

Agency means any department or establishment of the Federal Government defined by 5 U.S.C. 305, whose payments for transportation services are subject to the transportation audit provisions of section 322 of the Transportation Act of 1940, as amended (31 U.S.C. 3726). Also included are Federal entities such as mixed ownership and wholly owned corporations, if they request coverage by this part, and GSA permits such coverage.

Agency claim means any demand by an agency upon a TSP for the payment of overcharges, ordinary debts, fines, penalties, administrative fees, special charges, interest or unpaid original bills.

Bill of lading, sometimes referred to as a commercial bill of lading, is the document used as a receipt of goods, and documentary evidence of title. It is also a contract of carriage except when movement is under any authority other than 49 U.S.C. 10721 and 49 U.S.C. 13712.

Document reference number means the unique number on a bill of lading, Government Bill of Lading, Government Transportation Request, or ticket, used to track the movement of shipments and individuals.

EDI signature means a discrete authentication code intended to serve in

place of a paper signature and to bind parties to the terms and conditions of a contract.

Electronic commerce means electronic techniques for performing business transactions (ordering and paying for goods and services), including electronic mail or messaging, Internet technology, electronic bulletin boards, charge cards, electronic funds transfers, and electronic data interchange.

Electronic data interchange means electronic techniques for carrying out transportation transactions using electronic transmissions of the information instead of a paper document.

Electronic funds transfer means any transfer of funds, other than transactions initiated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearinghouse transfers, Fed Wire transfers, transfers made at automatic teller machines and point of sale terminals. This includes charge card transactions (31 U.S.C. 332(i)).

Government Bill of Lading (GBL) means Standard Forms 1103 and 1203, the transportation documents used as a receipt of goods, evidence of title, and generally a contract of carriage.

Government contractor-issued charge card means an individually billed travel card, which the individual is required to pay, or a centrally billed account for paying travel expenses, which the agency is required to pay.

Government transportation request means Standard Form 1169, the Government document used to buy transportation services. The document normally obligates the Government to pay for the transportation services provided.

Offset means agency use of money owed by the agency to a transportation service provider (TSP) to cover a previous debt incurred to the agency by the TSP.

Ordinary debt means administratively determined transportation debt other than an overcharge. Ordinary debts include, but are not limited to, payments for transportation services ordered and not provided, duplicate payments, unused tickets, and those involving loss and/or damage to property transported by a TSP.

Overcharges means those charges for transportation services more than those applicable under contract for carriage. Charges more than those applicable under rates, fares and charges

established pursuant to section 13712 and 10721 of the Revised Interstate Commerce Act, as amended (49 U.S.C. 13712 and 10721), or other equivalent contract, arrangement or exemption from regulation.

Postpayment audit means an audit of transportation billing documents after payment to decide their validity, propriety, and conformity with tariffs, quotations, agreements, or tenders. This process may also include subsequent adjustments and collections actions taken against a TSP by the Government.

Prepayment audit means an audit of transportation billing documents before payment to determine their validity, propriety, and conformity with tariffs, quotations, agreements, or tenders.

Privately Owned Personal Property Government Bill of Lading, Standard Form 1203, means the agency transportation document used as a receipt of goods, evidence of title, and generally a contract of carriage. It is only available for the transportation of household goods. Use of this form is mandatory for Department of Defense, but optional for other agencies.

Rate authority means the document that establishes the legal charges for a transportation shipment. Charges included in a rate authority might be those for transportation services allowed under rates, fares, and charges contained in tariffs, tenders, and other equivalent arrangements.

Released value is stated in dollars and is less than that of the cargo. The amount stated would be the maximum amount that could be recovered by the shipper in the event of loss or damage. In return, the transportation service provider should offer a rate lower than other rates for shipping cargo at full value. The statement of released value may be shown on any applicable tariff, tender, or document covering the shipment.

Reparation means the payment involving a TSP to or from an agency of an improper transportation billing. Improper routing, overcharges, or duplicate payments may cause such improper billing. This is different from payments to settle a claim for loss and damage to items shipped under those rates.

Standard carrier alpha code means an unique four-letter code assigned to each TSP by the National Motor Freight Traffic Association, Inc.

Statement of difference means a statement issued by an agency or its designated audit contractor during a prepayment audit when they determine that a TSP has billed the agency for more than the proper amount for the services. This statement tells the TSP on

the invoice, the amount allowed and the basis for the proper charges. The statement also cites the applicable rate references and other data relied on for support. The agency issues a separate statement of difference for each transportation transaction.

Statement of difference rebuttal means a document used by the agency to respond to a TSP's claim about an improper reduction made against the TSP's original bill by the paying agency.

Supplemental bill means a bill for services that the TSP submits to the agency for additional payment after reimbursement for the original bill. The need to submit a supplemental bill may occur due to an incorrect first bill or due to accessorial charges such as storage in transit.

Taxpayer identification number (TIN) means the number required by the Internal Revenue Service to be used by the TSP in reporting income tax or other returns. For a TSP, the TIN is an employer identification number.

Transportation document (TD) means any executed agreement for transportation service, such as a bill of lading, a Government Bill of Lading, a Government Transportation Request, or transportation ticket.

Transportation service means service involving the physical movement (from one location to another) of products, people, household goods, and any other

objects by a TSP for an agency. Examples of this are storage, crating, or connecting appliances.

Transportation service provider (TSP) means any party, person, agent, or carrier that undertakes by contract or rate agreement to provide transportation and related services to an agency.

Transportation service provider claim means any demand by the TSP for amounts not included in the original bill that they believe an agency owes them. This includes amounts deducted or offset by an agency; amounts previously refunded by the TSP, which they now believe they are owed; and any subsequent bills resulting from a transaction that was pre- or postpayment audited by the GSA Audit Division.

Virtual GBL (VGBL) means the use of a unique GBL number on a commercial document, which binds the TSP to the terms and conditions of a GBL.

Note to § 102-118.35: 49 U.S.C. 13102, *et seq.*, defines additional transportation terms not listed in this section.

Subpart B—Ordering and Paying for Transportation and Transportation Services

§ 102-118.40 How does my agency order transportation and transportation services?

Your agency orders:

(a) Transportation of freight and household goods and related transportation services (e.g., packing, storage) with a charge card, bill of lading, purchase order (or electronic equivalent), or for domestic shipments until September 30, 2001, a Government Bill of Lading (GBL). GBLs will continue to be available, if needed, for international shipments.

(b) Transportation of people and the purchase of tickets with a Government issued charge card (or centrally billed travel account citation), Government issued individual travel charge card, personal charge card, or in prescribed situations, a Government Transportation Request. See the "U.S. Government Passenger Transportation" handbook, obtainable from: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102-118.45 How does a transportation service provider (TSP) bill my agency for transportation and transportation services?

The manner in which your agency orders transportation and transportation services determines the manner in which a TSP bills for service. This is shown in the following table:

TRANSPORTATION SERVICE PROVIDER BILLING

(a) Ordering method	(b) Billing method
(1) Government issued agency charge card, (2) Centrally billed travel account citation	(1) Bill from charge card company (may be electronic).
(3) Purchase order, (4) Bill of lading, (5) Government Bill of Lading, (6) Government Transportation Request.	(2) Bill from TSP (may be electronic).
(7) Contractor issued individual travel charge card, (8) Personal charge card, (9) Personal cash.	(3) Voucher from employee (may be electronic).

§ 102-118.50 How does my agency pay for transportation services?

Your agency may pay for transportation services in three ways:

(a) **Electronic funds transfer (EFT)** (31 U.S.C. 3332, *et seq.*). This method requires your agency to make all payments by electronic means unless your agency receives a waiver from the Department of the Treasury.

(b) **Check.** For those situations where EFT is not possible and the Department of the Treasury has issued a waiver, your agency may make payments by check.

(c) **Cash.** In very unusual circumstances and as a last option, your agency payments may be made in cash.

§ 102-118.55 What administrative procedures must my agency establish for payment of freight, household goods, or other transportation services?

Your agency must establish administrative procedures clearly defining program controls including, at a minimum, the following criteria:

(a) The negotiated price is fair and reasonable;

(b) A document of agreement signifying acceptance of the arrangements with terms and conditions is filed with the participating agency by the TSP;

(c) The terms and conditions must be included in all transportation agreements and referenced on all transportation documents (TDs);

(d) Billing must be paid to the origin TSP and may not be waived;

(e) All fees paid must be accounted for in the aggregate delivery costs;

(f) All payments are subject to applicable statutory limitations;

(g) Procedures are established to prevent and detect duplicate payments, properly account for expenditures and discrepancy notices;

(h) All charge card transactions are verified with any indebtedness lists; and

(i) Procedures are established to process any unused tickets.

§ 102-118.60 Can my agency use electronic billing for payment of transportation services?

Yes, when mutually agreeable to the agency and the GSA Audit Division, your agency is encouraged to use electronic commerce for the

procurement and billing of transportation services.

§ 102–118.65 To what extent must my agency use electronic commerce?

Your agency must use electronic commerce (i.e., electronic methods for ordering and paying for transportation and transportation services) to the maximum extent possible.

§ 102–118.70 Must my agency make all payments via electronic funds transfer?

Yes, under 31 U.S.C. 3332, *et seq.*, your agency must make all payments for goods and services via EFT (this includes charge cards).

§ 102–118.75 What if my agency or the TSP does not have an account with a financial institution or approved payment agent?

Under 31 U.S.C. 3332, *et seq.*, your agency must make all Federal payments via EFT unless your agency receives a waiver from the Department of the Treasury. To obtain a waiver, your agency must contact: The Commissioner, Financial Management Service, Department of the Treasury, 401 Fourteenth Street, SW, Washington, DC 20227, <http://www.fms.treas.gov/>.

§ 102–118.80 Who is responsible for keeping my agency's electronic commerce transportation billing records?

The GSA Audit Division keeps a central repository of electronic transportation billing records for legal and auditing purposes. Your agency must forward all relevant electronic transportation billing documents to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.85 Can my agency use a charge card to pay for transportation services?

Yes, your agency should use a charge card for an appropriate purchase of transportation services.

§ 102–118.90 If my agency orders transportation and/or transportation services with a contractor issued charge card or charge account citation, is this subject to prepayment audit?

Generally, no transportation or transportation services ordered with a Government contractor issued charge card or charge account citation can be prepayment audited because the bank or charge card contractor pays the TSP directly. However, if your agency contracts with the charge card or charge account provider to provide for a prepayment audit, then, as long as your agency is not liable for paying the bank for improper charges (as determined by the prepayment audit verification

process), a prepayment audit can be used. As with all prepayment audit programs, this must be approved by the GSA Audit Division prior to implementation. In the event of no prepayment audit, your agency must submit the transportation bills to the GSA Audit Division for a postpayment audit.

§ 102–118.95 What standard forms can my agency use to pay transportation bills?

Your agency must use commercial payment practices to the maximum extent possible; however, when viewed necessary by your agency, the standard forms that your agency may use to pay transportation bills are:

(a) Standard Form (SF) 1113, Public Voucher for Transportation Charges, and SF 1113–A, Memorandum Copy;

(b) SF 1103, Government Bill of Lading (used for movement of things, both privately owned and Government property for official uses);

(c) SF 1169, Government Transportation Request (used to move people); and

(d) SF 1203, Personal Property Government Bill of Lading, and SF 1203A, Memorandum Copy (used by the Department of Defense to move private property for official transfers).

Note to § 102–118.95: By September 30, 2001, your agency may no longer use the SF 1103 and SF 1203 for domestic shipments. After September 30, 2000, your agency should minimize the use of SF 1169.

§ 102–118.100 What must my agency ensure is on each SF 1113?

Your agency must ensure during its prepayment audit of a TSP bill that the taxpayer identification number (TIN), and standard carrier alpha code is entered on each SF 1113 filed. An SF 1113 must accompany all TSP billings.

§ 102–118.105 Where can I find the rules governing the use of a Government Bill of Lading?

The “How to Prepare Bills of Lading” handbook contains information on how to prepare this form. To get a copy of this handbook, you may write to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.110 Where can I find the rules governing the use of a Government Transportation Request?

The “U.S. Government Passenger Transportation” handbook contains information on how to prepare this form. To get a copy of this handbook, you may write to: General Services Administration, Federal Supply Service,

Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.115 Must my agency use a GBL?

No, your agency is not required to use a GBL and must use commercial payment practices to the maximum extent possible. Effective September 30, 2001, your agency must phase out the use of the SFs 1103 and 1203 for domestic shipments. After this date, your agency may use the GBL solely for international shipments.

§ 102–118.120 Must my agency use a GTR?

No, your agency is not required to use a GTR. Your agency must adopt commercial practices and eliminate GTR use to the maximum extent possible.

§ 102–118.125 What if my agency uses a TD other than a GBL?

If your agency uses any other TD for shipping under its account, the requisite and the named safeguards must be in place (i.e., terms and conditions of the GBL Handbook, appropriate numbering, etc.).

§ 102–118.130 Must my agency use a GBL for express, courier, or small package shipments?

No, however, in using commercial forms all shipments must be subject to the terms and conditions set forth for the use in the bill of lading. Any other applicable contracts or agreements between the TSP and an agency involving buying transportation services for Government traffic remain binding. This purchase does not require an SF 1113. When you are using GSA's schedule for small package express delivery, the terms and conditions of that contract are binding.

§ 102–118.135 How does my agency handle supplemental billings after payment of the original bill?

Your agency must process, review, and verify supplemental billings using the same procedures as on an original billing. If the TSP disputes the findings, your agency must attempt to resolve the disputed amount.

§ 102–118.140 Who is liable for overpayment made on a transportation bill?

Agency transportation certifying and disbursing officers are liable for overpayments made on a transportation bill unless GSA grants a waiver to the prepayment audit requirement and performs a postpayment audit (31 U.S.C. 3528 and 31 U.S.C. 3322).

§ 102–118.145 What must my agency do if the TSP makes an error on a bill?

Your agency must advise the TSP via statement of difference of any adjustment either electronically or in writing within 7 days of receipt of the bill, as required by the Prompt Payment Act (31 U.S.C. 3901, *et seq.*). This notice must refer to the TSP's taxpayer identification number, standard carrier alpha code, bill number and document reference number, agency name, amount requested, amount paid, payment voucher number, complete tender or tariff authority, the applicable rate authority and the complete fiscal authority including the appropriation.

§ 102–118.150 Will GSA continue to maintain a centralized numbering system for transportation documents (TDs)?

Yes, GSA will maintain a numbering system for GBLs and GTRs. For all other TDs, each agency must create a unique numbering system to account for and prevent duplicate numbers. The Office of Governmentwide Policy (MT) must approve this system. Write to: General Services Administration, Office of Governmentwide Policy (MT), 1800 F Street, NW, Washington, DC 20405.

Subpart C—Use of Government Billing Documents Terms and Conditions Governing Acceptance and Use of a Government Bill of Lading (GBL) or Government Transportation Request (GTR) (Until Form Retirement)**§ 102–118.155 Must my agency prepare for the GBL retirement?**

Yes, your agency must prepare for the GBL retirement. Effective September 30, 2001, your agency must phase out the use of the SF 1103 and SF 1203, Privately Owned Personal Property Government Bills of Lading (PPGBLs), for domestic shipments. After this date, your agency may use the GBL or PPGBL solely for international shipments.

§ 102–118.160 Must my agency prepare for the GTR retirement?

Yes. Your agency must use the GTR only in situations that do not lend themselves to the use of commercial payment methods.

§ 102–118.165 Where are the mandatory terms and conditions governing the use of a GBL?

The mandatory terms and conditions governing the use of a GBL are contained in this part, on the back of SF 1103 and SF 1203, and the "How to Prepare Bills of Lading" handbook.

§ 102–118.170 Where are the mandatory terms and conditions governing the use of a GTR?

The mandatory terms and conditions governing the use of a GTR are contained in this part, on the back of SF 1169, and the "U.S. Passenger Transportation" handbook.

§ 102–118.175 When buying transportation on a GBL, must my agency reference the applicable contract or tender?

Yes, your agency must reference the applicable contract or tender when buying transportation on a GBL. However, the referenced information on a GBL does not limit an audit of charges.

§ 102–118.180 When buying transportation on a GTR, must my agency reference the applicable contract?

Yes, when buying transportation, your agency must reference the applicable contract on a GTR.

§ 102–118.185 What documents must a transportation service provider (TSP) send to receive payment for a transportation billing?

For shipments bought on a TD, the TSP must submit a properly certified GBL or PPGBL. The TSP must attach a properly certified GBL or PPGBL to a SF 1113, Public Voucher for Transportation Charges. The TSP must submit this package and all supporting documents to the paying office, marked in Block 13 of the GBL, or Block 21 of the PPGBL.

§ 102–118.190 Can a TSP demand advance payment for the transportation charges submitted on a GBL?

No, a TSP cannot demand advance payment for transportation charges submitted on a GBL.

§ 102–118.195 May my agency pay an agent functioning as a warehouseman for a principal TSP?

No, your agency may only pay the TSP with whom it has a contract. On a GBL shipment, Block 1 of the SF 1103 or Block 1 of the SF 1203, lists the TSP with whom the Government has a contract.

§ 102–118.200 May my agency use bills of lading other than the GBL for a transportation shipment?

Yes, as long as the same terms and conditions stated on a GBL apply. The TSP must agree in writing to the Bill of Lading Handbook terms and conditions. Only an agency can convert a GBL to a commercial bill of lading or vice versa.

§ 102–118.205 May my agency pay a TSP any added monies to pay for the preparation and use of the GBL or GTR?

No. Your agency may not pay a TSP a higher rate than comparable under

commercial procedures for transportation bought on a GBL or GTR.

§ 102–118.210 If a transportation debt is owed because of loss or damage to property, does my agency report it to GSA?

No, if your agency has administratively determined that a debt is owed, resulting from loss or damage, follow your agency regulations.

§ 102–118.215 What constitutes final receipt of shipment?

Final receipt of the shipment occurs when the consignee or TSP acting on behalf of the consignee fully signs and dates the delivering TSP's documents and the consignee's copy of the same document indicating delivery and/or explaining any delay, loss, damage, or shrinkage of shipment.

§ 102–118.220 What if my agency creates or eliminates a field office approved to prepare transportation documents?

Your agency must tell the GSA Audit Division whenever it approves a new or existing agency field office to prepare transportation documents or when an agency field office is no longer authorized to do so. This notice must show the name, field office location of the bureau or office, and the date on which your agency granted or canceled its authority to schedule payments for transportation service.

Agency Responsibilities When Using Government Bills of Lading (GBLs) or Government Transportation Requests (GTRs)**§ 102–118.225 Must my agency keep physical control and accountability of the GBL and GTR forms or GBL and GTR numbers?**

Yes, your agency is responsible for the physical control and accountability of the GBL and GTR stock and must have procedures in place and available for inspection by GSA. Your agency must consider them to be the same as money.

§ 102–118.230 How does my agency get GBL and GTR forms?

Your agency can get GBL and GTR forms, in either blank or prenumbered formats, from: General Services Administration, Federal Supply Service, General Products Commodity Center (7FXM–WS), 819 Taylor Street, Room 6A24, Fort Worth, TX 76102.

§ 102–118.235 How does my agency get an assigned set of GBL or GTR numbers?

If your agency does not use preprinted GBL and GTR forms, you may get an assigned set of numbers from: General Services Administration, Federal Supply Service, General Products Commodity Center (7FXM–WS), 819

Taylor Street, Room 6A24, Fort Worth, TX 76102.

§ 102–118.240 Who is accountable for the issuance and use of GBL and GTR forms?

Agencies and agency employees are responsible for the issuance and use of GBL and GTR forms and they are accountable for their disposition.

§ 102–118.245 Are GBL and GTR forms sequential?

Yes, GBL and GTR forms generally are serially numbered when printed. No other numbering of the forms, including additions or changes to the prefixes or additions of suffixes, is permitted.

Quotations, Tenders or Contracts

§ 102–118.250 Must my agency send a quotation, tender, or contract with a TSP to GSA?

(a) Yes, your agency must send two copies of each quotation, tender, or contract of special rates, fares, charges, or concessions with TSPs including those authorized by 49 U.S.C. 13712 and 10721, upon execution to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405 <http://pub.fss.gsa.gov/ota>.

(b) Exceptions are when this information is in an electronic format and your agency and the GSA Audit Division made a previous arrangement to transfer the information electronically.

Subpart D—Prepayment Audits of Transportation Services Agency Requirements for Prepayment Audits

§ 102–118.255 What is a prepayment audit?

A prepayment audit is a review of a transportation service provider (TSP) bill that occurs prior to your agency making payment to a TSP. This review compares the charges on the bill against the charge permitted under the contract, rate tender, or other agreement under which the TSP provided the transportation and/or transportation related services.

§ 102–118.260 Must my agency establish a prepayment audit program?

(a) Yes, your agency must send a preliminary copy of your prepayment audit program to: General Services Administration, Office of Transportation and Personal Property (MT), 1800 F Street, NW, Washington, DC 20405, <http://policyworks.gov/org/main/MT>.

(b) The final plan must be approved and in place by April 20, 2000.

§ 102–118.265 What must my agency consider when designing and implementing a prepayment audit program?

The method of ordering transportation and transportation service is the determining factor in designing a prepayment audit program. Your agency must consider all of the methods that you use to order and pay for transportation and transportation services. With each method of ordering transportation and transportation services, your agency should ensure that each TSP bill contains enough information for the prepayment audit to determine which contract or rate tender is used and that the type and quantity of additional services are clearly delineated. Each method of ordering transportation and transportation services may require a different kind of prepayment audit.

§ 102–118.270 What advantages does the prepayment audit offer my agency?

Prepayment auditing will allow your agency to detect billing errors before payment and will eliminate the need to recover erroneous payments.

§ 102–118.275 What options for performing a prepayment audit does my agency have?

Your agency may perform a prepayment audit by:

(a) Creating an internal prepayment audit program;

(b) Contracting with a vendor for a prepayment audit; or

(c) Using the services of a contractor under GSA's multiple award schedule covering audit and financial management services.

§ 102–118.280 Must every electronic and paper transportation bill undergo a prepayment audit?

All transportation bills and payments must undergo a prepayment audit unless the Administrator of General Services grants a specific waiver or your agency's prepayment audit program uses a statistically significant sampling of every bill to represent the whole.

§ 102–118.285 What are the limited exceptions to every bill undergoing a prepayment audit?

The limited exceptions to bills undergoing a prepayment audit are those bills subject to a waiver from GSA (which may include bills determined to be below your agency's threshold).

§ 102–118.290 How does my agency fund its prepayment audit program?

Your agency must pay for the prepayment audit from those funds appropriated for transportation services.

§ 102–118.295 Must my agency advise the TSP of any adjustment to the TSP's bill?

Yes, your agency must advise the TSP of any adjustment to the bill either electronically or in writing within 7 days of receipt of the bill. This notice must refer to the TSP's bill number, agency name, travel identification number, standard carrier alpha code, document reference number, amount requested, amount paid, payment voucher number, complete tender or tariff authority, including item or section number.

§ 102–118.300 Must my agency prepayment audit program establish appeal procedures whereby a TSP may appeal any reduction in the amount billed?

Yes, your agency must delegate the appeal process to an agency official at a high enough administrative level for adequate consideration and review of the circumstances of the claim. Your agency must complete the review of the appeal within 30 days.

§ 102–118.305 What must my agency do if the TSP disputes the findings and my agency cannot resolve the dispute?

(a) If your agency is unable to resolve the disputed amount, your agency should forward all relevant documents including a complete billing history, and the appropriation or fund charged, to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

(b) The GSA Audit Division will review the appeal of an agency's final, full or partial denial of a claim and issue a decision. A TSP must submit claims within 3 years by following the guidelines established in § 102–118.460.

§ 102–118.310 What information must be on my agency's transportation bills on completion of a prepayment audit?

(a) Your agency must annotate all of its transportation bills submitted for prepayment audit with:

- (1) The date received from a TSP;
 - (2) A TSP's bill number;
 - (3) Your agency name;
 - (4) A Document Reference Number;
 - (5) The amount requested;
 - (6) The amount paid;
 - (7) The payment voucher number;
 - (8) Complete tender or tariff authority, including item or section number;
 - (9) The taxpayer identification number;
 - (10) The standard carrier alpha code;
 - (11) The auditor's authorization code or initials; and
 - (12) A copy of any statement of difference sent to the TSP.
- (b) Your agency can find added guidance in the handbook "How to

Prepare and Process Bills of Lading", obtainable from: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405 <http://pub.fss.gsa.gov/ota>.

Maintaining an Approved Program

§ 102–118.315 How do I get approval for my agency's prepayment audit program?

The highest level budget or financial official of each agency, such as the Chief Financial Officer, initially approves your agency's prepayment audit program. After internal agency approval, your agency submits the plan in writing to the GSA Audit Division for verification.

§ 102–118.320 What are the elements of an acceptable prepayment audit program?

An acceptable prepayment audit program must:

- (a) Verify all transportation bills against filed rates and charges before payment;
- (b) Comply with the Prompt Payment Act (31 U.S.C. 3901, *et seq.*);
- (c) Apply to cost reimbursable contractors. Your agency's prepayment audit program must include the transportation bills from a cost reimbursable contractor when the agency will assume those charges on bills;
- (d) Allow for your agency to establish minimum financial thresholds for auditing transportation bills;
- (e) Require your agency's paying office to offset debts from amounts owed to the TSP within the 3 years as per 31 U.S.C. 3726(b);
- (f) Arrange for the GSA Audit Division to verify the prepayment audit program. After this first verification, the agency may be subject to recurring annual program verification;
- (g) Complete accurate audits of transportation bills and notify the TSP of any adjustment within 7 calendar days of receipt;
- (h) Create accurate notices to the TSPs that describe in detail the reasons for any full or partial rejection of the stated charges on the invoice. An accurate notice must include the TSP's invoice number, the billed amount, TIN, standard carrier alpha code, the charges calculated by the agency, and the specific reasons including applicable rate authority for the rejection;
- (i) Forward documentation monthly to the GSA Audit Division, which will store paid transportation bills under the General Records Schedule 9, Travel and Transportation (36 CFR Chapter XII, 1228.22) which requires keeping records for 3 years. GSA will arrange for storage of any document requiring special

handling (e.g., bankruptcy, court case, etc.). These bills will be retained pursuant to 44 U.S.C. 3309 until claims have been settled; and

- (j) Establish procedures in which transportation bills not subject to prepayment audit (i.e. unused tickets and charge cards) are forwarded to the GSA Audit Division.

§ 102–118.325 What does the GSA Audit Division consider when verifying an agency prepayment audit program?

The GSA Audit Division bases verification of agency prepayment audit programs on objective cost-savings, paperwork reductions, current audit standards and other positive improvements, as well as adherence to the guidelines listed in this part.

§ 102–118.330 How does my agency contact the GSA Audit Division?

Your agency may contact the GSA Audit Division by writing to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.335 If my agency chooses to change a verified prepayment audit program, does the program need to be re-verified?

Yes, you must coordinate any changes in your agency's prepayment audit program with the GSA Audit Division.

Liability for Certifying and Disbursing Officers

§ 102–118.340 Does establishing a prepayment audit system or program change the responsibilities of the certifying officers?

Yes, in a prepayment audit environment, an official certifying a transportation voucher is held liable for verifying transportation rates, freight classifications, and other information provided on a transportation billing instrument or transportation request undergoing a prepayment audit (31 U.S.C. 3528).

§ 102–118.345 With a prepayment audit waiver, what liability does the certifying officer have?

A certifying official is not liable for verifying transportation rates, freight classifications, or other information provided on a GBL or passenger transportation request when the Administrator of General Services or designee waives the prepayment audit rules. This waiver of responsibility only applies to GBLs and GTRs (31 U.S.C. 3528).

§ 102–118.350 What relief from liability is available for the certifying official under a postpayment audit?

The agency counsel relieves a certifying official from liability for overpayments in cases where postpayment is the approved method of auditing and:

- (a) The overpayment occurred solely because the administrative audit process before payment did not verify transportation rates; and

- (b) The overpayment was the result of using improper transportation rates or freight classifications or the failure to deduct the correct amount under a land grant law or agreement.

§ 102–118.355 Do the requirements of a prepayment audit change the disbursing official's liability for overpayment?

Yes, the disbursing official has a liability for overpayments on all transportation bills subject to prepayment audit (31 U.S.C. 3322).

§ 102–118.360 Where does relief from prepayment audit liability for certifying, accountable, and disbursing officers reside in my agency?

Your agency's counsel has the authority to relieve liability and give advance opinions on liability issues to certifying, accountable, and disbursing officers (31 U.S.C. 3527).

Waivers From Mandatory Prepayment Audit

§ 102–118.365 Who has the authority to grant a waiver of the prepayment audit requirement?

Only the Administrator of General Services or designee has the authority to grant waivers from the prepayment audit requirement.

§ 102–118.370 How does my agency apply for a waiver from the requirement to perform a prepayment audit of transportation bills?

Your agency must submit a request for a waiver from the requirement to perform a prepayment audit in writing to: General Services Administration, Office of Transportation and Personal Property (MT), 1800 F Street, NW, Washington, DC 20405, <http://policyworks.gov/org/main/MT>.

§ 102–118.375 What must a waiver request include?

A waiver request must explain in detail how the use of a prepayment audit increases costs over a postpayment audit, decreases efficiency, involves a relevant public interest, adversely affects the agency's mission, or is not feasible for the agency.

§ 102–118.380 On what basis does GSA grant a waiver to the prepayment audit requirement?

GSA issues waivers to the prepayment audit requirement based on:

- (a) Cost-effectiveness;
- (b) Government efficiency;
- (c) Public interest; or
- (d) Other factors the Administrator of General Services considers appropriate.

§ 102–118.385 How long will GSA take to respond to a waiver request?

GSA will respond to a written waiver request within 30 days from the receipt of a waiver request.

§ 102–118.390 Must my agency renew its waiver to prepayment audits?

Yes, your agency waiver to the prepayment audit process will not exceed 2 years. Your agency must reapply to ensure the circumstances at the time of approval still apply.

§ 102–118.395 Are my agency's prepayment audited transportation bills subject to periodic postpayment audit oversight from the GSA Audit Division?

Yes. Two years or more after starting prepayment audits (depending on results), the GSA Audit Division may subject your agency's prepayment audited transportation bills to periodic postpayment audit oversight rather than blanket postpayment audits. The GSA Audit Division will then prepare a report analyzing the success of your agency's prepayment audit program. This report is on file and available for your review.

Suspension of Agency Prepayment Audit Programs**§ 102–118.400 Can GSA suspend my agency's prepayment audit program?**

(a) Yes, the Director of the GSA Audit Division may suspend your agency's prepayment audit program based on:

- (1) Failure to conduct an accurate prepayment audit of your agency's transportation bills;
- (2) A pattern of failure to abide by the terms of the Prompt Payment Act;
- (3) Failure to adjudicate TSP claims disputing prepayment audit positions of the agency regularly within 30 days of receipt;
- (4) Failure of the agency to follow Comptroller General decisions, GSA Board of Contract Appeals decisions, the Federal Management Regulation and GSA instructions or precedents about substantive and procedure matters; and/or
- (5) Failure to provide information and data or to cooperate with on-site inspections necessary to conduct a quality assurance review.

(b) A systematic or a multitude of individual failures will result in suspension. A suspension may be in whole or in part for failure to conduct proper prepayment audits.

Subpart E—Postpayment Transportation Audits**§ 102–118.405 Will the widespread mandatory use of prepayment audits eliminate postpayment audits?**

No, the mandatory use of prepayment audits will not eliminate postpayment audits because:

- (a) Postpayment audits will continue for those areas which do not lend themselves to the prepayment audit; and
- (b) The GSA Audit Division will continue to review and survey the progress of the prepayment audit by performing a postpayment audit on the bills. The GSA Audit Division has a Congressionally mandated responsibility under 31 U.S.C. 3726 to perform oversight on transportation bill payment. During the early startup period for prepayment audits, transportation bills are subject to a possible postpayment audit to discover the effectiveness of the prepayment audit process.

§ 102–118.410 Can the Administrator of General Services waive the postpayment auditing provisions of this subpart?

Yes, in certain circumstances, the Administrator of General Services or designee may waive the postpayment audit oversight requirements of this subpart on a case by case basis.

§ 102–118.415 When is my agency allowed to use a postpayment audit on our transportation bills?

Your agency may only use a postpayment audit when the Administrator of General Services has approved a waiver to the prepayment audit requirement.

§ 102–118.420 What information must be on my agency's transportation bills?

Your agency must annotate all of its transportation bills submitted for postpayment audit with:

- (a) The date received from a TSP;
- (b) A TSP's bill number;
- (c) Your agency name;
- (d) A Document Reference Number;
- (e) The amount requested;
- (f) The amount paid;
- (g) The payment voucher number;
- (h) Complete tender or tariff authority, including contract price (if purchased under the Federal Acquisition Regulation), item or section number;
- (i) The taxpayer identification number; and
- (j) The standard carrier alpha code.

§ 102–118.425 What are the procedures used to perform a postpayment audit?

When GSA performs a postpayment audit, the Administrator of General Services or his designee has the authority to implement the following procedures:

- (a) Audit selected TSP bills after payment;
- (b) Audit selected TSP bills before payment as needed to protect the Government's interest (*i.e.*, bankruptcy, fraud);
- (c) Examine, settle, and adjust accounts involving payment for transportation and related services for the account of agencies;
- (d) Adjudicate and settle transportation claims by and against agencies;
- (e) Offset an overcharge by any TSP from an amount subsequently found to be due that TSP;
- (f) Issue a Notice of Overcharge stating that a TSP owes a debt to the agency. This notice states the amount paid, the basis for the proper charge for the DRN, and cites applicable tariff or tender references with other data relied on to support the overcharge. A separate Notice of Overcharge is prepared and mailed for each transaction; and
- (g) Issue a GSA Notice of Indebtedness when an ordinary debt is due an agency. This notice states the basis for the debt, the TSP's rights, interest, penalty, and other results of nonpayment. The debt is due immediately and subject to interest charges, penalties, and administrative cost (31 U.S.C. 3717).

§ 102–118.430 What are the postpayment audit responsibilities and roles of the GSA Audit Division?

When the GSA Audit Division performs a postpayment audit for your agency, GSA will:

- (a) Examine and analyze payments to discover their validity, relevance and conformity with tariffs, quotations, contracts, agreements or tenders and make adjustments to protect the interest of an agency;
- (b) Examine, adjudicate, and settle transportation claims by and against the agency;
- (c) Collect from TSPs by refund, setoff, offset or other means, the amounts determined to be due the agency;
- (d) Adjust, terminate or suspend debts due on TSP overcharges;
- (e) Prepare reports to the Attorney General of the United States with recommendations about the legal and technical bases available for use in prosecuting or defending suits by or against an agency and provide technical,

fiscal, and factual data from relevant records;

(f) Provide transportation specialists and lawyers to serve as expert witnesses, assist in pretrial conferences, draft pleadings, orders, and briefs, and participate as requested in connection with transportation suits by or against an agency;

(g) Review agency policies, programs, and procedures to determine their adequacy and effectiveness in the audit of freight or passenger transportation payments, and review related fiscal and transportation practices;

(h) Furnish information on rates, fares, routes, and related technical data upon request;

(i) Tell an agency of irregular shipping routing practices, inadequate commodity descriptions, excessive transportation cost authorizations, and unsound principles employed in traffic and transportation management; and

(j) Confer with individual TSPs or related groups and associations

presenting specific modes of transportation to resolve mutual problems concerning technical and accounting matters and acquainting them with agency requirements.

§ 102–118.435 Must my agency pay for a postpayment audit when using the GSA Audit Division?

No, the expenses of postpayment audit contract administration and audit-related functions are financed from overpayments collected from TSP's bills paid by the agency and other similar type of refunds.

Subpart F—Claims and Appeal Procedures

General Agency Information for All Claims

§ 102–118.440 Can a TSP file a transportation claim against my agency?

Yes, a TSP may file a transportation claim against your agency under 31 U.S.C. 3726 for:

(a) Amounts owed but not included in the original billing;

(b) Amounts deducted or set off by an agency that are disputed by the TSP;

(c) Requests by a TSP for amounts previously refunded in error by that TSP; and/or

(d) Unpaid original bills requiring direct settlement by GSA, including those subject to doubt about the suitability of payment (mainly bankruptcy or fraud).

§ 102–118.445 What is the time limit for a TSP to file a transportation claim against my agency?

The time limits on a TSP transportation claim against the Government appear in the following table:

TIME LIMITS ON ACTIONS TAKEN BY TSP

Mode	Freight charges (years)	Statute
(a) Air Domestic	6	28 U.S.C. 2401, 2501.
(b) Air International	6	28 U.S.C. 2401, 2501.
(c) Freight Forwarders (subject to the IC Act)	3	49 U.S.C. 14705(f).
(d) Motor	3	49 U.S.C. 14705(f).
(e) Rail	3	49 U.S.C. 14705(f).
(f) Water (subject to the IC Act)	3	49 U.S.C. 14705(f).
(g) Water (not subject to the IC Act)	2	46 U.S.C. 745.
(h) TSPs exempt from regulation	6	28 U.S.C. 2401, 2501.

§ 102–118.450 What is the time limit for my agency to file a court claim with a TSP for freight charges, reparations, and loss or damage to the property?

Statutory time limits vary depending on the mode and the service involved

and may involve freight charges. The following tables list the time limits:

(A) TIME LIMITS ON ACTIONS TAKEN BY THE FEDERAL GOVERNMENT AGAINST TSPs

Mode	Freight charges	Reparations	Loss and damage
(1) Rail	3 years; 49 U.S.C. 11705	3 years; 49 U.S.C. 11705	6 years; 28 U.S.C. 2415.
(2) Motor	3 years; 49 U.S.C., 14705(f)	3 years; 49 U.S.C., 14705(f)	6 years; 28 U.S.C. 2415.
(3) Freight Forwarders subject to the IC Act.	3 years; 49 U.S.C., 14705(f)	3 years; 49 U.S.C., 14705(f)	6 years; 28 U.S.C. 2415.
(4) Water (subject to the IC Act) ...	3 years; 49 U.S.C., 14705(f)	3 years; 49 U.S.C., 14705(f)	6 years; 28 U.S.C. 2415.
(5) Water (not subject to the IC Act).	6 years; 28 U.S.C. 2415	2 years; 46 U.S.C. 821	1 year; 46 U.S.C., 1303(6) (if subject to Carriage of Goods by Sear Act, 46 U.S.C. 1300–1315).
(6) Domestic Air	6 years; 28 U.S.C. 2415 .....	.....	6 years; 28 U.S.C. 2415.
(7) International Air	6 years; 28 U.S.C. 2415 .....	.....	2 years; 49 U.S.C. 40105.

(B) TIME LIMITS ON ACTIONS TAKEN BY THE FEDERAL GOVERNMENT AGAINST TSPs EXEMPT FROM REGULATION

Mode	Freight	Reparations	Loss and damage
(1) All	6 years; 28 U.S.C. 2415 .....	.....	6 years; 28 U.S.C. 2415.

§ 102–118.455 Must my agency pay interest on a disputed amount claimed by a TSP?

No, interest penalties under the Prompt Payment Act (31 U.S.C. 3901, *et seq.*), are not required when payment is delayed because of a dispute between an agency and a TSP.

§ 102–118.460 Are there statutory time limits on filing an administrative claim with the GSA Audit Division?

Yes, an administrative claim must be received by the GSA Audit Division or its designee (the agency where the claim arose) within 3 years beginning the day after the latest of the following dates (except in time of war):

- (a) Accrual of the cause of action;
- (b) Payment of charges for the transportation involved;
- (c) Subsequent refund for overpayment of those charges; or
- (d) Deductions made to a TSP claim by the Government under 31 U.S.C. 3726.

§ 102–118.465 Does interest apply after certification of payment of claims?

Yes, interest under the Prompt Payment Act (31 U.S.C. 3901, *et seq.*) begins 30 days after certification for payment by GSA.

§ 102–118.470 How does my agency settle disputes with a TSP?

As a part of the prepayment audit program, your agency must have a plan to resolve disputes with a TSP.

§ 102–118.475 Is there a time limit for my agency to issue a decision on disputed claims?

Yes, your agency must issue a ruling on a disputed claim within 30 days of receipt of the claim.

§ 102–118.480 What if my agency fails to settle a dispute within 30 days?

(a) If your agency fails to settle a dispute within 30 days, the TSP may appeal to: General Services Administration, Federal Supply Service, Audit Division (FBA), Code: CC, 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

(b) If the TSP disagrees with the administrative settlement by the Audit Division, the TSP may appeal to the General Services Contract Board of Appeals.

§ 102–118.485 May my agency appeal a decision by the General Services Board of Contract Appeals (GSBCA)?

No, your agency may not appeal a decision made by the GSBCA.

§ 102–118.490 What if a TSP submits a voluntary refund to my agency?

(a) An agency must report a voluntary refund to the GSA Audit Division (so

that no Notice of Overcharge or financial offset occurs), unless other arrangements are made (e.g., charge card refunds, etc.). These reports must be addressed to: General Services Administration, Federal Supply Service, Audit Division (FBA), Code: CC, 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

(b) Once a Notice of Overcharge is issued, then any refund is no longer considered voluntary and the agency must forward the refund to the GSA Audit Division.

§ 102.118.495 Must my agency send a voluntary refund to the Treasurer of the United States?

No, your agency may keep and use voluntary refunds submitted by a TSP, if the refund was made prior to a Notice of Overcharge issued by the GSA Audit Division.

§ 102–118.500 Can my agency revise or alter a GSA Form 7931, Certificate of Settlement?

Generally, no, an agency must not revise or alter amounts on a GSA Form 7931, Certificate of Settlement. The only change an agency can make to a GSA Form 7931 is to change the agency financial data to a correct cite. Any GSA Form 7931 that cannot be paid (e.g., an amount previously paid), must be immediately returned to the GSA Audit Division with an explanation.

§ 102–118.505 Does my agency have any recourse not to pay a Certificate of Settlement?

No, a Certificate of Settlement is the final administrative action.

§ 102–118.510 Who is responsible for determining the standards for collection, compromise, termination, or suspension of collection action on any outstanding debts to my agency?

Under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711, *et seq.*), the Comptroller General and the Attorney General have joint responsibility for issuing standards for your agency.

§ 102–118.515 What are my agency's responsibilities for verifying the correct amount of transportation charges?

Your agency's employees are responsible for diligently verifying the correct amount of transportation charges prior to payment (31 U.S.C. 3527).

§ 102–118.520 Will GSA instruct my agency's disbursing offices to offset unpaid TSP billings?

Yes, GSA will instruct one or more of your agency's disbursing offices to deduct the amount due from an unpaid TSP's bill. A 3-year limitation applies

on the deduction of overcharges from amounts due a TSP (31 U.S.C. 3726) and a 10-year limitation applies on the deduction of ordinary debt (31 U.S.C. 3716).

§ 102–118.525 Are there principles governing my agency's collection procedures?

Yes, the principles governing your agency collection procedures for reporting debts to the General Accounting Office (GAO) or the Department of Justice are found in 4 CFR parts 101 through 105 and in the GAO Policy and Procedures Manual for Guidance of Federal Agencies. The manual may be obtained by writing: Superintendent of Documents, Government Printing Office, Washington, DC 20402, <http://www.access.gpo.gov/>.

§ 102–118.530 Who has the authority to audit, settle accounts, and/or start collection action for all transportation services provided for my agency?

The Director of the GSA Audit Division has the authority and responsibility to audit and settle all transportation related accounts (31 U.S.C. 3726). The reason for this is that he or she has access to Governmentwide data on a TSP's payments and billings with the Government. Your agency has the responsibility to correctly pay individual transportation claims.

Transportation Service Provider (TSP) Filing Requirements**§ 102–118.535 What are the filing requirements for a TSP?**

Transportation service provider claims received by GSA or its designee must include one of the following:

(a) The signature of an individual or party legally entitled to receive payment for services;

(b) The signature of the claimant's agent or attorney accompanied by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant; or

(c) An electronic signature, when mutually agreed upon.

§ 102–118.540 How does a TSP file an administrative claim using EDI or other electronic means?

The medium and precise format of transmitting data for filing an administrative claim must be approved in advance by the GSA Audit Division. GSA will use an authenticating EDI signature to certify receipt, delivery of goods, and an itemized bill reflecting the services provided, with the lowest charges available for service. The TSP must be able to locate, identify, and

reproduce the records in readable form without loss of clarity.

§ 102–118.545 Can a TSP file a supplemental administrative claim?

Yes, a TSP may file a supplemental administrative claim. Each supplemental bill must cover charges relating to one paid transportation document.

§ 102–118.550 What is the required format that a TSP must use to file an administrative claim?

A TSP must bill for charges claimed on a SF 1113, Public Voucher for Transportation Charges, in the manner prescribed in the "How to Prepare Bills of Lading" handbook or the "U.S. Government Passenger Transportation" handbook. To get a copy of these handbooks, you may write to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.555 What documentation is required when filing an administrative claim?

An administrative claim is settled using the information contained in the transportation document, payment record, reports and information available to GSA and/or to the agency involved and the written and documentary records submitted by the TSP. Oral presentations supplementing the written record are not acceptable.

Transportation Service Provider (TSP) Appeal Procedures for Prepayment Audits

§ 102–118.560 If my agency denies the challenge to the statement of difference, may the TSP appeal?

Yes, the TSP may appeal if your agency denies the challenge to the statement of difference. However, the appeal must be handled at a higher level in your agency.

§ 102–118.565 If a TSP disagrees with the decision of my agency, can the TSP appeal?

Yes, the TSP may file a claim with the GSA Audit Division, which will review the appeal of your agency's final full or partial denial of a claim. The TSP may also appeal if your agency has not responded to a challenge within 30 days.

§ 102–118.570 If a TSP disagrees with a prepayment audit decision of the GSA Audit Division can they appeal?

(a) Yes, the TSP may appeal to the GSA's Board of Contract Appeals (GSBCA), by following guidelines established in this subpart or file a

claim with the United States Court of Federal Claims. A request for review by the GSBCA must be received in writing within 6 months (not including time of war) from the date the settlement action was taken or within the periods of limitation specified in 31 U.S.C. 3726, as amended, whichever is later. The TSP must address requests to: GSA Board of Contract Appeals, 1800 F Street, NW, Room 7022, Washington, DC 20405.

(b) The GSBCA will accept legible submissions via facsimile (FAX) on (202) 501–0664.

§ 102–118.575 If a TSP disagrees with a prepayment audit decision of the GSBCA, can they appeal?

No, a ruling by the GSBCA is the final administrative remedy and the TSP has no statutory right of appeal. This subpart governs administrative actions only and does not affect any rights a TSP may have to pursue a legal remedy.

§ 102–118.580 If my agency disagrees with a prepayment or postpayment audit decision of the GSA Audit Division can they appeal?

No, your agency may not appeal. A GSA Audit Division decision is administratively final for your agency.

§ 102–118.585 May my agency appeal a prepayment audit decision by the GSBCA?

No, your agency may not appeal a prepayment audit decision. Your agency must follow the ruling of the GSBCA.

Transportation Service Provider (TSP) Appeal Procedures for Postpayment Audits

§ 102–118.590 When a TSP disagrees with a Notice of Overcharge resulting from a postpayment audit, what are the appeal procedures?

A TSP who disagrees with the Notice of Overcharge may submit a written request for reconsideration to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405 <http://pub.fss.gsa.gov/ota>.

§ 102–118.595 What if a TSP disagrees with the Notice of Indebtedness?

If a TSP disagrees with an ordinary debt, which is the subject of a Notice of Indebtedness, it may:

- (a) Inspect and copy the agency's records related to the claim;
- (b) Seek administrative review by GSA of the claim decision; and/or
- (c) Enter a written agreement for the payment of the claims.

§ 102–118.600 Is a TSP notified when GSA allows a claim?

Yes, the GSA Audit Division will acknowledge each payable claim using

GSA Form 7931, Certificate of Settlement. The certificate will give a complete explanation of any amount that is disallowed. GSA will forward the certificate to the agency whose funds are to be charged for processing and payment.

§ 102–118.605 Will GSA notify a TSP if they internally offset a payment?

Yes, the GSA Audit Division will inform the TSP if they internally offset a payment.

§ 102–118.610 How will a TSP know if the GSA Audit Division disallows a claim?

The GSA Audit Division will furnish a GSA Form 7932, Settlement Certificate, to the TSP explaining the disallowance.

§ 102–118.615 Can a TSP request a reconsideration of a settlement action by the GSA Audit Division?

Yes, a TSP desiring a reconsideration of a settlement action may request a review by the Administrator of General Services.

§ 102–118.620 How must a TSP refund amounts due to GSA?

(a) TSPs must promptly refund amounts due to GSA. If an EFT is not used, checks must be made payable to "General Services Administration", including the document reference number, TSP name, bill number(s), taxpayer identification number and standard carrier alpha code, then mailed to: General Services Administration, P.O. Box 93746, Chicago, IL 60673.

(b) If an EFT address is needed, please contact the GSA Audit Division at: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

Note to § 102–118.620: Amounts collected by GSA are returned to the Treasurer of the United States (31 U.S.C. 3726).

§ 102–118.625 Can the Government charge interest on an amount due from a TSP?

Yes, the Government can charge interest on an amount due from a TSP. This procedure is provided for under the Debt Collection Act (31 U.S.C. 3717), the Federal Claims Collection Standards (4 CFR parts 101 through 105), and 41 CFR part 105–55.

§ 102–118.630 If a TSP fails to pay or appeal an overcharge, what actions does GSA pursue to ensure debt collection?

GSA will pursue debt collection through one of the following methods:

- (a) When an indebted TSP files a claim, GSA will apply all or any portion of the amount it determines to be due the TSP, to the outstanding balance

owed by the TSP, under the Federal Claims Collection Standards (4 CFR parts 101 through 105) and 41 CFR part 105-55;

(b) When the action outlined in paragraph (a) of this section cannot be taken by GSA, GSA will instruct one or more Government disbursing offices to deduct the amount due to the agency from an unpaid TSP's bill. A 3-year limitation applies on the deduction of overcharges from amounts due a TSP (31 U.S.C. 3726) and a 10-year limitation applies on the deduction of ordinary debt (31 U.S.C. 3716);

(c) When collection cannot be accomplished through either of the procedures in paragraph (a) or (b) of this section, GSA normally sends two additional demand letters to the indebted TSP requesting payment of the amount due within a specified time. Lacking a satisfactory response, GSA may place a complete stop order against amounts otherwise payable to the indebted TSP by adding the name of that TSP to the Department of the Army "List of Contractors Indebted to the United States"; and/or

(d) When collection actions, as stated in paragraphs (a) through (c) of this section are unsuccessful, GSA may report the debt to the Department of Justice for collection, litigation, and related proceedings, as prescribed in 4 CFR parts 101 through 105.

§ 102-118.635 Can a TSP file an administrative claim on collection actions?

Yes, a TSP may file an administrative claim involving collection actions resulting from the transportation audit performed by the GSA directly with the GSA Audit Division. Any claims

submitted to GSA will be considered "disputed claims" under section 4(b) of the Prompt Payment Act (31 U.S.C. 3901, *et seq.*). The TSP must file all other transportation claims with the agency out of whose activities they arose. If this is not feasible (e.g., where the responsible agency cannot be determined or is no longer in existence) claims may be sent to the GSA Audit Division for forwarding to the responsible agency or for direct settlement by the GSA Audit Division. Claims for GSA processing must be addressed to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102-118.640 Can a TSP request a review of a settlement action by the Administrator of General Services?

Yes, a TSP desiring a review of a settlement action taken by the Administrator of General Services may request a review by the GSA Board of Contract Appeals (GSBCA) or file a claim with the United States Court of Federal Claims (28 U.S.C. 1491).

§ 102-118.645 Are there time limits on a request for an administrative review by the GSBCA?

(a) Yes, the GSBCA must receive a request for review within six months (not including time of war) from the date the settlement action was taken or within the periods of limitation specified in 31 U.S.C. 3726, as amended, whichever is later. The request must be addressed to: GSA Board of Contract Appeals 1800 F Street, NW, Room 7022, Washington, DC 20405.

(b) The GSBCA will accept legible submissions via facsimile (FAX) on (202) 501-0664.

§ 102-118.650 If a TSP disagrees with a postpayment audit decision of the GSBCA, can they appeal?

No, a ruling by the GSBCA is the final administrative remedy and the TSP has no statutory right of appeal. This subpart governs administrative actions only and does not affect any rights a TSP may have to pursue a legal remedy.

§ 102-118.655 May my agency appeal a postpayment audit decision by the GSBCA?

No, your agency may not appeal a postpayment audit decision and must follow the ruling of the GSBCA.

Transportation Service Provider (TSP) Non-Payment of a Claim

§ 102-118.660 If a TSP cannot immediately pay a debt, can they make other arrangements for payment?

Yes, if a TSP is unable to pay the debt promptly, the Director of the GSA Audit Division has the discretion to enter into alternative arrangements for payment.

§ 102-118.665 What if a TSP does not pay a transportation debt?

If a TSP does not pay a transportation debt, GSA may refer delinquent debts to consumer reporting agencies and Federal agencies including the Department of the Treasury and Department of Justice.

Dated: February 14, 2000.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

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Federal Register

**Tuesday,
February 22, 2000**

Part IV

Department of Agriculture

Office of the Secretary

Forest Service

Department of the Interior

Office of the Secretary

**Unified Federal Policy for Ensuring a
Watershed Approach to Federal Land and
Resource Management; Notices**

DEPARTMENT OF AGRICULTURE**Office of the Secretary****DEPARTMENT OF THE INTERIOR****Office of the Secretary****Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management**

AGENCIES: Office of the Secretary, USDA; Office of the Secretary, Interior.

ACTION: Notice of proposed policy; request for public comment.

SUMMARY: The President's *Clean Water Action Plan* announces the intention of the Departments of Agriculture and the Interior to develop a unified Federal policy on watershed management in consultation with other Federal agencies, States, Tribes, and interested stakeholders. This policy would provide a framework for a watershed approach to Federal land and resource management activities. The proposed policy is the collaborative effort of several Federal agencies and is offered for public review and comment by the Departments of Agriculture and the Interior.

DATES: You should submit comments by April 24, 2000. We will not consider comments postmarked or received by messenger, electronic mail, FAX, or other means after this date in our decisionmaking on this policy. In addition to the request for comments in this notice, we will hold regional meetings in four cities to provide information, answer questions, and solicit written comments. We will provide time for informational meetings with Tribes on the same day as these meetings. We anticipate holding these meetings in the following locations: Denver, CO; Portland, OR; Atlanta, GA; and Milwaukee, WI. We will publish information on meeting locations and dates in a separate **Federal Register** notice and at www.cleanwater.gov/ufp.

ADDRESSES: You may send or hand deliver written comments to: USDA-Forest Service, Content Analysis Enterprise Team, Attn: UFP, Building 2, Suite 295, 5500 Amelia Earhart Drive, Salt Lake City, UT 84116. You may also fax comments to (801) 517-1021 or submit comments electronically to cleanwater/wo__caet-slc@fs.fed.us. Comments are available for public inspection and copying at the address above during regular business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays). You are encouraged to call (801) 517-1037 to arrange a time to inspect the comments

received. All comments will also be available electronically for public inspection at the close of the comment period at www.cleanwater.gov/ufp.

FOR FURTHER INFORMATION CONTACT: Eric Janes, Rangelands, Soil and Water Group, Bureau of Land Management, Department of the Interior or Karen Solari, Watershed and Air Management Staff, Forest Service, Department of Agriculture, at (801) 517-1037.

SUPPLEMENTARY INFORMATION: The proposed unified Federal policy on watershed management is intended to provide a framework to enhance watershed management for the protection of water quality and the health of aquatic ecosystems on Federal lands and is one of the 111 action items in the President's February 1998 *Clean Water Action Plan: Restoring and Protecting America's Waters*. In the following question and answer format, we explain the purpose and content of the proposed policy. The full text of the proposed policy is set out at the end of this notice.

About the Proposed Policy

What are the goals and principles of the Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management?

We have proposed the following goals and principles for Federal agencies as their programs and resources allow:

- Use a consistent and scientific approach to managing lands and resources and for assessing, protecting, and restoring watersheds.
- Identify specific watersheds in which to focus our budgetary and other resources and accelerate improvements in water quality and watershed condition.
- Use the results of watershed assessments to guide planning and management activities.
- Work closely with States, Tribes, local governments, and stakeholders to implement this policy.
- Meet our Clean Water Act responsibility to adhere to Federal, State, Tribal, interstate, and local water quality requirements to the same extent as non-governmental entities.
- Take steps to ensure that Federal land and resource management actions are consistent with Federal, State, Tribal, and, where appropriate, local government water quality management programs.

What does it mean to take a watershed approach to land and resource management?

A watershed approach focuses efforts to address the highest priority problems

within a hydrologically defined geographical area, taking into consideration both ground and surface water flow. As envisioned by the proposed policy, a watershed approach to Federal land and resource management emphasizes the following:

- Assessing the function and condition of watersheds;
- Incorporating watershed goals in Federal agency planning and programs;
- Enhancing pollution prevention;
- Improving monitoring;
- Restoring watersheds;
- Identifying waters of exceptional value; and
- Expanding collaboration among Federal agencies, States, Tribes, and interested stakeholders.

Who prepared the proposed policy?

An interagency team prepared the proposed policy. The team included representatives of more than a dozen Federal bureaus and agencies, especially from the major land management agencies and the science, regulatory, and resource agencies involved in watershed and water quality activities on Federal lands. This proposal is put forth by the Departments of Agriculture and the Interior. Other Federal agencies that are affected have had an opportunity to review and have concurred with this proposal as well.

What discussions occurred with non-Federal agencies?

The Departments of Agriculture and the Interior solicited comments from States and Tribes on a working draft of this policy. We were particularly interested in receiving early feedback from States and Tribes on the following major issues:

- How we can coordinate and better integrate our policy proposals with State and Tribal water quality and watershed programs;
- What the potential impacts of our policy proposals are on State and Tribal water quality and watershed programs; and
- Whether any of these policy proposals would seriously hinder State and Tribal water quality protection and watershed management efforts.

States and Tribes also have the opportunity to submit detailed written comments on the proposed policy during this formal public comment period along with other stakeholders.

What issues did States and Tribes raise after their review of the working draft?

A working draft of the proposed policy was sent to the States and to Federally recognized Tribes for a

preliminary review. Although a limited time period was provided for this preliminary review, four Tribes and six State agencies did submit comments. One State agency commented that the increased collaboration and coordination emphasized in the proposed policy would strengthen its existing watershed management initiative.

Many of the comments did highlight the need for additional detail and clarity in the final policy, particularly as it applies to Tribal and ancestral lands. Two organizations representing Tribes suggested a broadening of the science-based approach to watershed assessment by including a body of information and techniques known as Traditional Ecological Knowledge. An Alaskan central Tribal council suggested that the uniqueness of conditions in Alaska needs stronger emphasis. One organization representing a Tribe solicited additional information on the role of the Bureau of Indian Affairs in developing and implementing the policy.

One State agency identified the need to clarify the distinction between priority watersheds and watersheds designated for special protection. The same State agency questioned the impact of the proposed policy's watershed delineation protocols on its existing delineation of watersheds. Another State agency suggested that action on the proposed policy should be suspended until pending litigation on the *Clean Water Action Plan* is resolved.

We are retaining these preliminary comments from the States and Tribes for further review and consideration in the context of all the comments received during the 60-day public comment period.

What do we mean by consultation with States and Tribes?

Because States and Tribes have overall responsibility for waters under their jurisdiction and are partners with the Federal government in the implementation of the Clean Water Act, their involvement is instrumental to the success of a Federal watershed management policy. Distribution of a working draft of this proposed policy was a first step in obtaining input from the States and Tribes. Discussions with the States and Tribes will continue during the public comment period.

The Federal government must conduct government-to-government consultations with Federally recognized Tribal governments on policies that may impact trust resources. As the policy is implemented, there will be ongoing consultation on the proposed actions at

individual watersheds. We are asking for input on the most effective process that would ensure a meaningful consultation process during the public comment period and during the implementation of the policy.

Will the proposed policy affect water rights?

No, nothing in the proposed policy is intended to adjudicate, determine, or otherwise affect water rights. The proposed policy does not affect currently applicable laws, procedures, or regulations creating or determining water rights.

Are all members of the public invited to comment on the policy?

Yes, all members of the public and local watershed councils and groups are invited to comment on the policy and participate in its implementation.

Where This Policy Would Apply

What lands and resources does this policy cover?

This proposed policy would be limited to Federal lands and resources and would apply to lands and resources managed by and under the jurisdiction of the Federal department and agency heads who sign the final policy. Most of these Federal lands and resources are in the western United States, and most are managed by the Forest Service (Department of Agriculture), the Bureau of Land Management (Department of the Interior), and other Department of the Interior agencies. However, significant Federal lands and resources occur throughout the United States that are under the jurisdiction of the Department of Defense; National Park Service, Fish and Wildlife Service, and Bureau of Reclamation (Department of the Interior); and the Forest Service (Department of Agriculture). We estimate that this policy could apply in up to 40 percent of the watersheds in this country because they include Federal lands or resources.

Are non-Federal lands (Tribal, State, private) affected?

The proposed policy would not apply to Tribal, State, or private lands. It would apply only to Federal lands and resources; however, collaboration and partnerships are essential to this effort. The policy is intended to foster more effective participation opportunities for Tribes, States, private landowners, and other interested stakeholders and to support State and Tribal watershed efforts.

Does the Unified Federal Policy affect Federal trust responsibilities to Tribes?

This policy is not intended to alter any trust responsibilities of the Federal government with respect to Federally recognized Tribes.

What Federal agencies are most involved?

Federal land management agencies, especially the Bureau of Land Management (Department of the Interior) and the Forest Service (Department of Agriculture), would be most involved by the policy and its focus on Federal lands and resources. Other agencies with jurisdiction over Federal lands and resources that would adopt this policy are: Department of the Interior agencies (such as the National Park Service, Fish and Wildlife Service, Office of Surface Mining, and the Bureau of Reclamation); Department of Commerce agencies (such as the National Marine Fisheries Service); Department of Defense and Department of Energy agencies that manage land; and the Tennessee Valley Authority.

What other Federal agencies have a role?

This proposed policy also applies to Federal science and regulatory agencies with extensive water resource data and management roles. The U.S. Geological Survey (Department of the Interior) provides data and information necessary for managing watersheds. The Environmental Protection Agency is responsible for interpreting and administering the Clean Water Act and provides guidance and oversight for State and Tribal water quality management under the act. Federal water management agencies, such as the Bureau of Reclamation (Department of the Interior) and the Army Corps of Engineers (Department of the Army), which manage facilities under project specific authorizations, have a role in watershed management efforts as well. The Bureau of Indian Affairs (Department of the Interior) has a role in assisting Federal land and resource management agencies to collaborate with Tribes.

How would the Unified Federal Policy affect current Federal programs?

We propose that this policy be implemented to the extent possible within the existing Federal land and resource management planning programs and resources. The proposed policy would use existing authorities and build on and expand successful efforts by focusing Federal resources on priority watersheds. In several areas, coordinated efforts are already ongoing

among the Federal agencies and their State, Tribal, and private partners. In implementing this policy, we would recognize these efforts and existing watershed agreements with States, Tribes, and other entities.

Key Elements of The Proposal

What are the key elements of the Unified Federal Policy as described in the Clean Water Action Plan?

The *Clean Water Action Plan* says that the policy will address:

- Coordination and planning of Federal programs and resource management activities on a watershed basis to achieve clean water objectives; emphasizing State, Tribal, and Federal priority watersheds, taking into account different Federal, State, and Tribal approaches, programs, and guidelines; and creating "living laboratories" for adaptive management of watersheds and water quality.

- Coordinated development and application of enhanced watershed assessment, hydrologic analysis, resource inventory, and classification; monitoring and evaluation methods; and compatible data standards.

- Control of nonpoint sources of pollution through training in and implementation of best management practices; working with States and Tribes to meet performance goals; and establishing appropriate memorandums of agreement.

- Enhanced watershed restoration efforts, including the integration of watershed restoration as a key part of land management planning and program strategies.

- Development of a process and guidelines for identifying and designating waters or watersheds on Federal lands that may have significant human health, public use, or aquatic ecosystem values and a need for special protection.

- A greater role for citizen stakeholders in completing watershed assessments, monitoring pollution sources, and planning and implementing restoration efforts through collaborative stewardship approaches.

How will the Federal government coordinate its watershed assessments with State and Tribal Unified Watershed Assessments (UWAs) conducted under the Clean Water Action Plan?

We will use the results of both the Federal agency watershed assessments and the State and Tribal assessments to identify priority watersheds for Federal action. The Federal watershed assessments will be at a smaller scale

than the UWAs (for example, the watershed size will be in the 50 to 200 square mile range whereas the size of the UWAs is in the 500 to 1,600 square mile range) and will be more detailed (for example, we will analyze the cause of watershed problems and the potential for recovery). We plan to use these assessments to work with the States and Tribes in efforts to protect or improve water quality in watersheds that include Federal lands.

What does designating watersheds for special protection mean?

Throughout the nation, Federal agencies manage all or part of watersheds that may have significant human health, public use, or aquatic ecosystem values and, therefore, may warrant special protection. By identifying these watersheds, Federal land managers can provide that special protection. We intend to designate only those portions of watersheds that are directly managed by Federal agencies.

How does a watershed designated for special protection differ from a priority watershed?

Priority watersheds are those Federal agencies select for focusing resources for the purpose of accelerating improvements in water quality and watershed conditions. A watershed designated for special protection may require restoration work but may also need action to ensure existing water quality and watershed conditions are preserved. The focus is on action to ensure protection of existing conditions for these watersheds.

Other Issues

Are there definitions that will help me understand the proposed policy?

Yes. We propose definitions of such words as "watershed assessment" and "watershed condition" in a separate glossary of terms set out at the end of this notice. These definitions are meant only to help you understand the proposed policy better, and do not change the meanings of terms defined by law or regulation. If we use a definition in this proposed policy that conflicts with current laws or regulations, the current laws or regulations would apply. For example, "best management practices" and "total maximum daily load" are defined in the Environmental Protection Agency's regulations at 40 CFR 122.2 and 40 CFR 130.2(i), respectively. If we define a term in the proposed policy that is not defined elsewhere by law or regulation, you should not consider any such

definition to have the effect of a law or regulation.

Who will sign the policy?

The final policy is intended for signature by representatives of the Departments of Agriculture, Commerce, Defense, Energy, and the Interior; the Environmental Protection Agency; the Tennessee Valley Authority; and the Army Corps of Engineers.

May I comment on any aspect of the proposed policy?

Yes, we seek and welcome comments on every aspect of our approach to developing a unified Federal policy to enhance watershed management of Federal lands and resources. In particular, we are interested in your ideas on:

- Whether this proposed policy takes the right approach to coordinating Federal land and resource management activities in a watershed;

- Whether the content of the proposed policy is effective and appropriate;

- How restoration and protection activities on Federal lands can best be coordinated with other activities in high priority watersheds identified by States and Tribes or other regionally applicable programs;

- What the best way is to develop partnerships with others when the Federal agencies begin implementation of this policy;

- What are the most effective processes that would ensure a meaningful Tribal consultation process during the public comment period and during the implementation of the policy; and

- What criteria should be considered in selecting watersheds for the special protection designation.

Will my comments be available to others?

Your comments will be available for public review at the address listed in **ADDRESSES** above during regular business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays). At the end of the comment period, we will also post all comments at www.cleanwater.gov/ufp. Our practice is to make comments, including names and business or home addresses of respondents, available for public review during regular business hours. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your written comment and provide the reason that you believe the Freedom of Information Act would allow us to withhold that information from the

record. We will honor that request to the extent allowable by law. However, we will not consider anonymous comments, and we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

For the Department of Agriculture.

February 14, 2000.

James R. Lyons,

Under Secretary, NRE.

For the Department of the Interior.

February 11, 2000.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

Proposed Unified Federal Policy For Ensuring a Watershed Approach to Federal Land and Resource Management

Introduction

The goal of the *Clean Water Action Plan* is to accelerate the progress this Nation has made in improving the quality of its waters since the passage of the Federal Water Pollution Control Act of 1972, as amended (commonly referred to as the Clean Water Act). Federal agencies manage large amounts of public lands throughout the country. In the interest of protecting water quality, the Clean Water Action Plan announced the intention of Federal agencies to adopt a policy that will reduce water pollution from Federal activities and foster a unified, watershed-based approach to land and resource management. Implementation of the following proposed policy will improve water quality and aquatic ecosystems on Federal lands and will further the use of a watershed approach to Federal land and resource management activities.

I. Policy Goals

We, the Federal agencies who have signed this policy, are committed to managing the Federal lands, resources, and facilities in our care as models of good stewardship and effective watershed management.

We recognize that existing programs for watershed protection and improvement are currently underway and are producing positive results. This policy will enhance these programs by improving consistency among Federal agency programs. We recognize that those agencies without established programs will face an additional challenge to implement this policy and that the pace and level of implementation will vary by agency. We

seek to build on current efforts to achieve consistency.

The following policy has two goals: use a watershed approach to prevent and reduce water pollution resulting from Federal land and resource management activities; and accomplish this in a unified and cost-effective manner.

To develop a unified Federal policy that meets these two goals, we incorporated the following guiding principles:

A. Use a consistent and scientific approach to managing Federal lands and resources and to assess, protect, and restore watersheds.

B. Identify specific watersheds in which to focus our budgetary and other resources and accelerate improvements in water quality and watershed condition.

C. Use the results of watershed assessments to guide planning and management activities in accordance with applicable authorities and procedures.

D. Work closely with States, Tribes, local governments, and stakeholders to implement this policy.

E. Meet our Clean Water Act responsibility to adhere to Federal, State, Tribal, interstate, and local water quality requirements to the same extent as non-governmental entities.

F. Take steps to ensure that Federal land and resource management actions are consistent with Federal, State, Tribal, and, where appropriate, local government water quality management programs.

II. Agency Objectives

To accomplish these policy goals, we propose to use available resources and authorities to pursue the following objectives. All agencies will implement this policy as individual agency laws, missions, and fiscal and budgetary authorities and resources permit.

A. We will develop a common science-based approach to watershed assessment for Federal lands.

1. *We will develop consistent procedures for delineating, assessing, and classifying watersheds.*

a. We will work together to define and implement interagency guidelines for the delineation of watershed and sub-watershed hydrologic unit boundaries.

b. Building on current efforts, we will develop and test watershed assessment procedures in watersheds that have been delineated using the interagency guidelines.

c. Watershed assessments will determine existing and potential conditions of watersheds that involve Federal lands and resources. We will provide the results of these assessments

to States and Tribes for their use in refining their Unified Watershed Assessments.

d. We will develop a framework for classifying the condition of watersheds with significant Federal lands and resources.

2. *We will conduct watershed assessments for watersheds that have significant Federal lands and resources.*

a. Using cooperatively developed procedures and recognizing current agreements, we will assess the effect of our current and past actions on the condition of watersheds with significant Federal lands and resources in cooperation with States, Tribes, local governments, and interested stakeholders.

b. Before conducting assessments, we will develop schedules for assessments in priority watersheds and identify needed resources to assess all identified watersheds.

c. We will conduct assessments in priority watersheds on a 10-year cycle, unless a different cycle better demonstrates changes in a particular watershed's condition over time. We will conduct assessments in other watersheds on a planned, periodic cycle.

d. We will use watershed assessments, where available, to protect Federal lands and resources, to improve management, and to assist State, Tribal, and local government protection and restoration efforts in watersheds designated as priorities by State and Tribal Unified Watershed Assessments.

B. We will use a watershed management approach when protecting and restoring watersheds.

1. *We will work collaboratively to identify priority watersheds.*

a. We will work with States, Tribes, local governments, and interested stakeholders to identify specific watersheds with significant Federal lands and resources as priorities for protection, management, and improvement.

b. We will identify priority watersheds based on factors that include:

(1) The percentage of the watershed under Federal management;

(2) Issues the Federal agencies identify, including possible adverse effects on water quality;

(3) Magnitude of water quality impairment, impacts to aquatic resources, and/or changes to flow regime;

(4) State and Tribal Unified Watershed Assessments;

(5) Vulnerability of the watershed to degradation; and

(6) The extent of public interest.

2. *We will develop a process and guidelines for identifying and designating waters or watersheds on Federal lands that may have significant human health, public use, or aquatic ecosystem values and a need for special protection.*

3. *We will implement pollution prevention and controls, consistent with applicable legal authorities.*

a. We will address nonpoint and point source pollution from Federal land management activities, protect or improve water quality, and meet applicable State and Tribal water quality requirements under the Clean Water Act.

b. We will work with States, Tribes, and, as appropriate, local governments to address nonpoint sources of pollution by:

(1) Identifying best management practices (BMPs) and management strategies that meet Federal, State, and Tribal water quality requirements;

(2) Adjusting BMPs when monitoring reveals that they do not adequately protect water quality; and

(3) Mitigating impacts when implementation of BMPs results in unexpected adverse water quality impacts.

4. *We will improve watershed conditions through restoration and adaptive management.* We will work with States, Tribes, local governments, and interested stakeholders to improve the condition of priority watersheds. Changes in management strategies and restoration efforts will focus on watersheds where Federal land and resource management activities can meaningfully influence water quality and aquatic resources.

5. *We will base watershed management on good science.* We will use good scientific information from research and management experience in designing and implementing watershed planning and management programs, and setting management goals (e.g., desired conditions). To expand current knowledge, we will collaborate to identify research needs and contribute to or sponsor research, as appropriate.

6. *We will identify and incorporate watershed management goals into our planning, programs, and actions.* We will periodically review and amend, as appropriate, policies and management plans for Federal lands and resources to meet goals for watershed protection and improvement. We will incorporate adaptive management principles into our programs. Our watershed goals will seek to minimize adverse water quality impacts due to ongoing and future management programs, minimize

impairment of current or future uses, and restore watersheds where State and Tribal water quality requirements under the Clean Water Act are not achieved.

7. *We will help States and Tribes develop science-based total maximum daily loads (TMDLs).* We will develop a coordinated approach for assisting and supporting State and Tribal efforts to develop and implement TMDLs in watersheds with significant Federal land and resource management activities. We will provide technical assistance, tools, and expertise. We will use TMDL results in watershed planning and subsequent resource management activities to meet applicable State and Tribal water quality requirements under the Clean Water Act.

C. We will improve our compliance with water quality requirements under the Clean Water Act.

1. *We will review agency policies to improve compliance with water quality requirements.* We will identify and review our rules, policies, and procedures that affect water quality or watershed condition for compliance under the Clean Water Act with applicable Federal, State, Tribal, interstate, and local requirements for preventing and controlling water pollution.

2. *We will integrate water quality standards and watershed management goals.* We will work collaboratively to clarify relationships under the Clean Water Act among BMPs, TMDLs, and State and Tribal water quality standards to achieve the following goals:

a. Better coordination of watershed goals and objectives;

b. Better sharing of scientific and technical resources;

c. Water quality standards that better account for nonpoint source pollution;

d. Better implementation mechanisms for meeting standards under the Clean Water Act, including practical interim measures where standards are not immediately achievable; and

e. Consistent treatment of Federal and non-Federal entities as required by the Clean Water Act.

3. *We will review our policies and processes that may affect land and water uses and water quality.* In cooperation with States and Tribes, we will review our policies and processes for land and water uses that may affect water quality and watershed condition. We will consider revising these policies or processes, as appropriate, to ensure that they address watershed protection, improvement, monitoring, and water quality compliance.

D. We will enhance collaboration.

1. *We will improve cooperation among Federal agencies.* We will develop a common framework for addressing water quality and aquatic ecosystem issues for watersheds at the national, regional, State, and Tribal levels.

2. *We will improve cooperation with States, Tribes, and local governments.* We will develop formal agreements as appropriate with States, Tribes, and local governments to clarify responsibilities for watershed management. These agreements will seek a watershed-based approach for preventing or reducing pollution from point and nonpoint sources.

3. *We will expand opportunities for participation by interested stakeholders.* We will seek participation by interested stakeholders in watershed planning and management decisions using available mechanisms in existing planning processes. We will:

a. Identify specific opportunities for review and comment by interested stakeholders during Federal land and watershed planning efforts;

b. Provide opportunities for interested stakeholders to participate in monitoring and assessing watershed conditions and in implementing watershed restoration projects; and

c. Seek early feedback on key decisions affecting watershed management through the Watershed Forum process called for in the *Clean Water Action Plan* and carefully consider this feedback in agency decision making.

4. *We will expand opportunities for dialogue with private landholders.* In priority watersheds with a mix of Federal and private lands, we will work with private sector landholders to involve them in the watershed management process. We will work closely to ensure that Federally funded projects involving private cost-share partners fully consider watershed management objectives for both public and private lands.

5. *We will coordinate monitoring.* We will develop and implement a coordinated monitoring and evaluation approach and will monitor water quality trends and our management activities to determine whether progress is being made in protecting and improving water quality.

6. *We will share training, information, and resources.* To promote collaboration and consistency in watershed management practices, Federal agencies will continue, expand, develop, implement, and make available joint training programs; share information and resources; transfer technologies for watershed management; and develop a

common way to organize and present information and make it more accessible.

This policy does not create any right or benefit, or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. This policy does not alter or amend any requirement under statute, regulation, Executive Order, or OMB or EPA guidance.

Department of Agriculture

Department of Commerce

Department of Defense

Department of Energy

Department of the Interior

Environmental Protection Agency

Tennessee Valley Authority

Army Corps of Engineers

Glossary of Terms

These definitions are intended only to help you understand the proposed policy better, and do not change the meanings of terms defined by law or regulation. If we define a term in the proposed policy that is not defined elsewhere by law or regulation, you should not consider any such definition to have the effect of a law or regulation. Also, if we use a definition in this proposed policy that is subsequently found to conflict with current laws or regulations, the current laws or regulations would apply. For example, "best management practices" and "total maximum daily load" are defined in the Environmental Protection Agency's regulations at 40 CFR 122.2 and 40 CFR 130.2(i), respectively.

Adaptive management: A type of natural resource management in which decisions are made as part of an ongoing science-based process. Adaptive management involves testing, monitoring, and evaluating applied strategies, and incorporating new knowledge into management approaches that are based on scientific findings and the needs of society. Results are used to modify management policy, strategies, and practices.

Best management practices (BMPs): Methods, measures, or practices to prevent or reduce water pollution, including, but not limited to:

1. Structural and nonstructural controls,

2. Operation and maintenance procedures, and

3. Other requirements and scheduling and distribution of activities.

Usually BMPs are applied as a system of practices rather than a single practice. BMPs are selected on the basis of site-specific conditions that reflect natural background conditions and political, social, economic, and technical feasibility.

Hydrologic unit: Watersheds which are classified into four types of units: regions, sub-regions, accounting units, and cataloging units. The hydrologic units are arranged within each other, from the smallest (cataloging units) to the largest (regions). Each hydrologic unit is identified by a unique hydrologic unit code (HUC) consisting of two to eight digits based on the four levels of classification in the hydrologic unit system.

Priority watersheds: Watersheds selected for the focussing of Federal budgetary and other resources for the purpose of accelerating improvements in water quality and watershed condition.

Total maximum daily load: An estimate of the total quantity of pollutants (from all sources—point, nonpoint, and natural) that may be allowed into waters without exceeding applicable water quality criteria.

Unified Watershed Assessment: The *Clean Water Action Plan* asked States and Tribes to assess their watersheds and identify all watersheds as being in one of four categories:

1. Not meeting, or facing an imminent threat of not meeting, clean water or other natural resource goals;
2. Meeting goals but needing action to sustain water quality;
3. Having pristine/sensitive aquatic system conditions on Federal, State, or Tribal lands; or
4. Needing more information to assess watershed condition.

Watershed: A geographic area of land, water, and biota within the confines of a drainage divide. The total area above a given point of a water body that contributes flow to that point.

Watershed approach: A framework that focuses public and private sector efforts to address the highest priority problems within a hydrologically defined geographical area, taking into consideration both ground and surface water flow.

Watershed assessment: An analysis and interpretation of the physical and landscape characteristics of a watershed using scientific principles to describe watershed conditions as they affect water quality and aquatic resources. Initial watershed assessments will be conducted using existing data, where available. Data gaps may suggest the collection of additional data.

Watershed condition: The state of the watershed based on physical characteristics

and processes (e.g., hydrologic, geomorphic, landscape, topographic, vegetative cover, and aquatic habitat), water flow characteristics and processes (e.g., volume and timing), and water quality characteristics and processes (e.g., chemical, physical, and biological), as it affects water quality and water resources.

[FR Doc. 00-4113 Filed 2-18-00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management

AGENCY: Forest Service, USDA.

ACTION: Proposed policy; meetings.

SUMMARY: Elsewhere in this part of today's **Federal Register**, the Departments of Agriculture and the Interior have published a proposed unified Federal policy for ensuring a watershed approach to Federal land and resource management. The Departments of Agriculture and the Interior have scheduled four public meetings and four Tribal meetings to present information on the proposed policy.

DATES: The meetings are scheduled on March 7, 9, 14 and 16. Written comments must be received by April 24, 2000.

ADDRESSES: The meetings will be held at the locations and times listed in the table under **SUPPLEMENTARY INFORMATION**. You may send or hand deliver written comments to: USDA-Forest Service, Content Analysis Enterprise Team, Attn: UFP, Building 2, Suite 295, 5500 Amelia Earhart Drive, Salt Lake City, UT 84116. You may also fax comments to (801) 517-1021 or submit comments electronically to cleanwater/wo__caet-slc@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Eric Janes, Rangelands, Soil and Water Group, Bureau of Land Management, Department of the Interior or Karen Solari, Watershed and Air Management Staff, Forest Service, Department of Agriculture at (801) 517-1037.

SUPPLEMENTARY INFORMATION: The four public meetings and the four Tribal meetings will be held at the locations and times listed in the following table:

Date	City	Location	Time
Tuesday, March 7	Portland, OR	Oregon Convention Center, 777 NE Martin Luther King Jr. Blvd.	Tribal meeting 1 p.m.–4 p.m.; public meeting 6 p.m.–9 p.m.
Thursday, March 9	Milwaukee, WI	Hyatt Regency Milwaukee, 333 West Kilbourn Avenue.	Tribal meeting 1 p.m.–4 p.m.; public meeting 6 p.m.–9 p.m.
Tuesday, March 14	Atlanta, GA	Cobb Galleria Center, Two Galleria Parkway	Tribal meeting 1 p.m.–4 p.m.; public meeting 6 p.m.–9 p.m.
Thursday, March 16	Denver, CO	Colorado Convention Center, 700 14th Street	Tribal meeting 1 p.m.–4 p.m.; public meeting 6 p.m.–9 p.m.

Dated: February 15, 2000.

Hilda Diaz-Soltero,

Associate Chief for Natural Resources.

[FR Doc. 00–4114 Filed 2–18–00; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 22, 2000**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Plant-related quarantine, domestic:
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AGRICULTURE DEPARTMENT**Food and Nutrition Service**

Child nutrition programs:
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AGRICULTURE DEPARTMENT**Food Safety and Inspection Service**

Meat and poultry inspection:
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Irradiation of refrigerated or frozen uncooked meat, meat byproducts, etc.; technical correction; published 1-14-00

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans:
Preparation, adoption, and submittal—
Requirements; technical amendment; published 2-22-00
Air quality implementation plans; approval and promulgation; various States:
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FEDERAL COMMUNICATIONS COMMISSION

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Montana; published 1-20-00

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HOUSING AND URBAN DEVELOPMENT DEPARTMENT

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TRANSPORTATION DEPARTMENT**Federal Aviation Administration**

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Pratt & Whitney; published 12-21-99

TREASURY DEPARTMENT Alcohol, Tobacco and Firearms Bureau

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Importation restrictions, markings, minimum manufacturing requirements, and penalty provisions; published 12-22-99

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Solid wood packing materials exported to China; heat treatment; comments due by 2-25-00; published 12-27-99
Exportation and importation of animals and animal products:
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AGRICULTURE DEPARTMENT**Food and Nutrition Service**

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AGRICULTURE DEPARTMENT**Food Safety and Inspection Service**

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Grain inspection:

Rice; fees increase; comments due by 3-3-00; published 1-3-00

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Salmonids; take prohibitions; comments due by 3-3-00; published 1-3-00

West Coast salmonids; evolutionarily significant units; comments due by 3-3-00; published 1-3-00

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DEFENSE DEPARTMENT

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EMERGENCY STEEL GUARANTEE LOAN BOARD

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Commercial mail receiving agency; mail delivery; comments due by 3-3-00; published 2-2-00

TRANSPORTATION DEPARTMENT

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Regattas and marine parades, anchorage regulations, and ports and waterways safety:

OPSAIL 2000, San Juan, PR; exclusion areas; comments due by 2-28-00; published 1-13-00

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Federal Aviation Administration

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U.S. flag vessels of 100 feet or greater; eligibility to obtain commercial fisheries documents; comments due by 2-22-00; published 1-5-00

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LIST OF PUBLIC LAWS

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S. 1733/P.L. 106-171

Electronic Benefit Transfer Interoperability and Portability Act of 2000 (Feb. 11, 2000)

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12 Parts:			
1-199	(869-038-00030-0)	17.00	Jan. 1, 1999
200-219	(869-038-00031-8)	20.00	Jan. 1, 1999
220-299	(869-038-00032-6)	40.00	Jan. 1, 1999
300-499	(869-038-00033-4)	25.00	Jan. 1, 1999
500-599	(869-038-00034-2)	24.00	Jan. 1, 1999
600-End	(869-038-00035-1)	45.00	Jan. 1, 1999
13	(869-038-00036-9)	25.00	Jan. 1, 1999

Title	Stock Number	Price	Revision Date
14 Parts:			
1-59	(869-038-00037-7)	50.00	Jan. 1, 1999
60-139	(869-038-00038-5)	42.00	Jan. 1, 1999
140-199	(869-038-00039-3)	17.00	Jan. 1, 1999
200-1199	(869-038-00040-7)	28.00	Jan. 1, 1999
1200-End	(869-038-00041-5)	24.00	Jan. 1, 1999
15 Parts:			
0-299	(869-038-00042-3)	25.00	Jan. 1, 1999
300-799	(869-038-00043-1)	36.00	Jan. 1, 1999
800-End	(869-038-00044-0)	24.00	Jan. 1, 1999
16 Parts:			
0-999	(869-038-00045-8)	32.00	Jan. 1, 1999
1000-End	(869-038-00046-6)	37.00	Jan. 1, 1999
17 Parts:			
1-199	(869-038-00048-2)	29.00	Apr. 1, 1999
200-239	(869-038-00049-1)	34.00	Apr. 1, 1999
240-End	(869-038-00050-4)	44.00	Apr. 1, 1999
18 Parts:			
1-399	(869-038-00051-2)	48.00	Apr. 1, 1999
400-End	(869-038-00052-1)	14.00	Apr. 1, 1999
19 Parts:			
1-140	(869-038-00053-9)	37.00	Apr. 1, 1999
141-199	(869-038-00054-7)	36.00	Apr. 1, 1999
200-End	(869-038-00055-5)	18.00	Apr. 1, 1999
20 Parts:			
1-399	(869-038-00056-3)	30.00	Apr. 1, 1999
400-499	(869-038-00057-1)	51.00	Apr. 1, 1999
500-End	(869-038-00058-0)	44.00	⁷ Apr. 1, 1999
21 Parts:			
1-99	(869-038-00059-8)	24.00	Apr. 1, 1999
100-169	(869-038-00060-1)	28.00	Apr. 1, 1999
170-199	(869-038-00061-0)	29.00	Apr. 1, 1999
200-299	(869-038-00062-8)	11.00	Apr. 1, 1999
300-499	(869-038-00063-6)	50.00	Apr. 1, 1999
500-599	(869-038-00064-4)	28.00	Apr. 1, 1999
600-799	(869-038-00065-2)	9.00	Apr. 1, 1999
800-1299	(869-038-00066-1)	35.00	Apr. 1, 1999
1300-End	(869-038-00067-9)	14.00	Apr. 1, 1999
22 Parts:			
1-299	(869-038-00068-7)	44.00	Apr. 1, 1999
300-End	(869-038-00069-5)	32.00	Apr. 1, 1999
23	(869-038-00070-9)	27.00	Apr. 1, 1999
24 Parts:			
0-199	(869-038-00071-7)	34.00	Apr. 1, 1999
200-499	(869-038-00072-5)	32.00	Apr. 1, 1999
500-699	(869-038-00073-3)	18.00	Apr. 1, 1999
700-1699	(869-038-00074-1)	40.00	Apr. 1, 1999
1700-End	(869-038-00075-0)	18.00	Apr. 1, 1999
25	(869-038-00076-8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1.160	(869-038-00077-6)	27.00	Apr. 1, 1999
§§ 1.61-1.169	(869-038-00078-4)	50.00	Apr. 1, 1999
§§ 1.170-1.300	(869-038-00079-2)	34.00	Apr. 1, 1999
§§ 1.301-1.400	(869-038-00080-6)	25.00	Apr. 1, 1999
§§ 1.401-1.440	(869-038-00081-4)	43.00	Apr. 1, 1999
§§ 1.441-1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501-1.640	(869-038-00083-1)	27.00	⁷ Apr. 1, 1999
§§ 1.641-1.850	(869-038-00084-9)	35.00	Apr. 1, 1999
§§ 1.851-1.907	(869-038-00085-7)	40.00	Apr. 1, 1999
§§ 1.908-1.1000	(869-038-00086-5)	38.00	Apr. 1, 1999
§§ 1.1001-1.1400	(869-038-00087-3)	40.00	Apr. 1, 1999
§§ 1.1401-End	(869-038-00088-1)	55.00	Apr. 1, 1999
2-29	(869-038-00089-0)	39.00	Apr. 1, 1999
30-39	(869-038-00090-3)	28.00	Apr. 1, 1999
40-49	(869-038-00091-1)	17.00	Apr. 1, 1999
50-299	(869-038-00092-0)	21.00	Apr. 1, 1999
300-499	(869-038-00093-8)	37.00	Apr. 1, 1999
500-599	(869-038-00094-6)	11.00	Apr. 1, 1999
600-End	(869-038-00095-4)	11.00	Apr. 1, 1999
27 Parts:			
1-199	(869-038-00096-2)	53.00	Apr. 1, 1999

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
200-End	(869-038-00097-1)	17.00	Apr. 1, 1999	260-265	(869-038-00151-9)	32.00	July 1, 1999
28 Parts:				266-299	(869-038-00152-7)	33.00	July 1, 1999
0-42	(869-038-00098-9)	39.00	July 1, 1999	300-399	(869-038-00153-5)	26.00	July 1, 1999
43-end	(869-038-00099-7)	32.00	July 1, 1999	400-424	(869-038-00154-3)	34.00	July 1, 1999
29 Parts:				425-699	(869-038-00155-1)	44.00	July 1, 1999
0-99	(869-038-00100-4)	28.00	July 1, 1999	700-789	(869-038-00156-0)	42.00	July 1, 1999
100-499	(869-038-00101-2)	13.00	July 1, 1999	790-End	(869-038-00157-8)	23.00	July 1, 1999
500-899	(869-038-00102-1)	40.00	⁸ July 1, 1999	41 Chapters:			
900-1899	(869-038-00103-9)	21.00	July 1, 1999	1, 1-1 to 1-10		13.00	³ July 1, 1984
1900-1910 (§§ 1900 to 1910.999)	(869-038-00104-7)	46.00	July 1, 1999	1, 1-11 to Appendix, 2 (2 Reserved)		13.00	³ July 1, 1984
1910 (§§ 1910.1000 to end)	(869-038-00105-5)	28.00	July 1, 1999	3-6		14.00	³ July 1, 1984
1911-1925	(869-038-00106-3)	18.00	July 1, 1999	7		6.00	³ July 1, 1984
1926	(869-038-00107-1)	30.00	July 1, 1999	8		4.50	³ July 1, 1984
1927-End	(869-038-00108-0)	43.00	July 1, 1999	9		13.00	³ July 1, 1984
30 Parts:				10-17		9.50	³ July 1, 1984
1-199	(869-038-00109-8)	35.00	July 1, 1999	18, Vol. I, Parts 1-5		13.00	³ July 1, 1984
200-699	(869-038-00110-1)	30.00	July 1, 1999	18, Vol. II, Parts 6-19		13.00	³ July 1, 1984
700-End	(869-038-00111-0)	35.00	July 1, 1999	18, Vol. III, Parts 20-52		13.00	³ July 1, 1984
31 Parts:				19-100		13.00	³ July 1, 1984
0-199	(869-038-00112-8)	21.00	July 1, 1999	1-100	(869-038-00158-6)	14.00	July 1, 1999
200-End	(869-038-00113-6)	48.00	July 1, 1999	101	(869-038-00159-4)	39.00	July 1, 1999
32 Parts:				102-200	(869-038-00160-8)	16.00	July 1, 1999
1-39, Vol. I		15.00	² July 1, 1984	201-End	(869-038-00161-6)	15.00	July 1, 1999
1-39, Vol. II		19.00	² July 1, 1984	42 Parts:			
1-39, Vol. III		18.00	² July 1, 1984	1-399	(869-038-00162-4)	36.00	Oct. 1, 1999
1-190	(869-038-00114-4)	46.00	July 1, 1999	400-429	(869-038-00163-2)	44.00	Oct. 1, 1999
191-399	(869-038-00115-2)	55.00	July 1, 1999	430-End	(869-038-00164-1)	54.00	Oct. 1, 1999
400-629	(869-038-00116-1)	32.00	July 1, 1999	43 Parts:			
630-699	(869-038-00117-9)	23.00	July 1, 1999	1-999	(869-038-00165-9)	32.00	Oct. 1, 1999
700-799	(869-038-00118-7)	27.00	July 1, 1999	1000-end	(869-038-00165-3)	48.00	Oct. 1, 1999
800-End	(869-038-00119-5)	27.00	July 1, 1999	44	(869-038-00167-5)	28.00	Oct. 1, 1999
33 Parts:				45 Parts:			
1-124	(869-038-00120-9)	32.00	July 1, 1999	1-199	(869-038-00168-3)	33.00	Oct. 1, 1999
125-199	(869-038-00121-7)	41.00	July 1, 1999	200-499	(869-038-00169-1)	16.00	Oct. 1, 1999
200-End	(869-038-00122-5)	33.00	July 1, 1999	500-1199	(869-038-00170-5)	30.00	Oct. 1, 1999
34 Parts:				1200-End	(869-038-00171-3)	40.00	Oct. 1, 1999
1-299	(869-038-00123-3)	28.00	July 1, 1999	46 Parts:			
300-399	(869-038-00124-1)	25.00	July 1, 1999	1-40	(869-038-00172-1)	27.00	Oct. 1, 1999
400-End	(869-038-00125-0)	46.00	July 1, 1999	41-69	(869-038-00173-0)	23.00	Oct. 1, 1999
35	(869-038-00126-8)	14.00	⁸ July 1, 1998	70-89	(869-038-00173-4)	8.00	Oct. 1, 1998
36 Parts:				90-139	(869-038-00175-6)	26.00	Oct. 1, 1999
1-199	(869-038-00127-6)	21.00	July 1, 1999	140-155	(869-038-00176-4)	15.00	Oct. 1, 1999
200-299	(869-038-00128-4)	23.00	July 1, 1999	156-165	(869-038-00177-2)	21.00	Oct. 1, 1999
300-End	(869-038-00129-2)	38.00	July 1, 1999	166-199	(869-038-00178-1)	27.00	Oct. 1, 1999
37	(869-038-00130-6)	29.00	July 1, 1999	200-499	(869-038-00179-9)	23.00	Oct. 1, 1999
38 Parts:				500-End	(869-038-00180-2)	15.00	Oct. 1, 1999
0-17	(869-038-00131-4)	37.00	July 1, 1999	47 Parts:			
18-End	(869-038-00132-2)	41.00	July 1, 1999	0-19	(869-038-00181-1)	39.00	Oct. 1, 1999
39	(869-038-00133-1)	24.00	July 1, 1999	20-39	(869-038-00182-9)	26.00	Oct. 1, 1999
40 Parts:				40-69	(869-038-00183-7)	26.00	Oct. 1, 1999
1-49	(869-038-00134-9)	33.00	July 1, 1999	70-79	(869-038-00184-5)	39.00	Oct. 1, 1999
50-51	(869-038-00135-7)	25.00	July 1, 1999	80-End	(869-038-00185-3)	40.00	Oct. 1, 1999
52 (52.01-52.1018)	(869-038-00136-5)	33.00	July 1, 1999	48 Chapters:			
52 (52.1019-End)	(869-038-00137-3)	37.00	July 1, 1999	1 (Parts 1-51)	(869-038-00186-1)	55.00	Oct. 1, 1999
53-59	(869-038-00138-1)	19.00	July 1, 1999	1 (Parts 52-99)	(869-038-00187-0)	30.00	Oct. 1, 1999
60	(869-038-00139-0)	59.00	July 1, 1999	2 (Parts 201-299)	(869-038-00188-8)	36.00	Oct. 1, 1999
61-62	(869-038-00140-3)	19.00	July 1, 1999	3-6	(869-038-00189-6)	27.00	Oct. 1, 1999
63 (63.1-63.1119)	(869-038-00141-1)	58.00	July 1, 1999	7-14	(869-038-00190-0)	35.00	Oct. 1, 1999
63 (63.1200-End)	(869-038-00142-0)	36.00	July 1, 1999	15-28	(869-038-00191-8)	36.00	Oct. 1, 1999
64-71	(869-038-00143-8)	11.00	July 1, 1999	29-End	(869-038-00192-6)	25.00	Oct. 1, 1999
72-80	(869-038-00144-6)	41.00	July 1, 1999	49 Parts:			
81-85	(869-038-00145-4)	33.00	July 1, 1999	1-99	(869-038-00193-4)	34.00	Oct. 1, 1999
86	(869-038-00146-2)	59.00	July 1, 1999	100-185	(869-038-00193-9)	50.00	Oct. 1, 1999
87-135	(869-038-00146-1)	53.00	July 1, 1999	186-199	(869-038-00195-1)	13.00	Oct. 1, 1999
136-149	(869-038-00148-9)	40.00	July 1, 1999	200-399	(869-038-00195-5)	46.00	Oct. 1, 1999
150-189	(869-038-00149-7)	35.00	July 1, 1999	400-999	(869-038-00197-7)	57.00	Oct. 1, 1999
190-259	(869-038-00150-1)	23.00	July 1, 1999	1000-1199	(869-038-00198-5)	17.00	Oct. 1, 1999
				1200-End	(869-038-00199-3)	14.00	Oct. 1, 1999
				50 Parts:			
				1-199	(869-038-00200-1)	43.00	Oct. 1, 1999
				200-599	(869-038-00201-9)	22.00	Oct. 1, 1999

Title	Stock Number	Price	Revision Date
600-End	(869-038-00202-7)	37.00	Oct. 1, 1999
CFR Index and Findings			
Aids	(869-038-00047-4)	48.00	Jan. 1, 1999
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁵ No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

⁷ No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

⁸ No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.