



# Federal Register

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Presidential Determination No. 2000–15 of February 24, 2000

The President

**U.S. Contribution to the Korean Peninsula Energy Development Organization (KEDO): Certification and Waiver Under the Heading “Nonproliferation, Anti-Terrorism, Demining and Related Programs” in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as Enacted in Public Law 106–113**

**Memorandum for the Secretary of State**

Pursuant to section 576(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (the Act), as enacted in the Omnibus Consolidated Appropriations Act, 2000 (Public Law 106–113), I hereby certify that:

(1) the parties to the Agreed Framework have taken and continue to take demonstrable steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula in which the Government of North Korea has committed not to test, manufacture, produce, receive, possess, store, deploy, or use nuclear weapons, and not to possess nuclear reprocessing or uranium enrichment facilities;

(2) the parties to the Agreed Framework have taken and continue to take demonstrable steps to pursue the North-South dialogue; and

(3) North Korea is complying with all provisions of the Agreed Framework.

Pursuant to the authority vested in me by section 576(d) of the Act, I hereby determine that it is vital to the national security interests of the United States to furnish up to \$15 million in funds made available under the heading “Nonproliferation, Anti-Terrorism, Demining, and Related Programs” of the Act, for assistance for KEDO, and therefore I hereby waive the requirement in section 576(b) to certify that:

(4) North Korea has not diverted assistance provided by the United States for purposes for which it was not intended; and

(5) North Korea is not seeking to develop or acquire the capability to enrich uranium, or any additional capability to reprocess spent nuclear fuel.

You are hereby authorized and directed to report this certification and waiver to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,  
*Washington, February 24, 2000.*

# Rules and Regulations

Federal Register

Vol. 65, No. 41

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

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

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1464

RIN 0560-AG13

#### 1999 Crop and Market Loss Assistance

**AGENCIES:** Commodity Credit Corporation; USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** The Commodity Credit Corporation published in the **Federal Register** of February 16, 2000, a final rule promulgating regulations for Crop and Market Loss programs. Inadvertently, a reference to eligibility for tobacco loss assistance for tobacco growers on a farm used to produce tobacco during the 1998 crop year was omitted. This document corrects that omission.

**EFFECTIVE DATE:** February 11, 2000.

**FOR FURTHER INFORMATION CONTACT:** Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, FSA, USDA, STOP 0540, 1400 Independence Avenue, SW, Washington, D.C. 20250-0540, Telephone: (202) 205-5851.

**SUPPLEMENTARY INFORMATION:** The Commodity Credit Corporation published in the **Federal Register** of February 16, 2000, (65 FR 7960) a final rule promulgating regulations for Crop and Market Loss programs. The provisions of that rule related to Tobacco Loss Assistance at 7 CFR 1464 stated, in addition to other eligibility requirements, that for a person to be considered an eligible tobacco grower such person must own, operate, or produce tobacco on a farm that was used for the production of tobacco during the 1999 crop year. Eligibility for farms that produced tobacco in the 1998 crop year was inadvertently omitted. This correction provides that farms used

for the production of tobacco during the 1998 crop year will be included in the eligibility requirements.

In rule FR Doc. 00-3406, published on February 16, 2000, (65 FR 7942) make the following correction. On page 7960, in the second column, in § 1464.203(b)(2), add the phrase "1998 or" before the phrase "1999 crop year".

Signed at Washington, DC, on February 25, 2000.

Keith Kelly,

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 00-5033 Filed 2-28-00; 12:46 pm]

BILLING CODE 3410-05-P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1721

#### Post-Loan Policies and Procedures for Insured Electric Loans

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of confirmation of effective date.

**SUMMARY:** The Rural Utilities Service (RUS) hereby gives notice that no adverse comments were received regarding the direct final rule on the Post-Loan Policies and Procedures for Insured Electric Loans, published in the **Federal Register**, December 28, 1999, at 64 FR 72488, and confirms the effective date of the direct final rule.

**DATES:** The direct final rule, which published at 64 FR 72488, is effective February 11, 2000.

**FOR FURTHER INFORMATION CONTACT:** Charles M. Philpott, Chief, Engineering Branch, Northern Regional Division, U. S. Department of Agriculture, Rural Utilities Service, Room 4034 South Bldg., 1400 Independence Ave., SW., Washington, DC 20250-1522. Telephone: (202) 720-1432. E-mail: cphilpot@rus.usda.gov.

#### Confirmation of Effective Date

This is to confirm the effective date of the direct final rule, 7 CFR part 1721, Post-Loan Policies and Procedures for Insured Electric Loans—Advances, published December 28, 1999, at 64 FR 72488, and is to advise that RUS did not receive any written adverse comments and no written notice of intent to submit adverse comments on this rule.

Dated: February 22, 2000.

Christopher A. McLean,

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 00-4764 Filed 2-29-00; 8:45 am]

BILLING CODE 3410-15-P

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 724 and 745

#### Trustees and Custodians of Pension Plans; Share Insurance and Appendix

**AGENCY:** National Credit Union Administration.

**ACTION:** Final rule.

**SUMMARY:** The National Credit Union Administration (NCUA) is revising its rules regarding a federal credit union's authority to act as trustee or custodian of pension plans. The revised rule permits federal credit unions in a territory, including the trust territories, or a possession of the United States, or the Commonwealth of Puerto Rico, to offer trustee or custodian services for Individual Retirement Accounts (IRAs), where otherwise permitted.

**EFFECTIVE DATE:** This rule is effective March 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dianne M. Salva, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540.

**SUPPLEMENTARY INFORMATION:** NCUA published a proposal to revise its rules to permit federal credit unions in a territory, including the trust territories, or a possession of the United States, or the Commonwealth of Puerto Rico, to offer trustee or custodian services for Individual Retirement Accounts (IRAs), where otherwise permitted. 64 FR 55871, Oct. 15, 1999. NCUA received just one comment letter, which was strongly supportive of the proposal. The final regulation is unchanged from the proposal.

NCUA's legal analysis and a discussion of the rule's basis and purpose were set out in the proposed regulation. *Id.* Briefly summarized, the current regulation relies, in part, on the Internal Revenue Code (IRC), which applies only in the United States and the District of Columbia, effectively excluding FCUs in U.S. territories and possessions. In several territories and

possessions, the income tax laws mirror the IRC or have provisions similar to the IRC that recognize FCUs as permissible trustees for IRAs. The final amendment allows FCUs in those U.S. territories and possessions to act as trustee or custodian for IRAs, where otherwise permitted. To ensure that IRAs in the territories and possessions are treated the same as IRAs in the United States, the final amendment modifies Part 745 to clarify that the accounts will be separately insured.

**Regulatory Procedures**

*Paperwork Reduction Act*

This regulation will impose no additional information collection, reporting or record keeping requirements.

*Regulatory Flexibility Act*

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), NCUA certifies that these amendments will not have a significant economic impact on a substantial number of small entities. NCUA expects that these regulations will not: (1) Have significant secondary or incidental effects on a substantial number of small entities; or (2) create any additional burden on small entities. These conclusions are based on the fact that the regulations merely extend the authority to offer a service to members. Accordingly, a regulatory flexibility analysis is not required.

*Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the Executive Order. Since this regulation will only apply to federal credit unions, it 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.

*Small Business Regulatory Enforcement Fairness Act*

The Office of Management and Budget has determined that this rule is not major for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

**List of Subjects**

*12 CFR Part 744*

Credit unions, Pensions, Trusts and trustees.

*12 CFR Part 745*

Credit unions, Pensions, Share insurance, Trusts and trustees.

By the National Credit Union Administration Board on February 24, 2000.

**Becky Baker,**

*Secretary of the Board.*

For the reasons set out in the preamble, the NCUA revises 12 CFR chapter VII to read as follows:

**PART 724—TRUSTEES AND CUSTODIANS OF PENSION PLANS**

1. The authority citation for part 724 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1765, 1766 and 1787.

2. In § 724.1, remove the first sentence and add 2 sentences in its place to read as follows:

**§ 724.1 Federal credit unions acting as trustees and custodians of pension and retirement plans.**

A federal credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension or profit-sharing plan which qualifies or qualified for specific tax treatment under sections 401(d), 408, 408A and 530 of the Internal Revenue Code (26 U.S.C. 401(d), 408, 408A and 530), for its members or groups of members, provided the funds of such plans are invested in share accounts or share certificate accounts of the federal credit union. Federal credit unions located in a territory, including the trust territories, or a possession of the United States, or the Commonwealth of Puerto Rico, are also authorized to act as trustee or custodian for such plans, if authorized under sections 401(d), 408, 408A and 530 of the Internal Revenue Code as applied to the territory or possession or under similar provisions of territorial law. \* \* \*

**PART 745—SHARE INSURANCE AND APPENDIX**

3. The authority citation for part 745 continues to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789.

4. Amend § 745.9-2 by revising the first sentence of paragraph (a) to read as follows:

**§ 745.9-2 IRA/Keogh Accounts.**

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under section 401(d) (Keogh account) or sections 408, 408A or 530 (IRA) of the Internal Revenue Code or similar provisions of law applicable to a U.S. territory or possession, will be insured up to \$100,000 separately from other accounts of the participant or designated beneficiary. \* \* \*

\* \* \* \* \*

[FR Doc. 00-4853 Filed 2-29-00; 8:45 am]

BILLING CODE 7535-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 99-CE-78-AD; Amendment 39-11599; AD 2000-04-16]

RIN 2120-AA64

**Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Models ASH 25M and ASH 26E Sailplanes**

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Models ASH 25M and ASH 26E sailplanes. This AD requires that you accomplish the following:

- Check to see if the sailplane has a muffler marked with an X on the front plate;
- Accomplish pre-flight checks on the carbon reinforced plastic fairing for signs of overheat traces and/or perform boroscope inspections, depending on the number of sailplane hours accumulated; and
- Replace the muffler with an improved design muffler either at a certain time period or immediately if discrepancies are found during any inspection.

This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent excessive radiation from causing the carbon fiber shroud on the engine muffler to delaminate. The carbon fiber shroud serves the same

function as a firewall and delamination could cause a fire to spread throughout the sailplane.

**DATES:** Effective March 20, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 20, 2000.

The FAA must receive any comments on this rule on or before March 31, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-78-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Alexander Schleicher GmbH & Co. Segelflugzeugbau, D-36161 Poppenhausen, Federal Republic of Germany; telephone: ++49 6658 89-0; facsimile: ++ 49 6658 89-40. You may examine this information at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-78-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:** Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4144; facsimile: (816) 329-4090.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

*What Events Have Caused This AD?*

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on all Alexander Schleicher Models ASH 25M and ASH 26E sailplanes. The LBA advises that the current design engine mufflers could be defective. Specifically, excessive temperature radiation could cause the carbon fiber shroud to delaminate.

*What Are the Consequences if the Condition Is Not Corrected?*

The carbon fiber shroud serves the same function as a firewall and delamination could cause a fire to spread throughout the sailplane.

*What Is the Cause of the Problem?*

Design of the engine muffler.

**Relevant Service Information**

*Is there service information that applies to this subject?*

Yes. Alexander Schleicher has issued the following service information:

- ASH 25 M Technical Note No. 15, dated September 3, 1999; and
- ASH 26 E Technical Note No. 8, dated August 23, 1999.

*What Are the Provisions of This Service Bulletin?*

The service bulletin specifies and/or includes procedures for:

- Checking to see if the sailplane has a muffler marked with an X on the front plate;
- Accomplishing pre-flight checks on the carbon reinforced plastic fairing for signs of overheat traces and/or performing boroscope inspections, depending on the number of sailplane hours accumulated; and
- Replacing the muffler with an improved design muffler either at a certain time period or immediately if discrepancies are found during any inspection.

**The Foreign Airworthiness Authority's Action**

*What Action Did the LBA Take?*

The LBA classified these service bulletins as mandatory and issued the following in order to assure the continued airworthiness of these sailplanes in Germany:

- German AD 1999-376, dated December 2, 1999; and
- German AD 1999-311, dated September 8, 1999.

*Was This in Accordance With the Bilateral Airworthiness Agreement?*

Yes. These sailplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA 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 LBA, the FAA has determined that:

- An unsafe condition exists or could develop on all Alexander Schleicher

Models ASH 25M and ASH 26E sailplanes;

- The actions of the above-referenced service bulletin should be accomplished on the affected sailplanes; and
- AD action should be taken in order to prevent excessive radiation from causing the carbon fiber shroud on the engine muffler to delaminate. The carbon fiber shroud serves the same function as a firewall and delamination could cause a fire to spread throughout the sailplane.

*What Does This AD Require?*

This AD requires you to accomplish the following:

- Check to see if the sailplane has a muffler marked with an X on the front plate;
- Accomplish pre-flight checks on the carbon reinforced plastic fairing for signs of overheat traces and/or perform boroscope inspections, depending on the number of sailplane hours accumulated; and
- Replace the muffler with an improved design muffler either at a certain time period or immediately if discrepancies are found during any inspection.

**Compliance Time of This AD**

*What Is the Compliance Time of This AD?*

The initial actions of this AD are required "within 30 calendar days after the effective date of this AD."

Since a situation exists that requires the immediate adoption of this regulation, it is found 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.

*Why Is the Compliance in Calendar Time Instead of Hours Time-in-Service?*

We have established the compliance in calendar time instead of hours time-in-service (TIS) because the unsafe condition described by this AD is not directly related to sailplane operation. The chance of this situation occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it would be for a sailplane with 500 hours TIS. A calendar time for compliance will assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

*Why Is the Compliance Time of This AD Different Than the German AD and the Service Information?*

The service information specifies the check required in this AD "prior to

further flight” and the German AD mandates this check “prior to further flight” for sailplanes registered for operation in Germany. We do not have justification for requiring the check prior to further flight. Instead, we have determined that 30 calendar days is a reasonable time period for you to accomplish this check.

**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. 99–CE–78–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, 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:

**2000–04–16 Alexander Schleicher**

**Segelflugzeugbau:** Amendment 39–11599; Docket No. 99–CE–78–AD. (a) *What sailplanes are affected by this AD?* Models ASH 25M and ASH 26E sailplanes, all serial numbers, certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes on the U.S. Register.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent excessive radiation from causing the carbon fiber shroud on the engine muffler to delaminate. The carbon fiber shroud serves the same function as a firewall and delamination could cause a fire to spread throughout the sailplane.

(d) *What procedures must be used to accomplish the actions of this AD?* You should use the procedures in whichever of the following (referred to as service information in the rest of this document), as applicable:

(1) Alexander Schleicher ASH 25 M Technical Note No. 15, dated September 3, 1999; or

(2) Alexander Schleicher ASH 26 E Technical Note No. 8, dated August 23, 1999.

(e) *What must I do to address this problem?* Within the next 30 calendar days after the effective date of this AD, determine whether the sailplane has a muffler marked with an X on the front plate, and then accomplish the following, as applicable:

If	Then
(1) The muffler front plate does not have an X on the front plate and the engine operating time is less than 40 hours time-in-service (TIS),	(i) Within 30 calendar days after the effective date of this AD, accomplish a preflight inspection on the carbon fiber reinforced plastic fairing for any signs of overheat traces. (ii) Upon accumulating 40 hours TIS on the engine and thereafter at intervals not to exceed 2 hours TIS until accumulating 60 hours TIS, accomplish the boroscope inspection specified in the service information. (iii) Upon accumulating 60 hours TIS on the engine, replace the muffler with an improved design muffler obtained from the manufacturer, or other FAA-approved equivalent.
(2) The muffler plate does not have an X on the front plate and the engine operating time is either 40 hours TIS or more than 40 hours TIS, but less than 60 hours TIS,	(i) Within 30 calendar days after the effective date of this AD and thereafter at intervals not to exceed 2 hours TIS, until accumulating 60 hours TIS on the engine, accomplish the boroscope inspection specified in the service information.

If	Then
(3) The muffler plate does not have an X on the front plate and the engine operating time is either 60 hours TIS or more than 60 hours TIS, (4) If any discrepancies are found during any preflight check or inspection required by this AD, (5) If the muffler has an X marked on the front plate,	(ii) Upon accumulating 60 hours TIS on the engine, replace the muffler with an improved design muffler obtained from the manufacturer, or other FAA-approved equivalent part. Within 30 calendar days after the effective date of this AD, replace the muffler with an improved design muffler obtained from the manufacturer, or other FAA-approved equivalent part. Prior to further flight, replace the muffler with an improved design muffler obtained from the manufacturer, or other FAA-approved equivalent part. Upon accumulating 100 hours TIS on the engine or within the next 30 calendar days after the effective date of this AD, whichever occurs later, replace the muffler with an improved design muffler obtained from the manufacturer, or other FAA-approved equivalent part.

(f) *May the pilot accomplish any of the actions of this AD?* Yes. The owner/operator holding at least a private pilot certificate as authorized by § 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish the check to determine whether an X is marked on the engine muffler front plate and the preflight inspection. You must make an entry into the aircraft records that shows compliance with these portions of the AD, in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(g) *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, Small Airplane Directorate.

(2) This AD applies to each sailplane 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 sailplanes 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 (g)(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.

(h) *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) 329-4121; facsimile: (816) 329-4091.

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

(j) *Who should I contact if I have questions regarding the service information?* Questions or technical information related to Alexander

Schleicher ASH 25 M Technical Note No. 15, dated September 3, 1999, and Alexander Schleicher ASH 26 E Technical Note No. 8, dated August 23, 1999, should be directed to Alexander Schleicher GmbH & Co. Segelflugzeugbau, D-36161 Poppenhausen, Federal Republic of Germany; telephone: ++49 6658 89-0; facsimile: ++49 6658 89-40. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(k) *Are any service bulletins incorporated into this AD by reference?* Yes. The actions required by this AD must be done in accordance with Alexander Schleicher ASH 25 M Technical Note No. 15, dated September 3, 1999, and Alexander Schleicher ASH 26 E Technical Note No. 8, dated August 23, 1999. 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 Alexander Schleicher GmbH & Co. Segelflugzeugbau, D-36161 Poppenhausen, Federal Republic of Germany. 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.

(l) *Has the airworthiness authority for the State of Design addressed this action?* Yes. The subject of this AD is addressed in German AD 1999-376, dated December 2, 1999, and German AD 1999-311, dated September 8, 1999.

(m) *When does this amendment become effective?* This amendment becomes effective on March 20, 2000.

Issued in Kansas City, Missouri, on February 18, 2000.

**Marvin R. Nuss,**

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

[FR Doc. 00-4434 Filed 2-29-00; 8:45 am]

**BILLING CODE 4910-13-U**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. 98-SW-64-AD; Amendment 39-11603; AD 2000-04-20]**

**RIN 2120-AA64**

#### **Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to Bell Helicopter Textron Canada (BHTC) Model 407 helicopters, that requires replacing a certain hydraulic relief valve (valve) with a different valve. This amendment is prompted by the discovery of a manufacturing defect in a valve. The actions specified by this AD are intended to prevent intermittent loss of hydraulic pressure to the flight controls and subsequent loss of control of the helicopter.

**DATES:** Effective April 5, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 5, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463-3036, fax (514) 433-0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Robert McCallister, Aerospace Engineer,

FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0170, telephone (817) 222-5121, fax (817) 222-5961.

**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 BHTC Model 407 helicopters was published in the **Federal Register** on December 8, 1999 (64 FR 68639). That action proposed to require replacing a certain valve with a different valve.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except that the wording of Note 1 has been changed slightly to reflect the current standard language of this AD note. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 146 helicopters of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per helicopter to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$1,380. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$210,240.

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 a new airworthiness directive to read as follows:

#### AD 2000-04-20 Bell Helicopter Textron

**Canada:** Amendment 39-11603. Docket No. 98-SW-64-AD.

**Applicability:** Model 407 helicopters, serial numbers 53000 through 53266, inclusive, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 within 300 hours time-in-service, unless accomplished previously.

To prevent intermittent loss of hydraulic pressure to the flight controls and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the hydraulic relief valve (valve), part number (P/N) 206-076-036-101, and replace it with an airworthy valve, P/N 206-076-036-105, in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 407-98-20, dated July 3, 1998.

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

**Note 2:** Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Regulations Group.

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

(d) The modification shall be done in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 407-98-20, dated July 3, 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 Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463-3036, fax (514) 433-0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 5, 2000.

**Note 3:** The subject of this AD is addressed in Transport Canada (Canada) AD CF-98-28, dated August 31, 1998.

Issued in Fort Worth, Texas, on February 22, 2000.

**Henry A. Armstrong,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 00-4794 Filed 2-29-00; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-SW-54-AD; Amendment 39-11604; AD 2000-04-21]

RIN 2120-AA64

#### Airworthiness Directives; MD Helicopters Inc. Model MD600N Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to MD Helicopters Inc. (MDHI) Model MD600N helicopters, that requires inspecting each internal fuel hose connection to verify proper installation. This amendment is prompted by the discovery that certain fuel hose connections between the fuel cells and the engine can be incorrectly installed. The actions specified by this AD are intended to prevent fuel starvation of the engine while the fuel gage indicates fuel remaining in the

tank, engine flameout, and a subsequent forced landing.

**DATES:** Effective April 5, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 5, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 5000 E. McDowell Rd., Mail Stop M615-GO48, Mesa, Arizona 85215-9797, telephone 1-800-388-3378 or 480-891-6342, fax 480-891-6782. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712-4137, telephone (310) 627-5265; fax (310) 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 MDHI Model MD600N helicopters was published in the **Federal Register** on December 8, 1999 (64 FR 68646). That action proposed to require inspecting each internal fuel hose connection to verify proper installation.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 40 helicopters of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per helicopter to accomplish the required actions, and that the average labor rate is \$60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$19,200.

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 a new airworthiness directive to read as follows:

#### AD 2000-04-21 MD Helicopters, Inc.:

Amendment 39-11604. Docket No. 99-SW-54-AD.

**Applicability:** Model MD600N helicopters, serial numbers with a prefix of "RN" 003 through 045, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 fuel starvation of the engine while the fuel gage indicates fuel remaining in the tank, engine flameout, and a

subsequent forced landing, accomplish the following:

(a) Within 100 hours time-in-service, verify that the internal fuel hose connections have been properly installed in accordance with either Method A or Method B of the Accomplishment Instructions of MD Helicopters Service Bulletin SB 600N-025, dated July 2, 1999. Prior to further flight, make any necessary corrections.

(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. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

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

(d) The inspections shall be done in accordance with either Method A or Method B of the Accomplishment Instructions of MD Helicopters Service Bulletin SB 600N-025, dated July 2, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 5000 E. McDowell Rd., Mail Stop M615-GO48, Mesa, Arizona 85215-9797, telephone 1-800-388-3378 or 480-891-6342, fax 480-891-6782. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 5, 2000.

Issued in Fort Worth, Texas, on February 22, 2000.

**Henry A. Armstrong,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 00-4795 Filed 2-29-00; 8:45 am]

**BILLING CODE 4910-13-P**

#### COMMODITY FUTURES TRADING COMMISSION

#### 17 CFR Part 4

#### Commodity Pool Operators; Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term "Commodity Pool Operator"

**AGENCY:** Commodity Futures Trading Commission.



**ACTION:** Proposed rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend Rule 4.5 by adding a plan defined as a church plan in Section 3(33) of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA")<sup>1</sup> ("Church Plan") to the employee benefit plans that the rule currently provides shall not be construed to be commodity pools. The CFTC also is proposing certain technical conforming amendments to the existing paragraphs under Rule 4.5 to which this amendment would be added.

**DATES:** Comments on the proposed rule change must be received by March 31, 2000.

**ADDRESSES:** Comments on the proposed rule should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, DC, 20581. Comments may be sent by facsimile transmission to (202) 418-5528, or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Proposed Amendment to Rule 4.5 for Church Plans."

**FOR FURTHER INFORMATION CONTACT:** Barbara S. Gold, Assistant Chief Counsel, or Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC, 20581. Telephone: (202) 418-5450.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**A. Section 4.5**

The term "commodity pool operator" ("CPO") is defined in section 1a(4) of the Commodity Exchange Act, as amended, (the "Act")<sup>2</sup> to mean:

Any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, except that the term does not include such persons not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.

Section 4m(1) of the Act<sup>3</sup> makes it unlawful for any person to engage in

business as a CPO without being registered as such. Part 4 of the Commission's regulations<sup>4</sup> governs the operations and activities of CPOs, through specific operational, disclosure, reporting and recordkeeping requirements set forth in Subpart B thereof.<sup>5</sup> In particular, Rule 4.10(d)(1) defines the term "pool" to mean "any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests."<sup>6</sup>

In connection with the adoption of the Futures Trading Act of 1982,<sup>7</sup> the Senate Committee on Agriculture, Nutrition, and Forestry (the "Committee") considered an amendment to the Act that would have exempted certain persons from the CPO definition. In lieu of adopting such an amendment to the CPO definition, the Committee directed the Commission to issue regulations that would have the effect of providing relief from regulation as a CPO for certain otherwise regulated persons.<sup>8</sup> Pursuant to this directive, in

<sup>4</sup> 17 CFR Ch. I, Part 4 (1999).

<sup>5</sup> See Rules 4.20 through 4.26. Part 4 similarly governs the operations and activities of commodity trading advisors ("CTAs"). See Rules 4.30 through 4.36.

<sup>6</sup> The term "commodity interest" is defined in Rule 4.10(a) to mean:

(1) Any contract for the purchase or sale of a commodity for future delivery; and

(2) Any contract, agreement or transactions subject to Commission regulation under section 4c or 19 of the Act.

<sup>7</sup> Pub. L. No. 97-444, 96 Stat. 2294 *et seq.* (1983).

<sup>8</sup> See S. Rep. No. 384, 97th Cong., 2d Sess. 79-80 (1982). Specifically, the Committee Report states:

The Committee believes, consistent with the amendment offered by Chairman Helms, that certain entities are not within the intent of the definition of the term 'commodity pool operator', as that term is defined in the Act, unless these entities have other attributes or features which would warrant their regulation as a commodity pool operator. Specifically, an entity regulated under the Investment Company Act of 1940 or an insurance company or a bank or trust company acting in its fiduciary capacity and subject to regulation by any state or the United States could ordinarily be excluded from the definition of the term 'commodity pool operator,' provided that (1) the entity uses commodity futures contracts or options thereon solely for hedging purposes; (2) initial margin requirements or premiums for such futures or options contracts will never be in excess of 5 percent of the fair market value of the entity's assets (in the case of an investment company) or of the assets of any trust, custodial account or other separate unit of investment for which the entity is acting as a fiduciary; (3) the entity has not been and will not be, marketing participations to the public as or in a commodity pool or otherwise as or in a vehicle for trading in the commodities markets; and (4) the entity will disclose to each prospective participant the purpose of and limitations on the scope of the commodity futures or commodity option trading it conducts for such participants.

Also, a defined benefit plan that is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA) and is insured by the Pension Benefit Guaranty Corporation, or any fiduciary thereof, ordinarily could be excluded from

1985 the Commission adopted Rule 4.5.<sup>9</sup>

Rule 4.5 makes available an exclusion from the definition of the term "commodity pool operator" to certain "eligible persons" with respect to their operation of "qualifying entities" as follows: investment companies registered as such under the Investment Company Act of 1940; state-regulated insurance companies with respect to their operation of separate accounts; state-or federally-regulated financial depository institutions with respect to their operation of separate units of investment; and trustees, named fiduciaries and employers of pension plans subject to Title I of ERISA with respect to their operation of such plans.<sup>10</sup> To claim relief under Rule 4.5, an eligible person must file a notice of eligibility with the National Futures Association and the CFTC, which notice must contain specified identifying information and operating representations, *e.g.*, that the qualifying entity will: (1) Use commodity interests solely for *bona fide* hedging purposes provided, that in addition, with respect to speculative positions, it will not commit more than five percent of its assets to establish such positions; and (2) submit to special calls from the CFTC to demonstrate compliance with the operating criteria set forth in Rule 4.5.<sup>11</sup>

Rule 4.5 further provides that certain pension plans are not commodity pools and, thus, no notice needs to be filed and no operating criteria need to be followed for exclusionary relief to be available.<sup>12</sup> Specifically, Rule 4.5(a)(4) states:

That for purposes of this § 4.5 the following employee benefit plans shall not be construed to be pools:

- (i) A noncontributory plan, whether defined benefit or defined contribution, covered under title I of the Employee Retirement Income Security Act of 1974;
- (ii) A contributory defined benefit plan covered under title IV of the Employee

definition of the term "commodity pool operator", provided that its commodity futures (or options on futures) trading activity is solely incidental to the conduct of its business as such a plan or as a fiduciary thereof. The Committee understands that such a plan and its fiduciaries are subject to extensive regulation under ERISA. Therefore, while the Commission should retain discretion in this area, the Committee believes that, unless otherwise inappropriate, exemption by rule, regulation, or order from commodity pool operator registration and related requirements, other than antifraud provisions, should generally be granted to these classes of entities.

<sup>9</sup> 50 FR 15868 (Apr. 23, 1985); amended 58 FR 6371 (Jan. 28, 1993); 58 FR 43791 (Aug. 18, 1993).

<sup>10</sup> Rules 4.5(a) and (b).

<sup>11</sup> Rules 4.5(c) through (f).

<sup>12</sup> The operators of these "non-pools," then, are not subject to Rules 4.5(c) through (f).

<sup>1</sup> 29 U.S.C. 1002(33)(1994).

<sup>2</sup> 7 U.S.C. 1a(4) (1994).

<sup>3</sup> 7 U.S.C. 6m(1) (1994).

Retirement Income Security Act of 1974; *Provided, however*, That with respect to any such plan to which an employee may voluntarily contribute, no portion of an employee's contribution is committed as margin or premiums for futures or options contracts; and

(iii) A plan defined as a governmental plan in section 3(32) of title I of the Employee Retirement Income Security Act of 1974.

(iv) Any employee welfare benefit plan that is subject to the fiduciary responsibility provisions of the Employee Retirement Income Security Act of 1974.

With respect to Rule 4.5(a)(4)(iii) in particular, it should be noted that these governmental plans are exempted from Titles I and IV of ERISA,<sup>13</sup> which concern, respectively, the protection of employee rights (*e.g.*, disclosure and reporting) and the fiduciary responsibility provisions of ERISA. In adopting Rule 4.5(a)(4)(iii) the Commission stated that—

[it] agrees with those commenters who contended that governmental pension plans are not appropriate subjects for regulation and, therefore, that they need not qualify for any exclusion from such regulation. As was stated in connection with excluding such plans from coverage under ERISA:

State and local governments must be allowed to make their own determination of the best method to protect the pension rights of municipal employees. These are questions of state and local sovereignty and the Federal government should not interfere.<sup>14</sup>

### B. Church Plans

Section 3(33)(A) of ERISA defines the term "church plan" to mean "a plan established and maintained \* \* \* by a church or by a convention or association of churches which is exempt from tax under section 501 of title 26."<sup>15</sup>

<sup>13</sup> 29 U.S.C. 1001 (1994 and Supp. III 1997)) and 1301 (1994), respectively.

<sup>14</sup> 50 FR 15868 at 15873, citing I Legislative History of the Employee Retirement Income Security Act of 1974, 97th Cong., 2d Sess. 224 (Comm. Print 1976).

<sup>15</sup> Specifically, Section 3(33)(A) of ERISA states:

The term "church plan" means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of title 26.

Section 3(33)(B)(ii) of ERISA generally provides that a plan is not a "church plan" if less than substantially all of the individuals included in the plan are individuals described in Section 3(33)(A), set forth above, or in Section 3(33)(C), which provides in relevant part that:

(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

However, a plan that is a Church Plan is exempted from Titles I and IV of ERISA, provided that the Church Plan does not elect under Section 410(d) of Title 26<sup>16</sup> to be subject to certain provisions of ERISA from which it is otherwise exempt—*e.g.*, participation, vesting and funding provisions. The purpose of this exemption was "to avoid excessive Government entanglement with religion in violation of the First Amendment to the Constitution."<sup>17</sup> In drafting ERISA, "Congress recognized that there were serious Constitutional objections to subjecting the churches, through their plans, to the examination of books and records and possible levy on church property to satisfy plan liabilities. As a consequence, 'church plans' were excluded from the purview of ERISA."<sup>18</sup>

As stated above, Rule 4.5(a)(4) makes an exclusion from the CPO definition available to the operators of pension plans that are subject to Title I of ERISA. Church Plans, however, are not so subject. As also stated above, Rules 4.5(a)(4)(i) through (iv) provide that certain pension plans shall not be deemed to be commodity pools—*e.g.*, a plan defined as a "governmental plan"

(ii) The term employee of a church or a convention or association of churches includes—

(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 51 of title 26 and which is controlled by or associated with a church or a convention or association of churches; and

(III) an individual described in clause (v).

(iii) A church or a convention or association of churches which is exempt from tax under section 501 of title 26 shall be deemed the employer of any individual included as an employee under clause (ii).

(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that Church or convention or association of churches.

26 U.S.C. 501(c) (1994) provides in relevant part that the following organizations are exempt from federal income taxation:

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes \* \* \* no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided \* \* \*) and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

<sup>16</sup> 26 U.S.C. 410(d) (1994).

<sup>17</sup> 124 Cong. Rec. 12,108 (1998).

<sup>18</sup> Hearings on S. 209, Etc. Before the Subcomm. on Private Pension Plans and Employee Fringe Benefits of the Senate Comm. on Finance, 96th Cong., 1st Sess. 364 (1979).

in Section 3(32) of ERISA—but these rules do not provide for Church Plans. Thus, under existing Rule 4.5 the operators of Church Plans are not among the eligible persons who may claim an exclusion from the CPO definition and Church Plans are not among the pension plans that are deemed not to be commodity pools.

## II. The Proposed Amendments to Rule 4.5

### A. The Substantive Amendment: Church Plans Deemed Not To Be Commodity Pools

In connection with its adoption of Rule 4.5 the Commission stated:

Whether any other pension plan not specified in § 4.5 merits such relief as the rule provides, or any other regulatory relief, remains to be determined on a case-by-case basis in light of the facts particular to such plan—*e.g.*, whether, and to what extent, the operations of such plan are subject to other regulation. As explained above, the Commission intends that its staff shall issue such determinations. The Commission further intends that, as it gains experience in this area, it will reevaluate this aspect of the rule.<sup>19</sup>

Accordingly, after the adoption of Rule 4.5, Commission staff issued several CPO registration no-action letters to the operators of pension plans defined as Church Plans in response to requests for those positions.<sup>20</sup> Staff issued those letters based upon, among other things, the requesters' explanations, as stated above, of Congress' reasons for exempting Church Plans from Titles I and IV of ERISA in connection with its adoption of ERISA—*i.e.*, to avoid excessive Government entanglement in religion in violation of the First Amendment to the Constitution. As also stated above, Titles I and IV concern, respectively, the protection of employee rights (*e.g.*, disclosure and reporting) and fiduciary responsibility provisions of ERISA.

Commission staff subsequently has received further requests from the operators of other Church Plans for a no-action position with respect to CPO registration under Section 4m(1) of the Act.<sup>21</sup> In support of this no-action position, one of the requesters stated that in connection with the adoption of

<sup>19</sup> 50 FR 15868 at 15873–74

<sup>20</sup> See, *e.g.*, Unpublished letter dated July 30, 1990; CFTC Staff Interpretative Letter No. 87–11, [1987–90 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,019 (December 4, 1987). In each letter the staff stated that it would not recommend enforcement action to the Commission if the operator of the Church Plan at issue did not register as a CPO under Section 4m(1) of the Act.

<sup>21</sup> Letters to the Director of the Division of Trading and Markets dated November 20, 1998 and July 11, 1997.

ERISA Congress expressed the concern that—

the examinations of books and records that may be required in any particular case as part of the careful and responsible administration of the insurance system might be regarded as an unjustified invasion of the confidential relationship that is believed to be appropriate with regard to churches and their religious activities. Sen. Rep. 93–383, 93rd Cong., 2d Sess. 1974–3 C.B. Supp. 160.

This requester further noted that in connection with the adoption of the National Securities Markets Improvement Act of 1996,<sup>22</sup> Congress adopted new Section 3(c)(14) of the Investment Company Act of 1940 (“ICA”), which specifically provides that church plans are not investment companies under the ICA and therefore that they are not subject to registration under the ICA.<sup>23</sup>

While the issuance of another CPO registration no-action letter to the operator of a Church Plan would be consistent with past staff practice, the Commission believes at this time that this practice should be formalized through an amendment to Rule 4.5. As the Commission articulated in connection with its recent adoption of Rule 140.99, it now intends, to the extent practicable, to handle repetitive requests such as these through rulemaking.<sup>24</sup>

Accordingly, the Commission is proposing to amend Rule 4.5 by adding Church Plans to the existing employee benefit plans in Rule 4.5(a)(4) that “shall not be construed to be pools,” and for which no notice needs to be filed and no operating criteria need to be followed for exclusionary relief to be available. Specifically, the Commission is proposing to add a new Rule

4.5(a)(4)(v) that will contain this Church Plan exclusion. However, just as ERISA restricts the exclusion of Church Plans from coverage under Title I and Title IV of that statute to Church Plans with respect to which no election has been made under Section 410(d) of Title 26, proposed Rule 4.5(a)(4)(v) similarly would restrict its exclusion to Church Plans with respect to which no election has been made under Section 410(d).<sup>25</sup>

In making this proposal to include Church Plans among those employee benefit plans that shall not be construed to be pools under Rule 4.5(a)(4), the Commission notes that the basis for its action would be similar to its rationale for providing in Rule 4.5(a)(4)(iii) that state and local government pension plans shall not be construed to be pools. As stated above, Congress exempted from Titles I and IV of ERISA: (1) Governmental plans, to avoid Federal interference with these questions of state and local sovereignty; and (2) Church Plans, to avoid excessive Federal entanglement with religion in violation of the first amendment to the Constitution. The Commission further notes that the proposal would be broader than the CPO registration no-action positions that its staff previously has issued to the operators of Church Plans.<sup>26</sup> Also, under this proposal the operators of Church Plans would not need to file a Notice of Eligibility to claim relief and they would not need to restrict their Plans’ activities to the operating criteria of Rule 4.5(c). The

<sup>25</sup> As stated above, a Church Plan is exempted from Titles I and IV of ERISA, provided the Church Plan does not elect under Section 410(d) of Title 26 to be subject to certain provisions of ERISA from which it is otherwise exempt—e.g., participation, vesting and funding provisions.

<sup>26</sup> If a collective investment vehicle (such as a Church Plan) is not Commodity pool, the operator of the vehicle would not be a CPO. The operator would nonetheless be a person for all other purposes of the Act and CFTC rules—e.g., it would be subject to the general antifraud provisions of section 4b of the Act, 7 U.S.C. 6b (1994), and to the large trader reporting requirements of Part 18 of the regulations. If a collective investment vehicle is a pool, in addition to being a person for the purposes of the Act and the rules, its operator would be a CPO subject to all provisions of the Act and Commission rules applicable to CPOs regardless of registration status—e.g., to the special antifraud provisions for CPOs (and CTAs) in section 40 of the Act, 70 U.S.C. 6o (1994), the operational requirements for CPOs in Rule 4.20 and the advertising requirements for CPOs (and CTAs) in Rule 4.41.

In this regard, the Commission wishes to emphasize that the status of a collective investment vehicle as a pool or a “non-pool” does not affect the registration or Part 4 requirements of any CTA to the vehicle. But see Rule 4.14(a)(8), which makes available an exemption from CTA registration to certain registered investment advisers who, among other things, provide commodity interest trading advice to Rule 4.5 trading vehicles in a manner solely incidental to their business of providing securities advice to those vehicles.

Commission believes the breadth of its proposal is appropriate in light of Congress’ rationale in excluding Church Plans from coverage under Titles I and IV of ERISA. The Commission nonetheless requests comment on whether rather than adding Church Plans to the list of plans that should not be construed to be a pool as proposed, the Commission should include the operator of a Church Plan as an eligible person who may claim an exclusion from the CPO definition. The Commission also requests comment on whether relief under Rule 4.5 should be available solely to those Church Plans that have not made an election under Section 414(e) of the IRC to be subject to certain provision of ERISA.

### *B. The Technical Amendments: Conforming the Rule*

When the Commission initially adopted Rule 4.5 there were three types of pension plans that Rule 4.5(a)(4) stated “shall not be construed to be pools”: the plans set forth in paragraphs (a)(4)(i); (a)(4)(ii); and (a)(4)(iii) of the rule.<sup>27</sup> The Commission subsequently amended Rule 4.5 to add in new paragraph (a)(4)(iv) another type of pension plan that would not be construed to be a pool.<sup>28</sup> However, the Commission did not at that time concurrently conform the punctuation of the rule. Moreover, if the proposed substantive amendment to Rule 4.5 for Church Plans is adopted, the rule further will have to be amended to accommodate grammatically this new paragraph.

Accordingly, the Commission also is proposing certain technical, conforming amendments to Rule 4.5. Specifically, the Commission is proposing to amend Rule 4.5 by removing the word “and” at the end of existing paragraph (a)(4)(ii), by removing the period and adding a semi-colon at the end of existing paragraph (a)(4)(iii), and by removing the period and adding a semi-colon and the word “and” at the end of existing paragraph (a)(4)(iv). The text of each of the foregoing paragraphs under Rule 4.5 would remain intact.

## **III. Related Matters**

### *A. Paperwork Reduction Act*

When publishing proposed rules, the Paperwork Reduction Act of 1995 (the “PRA”)<sup>29</sup> imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In

<sup>27</sup> 50 FR 15868.

<sup>28</sup> 58 FR 43791.

<sup>29</sup> 44 U.S.C. 3501 *et seq.* (Supp. II 1996).

<sup>22</sup> Pub. L. No. 104–290, 110 Stat. 3416 (1996).

<sup>23</sup> 15 U.S.C. 80a–3(c)(14) (Supp. II 1996).

Specifically, Section 3(c)(14) provides that a “church plan” described in Title 26 is not an investment company if: under any such plan, no part of the assets may be used for, or diverted to, purposes other than the exclusive benefits of plan participants or beneficiaries, or any company or account that is—

(A) established by a person that is eligible to establish and maintain such a plan under section 414(e) of title 26; and

(B) substantially all of the activities of which consist of—

(i) managing or holding assets contributed to such church plans or other assets which are permitted to be commingled with the assets of church plans under title 26; or

(ii) administering or providing benefits pursuant to church plans.

Section 414(e) of Title 26, generally defines the term “church plan” to mean a pension plan established and maintained (to the extent specified) by a church or by a convention or association of churches which is exempt from tax under Section 501 of the IRC. 26 U.S.C. 414(e) (1994).

<sup>24</sup> 63 FR 68175 at 68176 (December 10, 1998).

compliance with the PRA, the Commission previously has submitted Rule 4.5 in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget has approved the collection of information of which this proposed rule is a part through September 30, 2001, OMB Control Number 3038-0005: Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants. While this proposed rule has no burden, the group of rules (3038-0005) of which it is a part has the following burden:

Average Burden Hours Per Response: 7.49.

Number of Respondents: 6,949.

Frequency of Response: Monthly, Quarterly, Annually, On Occasion.

Copies of the OMB approved information collection package associated with this rule are available from the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395-7340.

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")<sup>30</sup> requires each federal agency to consider in the course of proposing substantive rules the effect of those rules on small entities. The definitions of small entities that the Commission has established for this purpose do not address the persons and qualifying entities set forth in Rule 4.5 because, by the very nature of the rule, the operations and activities of such persons and entities generally are regulated by Federal and State authorities other than the Commission. Assuming, arguendo, that church plans would be small entities for purposes of the RFA, the Commission believes that the proposed amendment to Rule 4.5 would not have a significant economic impact on them because it would not require the filing of a notice containing specified operating criteria with the Commission to claim the relief available under proposed Rule 4.5(a)(4)(v). Moreover, the Commission notes that the proposed amendment potentially would relieve a greater number of persons (*i.e.*, the operators of Church Plans) from the requirement to register as a CPO and from the disclosure, reporting and recordkeeping

requirements applicable to registered CPOs.

Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to Section 3(a) of the RFA<sup>31</sup> that the proposed rules will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 17 CFR Part 4

Commodity pool operators, Commodity futures.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 1a(4), 4k, 4l, 4m, 4n, 4o and 8a, 7 U.S.C. 1a(4), 6k, 6l, 6m, 6n, 6o and 12a, the Commission hereby proposes to amend Chapter I of the Code of Federal Regulations as follows:

#### PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for Part 4 continues to read as follows:

**Authority:** 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

2. In § 4.5, in paragraph (a)(4) introductory text, the proviso text is republished and paragraph (a)(4) is proposed to be amended by removing the word "and" at the end of paragraph (a)(4)(ii), by removing the period and adding a semi-colon at the end of paragraph (a)(4)(iii), by removing the period and adding a semi-colon and the word "and" at the end of paragraph (a)(4)(iv), and by adding a new paragraph (a)(4)(v), to read as follows:

#### § 4.5 Exclusion for certain otherwise regulated persons from the definition of the term "commodity pool operator."

(a) \* \* \*

(4) \* \* \* *Provided, however,* That for purposes of this § 4.5 the following employee benefit plans shall not be construed to be pools:

\* \* \* \* \*

(v) A plan defined as a church plan in Section 3(33) of title I of the Employee Retirement Income Security Act of 1974 with respect to which no election has been made under 26 U.S.C. 410(d).

\* \* \* \* \*

Issued in Washington, DC on February 22, 2000, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00-4747 Filed 2-29-00; 8:45 am]

**BILLING CODE 6351-01-P**

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

**33 CFR Parts 127, 154, 155, 159, 164, and 183**

**46 CFR Parts 28, 30, 32, 34, 35, 38, 39, 54, 56, 58, 61, 63, 76, 77, 78, 92, 95, 96, 97, 105, 108, 109, 110, 111, 114, 119, 125, 151, 153, 154, 160, 161, 162, 163, 164, 170, 174, 175, 182, 190, 193, 195, and 199**

[USCG-1999-5151]

RIN 2115-AF80

#### Update of Standards From the American Society for Testing and Materials (ASTM)

**AGENCY:** Coast Guard, DOT.

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

**SUMMARY:** On December 1, 1999, the Coast Guard published a direct final rule [64 FR 67170]. This rule notified the public of our intent to amend Titles 33 and 46, Code of Federal Regulations, to render current the standards incorporated by reference from ASTM. We have not received an adverse comment, or notice of intent to submit an adverse comment, objecting to this rule. Therefore, this rule will go into effect as scheduled.

**DATES:** The direct final rule is, as we said it would be, effective on February 29, 2000. The incorporation by reference of publications in this rule was approved by the Director of the Federal Register to be effective on February 29, 2000.

**FOR FURTHER INFORMATION CONTACT:** For questions on this rule, call Ms. Janet Walton, Office of Standards, Evaluation and Development (G-MSR), U.S. Coast Guard, telephone 202-267-0257.

#### SUPPLEMENTARY INFORMATION:

##### Discussion of Comments

The Coast Guard received no comments in response to the direct final rule. Therefore, this rule will go into effect as scheduled.

Dated: February 24, 2000.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 00-4806 Filed 2-29-00; 8:45 am]

**BILLING CODE 4910-15-U**

<sup>30</sup> 5 U.S.C. 601 *et seq.* (1994 and Supp. II 1996).

<sup>31</sup> 5 U.S.C. 605(b).

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 231-0206a; FRL-6540-6]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on a revision to the California State Implementation Plan. The revision concerns a rule from the South Coast Air Quality Management District (SCAQMD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) and hydrogen sulfide (H<sub>2</sub>S) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC and H<sub>2</sub>S emissions from refinery vacuum-producing devices or systems. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

This direct final action will incorporate this rule into the federally approved SIP and also stop the sanctions and Federal Implementation Plan clocks, which were started on August 14, 1998 when EPA published a final limited disapproval of the State's submittal of a previous version of this Rule.

**DATES:** This rule is effective on May 1, 2000 without further notice, unless EPA receives adverse comments by March 31, 2000. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75

Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812  
South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1135.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

The rule being approved into the California SIP is SCAQMD Rule 465, Refinery Vacuum-Producing Devices and Systems. This rule was submitted by the California Air Resources Board (CARB) to EPA on October 29, 1999.

##### II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the SCAQMD. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the SCAQMD's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172 (b) as interpreted in pre-amendment guidance.<sup>1</sup> EPA's SIP-Call used that

<sup>1</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that

guidance to indicate the necessary corrections for specific nonattainment areas. SCAQMD is classified as extreme for ozone<sup>2</sup>; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

This document addresses EPA's direct final action for SCAQMD Rule 465, Refinery Vacuum-Producing Devices and Systems. SCAQMD adopted Rule 465 on August 13, 1999. This rule was submitted by the CARB on October 29, 1999 and was found to be complete on December 16, 1999 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>3</sup> and is being finalized for approval into the SIP.

Rule 465 controls the emission of VOCs and H<sub>2</sub>S from refinery vacuum-producing devices and systems. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of SCAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. Control of H<sub>2</sub>S is not required for purposes of the SIP, because H<sub>2</sub>S is not a criteria air pollutant. The following is EPA's evaluation and final action for this rule.

##### III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** document" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

<sup>2</sup> SCAQMD retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to this rule is entitled, "Control of Refinery Vacuum-Producing Systems, Wastewater Separators, and Process Unit Turnarounds," EPA 450/2-77-025. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On August 14, 1998, EPA granted limited approval and limited disapproval to a version of Rule 465 that had been adopted by SCAQMD on November 1, 1991. SCAQMD Rule 465 as adopted on August 13, 1999 includes the following significant changes from the current SIP:

- SCAQMD deleted the listing of exempt compounds and referenced SCAQMD Rule 102, which correctly does not list carbon tetrachloride as an exempt compound.

- SCAQMD eliminated the requirement to reduce VOC emissions from vacuum-producing devices or systems by at least 90% and the requirement to limit exhaust gases from vacuum-producing devices or systems to not exceed 800 ppm of sulfur compounds expressed as H<sub>2</sub>S.

- SCAQMD replaced the above requirements with a requirement to continuously collect exhaust gases from vacuum-producing devices or systems and add them to a fuel gas system or combustion device that is approved and permitted. Fuel gas systems (with subsequent combustion) and combustion devices will achieve significantly greater than 90% VOC emissions removal from the exhaust gases. The use of other control devices, such as carbon absorbers, is no longer allowed under this rule.

- SCAQMD removed test methods associated with the deleted emission limits. Compliance is now being determined by visual inspection of the valves, flanges, and piping for leaks to the ambient air. Inspection and recordkeeping for valves and flanges is regulated by SCAQMD Rule 466.1, Valves and Flanges.

EPA has evaluated the submitted rule and has determined that it is consistent

with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD Rule 465, Refinery Vacuum-Producing Devices or Systems, is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

This approval action will incorporate this rule into the federally approved SIP and also stop the sanctions process and Federal Implementation Plan clock, which were started on August 14, 1998, when a limited disapproval action was published in the **Federal Register**. 63 FR 43627.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 1, 2000 without further notice unless the Agency receives adverse comments by March 31, 2000.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on May 1, 2000 and no further action will be taken on the proposed rule.

#### IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

For the same reason, 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), 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), 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. 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, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: February 11, 2000.

**Felicia Marcus,**  
Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart F—California**

2. Section 52.220 is amended by adding paragraph (c)(270)(i)(C)(1) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (270) \* \* \*
- (i) \* \* \*

(C) South Coast Air Quality Management District.

(1) Amended Rule 465, adopted on August 13, 1999.

\* \* \* \* \*

[FR Doc. 00-4778 Filed 2-29-00; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-300972; FRL-6490-9]

RIN 2070-AB78

**Dimethyl Silicone Polymer With Silica; Silane, Dichloromethyl-, Reaction Product With Silica; Hexamethyldisilazane, Reaction Product With Silica; Tolerance Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the polymers dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica when used as inert ingredients in growing crops, when applied to raw agricultural commodities after harvest, or to animals. Cabot Corporation submitted petitions to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica.

**DATES:** This regulation is effective March 1, 2000. Objections and requests for hearings, identified by docket control number OPP-300972, must be received by EPA on or before May 1, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit XI. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300972 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Vera Soltero, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9359 and e-mail address: soltero.vera@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS codes	Examples of poten-tially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufac-turing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and 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.* The Agency has established an official record for this action under docket control number OPP-300972. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (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 the Public Information and Records Integrity Branch (PIRIB), 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.

## II. Background and Statutory Findings

In the **Federal Register** of August 25, 1999 (64 FR 46378) (FRL-6096-1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104-170) announcing the filing of pesticide tolerance petitions by Cabot Corporation, 1557 Concord Road, Billerica, MA 01821. This notice included a summary of the petitions prepared by the petitioner. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.1001(c) and (e) be amended by establishing exemptions from the requirement of a tolerance for residues of dimethyl silicone polymer with silica, CAS No. 67762-90-7, PP 9E6017; silane, dichloromethyl-, reaction product with silica, CAS No. 68611-44-8, PP 9E6018; and hexamethyldisilazane, reaction product with silica, CAS No. 68909-20-6, PP 9E6019.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue..." and specifies factors EPA is

to consider in establishing an exemption.

## III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

## IV. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify

categories of polymers that should present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b). The following exclusion criteria for identifying these low risk polymers are described in 40 CFR 723.250(d).

1. The polymers, dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica, are not cationic polymers nor are they reasonably anticipated to become cationic polymers in a natural aquatic environment.

2. The polymers do contain as an integral part of their composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymers do not contain as an integral part of their composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymers are neither designed nor can they be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymers are manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymers are not water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymers, dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica, also meet as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymers' number average MW of 1,100,000 daltons; 3,340,000 daltons; and 645,000 daltons, respectively are greater than or equal to 10,000 daltons. The polymers contain less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica meet all the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on their conformance to the above criteria, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica.



## V. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MWs of dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica are 1,100,000; 3,340,000; and 645,000 daltons, respectively. Generally, polymers of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica conform to the criteria that identify a low risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. Since the Agency has determined that there is a reasonable certainty that no harm will result from aggregate exposure to dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; or hexamethyldisilazane, reaction product with silica a tolerance is not necessary.

## VI. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider "available information" concerning the cumulative effects of a particular chemical's residues and "other substances that have a common mechanism of toxicity." The Agency has not made any conclusions as to whether or not dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica share a common mechanism of toxicity with any other chemicals. However, dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica conform to the criteria that identify a low risk polymer. Due to the expected lack of toxicity based on the above conformance, the Agency has

determined that a cumulative risk assessment is not necessary.

## VII. Determination of Safety for U.S. Population

Based on the conformance to the criteria used to identify a low risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population from aggregate exposure to residues of dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; or hexamethyldisilazane, reaction product with silica.

## VIII. Determination of Safety for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

## IX. Other Considerations

### A. Endocrine Disruptors

There is no available evidence that dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica are endocrine disruptors.

### B. Existing Exemptions from a Tolerance

There are no existing exemptions from a tolerance for the polymers dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica.

### C. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

### D. International Tolerances

The Agency is not aware of any country requiring a tolerance for dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product

with silica nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

## X. Conclusion

Accordingly, EPA finds that exempting dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica from the requirement of a tolerance will be safe.

## XI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

### A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-300972 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 1, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential 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. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260-4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP-300972, 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. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

#### *B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

### **XII. Regulatory Assessment Requirements**

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order

13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

### **XIII. Submission to Congress and the Comptroller General**

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

“major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 14, 2000.  
**James Jones,**  
*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.1001, the tables in paragraphs (c) and (e) are amended by adding alphabetically the following inert ingredients to read as follows:

**§ 180.1001 Exemptions from the requirement of a tolerance.**

\* \* \* \* \*  
 (c) \* \* \*

Inert ingredients	Limits	Uses
Dimethyl silicone polymer with silica (CAS No. 67762–90–7).	.....	Moisture barrier, anti-caking agent, anti-settling agent
Hexamethyldisilazane, reaction product with silica (CAS No. 68909–20–6).	.....	Moisture barrier, anti-caking agent, anti-settling agent
Silane, dichloromethyl-, reaction product with silica (CAS No. 68611–44–9).	.....	Moisture barrier, anti-caking agent, anti-settling agent, anti-thickening agent

\* \* \* \* \* (e) \* \* \*

Inert ingredients	Limits	Uses
Dimethyl silicone polymer with silica (CAS No. 67762–90–7).	.....	Moisture barrier, anti-caking agent, anti-settling agent
Hexamethyldisilazane, reaction product with silica (CAS No. 68909–20–6).	.....	Moisture barrier, anti-caking agent, anti-settling agent
Silane, dichloromethyl-, reaction product with silica (CAS No. 68611–44–9).	.....	Moisture barrier, anti-caking agent, anti-settling agent, anti-thickening agent

[FR Doc. 00–4659 Filed 2–29–00; 8:45 am]  
**BILLING CODE 6560–50–F**

**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Part 193**

[Docket No. RSPA–97–3002; Amdt. 193–17]

RIN 2137–AD11

**Pipeline Safety: Incorporation of Standard NFPA 59A in the Liquefied Natural Gas Regulations**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule incorporates by reference an industry consensus standard for liquefied natural gas (LNG) facilities subject to the pipeline safety

regulations. This standard, developed by the National Fire Protection Association (NFPA), specifies siting, design, construction, equipment, and fire protection requirements that apply to new LNG facilities and to existing facilities that have been replaced, relocated, or significantly altered. All new, replaced, relocated, and significantly altered facilities are also subject to the new operating and maintenance requirements, and all other requirements specified in this rule, as well as the unchanged portions of the regulations. The fire protection requirements also apply to existing LNG facilities. The incorporation by reference of this standard will allow the LNG industry to use the latest technology, materials, and practices while maintaining the current level of safety.

**DATES:** This final rule takes effect March 31, 2000. The incorporation by reference

of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mike Israni, (202) 366–4571, or by e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this final rule, or the Dockets Facility (202) 366–9329, for copies of this final rule or other material in the docket. All materials in this docket may be accessed electronically at <http://dms.dot.gov>. General information about the RSPA/Office of Pipeline Safety programs can be obtained by accessing OPS’s Internet home page at <http://ops.dot.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 26, 1996, the NFPA petitioned RSPA to replace substantive portions of 49 CFR Part 193 with ANSI/NFPA 59A (1996 edition), titled “Standards for the Production, Storage

and Handling of Liquefied Natural Gas (LNG)". The petition specifically recommends removing the Subparts on siting, design, construction, equipment, and fire protection, and instead referencing chapters 1 through 9 of ANSI/NFPA 59A (1996 edition). The petition recommends retaining, with minor changes, the Subparts on operation, maintenance, personnel qualification and training, and security.

The current Federal safety standards for LNG facilities were developed as a requirement of the Pipeline Safety Act of 1979, now re-codified in 49 United States Code Section 60103. In 1979, Congress determined that the public would be better served if the U.S. Department of Transportation (DOT) developed its own standards for the LNG industry. Prior to July 1, 1976, no Federal standards for LNG facilities existed. The current standard, which addresses LNG facilities used in gas pipeline transportation, was issued as a Final Rule on February 11, 1980 [45 FR 9203] and now appears at 49 CFR Part 193. Between July 1, 1976, and February 11, 1980, LNG facilities were required to comply with ANSI/NFPA 59A (1972 edition) and Part 192.

A report issued on July 31, 1978, by the General Accounting Office titled "Liquefied Energy Gases" highlighted some of the safety concerns in the transportation and storage of LNG. Foremost among those were: (1) protection of persons and property near an LNG facility from thermal radiation caused by ignition of a major spill of LNG, (2) protection of persons and property near an LNG facility from dispersion and delayed ignition of a natural gas cloud arising from a major spill of LNG, and (3) reduction of the potential for a catastrophic spill of LNG.

RSPA identified many deficiencies in the pre-1980 LNG standards which needed to be corrected to reduce the potential for a major spill of LNG and provide an acceptable level of safety. Because of the difference in format and the need for regulatory language to facilitate enforcement, a few sections of ANSI/NFPA 59A were rewritten for their adoption in Part 193.

There have been significant changes in the ANSI/NFPA 59A since 1980. The 1996 edition of the ANSI/NFPA 59A includes the latest developments in LNG facility design and safety. Many of these developments have not been incorporated into current Part 193. The format and language of the ANSI/NFPA 59A has also changed significantly, over the years, to facilitate enforcement. ANSI/NFPA 59A is revised on a regular basis, and the revision process includes

input from a wide variety of experts and a broad representation of interests.

RSPA has been very active in incorporating by reference voluntary consensus standards in its pipeline safety regulations. RSPA has participated for many years on several voluntary committees that develop consensus standards, including the ANSI/NFPA 59A technical committee. The existing Part 193 references provisions of ANSI/NFPA 59A in eight different locations. Recent amendments to the LNG regulations (February 25, 1997; 62 FR 8402 and August 1, 1997; 62 FR 41311) have brought Part 193 closer to ANSI/NFPA 59A. Unlike older editions of the ANSI/NFPA 59A, text in the current standard is in a regulatory format that makes it more suitable for incorporation by reference. RSPA is adopting the 1996 version of the ANSI/NFPA 59A. When the standard is revised in the future, RSPA will incorporate by reference the revised versions, as appropriate.

This rule replaces major subparts covering siting, design, construction, equipment, and fire protection with provisions of NFPA standard, and makes minor changes in the operation and maintenance requirements. These changes apply only to new and significantly altered facilities. Incorporation by reference of ANSI/NFPA 59A will maintain current levels of safety and allow industry flexibility in applying the latest technology. Based on the above factors and the potential benefits to Federal and State regulators, the LNG industry, and most of all, to public safety, RSPA decided to consider the adoption of ANSI/NFPA 59A into Part 193.

In November 1997 and May 1998, RSPA briefed the Technical Pipeline Safety Standards Committee (TPSSC) on proposed changes to the LNG regulations. In February and April 1998, RSPA held meetings with the National Association of Pipeline Safety Representatives (NAPSR) LNG Part 193 committee to receive their input on the proposed changes.

On March 31, 1998, RSPA met with representatives of the LNG industry, State and local governments, and the public to gather information on experiences with the current Federal LNG safety regulations and with ANSI/NFPA 59A. On April 22, 1998, RSPA held a joint meeting with NFPA, the American Gas Association (AGA) and the NAPSR LNG review committee to discuss technical differences between Part 193 and ANSI/NFPA 59A.

## Proposed Rule

RSPA published an NPRM [63 FR 70737; December 22, 1998], proposing to replace most LNG requirements for siting, design, construction, equipment, and fire protection in Part 193 by referencing the American National Standards Institute (ANSI), National Fire Protection Association (NFPA) Standard 59A (1996 edition), titled "Standards for the Production, Storage and Handling of Liquefied Natural Gas (LNG)". The NPRM also proposed some minor amendments to operation and maintenance requirements for new and significantly altered facilities. (Existing facilities need only comply with previously existing operations and maintenance requirements.) RSPA proposed these changes because ANSI/NFPA 59A more accurately reflects current technology and practices in the LNG industry. Only those requirements which ANSI/NFPA does not address or adequately cover were retained. On May 18, 1999, at the AGA conference in Cleveland, commenters requested, and were granted, an additional month for comments. RSPA received comments on the NPRM from 11 sources. Commenters included two trade associations, two standards organizations, six operators, and one State agency.

## Advisory Committee Review

We submitted the proposed LNG rule to the Technical Pipeline Safety Standards Committee (TPSSC) for comments on technical feasibility, reasonableness, cost-effectiveness, and practicality. On May 5, 1999, the TPSSC voted unanimously to approve the proposed rule without comment.

## Discussion of Comments and Changes in the Final Rule

We received comments from the following in response to the NPRM:  
Trade associations: American Gas Association (AGA); The New England Gas Association (NEGA)  
Standards organization: National Fire Protection Association (NFPA); American Society of Safety Engineers (ASSE);  
Operators: Duke Energy Corporation; Philadelphia Gas Works (PGW); William's Gas Pipeline, KeySpan Energy Corporation; Paiute Pipeline Company, Alaska North Slope LNG project.  
State agency: Iowa Utilities Board (Iowa).

All 11 commenters generally supported the NPRM, but expressed some concerns or suggested changes. All significant comments on the NPRM are

summarized below along with RSPA's responses.

*General Comment: Partial Adoption of ANSI/NFPA 59A*

Four commenters, including AGA and NEGA, requested adoption of ANSI/NFPA 59A for siting, design, construction, equipment, and fire protection, without modification except for regulatory language consistency. They expressed concerns over selectivity of various parts of 49 CFR Part 193, and ANSI/NFPA 59A. AGA commented that adoption of only portions of ANSI/NFPA 59A will make the standards difficult to administer by both the regulatory agencies and the LNG facility operators. AGA feels that RSPA's approach would require substantial cross-referencing between two documents and various referenced standards, to determine which one is applicable in any given situation, resulting in confusion, errors and potential violations of the final rule. In AGA's view, this could have significant cost impact to operators without much safety benefit.

*Response*—During proposed rule development, our analysis of Part 193 and ANSI/NFPA 59A showed that certain LNG safety requirements in design, siting, construction, and equipment were not adequately addressed in ANSI/NFPA 59A. Following discussions with state regulators and LNG consultants, we decided to retain all of those requirements in the proposed rule that were not adequately addressed in ANSI/NFPA 59A. However, after review of comments received on the NPRM, and detailed discussions on specific requirements with the industry, trade associations, LNG consultants, and regional directors, we have concluded that only some of the safety requirements proposed in the NPRM are critical, therefore, should be retained. However, most of proposed safety requirements are already covered in performance language in ANSI/NFPA 59A, therefore, those requirements should be removed from Part 193. This final rule reflects those changes.

*General Comment: Limit ANSI/NFPA 59A References to Only Design, Construction, and Siting Issues*

AGA, NEGA, and two plant operators expressed concern over the proposed changes in Subpart F—Operations, and Subpart G—Maintenance. They said that in meetings leading up to the NPRM, DOT indicated that operations and maintenance requirements in part 193 would not be revised because ANSI/NFPA 59A does not adequately address

these issues. They also said DOT's revisions to operations and maintenance areas are broad and unclear. Specific examples of such instances offered by commenters are discussed below.

*Response*—Under operation and maintenance subparts of this rule, operators of new and significantly altered LNG facilities are required to maintain design and construction related inspection, testing and investigation records specified under NFPA 59A. We have specified frequency of those tests and duration of recordkeeping. Operators are also reminded in the operation and maintenance subparts that these requirements only apply to new and significantly altered LNG facilities constructed after the effective date of this rule.

*Editorial Comments*

One commenter noted inconsistencies in listing subparts affected by this rule. This commenter suggested that reference be made to subparts A–E and I throughout the text. This commenter also pointed out that the preamble indicated that section 193.2119 would be retained, yet in the rule this section has been removed.

*Response*—We have removed inconsistencies regarding affected subparts in the final rule. We inadvertently removed Section 193.2119 from the proposed rule. This final rule retains it.

Listed below are comments or changes to specific sections:

**Subpart A—General**

*Section 193.2001 Scope of Part*

In the NPRM, we revised Section 193.2001 to include reference to ANSI/NFPA 59A. Because ANSI/NFPA 59A is not applicable to all subparts in Part 193, we have removed the reference. Therefore, Section 193.2001 as currently specified will remain unchanged.

*Section 193.2003 Semisolid Facilities Has been removed from the rule as proposed in the NPRM.*

*Section 193.2005 Applicability*

This section 193.2005 has been restructured to clarify that new requirements apply to new and significantly altered LNG facilities after the effective date of this rule unless otherwise noted.

*Proposed Sections 193.2007 Through 193.2019 Are unchanged in the final rule.*

**Subpart B—Siting Requirements**

*Section 193.2051 Scope*

We proposed that this section would be retained because ANSI/NFPA 59A does not specify where siting is needed. One commenter argued that sections 2–1, 2–2 and 2–3 of ANSI/NFPA 59A clearly delineate siting requirements for process equipment, building and structures, transfer systems, flammable containers, LNG containers, and spill and leak control in important process areas. This commenter said that it is the combination of section 193.2051 and ANSI/NFPA 59A that will cause confusion and misinterpretation. The commenter suggested that the standards simply reference ANSI/NFPA 59A.

*Response*—We agree that ANSI/NFPA 59A specifies where siting is required, therefore, we have revised the text of the scope under this section to avoid duplication and confusion. The revised scope now states that each LNG facility after effective date of the final rule must be provided with siting requirements in accordance with requirements of this part and of ANSI/NFPA 59A. In the event of a conflict between this part and ANSI/NFPA 59A, this part prevails. Operators are reminded that the requirements retained in this part are not covered in ANSI/NFPA 59A.

*Section 193.2057 Thermal Radiation Protection*

In the NPRM we proposed that the thermal radiation distances calculations use: (1) wind speed and ambient temperatures which produce maximum exclusion distances except that values that occur less than 5% of the time shall not be used; (we regret that in the preamble of the NPRM we explained this requirement incorrectly.) (2) LNGFIRE III model; (3) offsite targets currently listed in paragraph (d). We also proposed deletion of paragraph (b)(4) which required use of highest anticipated heating value of LNG.

The NFPA and the Iowa Utility Board commented on the preceding requirements. NFPA commented that wind speed need not be included in the calculation, because it is already included in the acceptable heat flux for offsite targets. NFPA also pointed out that Part 193 does not specify how wind speed is to be determined and what figure (maximum or average) is to be used.

NFPA recommended that Part 193 should reference ANSI/NFPA 59A because NFPA cites a method (from a

GRI report) rather than specific computer model, such as LNGFIRE III, for calculating thermal radiation distances. NFPA also commented that number of "offsite targets" listed in paragraph (d) in section 193.2057 does not provide the source of these numbers or how to calculate an area, whereas the NFPA numbers are taken from widely used NFPA 101, the Life Safety Code. This code provides a method to calculate the area occupied by persons for use as an offsite target.

*Response*—(1) The old formula for calculating thermal radiation distance  $d = F \cdot A^{1/2}$  (where  $d$  = distance,  $F$  = flux correlation factor,  $A$  = surface area within impoundment), which was replaced in Part 193 with the LNGFIRE model, is still allowed under NFPA 59A in certain applications. That formula calculates distances based on the assumption that the flame is at a 45 degree angle. In other words, the formula already accounts for wind speed. But, in the LNGFIRE model, wind speed is one of the input factors. We specify that the maximum wind speeds be used, except for those that occur less than 5% of the time. Therefore, the wind speed portion of the requirement is retained.

(2) We disagree with NFPA comment that a method rather than specific computer model be specified. We review and analyze each specific model before adoption thus, making the compliance process easier for both the operator and inspector. This rule requires that the LNGFIRE III model be used. Other models may be used, subject to the Administrator's approval.

(3) NFPA 101, the Life Safety Code, is basically a building code. For building design one needs to know area occupied by an individual person. The LNGFIRE model *does not* require the area of an individual person. Incident flux gives intensity of heat in Btu/hr-square foot, which means, Btu's that would be received by one square foot of the target if it were exposed to the thermal radiation for one hour. Number of persons or size of a person does not change the Btu/square foot received by the target. The 20 and 50 person criteria used for an 'offsite target' in Part 193 and ANSI/NFPA 59A, respectively, are arbitrary numbers. Because we do not see justification for using different figures, in the final rule we have eliminated the Offsite target and incident radiant flux figures and simply referenced ANSI/NFPA 59A.

*Comment on 193.2057 (b)(4)*—The Iowa Utility Board questioned deletion of use of "highest anticipated heating value of LNG" in the calculations of thermal radiation distances. Iowa Utility Board said in their experience higher

heating value (HHV) of "aged" LNG has reached 1200 Btu/scf compared to 1023 Btu/scf for methane. And based on the potential for the buildup of heavier hydrocarbons in stored LNG, the Iowa Utility Board asked for clarification of our decision to delete this requirement.

*Response*—The common units for higher heating values used in the natural gas industry are British thermal units (Btu) per standard cubic foot (scf). But, in reality HHV in Btu/lb determines the size of the flame, and the thermal radiation distances. The mass per unit volume of gas changes with composition for LNG mixture. In fact, decrease in Btu/lb is more significant than increase in Btu/scf for aged LNG as compared to methane. Therefore, flame size for aged LNG is lower than the flame size of methane, resulting in shorter thermal radiation distance. In reality, there is only 0.1 to 0.2% difference in radiation distances. Therefore, this requirement has been deleted.

#### *Section 193.2059 Flammable Vapor-Gas Dispersion Protection*

In the NPRM we proposed to: (1) retain minimum 10 minute spill duration for vaporization design rate; (2) delete planned vapor control; (3) retain 2.5% lower flammable concentration limit at the outer boundary of flammable vapor; and (4) add one hour time duration necessary for spill detection and response for tanks with an internal shutoff valve. AGA, NEGA, NFPA, two operators and the Iowa Utility Board each offered comments against one or more of those requirements.

AGA, NEGA and one operator commented that NFPA standard 59A does not set a 10 minute spill duration limit so that operators can take advantage of technology by using controls that can provide response time in less than 10 minutes.

NEGA said that by deleting planned vapor control to mitigate the emerging vapor from a design LNG spill increases burden on the operator and denies the operator alternative credit.

The Iowa Utility Board supported the proposal to retain the 2.5% lower limit for gas concentration. NFPA said that the 5% lower flammability limit is sufficient because the model takes concentration variations into account, and our requirement is too conservative.

One operator said there is no rationale for a one hour response time for spill detection for a tank with an internal shutoff valve.

*Response*—(1) We agree with the commenters that with the current technology and control system operators can respond to spills in less than 10 minutes. We have revised this

requirement to agree with the ANSI/NFPA 59A standard that 10 minute spill time can be reduced if the operator can demonstrate by instrument surveillance and emergency shutdown system that less than 10 minutes is needed to respond to spills.

(2) We have deleted, as we proposed in the NPRM, the planned vapor control requirement from the regulations. We do not believe, any facility would opt for this alternative. In this final rule planned vapor control requirement will still be allowed as an alternative through a waiver.

(3) We have retained the requirement for 2.5% lower flammable limit (LFL) concentration at the outer boundary of flammable vapor to provide a reasonable margin of safety. The DEGADIS model predicts only average concentration of LNG. Because vapor does not disperse uniformly, pockets of 5% LFL concentration could be adjacent to the average distance line predicted by the model. In other words, the model can under predict the actual concentration of LNG. Because many assumptions go in the formula, the distances predicted are not always accurate. Using a 2:1 safety margin was suggested by those who developed this model. On August 19, 1999, the NFPA 59A committee discussed this issue in great detail and voted to revise ANSI/NFPA 59A standard to require a 2.5% LFL in lieu of 5% LFL. Therefore, we see no need to revise the current concentration level in the regulations.

In this final rule, we are allowing use of the FEM3A vapor dispersion model as an alternate to DEGADIS. The FEM3A model accounts for additional cloud dilution which may be caused by the complex flow patterns induced by tank and dike structures. Dispersion distances are calculated in accordance with this model described in Gas Research Institute report GRI-96/0396.5, "Evaluations of Mitigation Methods for Accidental LNG Releases. Volume 5: Using FEM3A for LNG Accident Consequence Analyses."

(4) ANSI/NFPA 59A standard also requires a one hour duration for spills from tanks fitted with internal shutoff valves. We have referenced ANSI/NFPA 59A for determining design spills.

Proposed requirement on determining Vaporization design rate under 193.2059(d) has been deleted in this rule to allow operators more flexibility in computing.

*Section 193.2063 Flooding Section; 193.2069—Other Severe Weather and Natural Conditions; and Section 193.2071—Adjacent Activities*

We proposed to retain these sections because the subjects that these sections cover are not addressed adequately in ANSI/NFPA 59A. NFPA commented the “general plant site consideration” requirement under section 2–1.1 of ANSI/NFPA 59A adequately addresses these subjects.

*Response*—We agree that NFPA standard requires evaluation of potential incidents and the inclusion of safety measures in the design or operation of the facility in lieu of specifying natural disasters. Also, the NFPA standard requires consideration of factors applicable to the specific site that may have a bearing on the safety of plant personnel and the public. We believe this performance language meets the intent of our regulation. Therefore, requirements in sections 193.2063, 193.2069, and 193.2071 have been removed.

#### *Section 193.2067 Wind Forces*

We proposed to retain this section because ANSI/NFPA 59A does not take into consideration uncertainties associated with high winds and storms, such as hurricanes. NFPA commented that Paragraph 4–1.4 of ANSI/NFPA 59A does take into account wind and snow loads by reference to ASCE 7 (90–100 mph), using a 100-year mean occurrence. NFPA also said this reference applies to LNG tanks, and noted that spill prevention during a hurricane is a maximum priority of this reference. Therefore, NFPA suggested reference for this section be given to ANSI/NFPA 59A.

*Response*—In the proposal, we reduced wind speed from 200 to 150 mph under (b)(2)(i), because 94% of hurricanes, according to a study, have wind speeds of less than 150 mph. Further, lower wind speed design may be approved by the Administrator, so long as the reduction is justified by adequate supportive data. Therefore, this section has been retained as proposed.

### **Subpart C—Design**

#### *Section 193.2101 Scope*

We have revised the text of the scope under this section to avoid duplication and confusion. The revised scope now states that each LNG facility designed after the effective date of the final rule must be designed in accordance with requirements of this part and of ANSI/NFPA 59A. In the event of a conflict

between this part and ANSI/NFPA 59A, this part prevails.

#### *Section 193.2119 Records*

In the preamble of the NPRM we said this Section was necessary to verify material properties. However, in the rule section of the NPRM we inadvertently omitted it. In this final rule, we are retaining this requirement.

#### *Section 193.2125 Automatic Shutoff Valves*

In the NPRM we proposed to retain this section because it requires avoidance of fluid-hammer, and because Part 193 better defines fail-safe. NFPA commented that ANSI/NFPA 59A has specific reference to ASME B31.3, B31.5, B31.8, and API 6D for valve design and selection criteria. And these consensus standards provide sufficient safeguards including fluid-hammer.

*Response*—We agree with the NFPA comment that consensus standards like ASME B31.3, B31.8, and API 6D referenced in the ANSI/NFPA 59A for the valve design and selection criteria provide sufficient safeguards. Also, discussions with LNG plant designers and consultants revealed that fluid-hammer is taken into consideration as standard practice in the selection of valves for LNG pipes. Therefore, we are deleting this specific requirement by removing § 193.2125.

#### *Section 193.2149 Impoundment Required*

In the NPRM we proposed to retain this section because it requires grading, drainage or an impounding system around transfer piping and parking areas for loaded LNG trucks. These items are not covered in the ANSI/NFPA 59A. NFPA and two operators objected to this requirement. NFPA said that impoundment is not required for transfer piping because spills are controlled by the valves in the piping. NFPA and one operator alleged that there is no data to support impoundment for the truck parking areas at the LNG plants, when they are able to park in other areas, and are intended for movement over streets and highways.

*Response*—After discussions with the LNG plant operators, designers and consultants we have determined that the most likely sources of leaks within LNG plant are LNG storage tanks, cargo transfer areas, and vaporizers and process equipment, which are all addressed in paragraph 2–2.1.2 of the ANSI/NFPA 59A. Therefore, we believe ANSI/NFPA 59A will satisfy this requirement, and we are removing § 193.2149.

#### *Section 193.2155 Structural Requirements*

Proposed paragraph (b) under section 193.2155 reduced distance requirements from LNG tanks to airport runways. It also removed requirements for concrete dikes capable of withstanding the impact of the largest aircraft serving that airport. One commenter suggested that the proposed paragraph (b) should be moved into Subpart B (Siting requirements), because it relates to siting and not structural requirements.

*Response*—This requirement was originally placed under the Design subpart because it contains structural performance and integrity specifications. Although this regulation also relates to siting, we rather retain it under the Design subpart so readers do not misunderstand and think this requirement has been removed.

#### *Section 193.2159 Floors*

The NPRM proposed retaining this section because ANSI/NFPA 59A did not address this requirement adequately. Further review of ANSI/NFPA 59A reveals that Section 2–2 of this standard covers the same requirement with performance-related language. Therefore, we are deleting this section from the final rule.

#### *Section 193.2161 Dikes, General*

The NPRM proposed retaining the prohibition on any penetration through dike walls. AGA stated that prohibiting dike penetration is unjustified given the safety record of LNG facilities.

*Response*—Paragraph 2–2.2.4 in the ANSI/NFPA 59A permits penetration of the dike only if they are designed to withstand the full hydrostatic head of the impounded LNG or flammable refrigerant, the effect of rapid cooling to the temperature of the liquid to be confined, any anticipated fire exposure, and natural forces, such as earthquakes, wind, and rain. We are satisfied with the dike penetration requirements in ANSI/NFPA 59A. Therefore, this requirement has been removed in this rule.

We are retaining paragraph (b) of the proposed rule.

#### *Section 193.2167 Covered Systems*

We had proposed retaining this provision in the NPRM. However, because covered impoundment systems are considered unsafe, we do not anticipate that such systems will be built in the future. This requirement has been deleted, except for concrete wall tanks where the concrete wall is an outer wall serving as a dike.

*Section 193.2171 Sump Basins*

The NPRM proposed requiring a sump basin in each impounding system. Upon further reconsideration, we believe requiring a sump basin in each impoundment system for collection of water is design restrictive, so we have removed this requirement.

*Section 193.2173 Water Removal*

This section of the proposed rule is retained with some modification to paragraph (a). Paragraph (a) now states that impoundment areas must be constructed such that all areas drain completely to prevent water collection. Sump pumps and piping must be provided to remove water from the sump basin. Alternative means of drainage may be acceptable subject to the RSPA Administrator's approval.

Paragraph (b) has been retained as proposed.

*Section 193.2175 Shared Impoundment*

The NPRM proposed retaining this requirement. Upon reconsideration this provision been removed because it is covered in paragraph 2-2.2.1 of ANSI/NFPA 59A.

*Section 193.2179 Impoundment Capacity: General*

The NPRM proposed retaining this requirement. This provision has been removed because it is covered in paragraph 2-2.2.1 of ANSI/NFPA 59A.

*Section 193.2183 Impoundment Capacity: Equipment and Transfer Systems*

We proposed a minimum 10 minute spill period to avoid confusion among operators because spill time was not specified. AGA, NEGA, and two operators objected to our minimum 10 minute spill time requirement and suggested DOT should follow ANSI/NFPA 59A and allow for design of an impounding area with a volumetric capacity to accommodate a discharge period less than 10 minutes. The commenters indicated this would enable operators to utilize current technology, materials, and practices. The commenters also suggested that a shorter period (less than 10 minutes) should be allowed based on demonstrable instrument surveillance and emergency shutdown provisions.

*Response*—We agree that current technology, instrumentation, and control systems could achieve emergency shutdown in a very short time. Therefore, we are removing section 193.2183 as proposed and instead in the final rule allowing a shorter design spill time based on

demonstrable instrument surveillance and emergency shutdown systems by referencing ANSI/NFPA 59A.

In the same section of impoundment capacity for transfer systems, one operator objected to including discharge from permanent transfer piping in the impoundment capacity calculations, and suggested we should instead use failure of cargo transfer piping. The commenter's justification is that impoundment along the permanent piping from liquefaction process to the LNG tanks and from the LNG tanks to loading arms, adds significantly to the plant cost without addressing a realistic release scenario. This commenter said that ANSI/NFPA 59A specifically excludes permanent plant piping from the definition of transfer area.

*Response*—We agree and have removed this requirement as explained above in Section 193.2149.

*Section 193.2185 Impoundment Capacity: Parking Areas, Portable Containers*

The NPRM proposed retaining this requirement. We are removing this section because it is covered in performance language in ANSI/NFPA 59A.

*Section 193.2187 General*

The NPRM retained this section. In this rule, the title of this Section is changed to Nonmetallic membrane liner. Paragraph (a) has been removed because it is no longer applicable. Paragraph (b) has been retained.

*Section 193.2191 Stratification*

The NPRM proposed retaining this requirement because it specified a method to prevent rollover. In this rule, this requirement is removed because all plant designers are familiar with rollover prevention methods and it is addressed in ANSI/NFPA 59A.

*Sections 193.2205 Frost Heave and 193.2207 Insulation*

The NPRM proposed retaining these requirements. Further review indicates that both requirements are addressed in ANSI/NFPA 59A. Therefore, they have been removed in this rule.

*Section 193.2209 Instrumentation for LNG Storage Tanks*

We retained this section in the NPRM because ANSI/NFPA 59A does not require any recorders. One commenter said ANSI/NFPA 59A adequately covers it. Continuous monitoring or short interval scanning, trending, and multi-level alarms for process variables and tank levels are standard features of current computer based monitoring and

control devices. This commenter said that ANSI/NFPA 59A and sound engineering practice make it unnecessary to retain this section to provide an added level of safety.

*Response*—We agree that all plants designed today will have necessary instrumentation and electronic recording systems. ANSI/NFPA 59A covers basic requirements for instrumentation. Therefore, we have removed this section from the final rule.

**Subpart D—Construction***Section 193.2301*

We have revised the text in the scope section to avoid duplication and confusion. The revised scope now states that each LNG facility constructed after the effective date of the final rule must be constructed in accordance with requirements of this part and of ANSI/NFPA 59A. In the event of a conflict between this part and ANSI/NFPA 59A, this part prevails.

*Section 193.2303 Construction Acceptance*

Is unchanged except that a reference to ANSI/NFPA 59A has been added.

*Section 193.2304 Corrosion Control Overview Is Unchanged*

*Section 193.2305 Procedures; Section 193.2307 Inspection; Section 193.2315 Piping Connections; and Section 193.2317 Retesting*

The NPRM proposed retaining some provisions that we believed were not adequately addressed in ANSI/NFPA 59A. One commenter said that the NPRM did not adequately explain why these sections should be retained. The commenter said that the procedures and specifications in ANSI/NFPA 59A and the various codes and consensus standards it incorporates by reference, such as, ASME, ASTM, AGI, ASCE, TEMA, API and others, provide more detail and necessary requirements for design, selection, construction, testing procedures. The commenter further said these codes and consensus standards provide appropriate requirements for inspection and piping connections. The commenter cited a few specific sections of ANSI/NFPA 59A where requirements for inspection and piping connections are detailed.

*Response*—Upon reconsideration we agree with the comment that ANSI/NFPA 59A coverage is adequate. Therefore, the above sections have been removed from this rule.



*Section 193.2321 Nondestructive Tests*

We revised this section in the NPRM by retaining requirements not adequately addressed in ANSI/NFPA 59A. One commenter suggested that material in this section is covered in section 6–6.3 of ANSI/NFPA 59A, and the section could be deleted without compromising safety.

*Response*—We agree that proposed Section 193.2321 paragraphs (a) and (b) are covered in ANSI/NFPA 59A. However, the requirement in paragraph (c) which states that welds on ASME tanks that are subject to cryogenic temperatures be subject to 100% radiographic tests is critical and therefore, is retained.

*Section 193.2325 Testing Control Systems*

In the NPRM we retained this requirement, but further review indicates NFPA does not use the term “control system” but instead uses the terms “testing of components” or “testing of component systems” in various sections of ANSI/NFPA 59A. Thus, ANSI/NFPA 59A covers this requirement. Therefore, this requirement is removed in the rule.

*Section 193.2329 Construction Records*

Paragraphs 6–6.2, 6–6.5, and 6–6.6 of ANSI/NFPA 59A cover this requirement adequately. Therefore, section has been deleted from this rule.

**Subpart E—Equipment***Section 193.2401 Scope*

The scope in this rule has been revised. It states that after the effective date of the final rule, vaporization equipment, liquefaction equipment, and control systems must be designed, fabricated, and installed in accordance with requirements of this part and of ANSI/NFPA 59A. In the event of a conflict between this part and ANSI/NFPA 59A, this part prevails.

*Section 193.2407—Operation control; Section 193.2409—Shutoff Valves; Section 193.2413—Combustion Air Intakes; Section 193.2417—Control of Incoming Gas; Section 193.2419—Backflow; Section 193.2421—Cold Boxes; Section 193.2427—General; Section 193.2429—Relief Devices; Section 193.2431—Vents; Section 193.2433—Sensing Devices; Section 193.2435—Warning Devices; Section 193.2437—Pump and Compressor control; and Section 193.2439—Emergency Shutdown Control Systems*

These requirements have been deleted from the final rule. All of these

requirements are equivalent to requirements in ANSI/NFPA 59A.

*Sections 193.2441 Control Center, and 193.2445—Sources of Power*

Have been retained in the rule.

*Section 193.2443 Fail-safe Control*

This section is deleted because it is covered in section 7–5 of ANSI/NFPA 59A.

**Subpart F—Operations & Subpart G—Maintenance***Section 193.2521 Operating Records and Section 193.2639 Maintenance Records*

In the NPRM, we revised these sections to include operation records of results of inspection tests, investigation and data of instrument recorders, and maintenance records of periodic tests and inspections requirements, of both Part 193 and ANSI/NFPA 59A. AGA, NEGA, and two other operators raised concerns that this revision requires existing recordkeeping requirements and unspecified additional recordkeeping requirements from ANSI/NFPA 59A. The commenters assert that this revision may lead to confusion unless specific sections of ANSI/NFPA 59A are identified. In existing facilities, they argue, it may not be possible to produce the new records required by ANSI/NFPA 59A. The commenters suggested that current operations and maintenance requirements should not be changed.

*Response*—The additional operation and maintenance records that ANSI/NFPA 59A requires are applicable only to those LNG facilities that are designed and constructed after the effective date of this final rule. Operations and maintenance requirements of existing LNG facilities will not be affected by this rulemaking. This final rule clarifies that ambiguity.

*Section 193.2609—Support Systems*

We proposed adding an inspection time frame to the existing inspection requirements for support systems. AGA and NEGA objected to placing additional burdens on LNG operators, especially when Section 193.2605 allows operators to determine and perform necessary periodic inspections consistent with generally accepted engineering practice. Both commenters supported keeping maintenance requirements under 193.2609 unchanged.

*Response*—We agree with the comment that Section 193.2609 provides operator sufficient flexibility to determine inspection time frames.

Therefore, this proposed requirement is deleted.

*Section 193.2611 Fire Protection*

In the NPRM, we proposed an additional requirement that would require operators to have a maintenance program for all plant fire protection equipment. AGA commented that the proposed change was unnecessary since 193.2605(b) already covers it.

*Response*—We agree with the AGA’s comment that Section 193.2605(b) covers this proposed requirement. Therefore, it has been deleted.

*Section 193.2619 Control Systems*

We proposed under section 193.2619(c) a yearly (not exceeding 15 months) inspection and testing of control systems in service, but not normally in operation, such as relief valves and automatic shutdown devices, and internal shutoff valves. AGA, NEGA and one operator disagreed with this proposed change. NEGA said this requirement could be erroneously interpreted as a requirement to inspect the valve itself (inside the tank) rather than the control system associated with the valve. One operator commented that this requirement should be clarified to apply only to those tanks with external pumps. AGA said this requirement is excessive, impractical, and impossible to enforce.

*Response*—We have revised the wording to clarify that the control system for internal shutoff valves for bottom penetration tanks must be inspected and tested every year. It means that valve operation must be tested. This should not be interpreted as inspection of the valve inside the tank. Revised wording should alleviate any confusion. This requirement is important because we have allowed shorter design spill times for tanks with internal shutoff valves.

Another commenter suggested that under section 193.2619(c)(2) inspection and testing requirements for control systems intended for fire protection be extended from six months to yearly not exceeding 15 months. This commenter said that six months is excessive for this type of system inspection.

*Response*—We believe a six month interval for inspection and testing is necessary to ensure proper operation of fire protection systems. Fire protection systems are the most critical safety feature of an LNG facility and the smallest possible margin for error must be sought. Therefore, the current requirement is not changed.

## Subpart H—Personnel Qualification and Training

### Section 193.2717 Training: Fire Protection

Although DOT did not propose any changes to the subpart on training, AGA recommended incorporating the fire protection training requirements under section 9–1.4.2 of ANSI/NFPA 59A. AGA believes the fire protection training requirements of NFPA, the experts in the industry, should supersede any other standards.

*Response*—Currently Part 193 requires fire protection training every two years and ANSI/NFPA 59A requires training every year. With the excellent safety record of LNG industry we do not see a need for making this requirement more burdensome.

## Subpart I—Fire Protection

### Section 193.2801 Scope

We proposed to replace subpart I, except for a few sections with important safety features which are not adequately addressed in ANSI/NFPA 59A, by referencing ANSI/NFPA 59A, Chapters 2 and 9. AGA, NEGA, and two operators commented that combining some requirements of Part 193 and the requirements of ANSI/NFPA 59A would create duplicate and conflicting requirements, would be expensive, and would not enhance safety. One commenter said that exclusion from the fire protection requirements of ANSI/NFPA 59A for existing LNG plants that temporarily do not contain LNG should be expanded to include fire protection at all existing LNG plants.

*Response*—After review of requirements in this subpart and ANSI/NFPA 59A, and discussions with LNG plant operators, designers and consultants, we have determined that the fire protection requirements of ANSI/NFPA 59A are adequate. Therefore, in this rule we are referencing ANSI/NFPA 59A without any additional requirements in subpart I.

### Section 193.2807 Smoking

We proposed to retain paragraph (c) regarding “No Smoking” signs. One commenter said this requirement would result in excessive signage and not necessarily control smoking at the plant.

*Response*—This requirement had been removed along with all other fire protection requirements contained in Subpart I for reasons stated above.

### Section 193.2817 Fire Equipment and Section 193.2821 Fire detection

One commenter said that the revision to this section requires additional fire

protection equipment, additional unspecified fire alarms from ANSI/NFPA 59A, and additional protection or cooling requirements for critical components. The commenter said these requirements should be specifically identified with reference to the appropriate section of ANSI/NFPA 59A.

*Response*—These requirements have been removed in Subpart I for reasons stated above. The ANSI/NFPA 59A requirements will apply to LNG facilities designed and constructed after the effective date of this final rule.

### Section 193.2819 Gas detection

*Response*—This requirement had been removed in Subpart I for reasons stated above.

## Subpart J—Security.

This subpart is retained.

## Appendix A to Part 193

Is revised to reflect changes in the list of Organizations and addresses and list of documents incorporated by reference due to Part 193 revisions. One new document added in the list is the GRI–96/0396.5—“Evaluation of Mitigation Methods for Accidental LNG Releases, Volume 5: Using FEM3A for LNG Accident Consequence Analysis.”

## Regulatory Analyses and Notices

### Executive Order 12866 and DOT Regulatory Policies and Procedures

The Department of Transportation (DOT) does not consider this action to be a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993). Therefore, it was not forwarded to the Office of Management and Budget. This final rule is not significant under DOT’s regulatory policies and procedures (44 FR 11034; February 26, 1979).

This final rule amends 49 CFR Part 193 by replacing substantive sections of the current regulation with ANSI/NFPA Standard 59A, titled “Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)”. The purpose of this adoption is to enable operators to utilize current technology, materials, and practices, thereby reducing costs and enhancing national growth. This change to Part 193 will eliminate unnecessary and burdensome requirements. Further the adoption of industry standards is consistent with the President’s goals of regulatory reinvention and improvement of customer service to the American people. Adoption of industry standards also meets the goals of OMB’s Budget Circular A–119, “Federal Participation in the Development and Use of Voluntary Standards,” promoting

adoption of voluntary consensus standards wherever possible.

The NFPA has a standing committee which regularly reviews ANSI/NFPA 59A. RSPA has a representative on this committee, and RSPA sought the committee’s input in several discussions concerning the adoption of ANSI/NFPA 59A into Part 193. Members of the ANSI/NFPA 59A technical committee include: RSPA, Federal Energy Regulatory Commission, Coast Guard, State governments, insurance interests, contractors, and fire departments. Representation by this group ensures that essentially all interests involved in LNG safety issues have been represented in this standard. The NFPA has over 67,000 individual members and includes over 100 national trade and professional groups. Its goal as an organization is to reduce the burden of fire on the quality of life by advocating scientifically based consensus codes and standards, research, and education for fire safety issues.

As mentioned above, there should be little to no cost to the industry to adopt these regulations as LNG operators are already well aware of these standards and they are already being implemented by the industry. In fact adoption of this rule should actually reduce the costs to industry as the main purpose of this rule is to allow the adoption of newer technology that was not anticipated when the earlier LNG regulations were promulgated. Because this rule does not represent any new burden to the industry and in fact will reduce costs, RSPA believes that a regulatory evaluation of this rule is unnecessary. Furthermore, adoption of this rule meets the guidelines of Federal Government policy discussed above while reducing the administrative burdens on industry and allowing for the use of the latest technology and practices.

### Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), RSPA must consider whether a rulemaking would have a significant economic impact on a substantial number of small entities. As discussed above, RSPA is amending part 193 by replacing substantive portions of this subpart with the adoption of consensus industry standards developed by the NFPA. These safety standards are well known and have been implemented by operators of LNG facilities throughout the United States. The replacement of major portions of Part 193 with the ANSI/NFPA 59A standard should in fact reduce costs of the present regulations to LNG operators, including

any small operators, and allow the use of more current technologies as mentioned in the previous section. RSPA invited comments from small business operators who objected to this rule, and received no comments addressing this issue. Based on the above discussion, I certify pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the action will not have a significant economic impact on a substantial number of small entities.

#### *Executive Order 13084*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

#### *Executive Order 13132*

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not adopt any regulation that:

(1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government;

(2) Imposes substantial direct compliance costs on States and local governments; or

(3) Preempts state law.

Therefore, the consultation and funding requirements of Executive Order 13132 (64 FR 43255; August 10, 1999) do not apply. Nevertheless, in February and April 1998, RSPA held meetings with the National Association of Pipeline Safety Representatives (NAPSR) LNG Part 193 committee, which includes state pipeline safety regulators, to receive their input on the changes to this rule.

#### *Unfunded Mandates*

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is least burdensome alternative that achieves the objective of the rule.

#### *Paperwork Reduction Act*

This rule does not substantially modify the paperwork burden on LNG industry. OPS does not believe that LNG industry will have any additional paperwork burden because of the incorporation by reference of these consensus standards, and therefore no separate paperwork submission is required.

#### *National Environmental Policy Act*

RSPA has analyzed this action for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and has determined that this action would not significantly affect the quality of the human environment. An Environmental Assessment and a Finding of No Significant Impact are in the docket.

#### *Impact on Business Processes and Computer Systems*

We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to "Y2K" or related computer problems. This final rule does not mandate business process changes or require modifications to computer systems. Because this rule does not affect organizations' ability to respond to those problems, we are not delaying the effectiveness of the requirements.

#### **List of Subjects in 49 CFR Part 193**

Construction, Design, Equipment, Fire protection, Incorporation by reference, Liquefied natural gas, Maintenance, Operation, Pipeline safety, Reporting and recordkeeping, and Siting requirements.

Accordingly, RSPA amends 49 CFR 193 as follows:

#### **PART 193—[AMENDED]**

1. The authority citation for part 193 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60103, 60111, 60118 and 49 CFR 1.53.

#### **Subpart A—General**

\* \* \* \* \*

#### **§ 193.2003 [Removed and reserved]**

2. Section 193.2003 is removed and reserved.

3. Section 193.2005 is revised to read as follows:

#### **§ 193.2005 Applicability.**

(a) Safety requirements mandating compliance with standard ANSI/NFPA 59A and other changes in this part governing siting, design, construction,

equipment, fire protection, operation and maintenance apply to LNG facilities placed in service after March 31, 2000 unless otherwise noted.

(b) If an existing LNG facility (or facility under construction before March 31, 2000 is replaced, relocated or significantly altered after March 31, 2000, the facility must comply with the applicable requirements of this part governing, siting, design, installation, and construction, except that:

(1) The siting requirements apply only to LNG storage tanks that are significantly altered by increasing the original storage capacity or relocated, and

(2) To the extent compliance with the design, installation, and construction requirements would make the replaced, relocated, or altered facility incompatible with the other facilities or would otherwise be impractical, the replaced, relocated, or significantly altered facility may be designed, installed, or constructed in accordance with the original specifications for the facility, or in another manner subject to the approval of the Administrator.

#### **§ 193.2007 Definitions.**

4. Section 193.2007 is amended by removing "including an underground cavern" from definition of Storage tank, "or solidifying" from definition of LNG facility, and "or semisolid" from definitions of *Liquefied natural gas* or *LNG*, *Vaporization*, and *Vaporizer*.

#### **Subpart B—Siting Requirements**

5. Section 193.2051 is revised to read as follows:

#### **§ 193.2051 Scope.**

Each LNG facility designed, constructed, replaced, relocated or significantly altered after March 31, 2000 must be provided with siting requirements in accordance with the requirements of this part and of ANSI/NFPA 59A. In the event of a conflict between this part and ANSI/NFPA 59A, this part prevails.

#### **§ 193.2055 [Removed and reserved]**

6. Section 193.2055 is removed and reserved.

7. Section 193.2057 is revised to read as follows:

#### **§ 193.2057 Thermal radiation protection.**

Each LNG container and LNG transfer system must have a thermal exclusion zone in accordance with section 2-2.3.1 of ANSI/NFPA 59A with the following exceptions:

(a) The thermal radiation distances shall be calculated using Gas Research

Institute's (GRI) report GRI-89/0176, which is also available as the "LNGFIRE III" computer model produced by GRI. The use of other alternate models which take into account the same physical factors and have been validated by experimental test data shall be permitted subject to the Administrator's approval.

(b) In calculating exclusion distances, the wind speed producing the maximum exclusion distances shall be used except for wind speeds that occur less than 5 percent of the time based on recorded data for the area.

(c) In calculating exclusion distances, the ambient temperature and relative humidity that produce the maximum exclusion distances shall be used except for values that occur less than five percent of the time based on recorded data for the area.

8. Section 193.2059 is revised to read as follows:

**§ 193.2059 Flammable vapor-gas dispersion protection.**

Each LNG container and LNG transfer system must have a dispersion exclusion zone in accordance with section 2-2.3.2 of ANSI/NFPA 59A with the following exceptions: (a) Flammable vapor-gas dispersion distances must be determined in accordance with the model described in the Gas Research Institute report GRI-89/0242, "LNG Vapor Dispersion Prediction with the DEGADIS Dense Gas Dispersion Model." Alternatively, in order to account for additional cloud dilution which may be caused by the complex flow patterns induced by tank and dike structure, dispersion distances may be calculated in accordance with the model described in the Gas Research Institute report GRI 96/0396.5, "Evaluation of Mitigation Methods for Accidental LNG Releases. Volume 5: Using FEM3A for LNG Accident Consequence Analyses". The use of alternate models which take into account the same physical factors and have been validated by experimental test data shall be permitted, subject to the Administrator's approval.

(b) The following dispersion parameters must be used in computing dispersion distances:

(1) Average gas concentration in air = 2.5 percent.

(2) Dispersion conditions are a combination of those which result in longer predicted downwind dispersion distances than other weather conditions at the site at least 90 percent of the time, based on figures maintained by National Weather Service of the U.S. Department of Commerce, or as an alternative where the model used gives longer distances at

lower wind speeds, Atmospheric Stability (Pasquill Class) F, wind speed = 4.5 miles per hour (2.01 meters/sec) at reference height of 10 meters, relative humidity = 50.0 percent, and atmospheric temperature = average in the region.

(3) The elevation for contour (receptor) output  $H = 0.5$  meters.

(4) A surface roughness factor of 0.03 meters shall be used. Higher values for the roughness factor may be used if it can be shown that the terrain both upwind and downwind of the vapor cloud has dense vegetation and that the vapor cloud height is more than ten times the height of the obstacles encountered by the vapor cloud.

(c) The design spill shall be determined in accordance with section 2-2.3.3 of ANSI/NFPA 59A.

**§§ 193.2061-193.2065 [Removed and reserved]**

9. Sections 193.2061 through 193.2065 are removed and reserved.

10. Section 193.2067 is amended by revising paragraphs (b)(1) and (b)(2)(i) to read as follows:

**§ 193.2067 Wind forces**

\* \* \* \* \*

(b) \* \* \*

(1) For shop fabricated containers of LNG or other hazardous fluids with a capacity of not more than 70,000 gallons, applicable wind load data in ASCE 7.

(2) \* \* \*

(i) An assumed sustained wind velocity of not less than 150 miles per hour, unless the Administrator finds a lower velocity is justified by adequate supportive data; or

\* \* \* \* \*

**§§ 193.2069-193.2073 [Removed and reserved]**

11. Sections 193.2069 through 193.2073 are removed and reserved.

**Subpart C—Design**

12. Section 193.2101 is revised to read as follows:

**§ 193.2101 Scope.**

Each LNG facility designed after March 31, 2000 must comply with requirements of this part and of ANSI/NFPA 59A. In the event of a conflict between this part and ANSI/NFPA 59A, this part prevails.

**§§ 193.2103-193.2117 [Removed and reserved]**

13. Sections 193.2103 through 193.2117 are removed and reserved.

**§§ 193.2121-193.2153 [Removed and reserved]**

14. Sections 193.2121 through 193.2153 are removed and reserved.

15. Section 193.2155 is amended by removing paragraph (b), redesignating paragraph (c) as paragraph (b), and revising paragraph (a) introductory text and newly designated paragraph (b) to read as follows:

**§ 193.2155 Structural requirements.**

(a) The structural members of an impoundment system must be designed and constructed to prevent impairment of the system's performance reliability and structural integrity as a result of the following:

\* \* \* \* \*

(b) An LNG storage tank must not be located within a horizontal distance of one mile (1.6 km) from the ends, or ¼ mile (0.4 km) from the nearest point of a runway, whichever is longer. The height of LNG structures in the vicinity of an airport must also comply with Federal Aviation Administration requirements in 14 CFR Section 1.1.

**§§ 193.2157-193.2159 [Removed and reserved]**

16. Sections 193.2157 through 193.2159 are removed and reserved.

17. Section 193.2161 is revised to read as follows:

**§ 193.2161 Dikes, general.**

An outer wall of a component served by an impounding system may not be used as a dike unless the outer wall is constructed of concrete.

**§§ 193.2163-193.2165 [Removed and reserved]**

18. Sections 193.2163 through 193.2165 are removed and reserved.

19. Section 193.2167 is revised to read as follows:

**§ 193.2167 Covered systems.**

A covered impounding system is prohibited except for concrete wall designed tanks where the concrete wall is an outer wall serving as a dike.

**§§ 193.2169-193.2171 [Removed and reserved]**

20. Sections 193.2169 through 193.2171 are removed and reserved.

21. Section 193.2173 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 193.2173 Water removal.**

(a) Impoundment areas must be constructed such that all areas drain completely to prevent water collection. Drainage pumps and piping must be provided to remove water from

collecting in the impoundment area. Alternative means of draining may be acceptable subject to the Administrator's approval.

(b) The water removal system must have adequate capacity to remove water at a rate equal to 25% of the maximum predictable collection rate from a storm of 10-year frequency and 1-hour duration, and other natural causes. For rainfall amounts, operators must use the "Rainfall Frequency Atlas of the United States" published by the National Weather Service of the U.S. Department of Commerce.

\* \* \* \*

§§ 193.2175–193.2179 [Removed and reserved]

22. Sections 193.2175 through 193.2179 are removed and reserved.

23. Section 193.2181 is revised to read as follows:

§ 193.2181 Impoundment capacity: LNG storage tanks.

Each impounding system serving an LNG storage tank must have a minimum volumetric liquid impoundment capacity of:

(a) 110 percent of the LNG tank's maximum liquid capacity for an impoundment serving a single tank;

(b) 100 percent of all tanks or 110 percent of the largest tank's maximum liquid capacity, whichever is greater, for the impoundment serving more than one tank; or

(c) If the dike is designed to account for a surge in the event of catastrophic failure, then the impoundment capacity may be reduced to 100 percent in lieu of 110 percent.

§ 193.2183 and 193. 2185 [Removed and reserved]

24. Sections 193.2183 and 1913.2185 are removed and reserved.

25. Section 193.2187 is revised to read as follows:

§ 193.2187 Nonmetallic membrane liner.

A flammable nonmetallic membrane liner may not be used as an inner container in a storage tank.

§§ 193.2189–193.2233 [Removed and reserved]

26. Sections 193.2189 through 193.2233 are removed and reserved.

Subpart D—Construction

27. Section 193.2301 is revised to read as follows:

§ 193.2301 Scope.

Each LNG facility constructed after March 31, 2000 must comply with

requirements of this part and of ANSI/NFPA 59A. In the event of a conflict between this part and ANSI/NFPA 59A, this part prevails.

28. Section 193.2303 is amended by adding a phrase "and ANSI/NFPA 59A." at the end of the section.

§ 193.2305–193.2319 [Removed and reserved]

29. Sections 193.2305 through 193.2319 are removed and reserved.

30. Section 193.2321 is revised to read as follows:

§ 193.2321 Nondestructive tests.

The butt welds in metal shells of storage tanks with internal design pressure above 15 psig must be radiographically tested in accordance with the ASME Boiler and Pressure Vessel Code (Section VIII Division 1), except that hydraulic load bearing shells with curved surfaces that are subject to cryogenic temperatures, 100 percent of both longitudinal (or meridional) and circumferential (or latitudinal) welds must be radiographically tested.

§§ 193.2323–193.2329 [Removed and reserved]

31. Sections 193.2323 through 193.2329 are removed and reserved.

Subpart E—Equipment

32. Section 193.2401 is revised to read as follows:

§ 193.2401 Scope.

After March 31, 2000, each new, replaced, relocated or significantly altered vaporization equipment, liquefaction equipment, and control systems must be designed, fabricated, and installed in accordance with requirements of this part and of ANSI/NFPA 59A. In the event of a conflict between this part and ANSI/NFPA 59A, this part prevails.

§§ 193.2403–193.2439 [Removed and reserved]

33. Sections 193.2403 and 193.2439 are removed and reserved.

§ 193.2443 [Removed and reserved]

34. Section 193.2443 is removed and reserved.

Subpart F—Operation

35. Section 193.2521 is revised to read as follows:

§ 193.2521 Operating records.

Each operator shall maintain a record of results of each inspection, test and investigation required by this subpart. For each LNG facility that is designed

and constructed after March 31, 2000 the operator shall also maintain related inspection, testing, and investigation records that ANSI/NFPA 59A requires. Such records, whether required by this part or ANSI/NFPA 59A, must be kept for a period of not less than five years.

Subpart G—Maintenance

36. Section 193.2619 in Subpart G is amended by revising paragraph (c) introductory text to read as follows:

§ 193.2619 Control systems.

\* \* \* \*

(c) Control systems in service, but not normally in operation, such as relief valves and automatic shutdown devices, and control systems for internal shutoff valves for bottom penetration tanks must be inspected and tested once each calendar year, not exceeding 15 months, with the following exceptions:

\* \* \* \*

37. Section 193.2639 is amended by revising paragraph (a) to read as follows:

§ 193.2639 Maintenance records.

(a) Each operator shall keep a record at each LNG plant of the date and type of each maintenance activity performed on each component to meet the requirements of this part. For each LNG facility that is designed and constructed after March 31, 2000 the operator shall also maintain related periodic inspection and testing records that ANSI/NFPA 59A requires. Maintenance records, whether required by this part or ANSI/NFPA 59A, must be kept for a period of not less than five years.

\* \* \* \*

Subpart I—Fire Protection

38. Section 193.2801 is revised to read as follows:

§ 193.2801 Scope.

Each LNG facility must meet fire prevention and fire control provisions of ANSI/NFPA 59A.

§§ 193.2803–193.2821 [Removed and reserved]

39. Sections 193.2803 through 193.2821 are removed and reserved.

\* \* \* \*

40. Appendix A to Part 193 is revised to read as follows:

Appendix A to Part 193—Incorporation by Reference

I. List of Organizations and Addresses

A. American Gas Association (AGA), 400 North Capital St., Washington, D.C. 20001.

B. American National Standards Institute (ANSI), 11 West 42nd St., New York, NY 10036.

C. American Society of Civil Engineers (ASCE), Parallel Centre, 1801 Alexander Bell Dr., Reston, VA 20191-4400.

D. American Society of Mechanical Engineers (ASME), Three Park Ave., New York, NY 10016-5990.

E. Gas Research Institute (GRI), 8600 West Bryn Mawr Ave., Chicago, IL 60631.

F. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

*II. Documents Incorporated by Reference, (Numbers in Parentheses Indicate Applicable Editions)*

A. American Gas Association (AGA):

1. "Purging Principles and Practices"—(1975)

B. American Society of Civil Engineers (ASCE):

1. ASCE 7-95 "Minimum Design Loads for Buildings and Other Structures" (1995).

C. American Society of Mechanical Engineers (ASME):

1. ASME Boiler and Pressure Vessel Code, Section VIII, Divisions 1 and 2 (1998).

D. Gas Research Institute (GRI):

1. GRI-89/0176 "LNGFIRE: A Thermal radiation Model for LNG Fires" (June 29, 1990).
2. GRI-89/0242 "LNG Vapor Dispersion Prediction with the DEGDISE Dense Gas Dispersion Model" (April 1988-July 1990).
3. GRI-96/0396.5 "Evaluation of Mitigation Methods for Accidental LNG Releases, Volume 5: Using FEM3A for LNG Accident Consequence Analyses."

E. National Fire Protection Association (NFPA):

1. ANSI/NFPA 59A "Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)" (1996 edition).

Issued in Washington, D.C. on February 11, 2000.

**John P. Murray,**

*Acting Deputy Administrator.*

[FR Doc. 00-3799 Filed 2-29-00; 8:45 am]

**BILLING CODE 4910-60-P**

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 572**

[Docket No. NHTSA-2000-6940]

RIN 2127-AG66

**Anthropomorphic Test Dummy; Occupant Crash Protection**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This document amends 49 CFR Part 572 by adding design and performance specifications for a new

dummy whose height and weight are representative of a fifth percentile female adult. This new dummy, which is part of the family of Hybrid III test dummies, can be used to accurately assess the potential for injuries to small-statured adults and teenagers. The new dummy is especially needed both to ensure that air bags protect small-statured adults and teenagers in frontal crashes and to minimize the risk of injury from air bags during those crashes. The dummy will also provide a means of gathering useful information in a variety of crash environments to better evaluate vehicle safety.

Adding the dummy to Part 572 is the first step toward using the dummy to evaluate the safety and effectiveness of air bags for small-statured adults and teenagers. The issue of amending various safety standards to specify use of the dummy in determining compliance with the performance requirements of those standards, e.g., the agency's occupant protection standard, will be addressed in other rulemakings, particularly the agency's advanced air bag rulemaking for which a notice of proposed rulemaking was published in September 1998 and a supplemental notice of proposed rulemaking was published in November 1999.

**DATES: Effective Date:** This regulation becomes effective March 31, 2000. The incorporation by reference of the publications listed in the rule is approved by the Director of the Federal Register as of March 31, 2000.

**Petitions:** Petitions for reconsideration must be received by April 17, 2000.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

For non-legal issues, you may call Stan Backaitis, Office of Crashworthiness Standards, at 202-366-4912.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202-366-2992.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

**SUPPLEMENTARY INFORMATION:**

**I. Summary of Decision**

Based on our use of the Hybrid-III 5th percentile female (H-III5F) dummy in calibration tests and in frontal impact tests involving restraints such as air

bags and belts, and after consideration of the public comments on our September 3, 1998 notice of proposed rulemaking (NPRM) (63 FR 46981), we have concluded that this dummy is suitable for both research and safety compliance assessments. Depending on the intended injury assessment needs, the dummy has the necessary instrumentation to measure the potential for injuries to the head, the upper and lower ends of the neck, the chest, the lumbar spine, the pelvis, and the femurs, as well as the forces on the iliac crests<sup>1</sup> caused by the lap belt. In extensive agency tests, the dummy exhibited excellent durability and robustness as a measuring test tool. Although other dummy users were invited to provide comments on their test experience with the H-III5F dummy, their responses to the NPRM were based primarily on data from calibration-type tests. Little of the data was from the dummy's response in systems tests. Accordingly, our judgment about the adequacy of the dummy in systems tests is based on our own test data. However, we believe that our conclusion is consistent with the calibration data submitted in response to the NPRM by other dummy users, since those data provide a reasonably good match with the agency data.

We have decided to add the H-III5F dummy to Part 572 as Subpart O, and designate it as the alpha version of the dummy. This dummy is not significantly different from the one proposed in the NPRM. Further changes to the dummy will be designated as beta, gamma, etc., to assure that modifications can be easily tracked and identified. The new dummy is defined by a drawing and specification package; a new procedures document for disassembly, assembly, and inspection; and performance parameters including associated calibration procedures as noted in Subpart O.

**II. Background**

Air bag-related fatalities and injuries to small female drivers seated close to the deploying air bag in low speed crashes have raised serious concerns about the safety of air bags for this portion of the population.<sup>2</sup> One way to

<sup>1</sup> The ilium is the expansive-superior segment of the three bones composing the left or right half of the pelvis.

<sup>2</sup> Close proximity to the air bag is one of the primary factors leading to serious injury or fatality. Several factors can lead to an individual being too close to the air bag at the time of deployment, including failure to wear a safety belt. Nevertheless, very small-statured women appear to constitute the largest segment of the driver population that may not be able to sit a safe distance from the air bag.

Continued

evaluate the protection provided by and the risks associated with air bag systems is through the use of human mechanical surrogates with a high degree of biofidelity, such as the family of Hybrid III-type crash test dummies. The desirability of a second adult-sized crash dummy, such as the fifth percentile adult female, has been apparent for a number of years. During a March 1997 National Transportation Safety Board hearing on the safety of air bag systems, several industry commenters addressed the need to revise Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection, by adopting new test procedures and test devices and by assessing the safety of the occupant protection systems with suitable injury assessment criteria. The commenters noted that the Hybrid III-type 5th percentile female dummy has been used by industry for research purposes for several years and supported its use in air bag certification programs.

The 5th percentile adult female dummy (H-III5F) is part of a family of Hybrid III-type dummies. The first Hybrid III dummy was a 50th percentile male dummy. NHTSA has specified use of that dummy for compliance testing under FMVSS No. 208 since 1986, initially on an optional basis, and more recently on a mandatory basis. The need for a family of Hybrid III-type dummies having considerably improved biofidelity and anthropometry was recognized by the Centers for Disease Control and Prevention (CDC) in 1987 when it awarded a contract to Ohio State University under the title "Development for Multi-Sized Hybrid III Based Dummy Family." Development of the H-III5F dummy, along with the development of other family members,<sup>3</sup> has continued since then under the guidance of the Hybrid III Dummy Family Task Force of SAE.<sup>4</sup> The task force invited experts from biomechanics, instrumentation, and dummy design to guide this development. In defining the specifications for a small adult female dummy, the task force selected key body

lengths and weights based on anthropometry data for the smallest fifth percent of the United States adult female population. Geometric and mass scale factors were developed to assure that each body segment had the same or similar mass densities as the corresponding Hybrid III body segment.

In 1997, we began an extensive test and evaluation program of the H-III5F dummy. The dummies were exposed to a variety of crash environments to determine their suitability and stability as measuring tools in the most severe crashes.

Upon completion of its evaluation of the H-III5F dummy, the agency tentatively concluded that it was ready for incorporation into Part 572. NHTSA placed in the docket a technical report entitled "Development and Evaluation of the Hybrid III 5th Percentile Adult Female Dummy," minutes of SAE Hybrid III dummy family task group meetings relating to the dummy, and drawings of the proposed dummy. These documents provide the technical information relevant to rulemaking on the H-III5F dummy. On September 3, 1998, we published an NPRM proposing to incorporate the H-III5F dummy into Part 572 as subpart O, and invited comments (63 FR 46981).

We received comments from 14 organizations and one individual: First Technology Safety Systems (FTSS), Applied Safety Technology Corporation (ASTC), Robert A. Denton, Inc., Transportation Research Center, Inc. (TRC), International Electronic Engineering (IEE), TRW, Advocates for Highway and Auto Safety (Advocates), SAE Dummy Test Equipment Subcommittee (DTES), the American Automobile Manufacturers Association (AAMA), Florida International University (FIU), Toyota Motor Company (Toyota), the Insurance Institute for Highway Safety (IIHS), General Motors, North America (GM), DaimlerChrysler Corp. (DC), and Laurel Barker, a private citizen.

The comments tended to fall into two groups. Commenters either simply supported the rulemaking generally without being specific as to any particular aspect of the proposal, or, in addition to indicating overall support, provided very technical comments on specific portions of the proposal. Often, the latter group of comments dealt with procedures on how the dummy is set up and positioned for calibration tests or with the sufficiency and clarity of the dummy drawings. These highly technical comments are addressed at greater length in the "Technical Analysis of Issues Report" (TAIR-H-III5F) supporting this final rule. Where

we have agreed with the comments, we have made appropriate changes in either the drawing package or the regulatory text. The TAIR-H-III5F is in the docket.

### III. Dummy Drawings

Several of the commenters, including ASTC, FTSS, and to a lesser extent Denton, raised questions about the specifications in the drawings. To simplify analysis of the large number of detailed issues related to design specifications, we divided the comments into four categories: design, performance, manufacturing, and other issues.

*Design Issues:* This group of issues concerns those requested changes that, in our opinion, are essential to assure the dummy's structural consistency and its appropriate functioning. They involve a series of questions essential to dummy design, as well as missing or incomplete significant specifications. The issues involve dummy drawings that need to be changed either by adjusting existing specifications or adding further specifications to assure a correct fit and interface between components and their appropriate functioning in the impact environment. While these changes are important, they must be addressed with a degree of technical specificity that will likely be appreciated only by the two dummy manufacturers who commented on the NPRM. Accordingly, they are fully discussed in the TAIR-H-III5F.

*Performance Issues:* This group of issues involves comments on drawings and specifications that we believe relate primarily to production decisions which dummy manufacturers need to address on their own. We believe further that the requested changes to the specifications falling in this category are of little consequence to the fit and function of the dummy. The performance issues primarily concern requests for the addition of new dimensions and specifications that have little, if any, functional significance for the part in question; expanding the specifications to include manufacturing processes and further details for material specifications; and assignment of dimensional and surface finish controls on parts that have no foreseeable effects to their fit and overall dummy performance.

In general, we have found no reason to include the requested information in the drawing set of the final rule. The inclusion of such information would be of little value, if any, and would not assure better quality of the manufactured dummy. Indeed, the addition of the specifications may reduce a dummy manufacturer's

even when properly restrained. Additionally, differences in body size may lead to more severe injury for a small-statured woman than for an unrestrained average-size male.

<sup>3</sup> The second dummy, the six-year-old child, was the subject of an NPRM published on June 28, 1998 (63 FR 35170), and a Final Rule published on January 13, 2000 (65 FR 2059).

<sup>4</sup> Minutes of the meetings of the taskforce are located in NHTSA's docket, Room 5111, 400 Seventh St., SW, and are available for public inspection. The minutes address development of the entire family of Hybrid III dummies, including the six-year-old dummy that is the subject of a previous rulemaking.

flexibility in selecting a superior production technique or process, and may inhibit competition.

The one exception is a comment by ASTC that the damping material to the ribs is not specified in the drawings package. Although the damping material and the bonding-to-the-rib processes are generally known, the agency is reluctant to specify them. We do not wish to inhibit the development and use of improved materials and bonding techniques. However, to assist those manufacturers that may not be aware of the existing technology, we have decided to add a note to drawing 880105-361 referencing the damping materials and bonding process used for the manufacture of ribs for the Hybrid III 50th percentile adult male dummy (H-III50M) (see drawings 78051-35 through -40). All comments addressing performance issues are fully discussed in the TAIR-H-III5F.

*Manufacturing Issues:* ASTC commented that the proposed drawing set does not allow another manufacturer to produce this dummy because it lacks surface contour information. ASTC stated that the surface contour information affects not only outside vinyl skin pieces, but also many internal structures such as skull, clavicle, clavicle link, and pelvic bone. ASTC argued the lack of surface contour information would create problems in interchangeability and equivalency between dummies produced by different manufacturers, and could also affect dummy performance. ASTC requested that the agency provide opportunities for commenters to review the dummy to answer their questions and provide patterns or parts for the surface contour information.

We gave careful consideration to these comments and examined several options for resolving ASTC's concerns. The drawing review option was impracticable for this dummy, since drawings were already released as part of the NPRM package. There was no way to assure that any contour definitions placed on the drawings would address all the concerns raised by the commenters. The availability of molds and patterns was also impracticable, since the agency does not own any molds and patterns for this dummy.

The agency has therefore decided to adopt a third option, *i.e.*, making a copy of the dummy available to interested manufacturers for non-destructive dimensional inspection and extraction of surface contour information. In order to provide all interested parties with the opportunity to inspect and measure the dummy, NHTSA will continue to make

the dummy available to any interested party for a period of six months after the issuance of this final rule. Such access is subject to the following terms:

- All inspections are to take place at NHTSA's Vehicle Research and Testing Center (VRTC) and at VRTC's convenience, although reasonable attempts will be made to accommodate the interested party's schedule.
- An individual or company wishing to inspect the dummy will need to contract directly with TRC to make arrangements for an individual to oversee the measurement process. This oversight by TRC is necessary to ensure that the dummies are not damaged and are reassembled correctly without the undue expenditure of agency resources.

ASTC has already availed itself of this opportunity, although it was advised that, prior to the issuance of this rule, the dummy was subject to changes.

*Other Issues:* Some issues do not fall into any of the above categories. These issues relate to requests that the agency add new dimensions or specifications; incorporate a newly-developed ball bearing knee slider; specify a neck wrap for the dummy; specify a different hand design for the dummy; and adopt a dummy that is more representative of the overall adult female population than the H-III5F.

We believe that the new addition of new dimensions and specifications to the drawing package would serve little value. We have evaluated the specific comments and related drawings and have determined that, with a few exceptions, the requested additions would be of little value and would not assure better quality of the manufactured dummy. To the extent we believe the additions would be useful, we have made those changes to the drawing package. A more detailed explanation of the agency's examination of the comments and their related drawings can be found in the TAIR-H-III5F.

While the new ball bearing knee slider may be appropriate for future rulemaking, it has not been fully evaluated yet by either NHTSA or the SAE. Accordingly, we believe that incorporating it into Part 572 at this time would be premature.

VRTC, in cooperation with the SAE Hybrid-III Dummy Family Task Force, has developed a new head skin to prevent the air bag from becoming wedged into a small cavity between the chin and neck of the dummy during a crash test. This head skin incorporates a vinyl cover that provides a more realistic jaw line (temporomandibular joint (TMJ) design). Our tests indicated that the TMJ significantly reduces the likelihood that an air bag will become caught between the dummy's chin and

neck. In contrast, tests on various neck wraps did not produce the expected improvements.<sup>5</sup> Accordingly, the agency proposed in the NPRM incorporating the TMJ as part of the H-III5F head skin. The TMJ appears to adequately reduce the likelihood that the air bag will be caught in the dummy's head/neck junction.

Accordingly, we have incorporated the TMJ as part of the final rule. We note that significant advances in neck wraps that will better control air bag wedging are still possible. If such an improved design becomes available, it could be added to the dummy in a future rulemaking.

Denton expressed concern that the proposed hand for the dummy was incapable of gripping, was too large for the dummy, and was subject to excessive wear. We believe that the change in the size of the hand proposed by Denton would have no significant impact on the performance of the dummy. The SNPRM for the FMVSS No. 208 advanced air bag rulemaking did not propose a requirement that the dummy be able to grip the steering wheel. Since the only rulemaking for which the use of the H-III5F is presently contemplated will not have a gripping requirement, we do not believe we need to incorporate a grippable hand at this time. We have also not experienced any problems with durability in the more than fifty tests that we have conducted using the H-III5F.

Finally, the single private citizen who commented on the NPRM stated that she believed we should use a dummy that is more representative of adult females than the H-III5F dummy, *i.e.*, one that is approximately 5'3" tall and 125 pounds. A dummy this size would be representative of a 50th percentile adult female. Since no one has developed such a dummy, we are unable to give consideration to incorporating one into Part 572 at this time. While numerous dummies of various sizes could be developed for test purposes, practical and financial concerns limit the agency to base the selection of representative dummies to those sizes that address the safety needs of the entire range of the population. By incorporating both the H-III5F, which is representative of the smaller end of the driving population, and the existing H-III50M, which is representative of a mid-size male, we believe the majority of the adult female population is adequately represented in the applicable crash tests.

<sup>5</sup> A summary report of this evaluation has been placed in the docket.



#### IV. Calibration Procedures

The agency proposed calibration tests involving head drop tests, neck pendulum tests, thorax and knee impacts, and torso flexion tests. AAMA, TRC, GM, TRW and Toyota were the principal commenters on test procedures.

Discussion of the vast majority of these comments is left to the TAIR-H-III5F because they raise relatively minor issues related to adjustments in the test procedure. However, the comments raise an issue as to whether the proposed semi-static torso flexion test should be a calibration test or simply an initial, as received, inspection test. This distinction is important because inspection tests usually are performed at the time the dummy is received from the manufacturer and are not necessarily repeated to establish the dummy's suitability for vehicle or vehicle component testing. An additional concern, unrelated to the inspection test issue, was raised that the impact probes specified for the knee and thorax tests were unduly design restrictive.

The semi-static torso flexion test (upper torso half relative to the lower half) was proposed as a calibration specification for this dummy. AAMA and TRC objected to characterizing this procedure as a calibration test, claiming it is not critical to the dummy's performance. Rather, they suggested it be retained as an inspection test as shown in the SAE User's Manual. Further, they claimed that the preflexion test is not needed and that the upper torso return angle upon release of the bending force should be eliminated.

The commenters have not provided any factual support for the claim that flexion stiffness of the mid-torso is not critical to the dummy's performance, and that the occasional assessment of stiffness during the dummy's inspection is sufficient. They have argued that the SAE User's Manual lists this test as an "inspection test" which is supplemental to the calibration tests to ensure that a component meets its design intent. They note that inspection tests are performed by the dummy manufacturer on new parts, but that the dummy user may conduct inspection tests only after a part is damaged or replaced. The agency does not agree that the test should be limited to inspection. The dummy's torso midsection provides an important coupling and transfer of loads between the upper and lower torso halves. The lumbar spine and the pelvis bone cavity control the fit of the abdomen at the rear and bottom of the torso while the upper

torso flesh and the ribcage control the fit of the upper torso half. Thus, the bottom of the ribcage as it glides around and pushes on internal surfaces of the abdomen has a substantial influence not only on the extent the torso will flex, but also on how the load transfer between the upper and lower torso halves will be distributed. We believe the flexion procedure is necessary as a calibration test to ensure that when the dummy is used, its torso flexion stiffness is consistent, provides consistent upper torso kinematics relative to the lower torso, and does not cause or contribute to the variability of dummy response measurements in other body segments. A procedure relegated to an inspection category would not serve these purposes. Without calibration tests, a user will not know if the dummy has the correct mid-section stiffness and if the responses of the other body segments were or were not affected by mid-section variability.

We also disagree with the suggestion that the return angle during the bending stiffness test of the lumbar spine/upper torso assembly is not needed. There will be a substantial difference in overall torso kinematics between a seated dummy that can and a seated dummy that cannot return its upper torso half from a flexed position to an upright posture, particularly after full flexion has occurred. Without return, the flexion is substantially plastic, while evidence of a specific return would be indicative of the torso mid-section having certain elastic, more human-like properties. Evidence of consistent return would indicate that the forces of restitution are intact, while no or indefinite return would indicate a substantial change within the internal mechanisms of the mid-torso structure, such as failure of the lumbar spine, abdomen, or a substantial shift between interfacing body segments within the abdominal cavity. Analysis of all of the test results indicate that the upper torso of a structurally intact dummy returns consistently within 8 degrees of the starting position, indicating the adequacy of the specified return angle.

The commenters also suggested removal of the preflex provision, claiming such a provision is not needed and would interfere with the waiting time between tests recommended in the SAE User's Manual. A preflex provision was proposed to provide an opportunity for the mating parts to inter-align between themselves, so that the internal structures within the dummy's mid-torso are not sprung or misaligned at the time of testing. This would be of particular importance, for example, after either a severe test exposure or a lengthy

period of non-use. The agency conducted preflexing in its tests, and found that the procedure developed a stabilized set-up posture. We see no reason to remove a provision that helps to assure a stabilized posture and better and more consistent measurements, including the integrity of the interconnection between the upper and the lower torso halves. In response to FTSS' comments about excessive flexing angle of the torso for stabilization purposes, the proposed provision for flexing the torso 3 times by 40 degrees from its initial vertical upright position is being reduced to a nominal 30 degrees in the forward direction. The agency found 30 degrees of flexion sufficient to achieve stabilized interalignment of parts within the dummy's abdominal area.

The impact probes specified by the NPRM for knee and thorax tests were meant to be generally cylindrical in shape and of a certain diameter and mass. TRC stated that the type of test probe specified in the NPRM unnecessarily restricts the design of the probe and puts additional maintenance burden on test laboratories. TRC prefers the wording used in current drafts of the SAE User's Manuals. TRC states that the wording was chosen by committee consensus to allow a wide range of design options without affecting impact results. In the case of the SAE H-III6C manual, TRC claims, the wording for the knee probe is more correct and preferred.

Up to now, all of the agency-specified dummy impact probes have been defined as rigid body cylinders of a specified diameter and mass. Similarly, with a few exceptions, most SAE User's Manuals, which are patterned after the agency's test procedures, also specify cylindrical impact probes, although in practice such probes may not be perfectly cylindrical. The addition of several new dummies to 49 CFR Part 572 may make it necessary for some dummy calibration laboratories to equip the existing test facilities with several new impact probes. Some of those probes, particularly those made of a light-weight material, may be difficult to design in a pure cylindrical form.

We agree with TRC that more latitude in the selection of impact probes will allow the various laboratories greater flexibility in the use of existing impactors and/or in developing new ones. At the same time, it is essential that alternate impact probes do not create problems such as imprecision in the geometry of the impact face which could lead to inappropriate interface with dummy components at the time of impact, introduction of vibratory effects

due to potential resonances, inter-mass impacts within the impactor, and kinematic differences due to differences in shape and mass moments of inertia. Similarly, the measurement of impact force must be sensed by an accelerometer in a location whose signal is not distorted by insufficient rigidity and geometry of the structures on which it is mounted. It is also noted that while the current specification for impactors defines the general shape of the impactor the agency intends to use, that specification does not prohibit any test facility from using an impactor of its choice, as long as the user is confident that the alternate impactor will generate the same results under identical test conditions.

While the agency believes that, for the sake of consistency and simplicity, it would be best if all impact probes for dummy testing were of cylindrical design as defined in the NPRM, we also believe that TRC's comments have merit and would provide the test laboratories with sufficient flexibility when selecting impactors. Accordingly, we have redefined the impact probes in generic terms and will accept other impactor configurations for compliance purposes, as long as they have the same (1) Mass, (2) Impact surface configuration, (3) Defined mass moment of inertia in yaw and pitch with respect to the principal axis, (4) Structural integrity, (5) An identically aligned accelerometer on the rear face of the impactor, (6) Free air resonant frequency of not less than 1000 Hz, and (7) Functionality and freedom of interference with the dummy's other body segments during the impact.

#### V. Calibration Response Corridors

The agency proposed calibration corridors for the head, neck flexion/extension, thorax resistive force and deflection, knee load and torso-flexion. Comments on the response corridors were received from the following organizations: TRC, AAMA, GM, DC and TRW. During the agency's data analysis process, we contacted AAMA and SAE DTEEC for further details and clarification of their comments. All comments are discussed in the TAIR-H-III5F.

None of the commenters objected to the proposed head response corridor of 250 G to 300 G. All of the commenters either directly or indirectly agreed with the proposed response corridor for the head. Accordingly, the 250 G to 300 G impact response corridor is retained in the Final Rule as proposed in the NPRM.

We proposed neck response corridors in flexion in terms of neck moments, maximum head flexion-rotation angle,

and moment decay time. For flexion, we specified a deflection range of the D plane from 80–92 degrees, a peak moment of 69 N-m to 83 N-m, and a positive moment decay for the first 10 N-m between 80 and 100 ms after time-zero. FTSS, AAMA, TRW, and TRC provided specific comments on neck flexion response corridors and a process for defining the measurement of the peak moment.

The commenters recommended we set the D plane rotation value between 77 and 91 degrees, the same as the value contained in SAE Engineering Aid 25 (February, 1999). Our analysis of D plane rotation data pooled from TRW, TRC, GM, DC, FTSS, and NHTSA yielded a mean of 85 degrees with a standard deviation of 4.78 based on a sample of n=76. The technical community agrees that the acceptable rate of variability could be as high as  $\pm 8\%$  from the mean but should not exceed 10%. The 8% limit suggests a calibration corridor of 77–91 degrees. While this is a slightly broader corridor than the one proposed in the NPRM, we believe the specification, based on the 8% limit, makes it acceptable for the final rule.

Commenters also recommended we adopt the SAE maximum value of 69–84 N-m for flexion moment. Analysis of the pooled data yielded a mean of 74.8 N-m with a standard deviation of 4.22 based on a sample of n=66. Allowing 8% variability, the pooled data-based response corridor would be between 69 and 81 N-m, slightly smaller than the range proposed in the NPRM. Inasmuch as the NPRM proposed a nearly identical moment corridor, we have chosen to retain the proposed range of 69–83 N-m, at approximately 9% variability level. The analysis of the pooled data vis-a-vis positive moment decay likewise supported the retention of the 80–100 ms time range proposed in the NPRM.

The agency proposed neck response corridors in extension in terms of neck moments, maximum head extension angle, and moment decay time. For extension, we specified a head deflection range from 97–109 degrees, a peak negative moment corridor of –55 N-m to –69 N-m, and a negative moment decay for the first –10 N-m between 94 and 114 ms after time-zero. Commenters recommended a corridor of 99–114 degrees for neck extension, a corridor of –52 to –66 N-m for peak moment, and, for moment decay time, a corridor of 94–114 ms after time zero as a more reasonable fit to the existing data base, based largely on the SAE Engineering Aid 25.

Upon review of the substantial neck extension data submitted in comments, we reevaluated the proposed corridors and found a substantial degree of agreement with the commenters' recommendations for revising the head rotation and decay time. For the peak moment corridors, we believe a range narrower than the SAE recommended corridor is appropriate. Based on an analysis of pooled data with a mean of 58.7 N-m with a standard deviation of 3.6 N-m based on a sample of n=67, the SAE corridor would allow a variance of 11.86% from the mean. Since dummy neck performance at full extension is less important in the rebound mode than in a frontal impact, a variation in response range slightly larger than 8% is acceptable. Nevertheless, a variation of 10% is at the outer limits of an acceptable range. Accordingly, we have revised the neck extension corridor to center on the mean value at 107 degrees for a range of head rotation between 99 and 114 degrees, with a decay time corridor value of 94–114 ms. We have also changed the peak moment corridor to a range between –53 N-m and –65 N-m to center better on the mean value of –59 N-m while staying within a 10% variability limit.

The agency proposed thorax impact response corridors in terms of sternum to spine compression at 48–55 mm and peak force at 3900 N to 4400 N. AAMA, FTSS, TRC, and TRW urged the agency to adopt the 50–58 mm compression corridor contained in SAE Engineering Aid 25. AAMA suggested the adoption of the peak force resistance corridor of 3900 N to 4400 N. Upon review of all available data, we agreed with the commenters' requests that the chest compression corridor be adjusted to 50–58 mm and the peak force level be retained at 3900–4400 N as proposed in the NPRM.

Commenters also urged that the pertinent regulatory text regarding measurement of peak force "at any time" be changed to "after 25 mm displacement and prior to reaching the minimum permissible sternum displacement" to accommodate an inertial data spike at the beginning of the test that is an artifact of the test. Since this initial spike is neither biofidelic in nature nor an indicator of a bad rib set, we believe establishing limitations for the moment outside the required compression corridor is appropriate. We examined all of the available impactor force-chest deflection data traces and found that the first force peak occurs between 7–8 mm and drops down to a minimum value at around 15 mm of sternum displacement. A 25 mm displacement allowance would be far in

excess for any spike that would be an artifact and could discount spikes that are indicative of a bad chest. The data indicates that a 18 mm sternum displacement will adequately discount artifacts and still account for deficiencies in the chest structure. Accordingly the peak force may be exceeded by five percent in a transition compression zone that is between 18 mm and 50 mm, *i.e.*, prior to reaching the minimum required sternum displacement limit of 50 mm.

The AAMA and TRC expressed concern over the torso flexion test and the knee response. TRW and FTSS expressed concern over the knee response as well. During the data analysis process, we contacted AAMA and SAE DTEC for further details and clarification of their recommendations for modifying the torso flexion and knee impact response corridors.

In the NPRM, the agency proposed a semi-static torso resistance flexion force value of 289–378 N. Our analysis of the pooled data indicated that the torso flexion force should be adjusted to reflect the mean of the larger, pooled data and be set at 320–390 N when the torso flexion angle is 45 degrees.

The NPRM proposed a knee impact response corridor of 3360 N to 4080 N. Commenters recommended a corridor between 3400 N and 4200 N, based on the SAE corridor. Upon receipt of comments and supplemental data from TRW, DC, and FTSS, we recomputed the response corridor. The resultant average values were found to be very close to the proposed mean in the NPRM. A corridor of 3456–4057 N for that data would fall within an 8% variation. Inasmuch as the SAE recommended corridor is well beyond even a 10% variation and is not supported by available data, we have concluded that the range of the recomputed data should be rounded off and set at 3450 N to 4060 N.

#### **VI. Instrumentation (Accelerometers and Load Cells)**

In the NPRM, the agency proposed “generic” specifications for dummy-based sensors. The generic specifications apply to the following sensors: (1) The accelerometer (SA572–S4), (2) Force and moment transducers for upper neck (SA572–S11) and lower neck (SA572–S26), lumbar spine (SA572–S12), anterior-superior iliac spine load cell (SA572–S13), single axis femur load cell (SA572–S10), and (3) The thorax based chest deflection potentiometer (SA572–S50). Of the 20 comments received, only three addressed the generic specifications for transducers. They were: Robert A.

Denton, Inc., GM, and AAMA. A full discussion of comments can be found in the TAIR–H–III5F.

After analyzing the comments received, we have concluded that generic specifications for the transducers or sensors used in crash test dummies can be defined sufficiently and will provide a broader latitude for the user industry to select suitable sensors. The input from these comments is being incorporated into generic sensor specifications in the drawing set.

#### **VII. Biofidelity, Pressure Distribution and Occupant Sensing Capability**

Biofidelity is a desirable and useful feature of this dummy which, because of the extended measuring capability, is largely endorsed by the commenters. However, IEE said there was a need to improve the dummy’s proximity sensing and the pressure profile of the seated dummy’s buttocks. Likewise, AAMA recommended we include a lower neck cell and an instrumented tibia as optional transducers.

The IEE request for redesign of the dummy buttocks and for proximity sensing are technically premature and beyond the scope of this rulemaking. This dummy in its original design was not intended to have such sensing and pressure profile capabilities. The development of such capabilities are still in the early stages of research. Considerably more research, testing and evaluation will need to be done before such technologies mature and become acceptable for safety certification activities. Nevertheless, IEE’s comment may indicate a direction for possible future research and development.

Likewise, AAMA’s comments on the lower neck load cell and instrumented tibia are worthy of consideration. The lower neck load cell and instrumented tibia have both been used by NHTSA in its research programs. However, their use in a compliance application is not anticipated for the near future. We have not evaluated their responses systematically for consistency and stability. Additionally, the instrumented tibia is currently patented by Denton.

Based on our test experience with the upper neck load cell, we believe the lower neck load cell would provide stable and repeatable measurements. Accordingly, we are willing to incorporate it into Part 572 as optional instrumentation. Unless the patent rights on the Denton tibia are freely licensed or expire, any incorporation into the CFR, even as optional instrumentation, would be inappropriate.

#### **VIII. User’s Manual—Procedures for Assembly, Disassembly and Inspection (PADI)**

The NPRM noted in sections 572.130(a)(2) and 572.131(b) that the final rule package will contain a “User’s Manual for the Hybrid III 5th Percentile Female Dummy.” Responding to the NPRM, TRC recommended and DTEC requested that the agency incorporate the SAE User’s Manual by reference in the final rule. We acknowledge the DTEC’s diligent development efforts and contribution toward clarifying several assembly and disassembly issues and in illustrating the importance of this document. NHTSA commends the DTEC for their excellent work, and encourages the manual’s further development as the test data begins to accumulate from the dummy’s application in the field. Nevertheless, we have decided against incorporating the manual into part 572.

During initial dummy assessment stages, the agency had to establish methods for an initial dummy inspection and assembly. Part of the agency test protocol was based on draft SAE user’s manuals of December 1994 and February 1998. Subsequent to the issuance of the NPRM, the SAE provided user’s manual updates in February and July, 1999. The final manual consists basically of two parts: inspection/assembly and calibration.

We have examined and worked with the SAE User’s Manual. We found it to be well suited for research use. However, because of redundancies, ambiguities, and in some areas subjectivity, it is far less suitable for regulation and compliance purposes. If employed in its present form, it could become a source of different interpretations and misunderstandings, and as a result create difficulties for both the agency and dummy users in enforcement and compliance certification programs. Also, the SAE User’s Manual is copyrighted by both SAE and FTSS. Until the copyright status of the document is resolved, its usefulness as a reference document would be highly limited, particularly for publication by the agency through the electronic media. Further, the recommended SAE User’s Manual includes both inspection and calibration procedures, while the agency format requires only an inspection document involving the dummy’s initial conformance to dimensional mass and fit-for-assembly specifications, as well as objective assembly and disassembly procedures.

For these reasons, NHTSA has decided against adopting the SAE User’s Manual and has developed a

publication, "Procedures for Assembly, Disassembly, and Inspection (PADI) of the Hybrid III 5th Percentile Small Adult Female Crash Test Dummy, Alpha Version" (PADI-5F),<sup>6</sup> dated January 2000, for the following reasons:

- The agency-developed procedure for disassembly, assembly and inspection provide unambiguous, direct and straightforward instructions;
- The document references only essential and updated drawings based on the final rule parts list;
- It includes important and detailed photographic views to facilitate the assembly-disassembly process, including the mounting of generic instrumentation;
- It provides specific information for calibration laboratories, particularly useful for disassembly of any single major component, checkout procedures for instrumentation polarity, and measurement of impactor moment of inertia;
- It provides recommendations for cable and connector routing and attachment based on lessons learned in the agency test program;
- It includes important torque specifications for all fasteners used in the dummy;
- It supports all elements of the final rule and will facilitate the dummy's use in agency required testing activities; and
- Its publication and copying are not hampered by copyright claims.

#### IX. Dummy Availability for Evaluation

At the issuance of the NPRM, both FTSS and ASTC had been manufacturing the H-III5F dummy for several years. Numerous organizations possessed the dummy when the NPRM was published. Since the publication of the NPRM, the proposed dummies have been available through both FTSS and ASTC. We believe that over 100 post-NPRM dummies have been sold. Additionally, over a year has passed since the issuance of the NPRM. During this time, all interested parties have had ample time to procure and evaluate the dummy and provide additional comments. The agency expressly invites and routinely considers all comments submitted outside of the comment period, but prior to arriving at a final agency position. Also, during this period, considerable further discussions have taken place at the SAE DTES regarding the adequacy of the dummy in calibration and other test applications. In addition, the agency has made available the master dummy for review and inspection, as well as test data from this dummy developed in the advanced air bag crash test program. Interested

<sup>6</sup>NHTSA believes that the name "user's manual" for this document is a misnomer given its intended purpose. As the name implies, the user's manual should provide instructions on how to use the dummy, rather than how to inspect it and perform its assembly/disassembly.

parties have had sufficient opportunity to avail themselves of the information that is contained in the minutes of those meetings. Inasmuch as no comments were received regarding the availability of the dummy, it is assumed that dummy availability is not a problem.

#### X. Other Issues

When we published the NPRM for the H-III5F dummy, we decided to specify that the dummy conform to this part in every respect before its use in any test, but not after. The NPRMs for the Hybrid III 3-year-old child test dummy (January 28, 1999; 64 FR 4385) and the 12-month-old infant dummy (CRABI) (March 8, 1999; 64 FR 10965) proposed the same specification as the one proposed for the small adult female dummy. A full explanation of the agency's rationale can be found in the NPRM for the H-III5F dummy. The AAMA argued that post-test dummy compliance information remains important, particularly if a noncompliance may be related to a failure of the test dummy.

We continue to believe that a post-test calibration requirement is not in the public interest. Generally the post-test calibration provides an objective check of the validity of the electronic data acquired during the test, but this will not be true if the severity of the test damaged the dummy. The pre-test calibration should adequately address the suitability of the dummy for testing. Accordingly, we see no need to require post-test calibration checks.

#### Regulatory Analyses and Notices

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's

priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rule is not considered a significant regulatory action under section 3(f) of the Executive Order 12866. Consequently, it was not reviewed by the Office of Management and Budget. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The rulemaking action is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

This document amends 49 CFR Part 572 by adding design and performance specifications for a new 5th percentile adult female dummy which the agency may later separately propose for use in the Federal motor vehicle safety standards. This rule indirectly imposes requirements on only those businesses which choose to manufacture or test with the dummy, in that the agency will only use dummies for compliance testing that meet all of the criteria specified in this rule. It may indirectly affect vehicle and air bag manufacturers if it is incorporated by reference into the advanced air bag rulemaking.

The cost of an uninstrumented H-III5F dummy is approximately \$33,400. Instrumentation would add \$29,000 to \$99,100 to the cost, depending on the amount of instrumentation.

Because the economic impacts of this proposal are so minimal, no further regulatory evaluation is necessary.

##### *Executive Order 13132*

We have analyzed this rule in accordance with Executive Order 13132 ("Federalism"). We have determined that this rule does not have sufficient Federalism impacts to warrant the preparation of a federalism assessment.

##### *Executive Order 13045*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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 us.

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866. It also does not involve decisions based on health risks that disproportionately affect children.

#### *Executive Order 12778*

Pursuant to Executive Order 12778, "Civil Justice Reform," we have considered whether this rule will have any retroactive effect. This rule does not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule does not preempt the states from adopting laws or regulations on the same subject, except that it does preempt a state regulation that is in actual conflict with the federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the federal statute.

#### *Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*) and certify that this proposal will not have a significant economic impact on a substantial number of small entities. The rule does not impose or rescind any requirements for anyone. The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

#### *National Environmental Policy Act*

We have analyzed this amendment for the purposes of the National Environmental Policy Act and

determined that it will not have any significant impact on the quality of the human environment.

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule does not propose any new information collection requirements.

#### *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The H-III5F dummy that is the subject of this document was developed under the auspices of the SAE. All relevant SAE standards were reviewed as part of the development process. The following voluntary consensus standards have been used in developing the dummy:

- SAE Recommended Practice J211, Rev. Mar95 "Instrumentation for Impact Tests"; and
- SAE J1733 of 1994-12 "Sign Convention for Vehicle Crash Testing, Surface Vehicle Information Report".

#### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of

regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This rule does not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. Further, it will not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### *Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### **List of Subjects in 49 CFR Part 572**

Incorporation by reference. Motor vehicle safety.

In consideration of the foregoing, NHTSA amends 49 CFR Part 572 as follows:

#### **PART 572—ANTHROPOMORPHIC TEST DUMMIES**

1. The authority citation for Part 572 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. 49 CFR Part 572 is amended by adding a new Subpart O consisting of 572.130-572.137 to read as follows:

#### **Subpart O—Hybrid III 5th Percentile Female Test Dummy, Alpha Version**

Sec.

- |         |  |
|---------|--|
| 572.130 | Incorporation by reference.  |
| 572.131 | General description.   |
| 572.132 | Head assembly and test procedure.                                  |
| 572.133 | Neck assembly and test procedure.                                  |
| 572.134 | Thorax assembly and test procedure.                                |
| 572.135 | Upper and lower torso assemblies and torso flexion test procedure. |

- 572.136 Knees and knee impact test procedure.
- 572.137 Test conditions and instrumentation.

**Subpart O—Hybrid III 5th Percentile Female Test Dummy, Alpha Version**

**§ 572.130 Incorporation by reference.**

(a) The following materials are hereby incorporated into this Subpart by reference:

(1) A drawings and specification package entitled “Parts List and Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy (H—III5F, Alpha Version)” (January 2000), incorporated by reference in § 572.131, and consisting of:

(i) Drawing No. 880105–100X, Head Assembly, incorporated by reference in §§ 572.131, 572.132, 572.133, 572.134, 572.135, and 572.137;

(ii) Drawing No. 880105–250, Neck Assembly, incorporated by reference in §§ 572.131, 572.133, 572.134, 572.135, and 572.137;

(iii) Drawing No. 880105–300, Upper Torso Assembly, incorporated by reference in §§ 572.131, 572.134, 572.135, and 572.137;

(iv) Drawing No. 880105–450, Lower Torso Assembly, incorporated by reference in §§ 572.131, 572.134, 572.135, and 572.137;

(v) Drawing No. 880105–560–1, Complete Leg Assembly—left, incorporated by reference in §§ 572.131, 572.135, 572.136, and 572.137;

(vi) Drawing No. 880105–560–2, Complete Leg Assembly—right incorporated by reference in §§ 572.131, 572.135, 572.136, and 572.137;

(vii) Drawing No. 880105–728–1, Complete Arm Assembly—left, incorporated by reference in §§ 572.131, 572.134, and 572.135 as part of the complete dummy assembly;

(viii) Drawing No. 880105–728–2, Complete Arm Assembly—right, incorporated by reference in §§ 572.131, 572.134, and 572.135 as part of the complete dummy assembly;

(ix) The Hybrid III 5th percentile small adult female crash test dummy parts list, incorporated by reference in § 572.131;

(2) A procedures manual entitled “Procedures for Assembly, Disassembly, and Inspection (PADI) of the Hybrid III 5th Percentile Small Adult Female Crash Test Dummy, Alpha Version” (January 2000), incorporated by reference in § 572.132;

(3) SAE Recommended Practice J211/1, Rev. Mar 95 “Instrumentation for Impact Tests—Part 1—Electronic Instrumentation”, incorporated by reference in § 572.137;

(4) SAE Recommended Practice J211/2, Rev. Mar 95 “Instrumentation for Impact Tests—Part 2—Photographic Instrumentation” incorporated by reference in § 572.137; and

(5) SAE J1733 of 1994–12 “Sign Convention for Vehicle Crash Testing”, incorporated by reference in § 572.137.

(b) The Director of the Federal Register approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the materials may be inspected at NHTSA’s Technical Reference Library, 400 Seventh Street S.W., room 5109, Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

(c) The incorporated materials are available as follows:

(1) The Parts List and Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy, (H—III5F, Alpha Version) (January 2000) referred to in paragraph (a)(1) of this section and the Procedures for Assembly, Disassembly, and Inspection (PADI) of the Hybrid III 5th Percentile Small Adult Female Crash Test Dummy, Alpha Version referred to in paragraph (a)(2) of this section, are available from Reprographic Technologies, 9000 Virginia Manor Road, Beltsville, MD 20705 (301) 419–5070.

(2) The SAE materials referred to in paragraphs (a)(3) and (a)(4) of this section are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pa. 15096.

**§ 572.131 General description.**

(a) The Hybrid III fifth percentile adult female crash test dummy is defined by drawings and specifications containing the following materials:

(1) Technical drawings and specifications package P/N 880105–000 (refer to § 572.130(a)(1)), the titles of which are listed in Table A;

(2) Parts List and Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy (H—III5F, Alpha Version) (January 2000) (refer to § 572.130(a)(1)(ix)).

TABLE A—Continued

Component assembly	Drawing No.
Complete Arm Assembly—left	880105–728–1
Complete Arm Assembly—right	880105–728–2

(b) Adjacent segments are joined in a manner such that, except for contacts existing under static conditions, there is no contact between metallic elements throughout the range of motion or under simulated crash impact conditions.

(c) The structural properties of the dummy are such that the dummy conforms to this Subpart in every respect before use in any test similar to those specified in Standard 208, Occupant Crash Protection.

**§ 572.132 Head assembly and test procedure.**

(a) The head assembly (refer to § 572.130(a)(1)(i) for this test consists of the complete head (drawing 880105–100X), a six-axis neck transducer (drawing SA572–S11) or its structural replacement (drawing 78051–383X), and 3 accelerometers (drawing SA572–S4).

(b) When the head assembly is dropped from a height of 376.0±1.0 mm (14.8±0.04 in) in accordance with subsection (c) of this section, the peak resultant acceleration at the location of the accelerometers at the head CG may not be less than 250 G or more than 300 G. The resultant acceleration vs. time history curve shall be unimodal; oscillations occurring after the main pulse must be less than 10 percent of the peak resultant acceleration. The lateral acceleration shall not exceed 15 G (zero to peak).

(c) *Head test procedure.* The test procedure for the head is as follows:

(1) Soak the head assembly in a controlled environment at any temperature between 18.9 and 25.6 °C (66 and 78 °F) and a relative humidity from 10 to 70 percent for at least four hours prior to a test.

(2) Prior to the test, clean the impact surface of the skin and the impact plate surface with isopropyl alcohol, trichloroethane, or an equivalent. The skin of the head must be clean and dry for testing.

(3) Suspend and orient the head assembly as shown in Figure 19 of 49 CFR 572. The lowest point on the forehead must be 376.0±1.0 mm (14.8±0.04 in) from the impact surface. The 1.57 mm (0.062 in) diameter holes located on either side of the dummy’s head shall be used to ensure that the head is level with respect to the impact surface.

TABLE A

Component assembly	Drawing No.
Head Assembly .....	880105–100X
Neck Assembly .....	880105–250
Upper Torso Assembly .....	880105–300
Lower Torso Assembly .....	880105–450
Complete Leg Assembly—left	880105–560–1
Complete Leg Assembly—right	880105–560–2

(4) Drop the head assembly from the specified height by means that ensure a smooth, instant release onto a rigidly supported flat horizontal steel plate which is 50.8 mm (2.0 in) thick and 610 mm (24.0 in) square. The impact surface shall be clean, dry and have a micro finish of not less than  $203.2 \times 10^{-6}$  mm (8 micro inches) (RMS) and not more than  $2032.0 \times 10^{-6}$  mm (80 micro inches) (RMS).

(5) Allow at least 2 hours between successive tests on the same head.

**§ 572.133 Neck assembly and test procedure.**

(a) The neck assembly (refer to § 572.130(a)(1)(ii)) for the purposes of this test consists of the assembly of components shown in drawing 880105-250.

(b) When the head-neck assembly consisting of the head (drawing 880105-100X), neck (drawing 880105-250), bib simulator (drawing 880105-371), upper neck adjusting bracket (drawing 880105-207), lower neck adjusting bracket (drawing 880105-208), six-axis neck transducer (drawing SA572-S11), and either three accelerometers (drawing SA572-S4) or their mass equivalent installed in the head assembly as specified in drawing 880105-100X, is tested according to the test procedure in subsection (c) of this section, it shall have the following characteristics:

(1) *Flexion.* (i) Plane D, referenced in Figure O1, shall rotate in the direction of preimpact flight with respect to the pendulum's longitudinal centerline between 77 degrees and 91 degrees. During the time interval while the

rotation is within the specified corridor, the peak moment, measured by the neck transducer (drawing SA5572-311), about the occipital condyles may not be less than 69 N-m (51 ft-lbf) and not more than 83 N-m (61 ft-lbf). The positive moment shall decay for the first time to 10 N-m (7.4 ft-lbf) between 80 ms and 100 ms after time zero.

(ii) The moment shall be calculated by the following formula: Moment (N-m) =  $M_y - (0.01778m) \times (F_x)$ .

(iii)  $M_y$  is the moment about the y-axis,  $F_x$  is the shear force measured by the neck transducer (drawing SA572-S11), and 0.01778m is the distance from force to occipital condyle.

(2) *Extension.* (i) Plane D, referenced in Figure O2, shall rotate in the direction of preimpact flight with respect to the pendulum's longitudinal centerline between 99 degrees and 114 degrees. During the time interval while the rotation is within the specified corridor, the peak moment, measured by the neck transducer (drawing SA5572-S11), about the occipital condyles shall be not more than -53 N-m (-39 ft-lbf) and not less than -65 N-m (-48 ft-lbf). The negative moment shall decay for the first time to -10 N-m (-7.4 ft-lbf) between 94 ms and 114 ms after time zero.

(ii) The moment shall be calculated by the following formula: Moment (N-m) =  $M_y - (0.01778m) \times (F_x)$ .

(iii)  $M_y$  is the moment about the y-axis,  $F_x$  is the shear force measured by the neck transducer (drawing SA572-S11), and 0.01778 m is the distance from force to occipital condyle.

(3) Time-zero is defined as the time of initial contact between the pendulum striker plate and the honeycomb material. All data channels shall be at the zero level at this time.

(c) *Test Procedure.* The test procedure for the neck assembly is as follows:

(1) Soak the neck assembly in a controlled environment at any temperature between 20.6 and 22.2 °C (69 and 72 °F) and a relative humidity between 10 and 70 percent for at least four hours prior to a test.

(2) Torque the jam nut (drawing 9000018) on the neck cable (drawing 880105-206) to  $1.4 \pm 0.2$  N-m ( $12.0 \pm 2.0$  in-lb).

(3) Mount the head-neck assembly, defined in subsection (b) of this section, on the pendulum described in Figure 22 of 49 CFR 572 so that the midsagittal plane of the head is vertical and coincides with the plane of motion of the pendulum as shown in Figure O1 for flexion tests and Figure O2 for extension tests.

(4)(i) Release the pendulum and allow it to fall freely from a height to achieve an impact velocity of  $7.01 \pm 0.12$  m/s ( $23.0 \pm 0.4$  ft/s) for flexion tests and  $6.07 \pm 0.12$  m/s ( $19.9 \pm 0.40$  ft/s) for extension tests, measured by an accelerometer mounted on the pendulum as shown in Figure 22 of 49 CFR 572 at the instant of contact with the honey comb.

(ii) Stop the pendulum from the initial velocity with an acceleration vs. time pulse which meets the velocity change as specified below. Integrate the pendulum acceleration data channel to obtain the velocity vs. time curve:

TABLE B

Time	Pendulum pulse			
	Extension		Flexion	
	m/s	ft/s	m/s	ft/s
10 .....	2.1-2.5	6.9-8.2	1.5-1.9	4.9-6.2
20 .....	4.0-5.0	13.1-16.4	3.1-3.9	10.2-12.8
30 .....	5.8-7.0	19.5-23.0	4.6-5.6	15.1-18.4

**§ 572.134 Thorax assembly and test procedure.**

(a) Thorax (Upper Torso) Assembly (refer to § 572.130(a)(1)(iii)). The thorax consists of the part of the torso assembly shown in drawing 880105-300.

(b) When the anterior surface of the thorax of a completely assembled dummy (drawing 880105-000) is impacted by a test probe conforming to section 572.137(a) at  $6.71 \pm 0.12$  m/s ( $22.0 \pm 0.4$  ft/s) according to the test

procedure in subsection (c) of this section:

(1) Maximum sternum displacement (compression) relative to the spine, measured with chest deflection transducer (drawing SA572-S5), must be not less than 50.0 mm (1.97 in) and not more than 58.0 mm (2.30 in). Within this specified compression corridor, the peak force, measured by the impact probe as defined in section 572.137 and calculated in accordance with paragraph (b)(3) of this section, shall not be less

than 3900 N (876 lbf) and not more than 4400 N (989 lbf). The peak force after 18.0 mm (0.71 in) of sternum displacement but before reaching the minimum required 50.0 mm (1.97 in) sternum displacement limit shall not exceed by more than five percent the value of the peak force measured within the required displacement limit.

(2) The internal hysteresis of the ribcage in each impact as determined by the plot of force vs. deflection in paragraph (1) of this section shall be not

less than 69 percent but not more than 85 percent. The hysteresis shall be calculated by determining the ratio of the area between the loading and unloading portions of the force deflection curve to the area under the loading portion of the curve.

(3) The force shall be calculated by the product of the impactor mass and its deceleration.

(c) Test procedure. The test procedure for the thorax assembly is as follows:

(1) The dummy is clothed in a form fitting cotton stretch above-the-elbow sleeved shirt and above-the-knee pants. The weight of the shirt and pants shall not exceed 0.14 kg (0.30 lb) each.

(2) Soak the dummy in a controlled environment at any temperature between 20.6 and 22.2 °C (69 and 72 °F) and a relative humidity between 10 and 70 percent for at least four hours prior to a test.

(3) Seat and orient the dummy on a seating surface without back support as shown in Figure O3, with the limbs extended horizontally and forward, parallel to the midsagittal plane, the midsagittal plane vertical within  $\pm 1$  degree and the ribs level in the anterior-posterior and lateral directions within  $\pm 0.5$  degrees.

(4) Establish the impact point at the chest midsagittal plane so that the impact point of the longitudinal centerline of the probe coincides with the midsagittal plane of the dummy within  $\pm 2.5$  mm (0.1 in) and is  $12.7 \pm 1.1$  mm ( $0.5 \pm 0.04$  in) below the horizontal-peripheral centerline of the No. 3 rib and is within 0.5 degrees of a horizontal line in the dummy's midsagittal plane.

(5) Impact the thorax with the test probe so that at the moment of contact the probe's longitudinal center line falls within 2 degrees of a horizontal line in the dummy's midsagittal plane.

(6) Guide the test probe during impact so that there is no significant lateral, vertical or rotational movement.

**§ 572.135 Upper and lower torso assemblies and torso flexion test procedure.**

(a) Upper/lower torso assembly. The test objective is to determine the stiffness effects of the lumbar spine (drawing 880105-1096), and abdominal insert (drawing 880105-434), on resistance to articulation between the upper torso assembly (drawing 880105-300) and the lower torso assembly (drawing 880105-450) (refer to § 572.130(a)(1)(iv)).

(b)(1) When the upper torso assembly of a seated dummy is subjected to a force continuously applied at the head to neck pivot pin level through a rigidly attached adaptor bracket as shown in

Figure O4 according to the test procedure set out in subsection (c) of this section, the lumbar spine-abdomen assembly shall flex by an amount that permits the upper torso assembly to translate in angular motion relative to the vertical transverse plane  $45 \pm 0.5$  degrees at which time the force applied must be not less than 320 N (71.5 lbf) and not more than 390 N (87.4 lbf), and

(2) Upon removal of the force, the torso assembly must return to within 8 degrees of its initial position.

(c) Test procedure. The test procedure for the upper/lower torso assembly is as follows:

(1) Soak the dummy in a controlled environment at any temperature between 18.9 and 25.6 °C (66 and 78 °F) and a relative humidity between 10 and 70 percent for at least four hours prior to a test.

(2) Assemble the complete dummy (with or without the legs below the femurs) and attach to the fixture in a seated posture as shown in Figure O4.

(3) Secure the pelvis to the fixture at the pelvis instrument cavity rear face by threading four  $\frac{1}{4}$  inch cap screws into the available threaded attachment holes. Tighten the mountings so that the test material is rigidly affixed to the test fixture and the pelvic-lumbar joining surface is horizontal.

(4) Attach the loading adapter bracket to the spine of the dummy as shown in Figure O4.

(5) Inspect and adjust, if necessary, the seating of the abdominal insert within the pelvis cavity and with respect to the torso flesh, assuring that the torso flesh provides uniform fit and overlap with respect to the outside surface of the pelvis flesh.

(6) Flex the dummy's upper torso three times between the vertical and until the torso reference plane, as shown in Figure O4, reaches 30 degrees from the vertical transverse plane. Bring the torso to vertical orientation and wait for 30 minutes before conducting the test. During the 30 minute waiting period, the dummy's upper torso shall be externally supported at or near its vertical orientation to prevent it from drooping.

(7) Remove all external support and wait two minutes. Measure the initial orientation angle of the torso reference plane of the seated, unsupported dummy as shown in Figure O4. The initial orientation angle may not exceed 20 degrees.

(8) Attach the pull cable and the load cell as shown in Figure O4.

(9) Apply a tension force in the midsagittal plane to the pull cable as shown in Figure O4 at any upper torso deflection rate between 0.5 and 1.5

degrees per second, until the angle reference plane is at  $45 \pm 0.5$  degrees of flexion relative to the vertical transverse plane.

(9) Continue to apply a force sufficient to maintain  $45 \pm 0.5$  degrees of flexion for 10 seconds, and record the highest applied force during the 10-second period.

(10) Release all force at the attachment bracket as rapidly as possible, and measure the return angle with respect to the initial angle reference plane as defined in paragraph (6) 3 minutes after the release.

**§ 572.136 Knees and knee impact test procedure.**

(a) Knee assembly. The knee assembly (refer to §§ 572.130(a)(1)(v) and (vi)) for the purpose of this test is the part of the leg assembly shown in drawing 880105-560.

(b)(1) When the knee assembly, consisting of sliding knee assembly (drawing 880105-528R or -528L), lower leg structural replacement (drawing 880105-603), lower leg flesh (drawing 880105-601), ankle assembly (drawing 880105-660), foot assembly (drawing 880105-651 or 650), and femur load transducer (drawing SA572-S14) or its structural replacement (drawing 78051-319) is tested according to the test procedure in subsection (c), the peak resistance force as measured with the test probe-mounted accelerometer must be not less than 3450 N (776 lbf) and not more than 4060 N (913 lbf).

(b)(2) The force shall be calculated by the product of the impactor mass and its deceleration.

(c) Test procedure. The test procedure for the knee assembly is as follows:

(1) Soak the knee assembly in a controlled environment at any temperature between 18.9 and 25.6 °C (66 and 78 °F) and a relative humidity from 10 to 70 percent for at least four hours prior to a test.

(2) Mount the test material and secure it to a rigid test fixture as shown in Figure O5. No part of the foot or tibia may contact any exterior surface.

(3) Align the test probe so that throughout its stroke and at contact with the knee it is within 2 degrees of horizontal and collinear with the longitudinal centerline of the femur.

(4) Guide the pendulum so that there is no significant lateral vertical or rotational movement at the time of initial contact between the impactor and the knee.

(5) The test probe velocity at the time of contact shall be  $2.1 \pm 0.03$  m/s ( $6.9 \pm 0.1$  ft/s).



**§ 572.137 Test conditions and instrumentation.**

(a) The test probe for thoracic impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis. It shall have a mass of  $13.97 \pm 0.023$  kg ( $30.8 \pm 0.05$  lbs) and a minimum mass moment of inertia of  $5492$  kg-cm<sup>2</sup> ( $4.86$  lbs-in-sec<sup>2</sup>) in yaw and pitch about the CG.  $\frac{1}{3}$  of the weight of the suspension cables and their attachments to the impact probe must be included in the calculation of mass, and such components may not exceed three percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis, must be at least 25 mm (1.0 in) long, and have a flat, continuous, and non-deformable  $152.4 \pm 0.25$  mm ( $6.00 \pm 0.01$  in) diameter face with a maximum edge radius of 12.7 mm (0.5 in). The probe's end opposite to the impact face must have provisions for mounting of an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. No concentric portions of the impact probe may exceed the diameter of the impact face. The impact probe shall have a free air resonant frequency of not less than 1000 Hz.

(b) The test probe for knee impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis. It shall have a mass of  $2.99 \pm 0.01$  kg ( $6.6 \pm 0.022$  lbs) and a minimum mass moment of inertia of  $622$  kg-cm<sup>2</sup> ( $0.55$  lbs-in-sec<sup>2</sup>) in yaw and pitch about the CG.  $\frac{1}{3}$  of the weight of the suspension cables and their attachments to the impact probe may be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis, must be at least 12.5 mm (0.5 in) long, and have a flat, continuous, and non-deformable  $76.2 \pm 0.2$  mm ( $3.00 \pm 0.01$  in) diameter face with a maximum edge radius of 12.7 mm (0.5 in). The probe's end opposite to the impact face must have provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. No concentric portions of the impact probe may exceed the diameter of the impact face. The impact probe must have a free air resonant frequency of not less than 1000 Hz.

(c) Head accelerometers shall have dimensions, response characteristics, and sensitive mass locations specified in drawing SA572-S4 and be mounted in the head as shown in drawing 880105-000 sheet 3 of 6.

(d) The upper neck force/moment transducer shall have the dimensions,

response characteristics, and sensitive axis locations specified in drawing SA572-S11 and be mounted in the head neck assembly as shown in drawing 880105-000, sheet 3 of 6.

(e) The thorax accelerometers shall have the dimensions, response characteristics, and sensitive mass locations specified in drawing SA572-S4 and be mounted in the torso assembly in triaxial configuration within the spine box instrumentation cavity and as optional instrumentation in uniaxial for-and-aft oriented configuration arranged as corresponding pairs in three locations on the sternum on and at the spine box of the upper torso assembly as shown in drawing 880105-000 sheet 3 of 6.

(f) The optional lumbar spine force-moment transducer shall have the dimensions, response characteristics, and sensitive axis locations specified in drawing SA572-S15 and be mounted in the lower torso assembly as shown in drawing 880105-450.

(g) The optional iliac spine force transducers shall have the dimensions and response characteristics specified in drawing SA572-S16 and be mounted in the torso assembly as shown in drawing 880105-450.

(h) The pelvis accelerometers shall have the dimensions, response characteristics, and sensitive mass locations specified in drawing SA572-S4 and be mounted in the torso assembly in triaxial configuration in the pelvis bone as shown in drawing 880105-000 sheet 3.

(i) The single axis femur force transducer (SA572-S14) or the optional multiple axis femur force/moment transducer (SA572-S29) shall have the dimensions, response characteristics, and sensitive axis locations specified in the appropriate drawing and be mounted in the femur assembly as shown in drawing 880105-500 sheet 3 of 6.

(j) The chest deflection transducer shall have the dimensions and response characteristics specified in drawing SA572-S51 and be mounted to the upper torso assembly as shown in drawings 880105-300 and 880105-000 sheet 3 of 6.

(k) The optional lower neck force/moment transducer shall have the dimensions, response characteristics, and sensitive axis locations specified in drawing SA572-S27 and be mounted to the upper torso assembly as shown in drawing 880105-000 sheet 3 of 6.

(l) The optional thoracic spine force/moment transducer shall have the dimensions, response characteristics, and sensitive axis locations specified in drawing SA572-S28 and be mounted in

the upper torso assembly as shown in drawing 880105-000 sheet 3 of 6.

(m) The outputs of acceleration and force-sensing devices installed in the dummy and in the test apparatus specified by this part shall be recorded in individual data channels that conform to SAE Recommended Practice J211/10, Rev. Mar95 "Instrumentation for Impact Tests;—Part 1—Electronic Instrumentation," and SAE Recommended Practice J211/2, Rev. Mar95 "Instrumentation for Impact Tests—Part 2—Photographic Instrumentation", (refer to §§ 572.130(a)(3) and (4) respectively) except as noted, with channel classes as follows:

- (1) Head acceleration—Class 1000
- (2) Neck:
  - (i) Forces—Class 1000
  - (ii) Moments—Class 600
  - (iii) Pendulum acceleration—Class 180
- (3) Thorax:
  - (i) Rib acceleration—Class 1000
  - (ii) Spine and pendulum accelerations—Class 1000
  - (iii) Sternum deflection -Class 180
  - (iv) Forces—Class 1000
  - (v) Moments—Class 600
- (4) Lumbar:
  - (i) Forces—Class 1000
  - (ii) Moments—Class 600
  - (iii) Torso flexion pulling force—Class 60 if data channel is used
- (5) Pelvis:
  - (i) Accelerations—Class 1000
  - (ii) Iliac wing forces—Class 180
- (6) Femur forces—Class 600
- (n) Coordinate signs for instrumentation polarity shall conform to the Sign Convention For Vehicle Crash Testing, Surface Vehicle Information Report, SAE J1733, 1994-12 (refer to section 572.130(a)(4)).

(o) The mountings for sensing devices shall have no resonance frequency less than 3 times the frequency range of the applicable channel class.

(p) Limb joints must be set at one G, barely restraining the weight of the limb when it is extended horizontally. The force needed to move a limb segment shall not exceed 2G throughout the range of limb motion.

(q) Performance tests of the same component, segment, assembly, or fully assembled dummy shall be separated in time by not less than 30 minutes unless otherwise noted.

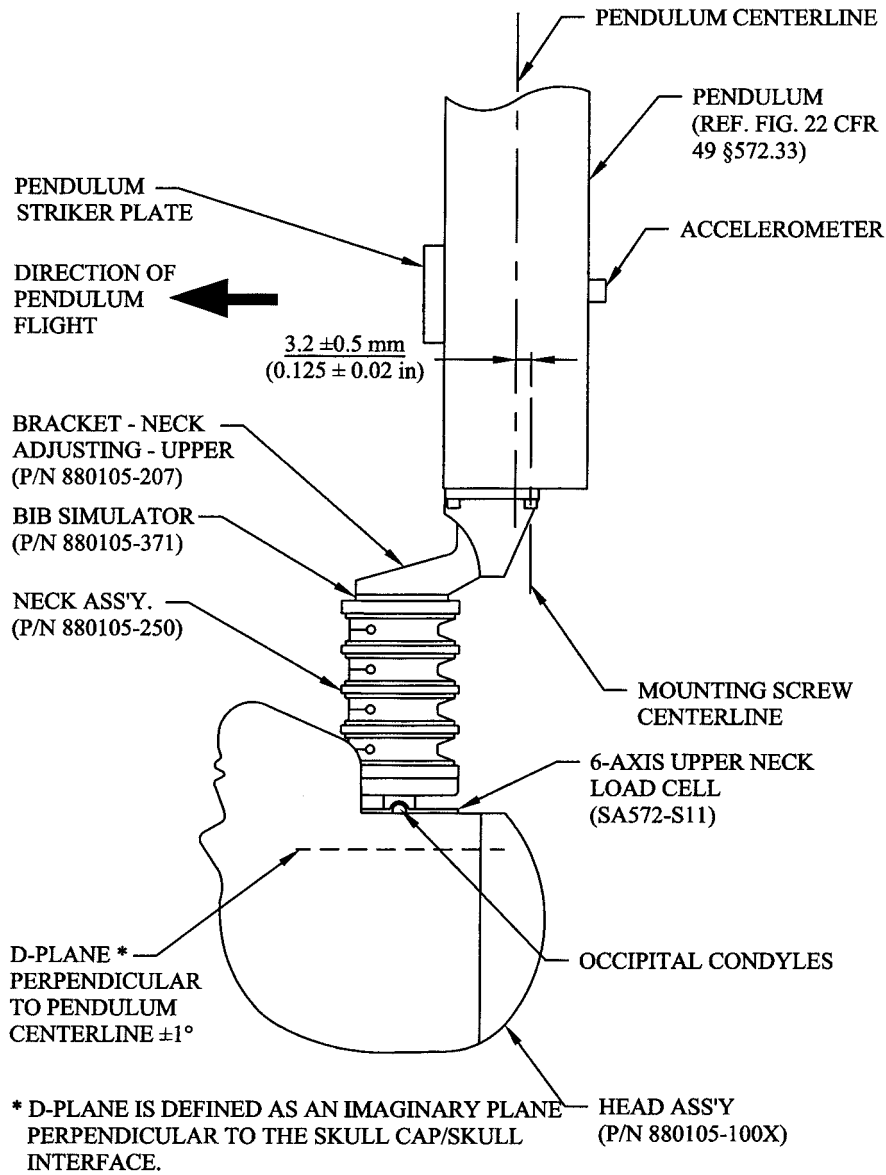
(r) Surfaces of dummy components may not be painted except as specified in this subpart or in drawings subtended by this subpart.

Issued: February 22, 2000

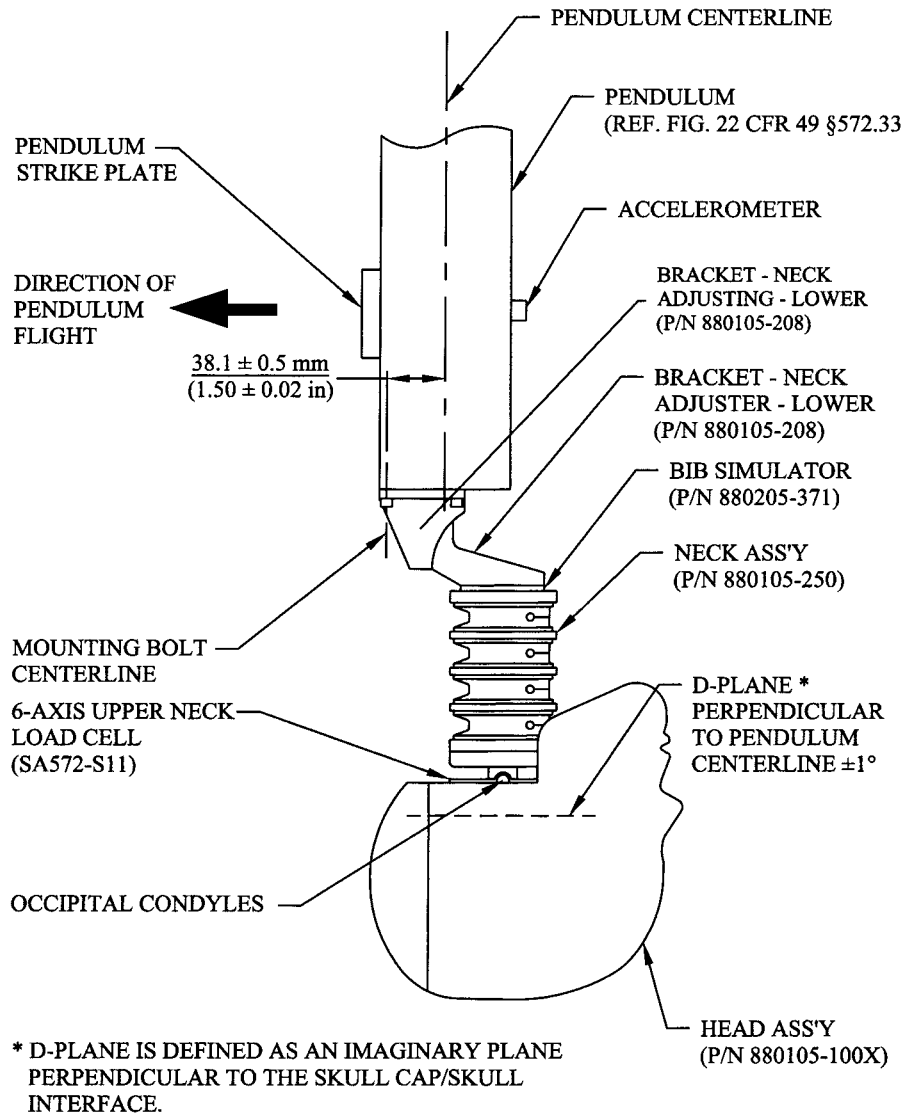
**Rosalyn G. Millman,**  
*Acting Administrator.*

**BILLING CODE 4910-59-U**

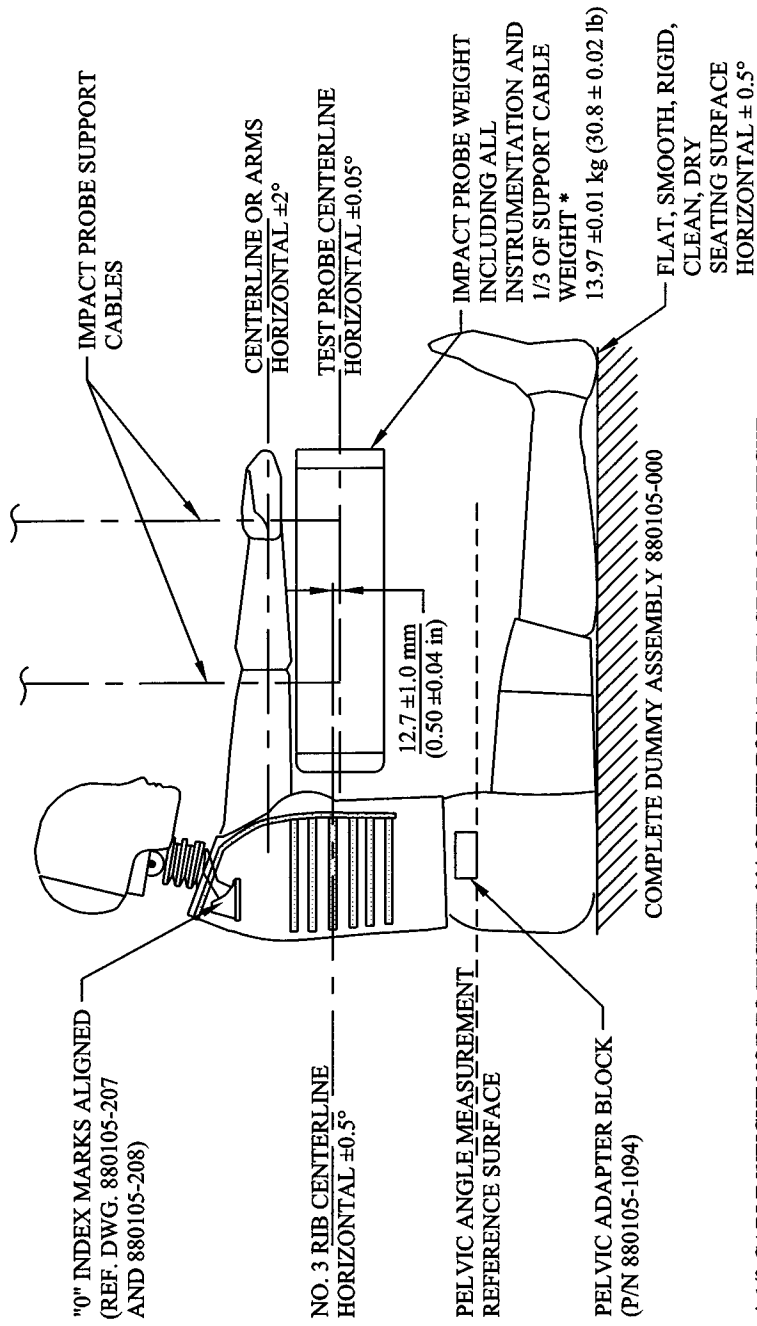
**FIGURE O1**  
**NECK FLEXION TEST SETUP SPECIFICATIONS**



**FIGURE O2**  
**NECK EXTENSION TEST SETUP SPECIFICATIONS**

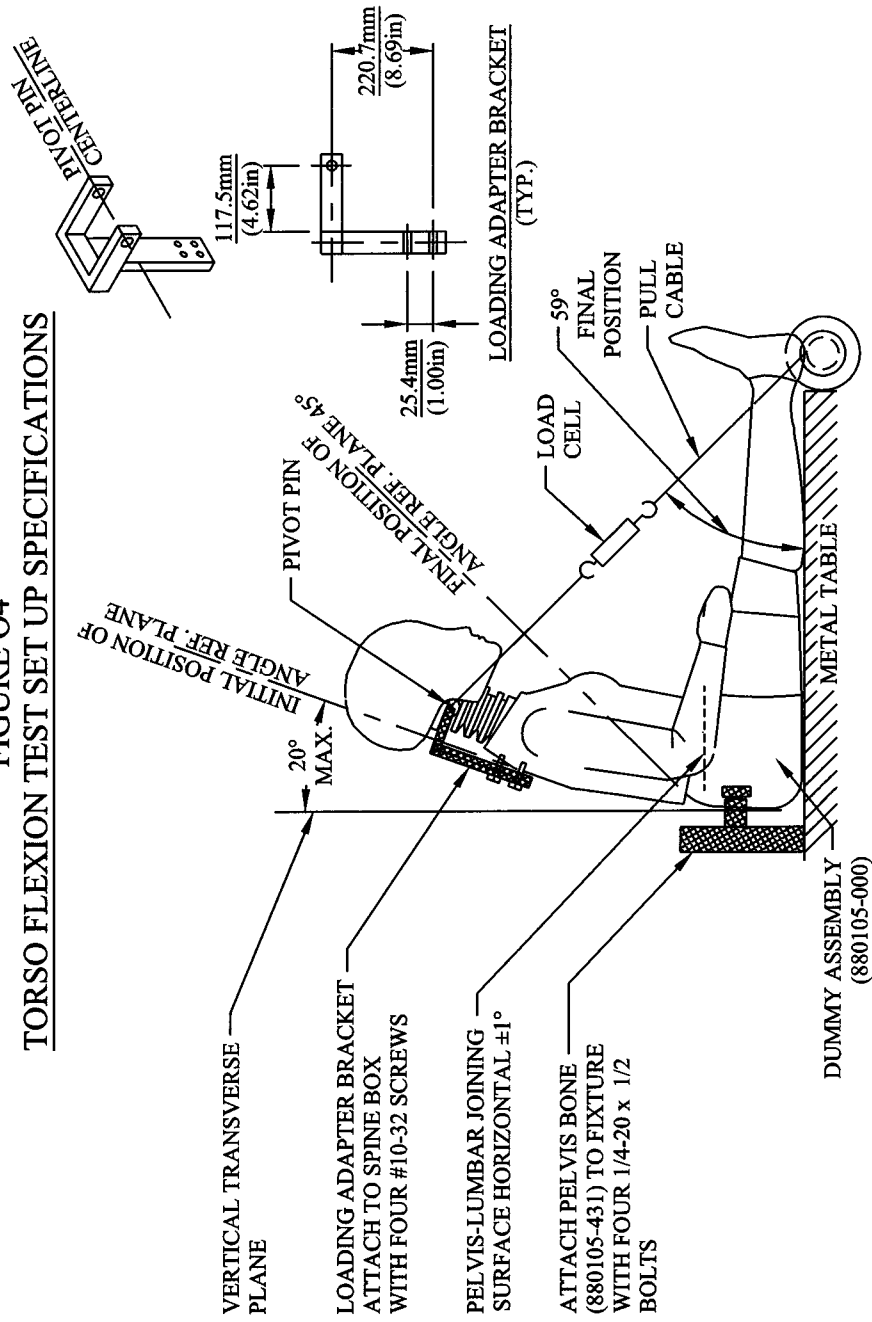


**FIGURE 03**  
**THORAX IMPACT TEST SETUP SPECIFICATIONS**

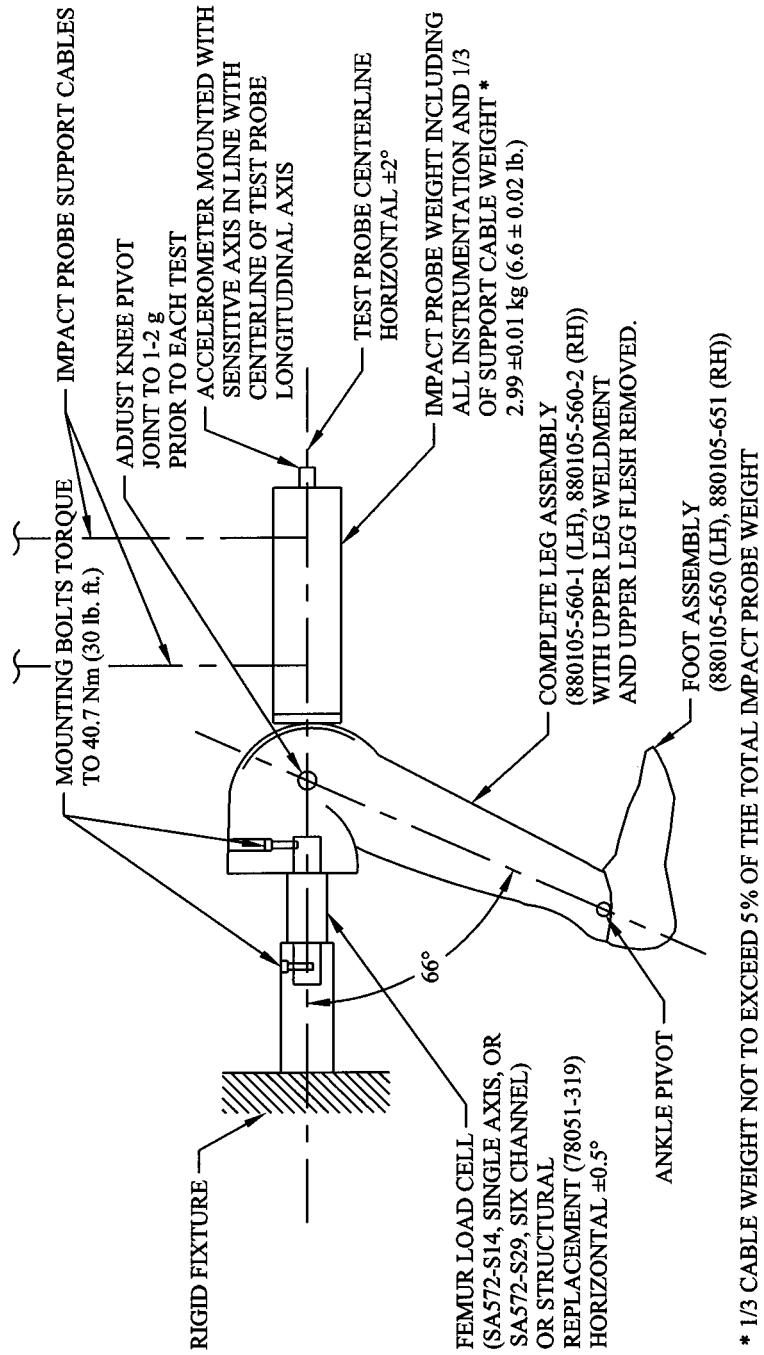


\* 1/3 CABLE WEIGHT NOT TO EXCEED 3% OF THE TOTAL IMPACT PROBE WEIGHT

**FIGURE O4**  
**TORSO FLEXION TEST SET UP SPECIFICATIONS**



**FIGURE O5**  
**KNEE IMPACT TEST SETUP SPECIFICATIONS**



Issued: February 22, 2000.

**Rosalyn G. Millman,**  
*Acting Administrator.*

[FR Doc. 00-4590 Filed 2-29-00; 8:45 am]

BILLING CODE 4910-59-C

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 981224323-9226-02; I.D. 120198B]

RIN 0648-AL23

**Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting; Correction**

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to the final rule for recordkeeping and reporting that was published in the **Federal Register** on November 15, 1999.

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

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7008.

**SUPPLEMENTARY INFORMATION:** A final rule was published in the **Federal Register** on November 15, 1999 (64 FR 61964), to revise recordkeeping and reporting regulations. The new product code, 42, that was added to Table 1 to 50 CFR part 679 was inadvertently omitted from Table 3 to 50 CFR part 679.

**Correction**

In the final rule Revisions to Recordkeeping and Reporting Requirements published in 64 FR 61964, November 15, 1999, FR Doc. 99-28294, on page 62011, under TABLE 3, PRODUCT RECOVERY RATES FOR GROUND FISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT, in the fourth column, remove the column heading "3 Bled" and add in its place "3, 42 Bled".

Dated: February 23, 2000 .

**Andrew A. Rosenberg,**

*Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 00-4775 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-22-F**

# Proposed Rules

Federal Register

Vol. 65, No. 41

Wednesday, March 1, 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 AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 27 and 28

[CN-00-001]

RIN 0581-AB67

#### Revision of Cotton Classification Procedures for Determining Upland Cotton Color Grade

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

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is proposing to revise the procedure for determining the official color grade for Upland cotton. The color grade for Upland cotton is a part of the official classification which denotes cotton fiber quality used in the marketing and manufacturing of cotton. Previously, the color grade was determined by visual examination and comparison to the Official Cotton Standards by qualified cotton classers. The proposed revision will replace the classer's color determination with the instrument color measurement made by the High Volume Instrument (HVI) system used for official cotton classification for Upland Cotton since 1991.

**DATES:** Comments must be received by March 31, 2000.

**ADDRESSES:** Comments and inquiries should be addressed to, Cotton Programs, AMS, USDA, Room 2641-S, P.O. Box 96456, Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in Rm. 2641-South Building, 14th & Independence Avenue, SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Lee Cliburn, 202-720-2145.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been determined to be not significant for purposes of Executive Order 12866, therefore, it has

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be disproportionately burdened. There are an estimated 35,150 cotton growers, merchants, and textile manufacturers in the U.S. who voluntarily use the AMS cotton classing services annually under the United States Cotton Standards Act, the Cotton Statistics and Estimates Act, and the Cotton Futures Act. The majority of these entities are small businesses under the criteria established by the Small Business Administration (13 CFR 121.601). The change in procedure will not significantly affect small businesses as defined in the RFA because:

(1) Classification will continue to be based upon the Official Standards for Upland Cotton Color Grade established and maintained by the Department;

(2) The High Volume Instrument color measurement has been a part of the official classification record since 1991. Implementation of the revision for all cotton classification will not affect competition in the marketplace or adversely impact on cotton classification fees; and

(3) The use of cotton classification services is voluntary. For the 1999 crop, 15,825,000 running bales were produced by growers, and virtually all of them were voluntarily submitted for USDA classification. Classification services provided for merchants and manufacturers during the same period totaled approximately 404,000 bales.

#### Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581-0009 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Background

Pursuant to the authority contained in the United States Cotton Standards Act, the Secretary of Agriculture maintains official cotton standards of the United States and provides classification and testing services to cotton producers, textile manufacturers, merchants, and others in the domestic and international cotton industry. The standards are used for the classification of American upland cotton and provide a basis for the determination of value for commercial purposes. Classification services provide information on quality of cotton. The National Cotton Council represents the interests of all seven segments of the U.S. cotton industry: growers, ginners, warehousemen, merchants, cooperatives, manufacturers, and cottonseed oil crushers.

#### Need for Revisions

High Volume Instrument classification was adopted for all USDA classification of American upland cotton in 1991. The color grade is a component of the official USDA classification. Although High Volume Instrument colormeter readings have been reported since 1991, at the request of the industry, USDA continued the procedure of determining the official color grade by human cotton classers because of the historical importance of color in determining the quality of cotton. With the passage of time, confidence in USDA High Volume Instrument measurements of fiber quality characteristics for classification of cotton grew to the extent that industry representatives requested that High Volume Instrument colormeter readings be used for the official determination of color grade.

AMS conducted a pilot project during the 1998 and 1999 cotton classing seasons to implement an adjustment to the existing High Volume Instrument



color measurement so that it would more closely match the Official Cotton Standards used by classers for official color grade determination. Data from the project, which the AMS Cotton Program conducted in cooperation with the National Cotton Council's Quality Task Force, showed that the HVI color measurement closely matched the Official Cotton Grade Standards for color. Results from the 1998 and 1999 crops showed that the HVI colormeter determines Official color grades as accurately as cotton classers. In December of 1999, the National Cotton Council Quality Task Force recommended that AMS replace the cotton classer determination with the HVI colormeter determination for color grade. AMS proposes to use the HVI colormeter determination as the official component of classification of American Upland cotton for color grade.

For the reasons set forth above, this proposal would amend the sections in Parts 28—COTTON CLASSING, TESTING, AND STANDARDS, Subpart A—Regulations Under the United States Cotton Standards Act, which establish the procedures for determining official cotton classification based on the Official Cotton Grade Standards. Since cotton classification services under the United States Cotton Futures Act must conform to the requirements of the Cotton Standards Act, this proposal would also amend the sections in Part 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION which establish the procedures for determining cotton classification for cotton submitted for futures certification.

Accordingly, under Part 27, in § 27.2 (n), the definition of the term classification would be changed to reflect the changes in procedures made under Part 28.

Also under Part 27, § 27.31 would be revised to reflect the deletion of the requirement for cotton classers to determine color grade. The revised heading and section would reflect the changes made in procedures for determination of cotton quality in accordance with the official standards.

In Part 28, § 28.8 would be revised to reflect the proposed change in cotton classification procedures to replace classer visual examinations to fix color with instrument color measurement by High Volume Instruments. Miscellaneous other changes are made to the sections to better reflect current procedures in view of color determination change. For example, those determinations made by cotton

classers or by authorized Cotton Program employees would be specified.

AMS anticipates that the change in procedures for official cotton classification, if adopted, would become effective on July 1, 2000, when classification of newly harvested 2000 crop cotton will begin. Further, a 30 day comment period is provided and deemed appropriate in order to allow adequate time to complete this rulemaking for the 2000 cotton crop.

#### List of Subjects

##### 7 CFR Part 27

Commodity Futures, Cotton.

##### 7 CFR Part 28

Administrative practice and procedure, Cotton, Reporting and recordkeeping requirements, Warehouses.

For the reasons set forth in the preamble, 7 CFR parts 27 and 28 are proposed to be amended as follows:

#### PART 27—[AMENDED]

1. The authority citation for 7 CFR part 27 continues to read as follows:

**Authority:** 7 U.S.C. 15b, 7 U.S.C. 4736, 7 U.S.C. 1622(g).

2. In § 27.2, paragraph (n) is revised to read as follows:

##### § 27.2 Terms defined.

\* \* \* \* \*

(n) Classification. The classification of any cotton shall be determined by the quality of a sample in accordance with Official Cotton Standards of the United States for the color grade and the leaf grade of American upland cotton, the length of staple, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except leaf grade and extraneous matter. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers, designated as such by the Director, will determine the official leaf grade and extraneous matter, and authorized Cotton Program employees will determine all fiber property measurements using High Volume Instruments.

\* \* \* \* \*

3. Section 27.31 is revised to read as follows:

##### § 27.31 Classification of cotton.

For the purposes of subsection 15b (f) of the Act, classification of cotton is the determination of the quality of a sample

in accordance with the Official Cotton Standards of the United States for the color grade and the leaf grade of American upland cotton, the length of staple, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except leaf grade and extraneous matter. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers, designated as such by the Director, will determine the official leaf grade and extraneous matter, and authorized Cotton Program employees will determine all fiber property measurements using High Volume Instruments.

#### PART 28—[AMENDED]

1. The authority citation for 7 CFR part 28, subpart A, is revised to read as follows:

**Authority:** 7 U.S.C. 55 and 61.

2. Section 28.8 is revised to read as follows:

##### § 28.8 Classification of cotton; determination.

For the purposes of the Act, the classification of any cotton shall be determined by the quality of a sample in accordance with Official Cotton Standards of the United States for the color grade and the leaf grade of American upland cotton, the length of staple, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except leaf grade and extraneous matter. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers will determine the official leaf grade and extraneous matter, and authorized Cotton Program employees will determine all fiber property measurements using High Volume Instruments. The classification record of a classing office or the Quality Assurance Unit with respect to any cotton shall be deemed to be the classification record of the Department.

Dated: February 28, 2000.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 00-5034 Filed 2-29-00; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 1140**

[Docket No. DA-00-06]

**Proposed Rule for Forward Pricing Pilot Program and Opportunity to File Comments****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule establishes a pilot program which would exempt handlers regulated under the Federal milk order program from paying producers and cooperative associations the minimum Federal order price(s) for that portion of their milk for non-fluid use that is under forward contract. Establishment of the pilot program is required by a November 1999 amendment to the Agricultural Marketing Agreement Act of 1937 (AMAA).

**DATES:** Comments must be submitted on or before March 16, 2000.

**ADDRESSES:** Comments should be submitted to Nicholas Memoli, Order Formulation Branch, Dairy Programs, USDA/AMS, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments also may be sent by fax to (202) 690-0552 or by e-mail to Nicholas.Memoli@usda.gov.

All comments submitted in response to this proposal will be available for public inspection at the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, 14th and Independence Avenue, S.W., Washington, D.C. during normal business hours (7 CFR 1.27(b)). Anyone wishing to view the comments is requested to make an appointment in advance by calling Richard M. McKee at (202) 720-4392.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Programs, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932, e-mail address Nicholas.Memoli@usda.gov.

The USDA Fact Sheet and other information on the proposed pilot program is available from market administrators' offices or can be downloaded from our web site ([www.ams.usda.gov/dairy](http://www.ams.usda.gov/dairy)).

**SUPPLEMENTARY INFORMATION:** This proposed rule would implement an amendment to the AMAA which directs the Secretary of Agriculture to establish

a temporary pilot program for forward contracting of milk under Federal milk marketing orders. The effect of this amendment is to permit a handler to pay producers or cooperative associations a negotiated price, rather than the minimum Federal order price, for milk that is under forward contract. The amendment appears in Section 3 of H.R. 3428 of the 106th Congress, as enacted by Section 1001(a)(8) of Public Law 106-113 (113 Stat. 1536). It was signed into law on November 29, 1999. The amendment specifies that the pilot program shall only apply to federally regulated milk that is not classified as Class I milk or otherwise intended for fluid use and that is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk. The pilot program expires December 31, 2004.

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, the proposed rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to judicial challenge to the provisions of this rule.

**Executive Order 12866**

The Department is issuing this proposed rule in conformance with Executive Order 12866. This proposed rule is not economically significant for the purposes of Executive Order 12866.

The forward pricing pilot program is a voluntary program that will permit a handler and a producer to negotiate prices that may be below the minimum order prices that would otherwise apply to such milk. Some producers, proprietary handlers, and cooperative associations now negotiate forward contracts on part or all of their milk. The pilot program will expand the opportunities to engage in forward contracting by exempting participating proprietary handlers from the minimum prices to producers and cooperative associations required under Federal milk marketing orders. These regulations would not affect the ability of cooperative associations to forward contract with their members.

**The Regulatory Flexibility Act and the Effects on Small Businesses**

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural

Marketing Service (AMS) has considered the economic impact of the proposed rule on small entities and has prepared this initial regulatory flexibility analysis.

The legal basis for the proposed rule is set forth in an amendment to the AMAA signed into law on November 29, 1999, that directs the Secretary of Agriculture to establish the dairy forward pricing pilot program. The Secretary was directed "to establish a temporary pilot program under which milk producers and cooperatives are authorized to voluntarily enter into forward price contracts with milk handlers."

The pilot program would provide the dairy industry, which has experienced substantial price volatility in recent years, with another tool to deal with such volatility. With the phase-down of the dairy price support program to a safety-net program, the prices of dairy products have fluctuated to a much greater extent than they did during the prior 20 years. This price fluctuation has created problems for processors of manufactured dairy products (*e.g.*, butter, nonfat dry milk, and cheese), the dairy farmers who supply these processors, and the retailers, school systems, and other public institutions who provide these products to consumers.

Under the Small Business Administration's definition of a "small business," a dairy farm is a small business if it has less than \$500,000 in gross annual sales and a handler is a small business if it has fewer than 500 employees. As of February 2000 under the Federal milk order program, there are 142 cooperative associations representing approximately 63,000 dairy farmers. In addition, there are 11,600 dairy farmers who are not affiliated with any cooperative association. Of these nonmember producers, 10,900 meet the SBA's definition of a small business.

There are nearly 1,000 milk plants that are regulated under the Federal milk order program. Based on the best data available, approximately one-third of these plants would be classified as small businesses. These requirements are further discussed in the Paperwork Reduction Act section.

The recordkeeping and reporting requirements for this proposed rule are minimal. At the present time, any handler that enters into a forward contract with a producer presumably has written proof for such an arrangement. Under the proposed pilot program, a handler would be required to submit a copy of each forward contract with a producer to the market administrator of the order in which the

handler's plant is regulated. In addition, the handler would be required to attach a disclosure statement to each forward contract. The disclosure statement, which would be attached to general guidelines concerning the contracting process, would have to be signed by each dairy farmer entering into a forward contract. The disclosure statement explains that a dairy farmer entering into a forward contract under the pilot program forfeits his or her right to receive the minimum order price(s) for that portion of their milk that is under contract for the duration of the contract period.

In drafting the proposed rule, the Department considered whether any limit should be established for the amount of milk that a dairy farmer could forward contract. We decided not to impose such a limit because we did not wish to interfere with a dairy farmer's desire to forward contract all of his or her milk. Also, in order to gain as much knowledge as possible about the types of forward contracts that might be offered by handlers, we believe it is beneficial to allow handlers and dairy farmers to decide between themselves how much milk to put under forward contract and how much milk to keep under minimum Federal order pricing.

Since the forward contracting of milk may be new to many dairy farmers, the Department decided to incorporate two provisions, in addition to the disclosure statement, to help dairy farmers adjust to the new program. First, the proposed rule requires that each forward contract under the pilot program must contain a clause that gives a dairy farmer 3 days to change his or her mind about forward contracting their milk. If a dairy farmer does change his or her mind after signing a forward contract, the farmer would be required to contact the handler with whom he or she had contracted by the 3rd business day following the date that the contract was signed.

The proposed rule would also limit the contract period for first-time contracts under the pilot program to 6 months. The reason for limiting the initial contract period is to give producers a chance to familiarize themselves with this new way of pricing their milk.

The Department does not believe that the forward pricing pilot program would unduly burden small entities or impair their ability to compete in the marketplace. In fact, by providing another tool to reduce price risk, the proposed pilot program may aid small businesses in competing with larger entities that have the ability to use existing futures and options markets,

and other means, to reduce their price risks. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with the proposed rule.

Comments are specifically requested on the impact of this proposed rule on small businesses in addition to other aspects of the rule discussed above and throughout this document.

#### **Paperwork Reduction Act of 1995**

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) for emergency approval. Due to a 15-day comment period for the proposed rule, a separate 60-day notice seeking public comment on the information collection will be published with regard to permanent approval.

Under the proposed pilot program for the forward contracting of milk under Federal milk orders, a one-page disclosure statement was designed so that the Secretary's representatives administering the pilot program can be certain that dairy farmers have entered into the pilot program voluntarily. The disclosure statement would be attached to a fact sheet containing general guidelines to help the dairy farmer understand the forward contracting process. It also explains to the dairy farmer that the program is voluntary and that by entering into the program with a handler, the dairy farmer will be forfeiting his or her right to the minimum prices provided under the order. The form should take no more than 15 minutes to be read, understood, and signed by a dairy farmer. We estimate that the number of dairy farmers involved would be approximately 8,000, and the total annual time burden would not exceed 2,000 hours.

Handlers would be required to submit their forward contracts under the pilot program to their respective market administrator's office. There are two reasons for this. First, the market administrator must be able to review the contract to ensure it is signed and to verify that it complies with the regulations proposed here. Second, the Department is required to conduct a study of forward contracting under the pilot program to determine the impact on milk prices paid to producers in the United States. This study must be submitted to Congress no later than April 30, 2002. In order to do such a study, the Secretary will have to review, summarize, and evaluate the different types of contracts that were written

under the pilot program. The time required for handlers to prepare and submit copies of contracts would approximate 30 minutes per contract. Of the less than 700 manufacturing plants associated with Federal orders, fewer than 300 would be anticipated to participate with a total annual burden of 500 hours.

#### **Discussion of Proposed Rules Applicable to Pilot Program**

Under the rules proposed here to administer the pilot program, a proprietary handler will not be subject to the order minimum prices with respect to payments to dairy farmers and cooperative associations for milk under forward contract that does not exceed the handler's Class II, III, and IV utilization for the month in the market where the handler's plant or plants are regulated. (In the rule proposed here, this amount of milk is defined as "eligible milk." For convenience in the discussion that follows, a handler's combined Class II, III, and IV utilization will be referred to as the handler's eligible milk.) In the case of a multi-plant handler, the handler's Class II, III, and IV utilization would be combined together for all of the handler's plants regulated under one order. On a monthly basis if a handler's forward contracts exceed that amount, the handler would only be exempt from paying the order's minimum price(s) on its quantity of eligible milk.

The proposed rule leaves the determination of which producers' milk is over-contracted to the handler. If the handler fails to make this determination, the market administrator would prorate the over-contract milk to each producer and cooperative association having a contract with the handler.

Although handlers participating in the pilot program would not be required to pay producers and cooperative associations the order's minimum uniform or component prices for contract milk, they would still be required to account to the pool for all milk they receive at the respective order's minimum class prices. In the case of milk received by transfer from a cooperative association's pool plant, a handler may forward contract for all such transferred milk that is not used in Class I and would be exempt from paying the cooperative the minimum class prices for contract milk.

Any handler participating in the pilot program would still be required to file all of the reports that are now required under an order. This includes reports of receipts and utilization of milk and monthly payroll reports that show all

information now required under the orders.

Handlers participating in the pilot program would have to submit to the market administrator a copy of each contract for which it is claiming exemption from the order's minimum pricing. This contract must be signed prior to the first day of the first month for which the contract applies and would have to be received by the market administrator by the 15th day of that month. It would be the responsibility of each handler to give to each contracting dairy farmer or cooperative association a disclosure statement informing them of the nature of the pilot program and providing them with certain information that they should consider before entering into a forward contract. The disclosure statement would have to be signed on the same date as the contract by the dairy farmer or cooperative association representative and would have to be returned to the market administrator together with the contract by the 15th day of the month. Any contract that is submitted to the market administrator without the disclosure statement would be considered to be invalid for the purpose of being exempt from the order's minimum pricing and would be returned to the handler.

Each forward contract submitted to the market administrator must contain a provision that gives the dairy farmer signing the contract 3 business days in which to change his or her mind about forward contracting their milk. At midnight on the 3rd business day following the contract date, the contract would become irrevocable.

If a producer wishes to cancel a forward contract within the 3-day period, he or she would have to notify the handler in writing. Such notification could be faxed, e-mailed, or mailed, but it would have to be in the possession of the handler by midnight of the 3rd business day following the contract date. A copy of the notification should be retained by the producer together with evidence verifying its date and time of receipt.

The first time that a producer or cooperative association forward contracts under this pilot program the contract would be limited to 6 months. Thereafter, the producer or cooperative association could enter into forward contracts with proprietary handlers for whatever period they wish so long as the contract does not extend beyond December 31, 2004. If a handler violates this rule by submitting to the market administrator a contract that is longer than 6 months, the market administrator would return the contract to the handler and the handler would not be exempt

from minimum order pricing with respect to that contract. The reason for proposing to limit the initial contract period is to give producers a chance to familiarize themselves with this new way of pricing their milk.

Payments specified under a forward contract would have to be made on the same dates as order payments which they replace. In addition, the basis for pricing milk under a forward contract would be the same basis that is used to price milk under the respective order regulating the pooling of such milk. For example, under the 4 orders that provide for skim milk and butterfat pricing (*i.e.*, Parts 1005, 1006, 1007, and 1131), forward contracts would have to be written in terms of skim milk and butterfat pricing. On the other hand, in the 7 markets providing for component pricing of milk (*i.e.*, Parts 1001, 1030, 1032, 1033, 1124, 1126, and 1135), forward contracts under the pilot program would have to be written in terms of the component pricing provided under those orders.

Consideration was given to leaving the pricing and payment for milk under forward contracts open. However, this approach was considered to be undesirable for several reasons. First, with respect to the timing of payments, nearly every handler entering into forward contracts would have some milk that is subject to minimum order pricing. It is highly unlikely that these handlers would establish a dual accounting and payment system even if they thought that different payment dates would be preferable to those specified under the order. Second, if handlers paid producers under contract at different times than producers not under contract, this disparate treatment could cause problems which might influence the success of the pilot program for reasons entirely apart from more predictable pricing. Third, from an administrative standpoint, we believe that it would be much easier to administer the pilot program if payments are made on the same day as minimum order payments. Also, we believe that the program would be easier for producers to understand if payments continue to be made on the dates with which they have grown accustomed.

With respect to the form of pricing—*i.e.*, skim milk/butterfat versus component—we believe that it would be unduly confusing and administratively burdensome to allow contract milk to be priced on a different basis than milk subject to minimum order pricing. Market administrator offices are set up to test milk according to the way it is priced under the order. While they may be able to test milk on some other basis,

such testing could result in additional labor, possibly the purchase of additional equipment, and perhaps additional training of market administrator personnel. Finally, disparate pricing of milk to a producer could be confusing, especially if over-contracted milk has to be repriced using minimum order pricing.

Since this pilot program is authorized through an amendment to the AMAA, it is reasonable to conclude that if the pilot program results in disorderly marketing conditions, the program would be in conflict with the objectives of the Act and would have to be modified to remedy such conflict.

Participation in the pilot program must be entirely voluntary on the part of dairy farmers and handlers. If the Department believes that the program is being used to coerce dairy farmers into signing contracts providing for prices that, on average, are consistently below minimum order prices, steps would be taken to halt such practices. One indication that such practices could be occurring would be complaints from dairy farmers that they were dropped because they refused to sign a forward contract with a handler. Another indication might be manifested by the replacement of one group of dairy farmers with another group of dairy farmers who have entered into forward contracts with the handler. It is conceivable that some farmers might intentionally enter into a forward contract that would consistently provide a price below the minimum order price simply to get their milk pooled on a particular market. This type of activity would undermine the concept of minimum prices to dairy farmers and lead to the type of conditions that the AMAA was enacted to remedy. Should these types of activities occur after the pilot program becomes effective, the Secretary would consider amending, suspending, or terminating the pilot program.

Additional information about the pilot program is included in the Department's program announcement. The information is also available on the Dairy Programs' web site ([www.ams.usda.gov/dairy](http://www.ams.usda.gov/dairy)) and is available from local market administrator offices.

A 15-day comment period is provided in this proposed rule. This comment period is deemed appropriate because: (1) In enacting the legislation authorizing the pilot program, Congress intended that it be established early this year; (2) the dairy industry is anticipating, and has already been preparing to take part in, the pilot program; and (3) the program represents

another means which the industry may need to deal with price volatility.

For the reasons set forth in the preamble, it is proposed that Title 7 of Chapter X of the CFR be amended by adding a new Part 1140 as follows:

**PART 1140—DAIRY FORWARD PRICING PILOT PROGRAM**

**Subpart A—Definitions**

Sec.

1140.1 General definitions.

**Subpart B—Rules Governing Forward Contracts**

1140.2 Rules governing forward contracts.

*Authority:* 7 U.S.C. 601, *et seq.*

**Subpart A—Definitions**

**§ 1140.1 General definitions.**

(a) *Pilot program* means the dairy forward pricing pilot program provided by an amendment to the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601, *et seq.*) signed into law on November 29, 1999 (Section 3 of H.R. 3428 of the 106th Congress, as enacted by section 1001(a)(8) of Public Law 106–113 (113 Stat. 1536)).

(b) *Eligible milk* means the quantity of milk equal to a handler's Class II, III, and IV utilization during the month, combining all pool plants of a single handler that are regulated under a single Federal order.

(c) *Forward contract* means an agreement covering the terms and conditions for the sale of milk from a producer defined in section 12 of Parts 1001 through 1135 to a handler defined in § 1000.9.

(d) *Contract milk* means the producer milk covered by a forward contract.

(e) *Disclosure statement* means the following statement which must be signed and returned to the market administrator by each producer entering into a forward contract with a handler before the market administrator will recognize the terms and conditions provided in such contract.

**Disclosure Statement**

I am voluntarily entering into a forward contract with \_\_\_\_\_ (handler's name). I have been given a copy of the contract and I have received the USDA's Pilot Program Fact Sheet to which this disclosure statement was attached. By signing this form, I understand that I am forfeiting my right to receive the order's minimum uniform or component prices for that portion of my milk that is under forward contract for the duration of the contract. I also understand that my milk will be priced in accordance with the terms and conditions of the contract.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Producer No: \_\_\_\_\_

(f) *Other definitions.* Any term used in this part that is defined in Parts 1000–1135 is incorporated in this part.

**Subpart B—Rules Governing Forward Contracts**

**§ 1140.2 Rules governing forward contracts.**

(a) A handler that operates one or more pool plants may enter into forward contracts with producers or cooperative associations for the handler's *eligible milk* received at such plants and be exempt from the minimum payment provisions that would apply to such milk in section 73 of Parts 1001 through 1135 for the period of time covered by the contract, except that a contract with a producer or cooperative association participating for the first time in this pilot program may not exceed 6 months. In no event shall a forward contract executed pursuant to this part extend beyond December 31, 2004.

(b) Forward contracts must be signed and dated by the contracting handler and producer (or cooperative association) prior to the first day of the first month for which they are to be effective and must be in the possession of the market administrator by the 15th day of that month. The *disclosure statement* provided in § 1140.2(e) must be signed on the same date as the contract by each producer or cooperative association entering into a forward contract under the pilot program and this signed disclosure statement must be attached to each contract submitted to the market administrator.

(c) Each forward contract submitted for approval must contain a clause that allows the dairy farmer signing the contract to revoke the contract by notifying the handler in writing within 3 business days. This written notification, which may be faxed, mailed, or E-mailed, must be in the possession of the handler by midnight of the 3rd business day following the signing of the contract. The producer is responsible for verifying the time and date of receipt of this notification.

(d) In the event that a handler's contract milk exceeds the handler's *eligible milk* for any month in which the specified contract price(s) are below the order's minimum prices, the handler must designate which producer milk shall not be contract milk. If the handler does not designate the owners of the over-contracted milk, the market administrator shall prorate the over-contracted milk to each producer and cooperative association having a forward contract with the handler.

(e) Payments for milk covered by a forward contract must be made on the same dates as payments for milk that is not under forward contract under the respective Federal order.

(f) The basis for pricing milk under forward contract must be the same basis—but not at the same rate or level—as is used to price milk that is not under forward contract under the respective order. Under orders providing for skim milk and butterfat pricing, forward contracts must price milk on the basis of skim milk and butterfat, and under orders with component pricing of milk, forward contracts must price milk according to the components priced under the respective order.

(g) Handlers participating in the pilot program will continue to be required to file all reports that are currently required under the respective marketing orders and will continue to be required to account to the pool for all milk they receive at their respective order's minimum class prices.

(h) Nothing in this part shall impede the contractual arrangements that exist between a cooperative association and its members.

Dated: February 25, 2000.

**Richard M. McKee,**

*Deputy Administrator, Dairy Programs.*

[FR Doc. 00–4920 Filed 2–29–00; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

**10 CFR Part 431**

[Docket No. EE–RM–STD–00–100]

RIN No. 1904–AB06

**Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of preliminary screening analysis.

**SUMMARY:** The Energy Policy and Conservation Act, as amended by the Energy Policy Act of 1992 (EPCA), establishes energy efficiency standards for certain commercial heating, air conditioning and water heating

equipment. On October 29, 1999, the efficiency standards in American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) and Illuminating Engineering Society of North America (IES) ASHRAE/IES Standard 90.1 were amended for some of these products. This notice outlines the process the Department plans to follow in deciding which of these amended efficiency standards to adopt immediately and which to analyze further.

**ADDRESSES:** You can view copies of the ASHRAE/IES Standard 90.1-1999 in the Freedom of Information Reading Room (Room No. 1E-190) at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585-0121, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. You can also obtain copies from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1971 Tullie Circle, NE, Atlanta, GA 30329, and you can obtain electronic versions at ASHRAE's web site, <http://www.ashrae.org/book/bookshop.htm>. The Preliminary Screening Analysis described in this notice is expected to be available for viewing in the Department of Energy's Freedom of Information Reading Room by the end of March 2000, and copies may be requested from the contacts listed below. The report will also be accessible via the Internet at [http://www.eren.doe.gov/buildings/codes\\_standards/index.htm](http://www.eren.doe.gov/buildings/codes_standards/index.htm), which contains additional information on Department of Energy codes and standards programs as well.

**FOR FURTHER INFORMATION CONTACT:** Cyrus H. Nasser, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station, EE-41, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-9138, FAX (202) 586-4617, e-mail: [Cyrus.Nasser@ee.doe.gov](mailto:Cyrus.Nasser@ee.doe.gov), or Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station, GC-72, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-9507, e-mail: [Edward.Levy@hq.doe.gov](mailto:Edward.Levy@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** This notice refers to certain industry standards established by the ASHRAE and IES. These industry standards are referenced by the single comprehensive "ASHRAE/IES Standard 90.1-1999."

## I. Introduction

- A. Authority
- B. Background
  1. General
  2. ASHRAE Action

## II. Discussion

- A. Preliminary Screening Analysis
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## I. Introduction

### A. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA) of 1975, Pub. L. 94-163, as amended, by the National Energy Conservation Policy Act of 1978 (NECPA), Pub. L. 95-619, the National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100-12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Pub. L. 100-357, and the Energy Policy Act of 1992 (EPACT), Pub. L. 102-486, established the Energy Conservation Program for Consumer Products other than Automobiles. Part 3 of Title IV of NECPA amended EPCA to add "Energy Efficiency of Industrial Equipment," which included air conditioners, furnaces, and other types of equipment.

EPACT also amended EPCA with respect to industrial equipment, providing definitions, test procedures, labeling provisions, energy conservation standards, and authority to require information and reports from manufacturers. See 42 U.S.C. 6311-6316. For example, EPCA now specifies explicit minimum energy efficiency levels for certain commercial packaged air conditioning and heating equipment, packaged terminal air conditioners and heat pumps, warm air furnaces, packaged boilers, water heaters and hot water storage tanks. 42 U.S.C. 6313(a)(1)-(5). The efficiency requirements in the statute correspond with the levels in effect on October 24, 1992, in ASHRAE/IES Standard 90.1. The statute provides that if the ASHRAE/IES Standard 90.1 levels are amended after that date for any of the covered equipment, the Secretary of Energy must establish an amended uniform national standard at the new minimum level for each effective date specified in ASHRAE/IES Standard 90.1, unless (s)he determines, through a rulemaking supported by clear and convincing evidence, that a more stringent standard is technologically feasible and economically justified and would result in significant additional energy conservation. 42 U.S.C. 6313(a)(6)(A).

If the Secretary elects to publish such a rule, it must contain the amended standard, and the determination must consider, to the greatest extent practicable: the economic impact on the manufacturers and consumers of the affected products; savings in operating cost throughout the life of the product,

compared to any increases in initial cost or maintenance expense; the total projected amount of energy savings likely to result directly from the imposition of the standard; any lessening of the utility or performance of the affected products; the impact of any lessening of competition; the need for national energy conservation; and other factors the Secretary considers relevant. The Secretary may not prescribe such an amended standard if (s)he finds (and publishes the finding) that interested persons have established by a preponderance of evidence that the amended standard is likely to result in unavailability in the United States of products with performance characteristics (including reliability), features, sizes, capacities and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. 42 U.S.C. 6313(a)(6)(B).

Finally, the Secretary may not prescribe any amended standard which increases maximum allowable energy use or decreases minimum required energy efficiency. 42 U.S.C. 6313(a)(6)(B)(ii).

### B. Background

#### 1. General

The Department of Energy (DOE or the Department) has an energy conservation program for consumer products, conducted under Part B of Title III of EPCA, 42 U.S.C. 6291-6309. The consumer appliance standards program consists of four principal parts: Test procedures, Federal energy conservation standards, labeling, and certification and enforcement procedures. The Federal Trade Commission (FTC) is responsible for labeling, and the Department implements the remainder of the program as codified in Title 10 of the Code of Federal Regulations (CFR), Part 430—Energy Conservation Program for Consumer Products.

Pursuant to the EPACT amendments to EPCA in 1992, DOE extended its program to cover commercial and industrial equipment and created a new Part 431 in Title 10 of the Code of Federal Regulations, entitled Energy Conservation Program for Commercial and Industrial Equipment. This part includes commercial heating, air conditioning and water heating equipment. This new program consists of: test procedures, Federal energy conservation standards, labeling, certification and enforcement procedures. EPCA directs the Department, rather than the FTC, to administer the statute's efficiency

labeling provisions for commercial equipment.

2. ASHRAE Action

ASHRAE revised ASHRAE/IES Standard 90.1 on October 29, 1999. ASHRAE changed the standards for some products but not for others. Of those products for which standards have

not changed, some levels were considered by ASHRAE in the course of revising ASHRAE/IES Standard 90.1 and left at their preexisting values, while consideration of other products was deferred. Among those products that were deferred were standards for commercial (3 phase) small air

conditioners and heat pumps (under 65 thousand Btu per hour), which are closely related to consumer products for which the Department is independently developing standards under NAECA. The standard levels in EPACT and ASHRAE/IES Standard 90.1-1999 appear in Tables 1 and 2.

TABLE 1.—EPCA SECTION 342(a) 1, 2, 3 AIR CONDITIONERS AND HEAT PUMPS

Equipment category	Equipment subcategory	EPCA section	EPCA date	Efficiency levels	
				EPCA 92	90.1-1999
Small Commercial Packaged Air Conditioning and Heating Equipment.	AC/HP <65—Air Cooled 3 Phase, Central Split System.	Cooling Eff. 342(a)(1)(A) ..... Heating Eff. 342(a)(1)(D) .....	1/1/94	SEER 10.0 ..... HSPF 6.8 .....	SEER 10.0 HSPF 6.8
	AC/HP <65—Air Cooled 3 Phase, Central Single Package.	Cooling Eff. 342(a)(1)(B) ..... Heating Eff. 342(a)(1)(E) .....	1/1/94	SEER 9.7 ..... HSPF 6.6 .....	SEER 9.7 HSPF 6.6
	AC/HP 65—135 Air Cooled Central.	Cooling Eff. 342(a)(1)(C) ..... Heating Eff. 342(a)(1)(F) .....	1/1/94	EER 8.9 ..... COP 3.0 .....	EER 10.3 COP 3.2
	AC/HP <65—Water Cooled Evap. Cooled Water-Source Central.	Cooling Eff. 342(a)(1)(G) ..... Heating Eff. Water-Source <i>only</i> 342(a)(1)(I).	1/1/94	EER 9.3 ..... COP 3.8 .....	EER 12.1 COP 4.2
	AC/HP 65—135 Water Cooled Evap. Cooled Water-Source Central.	Cooling Eff. 342(a)(1)(H) ..... Heating Eff. Water-Source <i>only</i> 342(a)(1)(I).	1/1/94	EER 10.5 ..... COP 3.8 .....	EER 11.5 COP 4.2
Large Commercial Packaged Air Conditioning and Heating Equipment.	AC/HP 135—240—Air Cooled Central.	Cooling Eff. 342(a)(2)(A) ..... Heating Eff. 342(a)(2)(B) .....	1/1/95	EER 8.5 ..... COP 2.9 .....	EER 9.7 COP 3.1
	AC/HP 135—240 Water Cooled Evap. Cooled Central.	Cooling Eff. 342(a)(2)(A) ..... <i>No Heating Eff. Requirement</i> ....	1/1/95	EER 9.6 .....	EER 11.0
Packaged Terminal Air Conditioners and Heat Pumps.	PTAC/PTHP (Air Cooled) .....	Cooling Eff. 342(a)(3)(A) ..... Heating Eff. 342(a)(3)(B) .....	1/1/94	EER varies by capacity COP varies by capacity.	EER and COP vary by capacity (different formulas)

TABLE 2.—EPCA (AS AMENDED) SECTION 342(a) 4, 5 FURNACES, BOILERS, AND STORAGE WATER HEATER

Equipment category	Equipment subcategory	EPCA section	EPCA date	Efficiency levels	
				EPCA 92	90.1-1999
Warm Air Furnaces .....	≥225,000: .....	Gas Fired Eff. 342(a)(4)(A) .....	1/1/94	Thermal Efficiency:. 80% Gas ..... 81% Oil .....	Thermal Efficiency:. 80% Gas 81% Oil
		Oil Fired Eff. 342(a)(4)(A) .....			
		Oil Fired .....			
Package Boilers .....	≥300,000: .....	Gas Fired Eff. 342(a)(4)(C) .....	1/1/94	Combustion Efficiency:. 80% Gas ..... 83% Oil .....	Combustion Efficiency:. 80% Gas 83% Oil
		Oil Fired Eff. 342(a)(4)(D) .....			
		Oil Fired .....			
Storage Water Heaters ...	Electric .....	Standby Loss 342(a)(5)(A) .....	1/1/94	0.3+27/Va .....	20+35 √V
	≤155,000 and V≤ 40 gal .....	Thermal Eff. and Standby Loss 342(a)(5)(B).	1/1/94	Thermal Eff. 78%, Standby Loss Varies by Volume.	Thermal Eff. 80%, Standby Loss Varies by Volume
	>155,000 and V≤140 gal .....	Thermal Eff. and Standby Loss 342(a)(5)(C).	1/1/94	Thermal Eff. 78%, Standby Loss Varies by Volume.	Thermal Eff. 80%, Standby Loss Varies by Volume
Instantaneous Water Heaters.	V<10 gal Instantaneous .....	Thermal Eff. 342(a)(5)(D) .....	1/1/94	Thermal Eff. 80%.	Thermal Eff. 80%
	10 gal <V <140 gal Instantaneous.	Thermal Eff. and Standby Loss 342(a)(5)(E).	1/1/94	Thermal Eff. 77% Standby Loss Varies by Volume.	Thermal Eff. 80%, Standby Loss Varies by Volume
Storage Tanks .....	V ≤140 gal Unfired .....	Heat Loss 342(a)(5)(F) .....	1/1/94	Heat Loss 6.5 Btu/hr/ft <sup>2</sup> .	Heat Loss 6.5 Btu/hr/ft <sup>2</sup>
	Storage Water Heaters and Storage Tanks >140 gal.	Prescriptive 342(a)(5)(G) .....	1/1/94	R-12.5, IID .....	R-12.5, IID

In response to ASHRAE's action, the Department initiated a Preliminary Screening Analysis to aid the Department in deciding what action it should take at this point with respect to the efficiency levels in ASHRAE/IES Standard 90.1-1999.

## II. Discussion

### A. Preliminary Screening Analysis

In conducting the Preliminary Screening Analysis, the Department is using existing data from industry and other sources, including, among others, analysis performed for ASHRAE in support of its deliberations over the new ASHRAE/IES Standard 90.1-1999 efficiency levels. For each product category, the Department is estimating the likely cost of achieving several higher, technologically feasible efficiency levels and then will calculate for each such level the corresponding rate of energy consumption required to fulfill the product's function. Applying appropriate climate data, typical building design characteristics, inventories of buildings in different regions of the country, equipment sales volumes, and economic discount rates and energy prices, DOE will compute cost/benefit measures corresponding to the hypothetical efficiency levels and also estimate the nationwide energy and net cost savings, if any, that would result from more stringent standards than the levels in ASHRAE/IES Standard 90.1-1999.

For the products analyzed, the Department is examining the range of efficiency levels specified in EPCA and ASHRAE/IES Standard 90.1-1999, as well as more efficient levels, including those associated with the most efficient product available in the market and the lowest life-cycle cost. For each level above the EPCA standard, DOE will estimate: (1) The incremental national energy and carbon emission savings that would result from a standard set at that level, and (2) the net nationwide direct economic benefit (net present value) that would result from a standard set at that level, as compared to the corresponding ASHRAE/IES Standard 90.1-1999 and EPCA standards. The products being studied in the Preliminary Screening Analysis are:

- Central Air Source Air Conditioners,  $\geq 135$  kBtu/h— $< 240$  kBtu/h
- Central Air Source Heat Pump,  $\geq 135$  kBtu/h— $< 240$  kBtu/h (cooling performance only)
- Central Water Cooled Air Conditioners,  $\geq 135$  kBtu/h— $< 240$  kBtu/h

- Central Air Source Air Conditioners,  $\geq 65$  kBtu/h— $< 135$  kBtu/h
- Central Air Source Heat Pump,  $\geq 65$  kBtu/h— $< 135$  kBtu/h (cooling performance only)
- Central Water Source Heat Pump,  $\geq 65$  kBtu/h— $< 135$  kBtu/h (cooling performance only)
- Central Water Cooled Air Conditioners,  $\geq 65$  kBtu/h— $< 135$  kBtu/h
- Packaged Terminal Air Conditioners
- Packaged Terminal Heat Pumps (cooling performance only)
- 3-Phase Single Pkg. Air Source Air Conditioners,  $< 65$  kBtu/h
- 3-Phase Split Air Source Air Conditioners,  $< 65$  kBtu/h
- 3-Phase Single Pkg. Air Source Heat Pump,  $< 65$  kBtu/h (cooling performance only)
- 3-Phase Split System Air Source Heat Pump,  $< 65$  kBtu/h (cooling performance only)
- Central Water Cooled Air Conditioners,  $< 65$  kBtu/h
- Central Water Source Heat Pump,  $\geq 17$  kBtu/h— $< 65$  kBtu/h (cooling performance only)
- Central Water Source Heat Pump,  $< 17$  kBtu/h (cooling performance only)
- Large Gas-Fired Hot Water Boilers,  $\geq 2.5$  MMBtu/h
- Large Gas-Fired Steam Boilers,  $\geq 2.5$  MMBtu/h
- Small Gas-Fired Boilers,  $< 2.5$  MMBtu/h
- Gas-Fired Warm Air Furnaces,  $> 225$  kBtu/h
- Gas Storage Water Heaters,  $\geq 155$  kBtu/h
- Gas Storage Water Heaters,  $< 155$  kBtu/h
- Electric Water Heaters
- Tankless Instantaneous Water Heaters
- Instantaneous Water Heaters with Tanks

### B. Products Not Included in the Preliminary Screening Analysis

Several products were not included in the formal Preliminary Screening Analysis:

- Central Air Source Heat Pumps,  $\geq 135$  kBtu/h— $< 240$  kBtu/h (heating performance)
- Central Air Source Heat Pumps,  $\geq 65$  kBtu/h— $< 135$  kBtu/h (heating performance)
- 3-Phase Single Package, Air Source Heat Pumps,  $< 65$  kBtu/h (heating performance)
- 3-Phase Split Air Source Heat Pumps,  $< 65$  kBtu/h (heating performance)
- Packaged Terminal Heat Pump (heating performance)
- Central Water Source Heat Pumps  $< 135$  kBtu/h (heating performance)

- Water Source Heat Pumps  $\geq 135$  kBtu/h— $< 240$  kBtu/h
- Evaporatively Cooled Products
- Oil-Fired Warm Air Furnaces  $> 225$  kBtu/h
- Oil-Fired Storage Water Heaters  $\geq 155$  kBtu/h
- Oil-Fired Storage Water Heaters  $< 155$  kBtu/h
- Tankless Oil-Fired Instantaneous Water Heaters
- Oil-Fired Instantaneous Water Heaters with Tanks
- Oil-Fired Small Boilers  $\geq 2.5$  MMBtu/h
- Oil-Fired Large Boilers  $< 2.5$  MMBtu/h (steam and hot water)

The reasons for excluding these products involve insufficient data describing baseline energy consumption and cost-efficiency relationships, small markets for the products in question or lack of product shipment data, or, in the case of the heating performance of air-source heat pumps, absence of a suitable methodology to discriminate their heating function from that of supplemental heat sources with which they are often used.

### C. DOE Decision Process

The Department plans to review the results of the Preliminary Screening Analysis and to announce the availability of the document in the **Federal Register**. The announcement will also contain DOE's preliminary inclination with respect to actions it will take on the EPCA commercial product categories covered by ASHRAE/IES Standard 90.1-1999 efficiency levels and will invite comments related to: (1) The analysis contained in the Preliminary Screening Analysis, (2) DOE's interpretation of the results, (3) DOE's treatment of the product categories; and (4) any other information or evidence that bears on the adoption of ASHRAE/IES Standard 90.1-1999 efficiency levels as uniform national standards under the terms of EPCA.

After receiving comments in response to the Announcement, the Department expects to pursue, for each product category, one of four courses of action:

- Adopt the ASHRAE/IES Standard 90.1-1999 efficiency level as a uniform national standard;
- Reject the ASHRAE/IES Standard 90.1-1999 efficiency level if it increases maximum allowable energy use or decreases minimum required efficiency;
- Propose consideration of an addendum to ASHRAE/IES Standard 90.1-1999 if ASHRAE did not consider a more efficient level, and a more efficient level appears warranted; or
- Propose consideration of an addendum to ASHRAE/IES Standard



90.1–1999 and undertake a more thorough evaluation to determine whether a rulemaking is justified, if ASHRAE considered amending or amended the standard, and a more efficient level appears warranted than is contained in ASHRAE/IES Standard 90.1–1999.

DOE expects to announce the availability of the Preliminary Screening Analysis in March 2000, along with the Department's preliminary inclinations with respect to the EPCA commercial product efficiency levels covered by ASHRAE/IES Standard 90.1–1999.

Issued in Washington, DC, on February 23, 2000.

**Dan W. Reicher,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

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## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 716 and 741

#### Privacy of Consumer Financial Information; Requirements for Insurance

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The NCUA Board is proposing a new privacy rule applicable to all federally-insured credit unions, as required by the recently enacted Gramm-Leach-Bliley Act (the GLB Act or Act). The proposed rule requires credit unions to have a privacy policy and provide certain disclosures and notices to individuals about whom credit unions collect nonpublic personal information. It also restricts a credit union's ability to disclose nonpublic personal information, including giving individuals in some cases an opportunity to opt out of the disclosure. In drafting the proposed rule, the NCUA participated as part of an interagency group composed of representatives from the NCUA, the Federal Trade Commission, the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, Secretary of the Treasury, and Securities and Exchange Commission (collectively, the Agencies). The other Agencies are also required to issue regulations to implement the GLB Act. NCUA's proposed rule takes into account the unique circumstances of federally-

insured credit unions and their members but is comparable and consistent with the regulations of the other Agencies as required by the GLB Act.

**DATES:** NCUA must receive comments by March 31, 2000.

**ADDRESSES:** Direct comments to: Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or you may fax comments to (703) 518–6319. *Please send comments by one method only.*

**FOR FURTHER INFORMATION CONTACT:** Mary F. Rupp or Regina M. Metz, Staff Attorneys, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 12, 1999, President Clinton signed the GLB Act (Pub. L. 106–102, codified at 15 U.S.C. 6801 *et seq.*) into law. Subtitle A of Title V of the GLB Act, captioned Disclosure of Nonpublic Personal Information, limits the instances when a financial institution may disclose nonpublic personal information of a consumer to nonaffiliated third parties. It requires a financial institution to disclose to all its customers the institution's privacy policies and practices with respect to information sharing with affiliates and nonaffiliated third parties.

As required by the GLB Act, the NCUA has consulted with the other Agencies to ensure that its proposed rule is consistent and comparable with the proposed rules of the other Agencies. However, the NCUA's proposed rule takes into account the unique nature of credit union structure and operations, particularly, the relationship between a credit union and its members, credit union investment in credit union service organizations (CUSOs), and, generally, the significant difference between credit union and CUSO activities as compared with other financial institutions and their subsidiaries or affiliates.

A credit union is a not-for-profit, cooperative financial institution, formed to permit those in the field of membership specified in the credit union's charter to save, borrow, and obtain related financial services. Member ownership and control make credit unions unique from other financial institutions. Federal credit union investment in affiliates is limited to CUSOs, which are organizations that primarily serve credit unions or their members and whose business is related

to the daily and routine operations of credit unions. 12 U.S.C. 1757(5)(D), 1757(7)(I). This is also generally true for state-chartered credit unions.

A key focus of the GLB Act is protecting the privacy of consumers and the customers of financial institutions while permitting financial institutions to make disclosures to their affiliates. In the credit union context, this means that the provisions of the Act and the requirements of NCUA's proposed regulation will apply *primarily* to a credit union's members and *ordinarily* permit sharing of information with CUSOs. Nevertheless, the Act and the proposed regulations impose requirements on credit unions with respect to nonmembers who are deemed to be consumers or customers receiving a financial product or service from the credit union. Thus, credit unions must understand when individuals qualify as a consumer or customer and what responsibilities the credit union has to them. While the GLB Act uses the term customer to describe a category of individuals to whom certain obligations are owed, the term customer should not be equated with the term member. Members in a credit union, as noted above, are its owners with a relationship to their credit union that is inherently different than that of customers to a financial institution. In addition, whether a CUSO will qualify as an affiliate to which a credit union may make disclosures will depend on the extent to which a credit union exercises control over the CUSO.

NCUA's proposed rule mirrors the other Agencies' proposed rules except for modifications appropriate to address the different circumstances of credit unions such as references to credit unions, CUSOs, members, nonmember customers, and other nonmembers. NCUA has also incorporated much of the preamble discussion from the Agencies' joint notice of proposed rulemaking in this preamble. The section-by-section analysis of the rule that follows points out those provisions that differ from the other Agencies' proposed rules. Besides differences in terms or definitions, a significant modification is in the use of examples in the rule. All the Agencies' proposed rules contain examples to aid understanding. NCUA has attempted to use examples pertinent to credit union circumstances and, therefore, has changed or deleted some examples used in the other Agencies' proposals.

The NCUA requests comment on all aspects of the proposed rule as well as comment on the specific provisions and issues highlighted in the section-by-section summary below. The NCUA

specifically requests comment on the examples in the proposed rule and on any additional examples that would be helpful.

NCUA and the other Agencies are developing examination standards and guidelines. A credit union's compliance with this rule will be reviewed as part of the regular examination process.

NCUA and the other Agencies have coordinated their comment periods to end on March 31, 2000. Although, NCUA's Interpretive Ruling and Policy Statement 87-2 states that the public should be given at least 60 days to comment on a proposed rule, this abbreviated comment period is necessary because of the statutory requirement that the final rule be issued by May 12, 2000.

## II. Section-by-Section Analysis

### Section 716.1 Purpose and Scope

Proposed paragraph (a) of this section identifies three purposes of the rule. First, the rule requires a credit union to provide notice to consumers, defined in § 716.3(e), about the credit union's privacy policies and practices. Second, the rule describes the conditions under which a credit union may disclose nonpublic personal information about a consumer to a nonaffiliated third party. Third, the rule provides a method for a consumer to "opt out" of the disclosure of that information to nonaffiliated third parties, subject to the exceptions in §§ 716.9, 716.10, and 716.11, discussed below.

Proposed paragraph (b) sets out the scope of the NCUA rule, stating that it applies to all federally-insured credit unions. Section 505(a)(2) of the GLB Act provides that the NCUA Board has enforcement authority for federally-insured credit unions and any subsidiaries. The NCUA notes that, while CUSOs may be considered "subsidiaries," the Federal Credit Union Act does not give the NCUA direct regulatory or supervisory authority over CUSOs. Therefore, CUSOs, depending on the type of businesses in which they engage, may be subject to the GLB Act and the regulations of the agency having jurisdiction over that business activity. For example, a CUSO engaged in securities brokerage activities would be subject to the Securities and Exchange Commission privacy regulation.

The NCUA Board specifically requests comment on whether it would be appropriate to exempt federally-insured corporate credit unions from the regulation. The membership of corporate credit unions is natural person credit unions; they are operated primarily to serve other credit unions

and limit natural person members to the minimum required by state or federal law to charter and operate the credit union. 12 CFR 704.2. Corporate credit unions function as a "credit union's credit union" and provide a source of liquidity and investment for natural person credit unions as well as acting as clearing houses for financial transactions. The Board is particularly interested in comments that illustrate whether and to what extent corporate credit unions actually collect nonpublic personal information about consumers or customers within the meaning of the GLB Act and this regulation.

This paragraph also notes that the rule applies only to information about individuals who obtain a financial product or service from a credit union for personal, family, or household purposes.

### Section 716.2 Rule of Construction

Proposed § 716.2 of the rule sets out a rule of construction intended to clarify the effect of the examples used in the rule. Given the wide variety of transactions that Title V of the GLB Act covers, the NCUA proposes to adopt a rule of general applicability and then provide examples of conduct that would comply with the rule as well as examples of conduct that would not. While the NCUA's general rule is consistent with the other Agencies' proposals, NCUA's examples differ on occasion from those used by the other Agencies in order to provide guidance that is more applicable to credit unions.

The examples are provided to fulfill NCUA's goal of understandable regulations. These examples are not intended to be exhaustive; rather, they are intended to provide guidance about how the rule would apply in specific situations.

### Section 716.3 Definitions

(a) *Affiliate*. The proposed rule adopts the definition of "affiliate" used in section 509(6) of the GLB Act. An affiliation will be found when one company controls, is controlled by, or is under common control with another company. Control is defined in § 716.3(g). The definition of affiliate applies to financial institutions and entities that are not financial institutions.

NCUA's proposed rule includes examples of entities that will be affiliates for credit unions. For a federal credit union, the only entity that can be an affiliate is a CUSO, as addressed in 12 CFR part 712, that is controlled by the federal credit union. For a state-chartered credit union, an affiliate will

be a company that the credit union controls.

(b) *Clear and conspicuous*. Title V of the GLB Act and the proposed rule require that various notices be "clear and conspicuous." The proposed rule defines 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 rule does not mandate the use of any particular technique for making the notices clear and conspicuous, but instead allows each credit union 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 rule defines "collect" to mean obtaining any information that is organized or retrievable on a personally identifiable basis, irrespective of the source of the underlying information. Several sections of the proposed rule, for example, §§ 716.6 and 716.7, impose obligations when a credit union 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 a credit union obtains the information from a consumer or some other source.

(d) *Company*. The proposed rule defines "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 rule defines "consumer" to mean an individual who obtains, from a credit union, 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 credit union if that credit union purchases the individual's account from some other institution. The definition also includes the legal representative of an individual.

The GLB Act distinguishes "consumers" from "customers" for purposes of the notice requirements imposed by the Act. As explained more fully in the discussion of proposed § 716.4 which covers initial notices, a

credit union must give a "consumer" an initial notice only if it 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 in the Act. By contrast, a credit union 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 rule if he or she obtains a financial product or service from a credit union. A credit union that intends to share nonpublic personal information about a consumer with nonaffiliated third parties outside of the exceptions described in §§ 716.10 and 716.11 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. The examples for credit unions deviate from the examples for the other Agencies and use the terms member and nonmember where applicable. The other Agencies' examples include situations where someone: Applies for a loan or provides information for the purpose of determining whether he or she prequalifies for a loan; provides information in connection with seeking to obtain financial advisory services; and negotiates a workout of a loan. These examples do not apply to credit unions, because someone in the above situations will necessarily be a member of a credit union, and therefore, also a customer. The examples also clarify the status of someone whose loan has been sold.

(f) *Consumer reporting agency.* The proposed rule adopts 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 §§ 716.11 and 716.13 which deal with exceptions to notice and opt out and limitations on sharing.

(g) *Control.* The proposed rule defines "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 § 716.2(a), above), and would result in a financial institution and a company being considered as affiliates regardless of whether the control is by a company or individual.

The proposed definition mirrors the definition of the other Agencies. NCUA

is interested in receiving comment on whether this definition should be amended to reflect the particular relationship between a credit union and a CUSO. Historically, a federal credit union that invested in or made a loan to a CUSO was defined as an affiliated credit union of the CUSO. 51 FR 10353, 10360 (March 26, 1986); former 12 CFR 701.27(c)(1). The Board is particularly interested in receiving comment on whether a CUSO that is 100% owned by credit unions should be considered an affiliate of all of the investing credit unions, regardless of whether any one credit union owns 25%.

(h) *Credit union.* NCUA has defined credit union as a federally-insured credit union.

(i) *Customer.* The proposed rule defines "customer" as any consumer who has a customer relationship with a particular credit union. This definition parallels the one used for the term "customer" in the other Agencies' proposed rules. A customer relationship, which is separately defined, basically means that there is an ongoing relationship between the credit union and a consumer. For credit unions, it is obvious that their members will fall under the meaning of customer but the term customer will also include certain nonmembers. A nonmember may also have a customer relationship with a credit union in certain circumstances.

As explained more fully in the discussion of proposed § 716.4, a consumer becomes a customer of a credit union at the time of entering into a continuing relationship with the credit union. Ordinarily, a consumer will enter into a continuing relationship with the credit union at the time the consumer becomes a member. In some cases, a nonmember may also enter into a continuing relationship with a credit union. This may occur, for example, when a nonmember acts as a guarantor on a loan for a member or is listed by a member as a joint account holder. Another example of nonmembers who would qualify as customers are individuals who establish a share account at a low-income designated credit union.

The distinction between consumers and customers determines what notices a credit union must provide. If a consumer never becomes a customer, then, unless the credit union intends to disclose nonpublic personal information outside of the exceptions about that consumer to nonaffiliated third parties, the credit union is not required to provide any privacy notices. By contrast, if a consumer becomes a customer, the credit union 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.

(j) *Customer relationship.* The proposed rule defines "customer relationship" to mean a continuing relationship between a consumer and the credit union whereby the credit union provides a financial product or service to a consumer that is to be used primarily for personal, family, or household purposes. NCUA's definition parallels the other Agencies' definition of customer relationship, but highlights in the examples the circumstances as applicable to members and nonmembers.

Because the GLB Act requires annual notices of the credit union's privacy policies to customers, NCUA and the Agencies have interpreted the Act as requiring more than isolated transactions between a financial institution and a consumer to establish a customer relationship, unless it is reasonable to expect further contact between the institution and consumer afterwards. Thus, the proposed rule defines "customer relationship" as one that is of a continuing nature.

NCUA has changed the examples in this subsection to reflect that a member will necessarily have a continuing relationship with a credit union but that certain nonmembers may also have a continuing relationship and, therefore, be entitled to the same notices and disclosures that the credit union must provide to its members. These circumstances include where a nonmember has a joint account with a member, where a nonmember has an account with a low-income credit union, or where a credit union owns or services a nonmember's loan.

The examples that follow the definition of "customer relationship" clarify, for instance, that using an automated teller machine at a credit union at which a consumer transacts no other business or purchasing of traveler's checks would not constitute a continuing relationship. While a person engaging in one of these types of transactions would be a consumer under the regulation (thereby requiring the credit union to provide notices if the credit union intends to disclose nonpublic personal information about the consumer to nonaffiliated third parties outside of the exceptions), the consumer would not be a customer. Even if a consumer repeatedly engages in transactions of this sort, such as withdrawing funds at regular intervals from an ATM owned by a credit union with whom the consumer has no

customer relationship, the consumer will not be considered a customer.

The examples also clarify that a nonmember will have a customer relationship if a credit union has purchased the nonmember's loan or services a nonmember's loan.

(k) *Financial institution.* The proposed rule defines "financial institution" as any institution the business of which is engaging 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 rule also exempts from the definition of "financial institution" those entities specifically excluded by the GLB Act.

(l) *Financial product or service.* The proposed rule defines "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. It includes the credit union's evaluation of information collected in connection with an application by a consumer for a financial product or service. It also includes the distribution of information about a consumer for the purpose of assisting the consumer to obtain a financial product or service. Thus the definition includes nonpublic personal information provided by a consumer in an application for a financial product or service that ultimately is rejected or withdrawn. 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.

(m) *Government regulator.* The proposed rule adopts the definition of "government regulator" that includes each of the Agencies with enforcement authority under the statute, including State insurance authorities under the circumstances identified in the definition. This term is used in the exception set out in proposed § 716.11(a)(4) for disclosures to law enforcement agencies, "including government regulators."

(n) *Nonaffiliated third party.* The proposed rule defines "nonaffiliated third party" as 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 credit union, and (2) a joint employee of a credit union and a third party. This definition is intended to be substantively the same as the definition used in section 509(5) of the GLB Act.

(o) *Nonpublic personal information.* Section 509(4) of the GLB 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 GLB 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 rule implements this provision of the GLB Act by restating, in paragraph (1) of proposed § 716.2(o), the two categories of information described above. The example that follows the general definition clarifies that publicly available information and other identifying information about consumers, such as addresses and social security numbers, would be considered nonpublic personal information if the information is derived from information provided by a consumer or from customer accounts at, or other relationships with, a financial institution.

The proposed rule 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 credit union in connection with providing a financial product or service to the consumer. However, in order for the information to be considered "publicly available", the information must be obtained from government records, widely distributed media, or government-mandated disclosures. The fact that information is available from those sources is immaterial if the credit union does not actually obtain the information from one of them.

Some of the other Agencies are considering an alternative definition of "nonpublic personal information" that would permit a financial institution to release publicly available information regardless of the source but would still prohibit the release of this information as part of a list, description or other

grouping of consumers that is derived using personally identifiable financial information. This will produce a different result in the situation where a credit union wants to disclose the name, address, or other information available to the general public about an individual. In that situation, the proposed rule requires compliance with the notice and opt out requirements if the credit union received the information from the individual. The alternative definition would not, because the information would not be part of a list, description, or other grouping of consumers. NCUA invites comment on both alternatives.

NCUA also specifically invites comment on whether the definition of "nonpublic personal information" would cover information about a consumer that contains no indicators of a consumer's identity. For instance, if a credit union provided aggregate 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?

(p) *Personally identifiable financial information.* The GLB Act defines "nonpublic personal information" to include "personally identifiable financial information" but does not define the latter term.

As a general matter, the rule treats any personally identifiable information as financial if it is obtained by a credit union in connection with providing a financial product or service to a consumer. NCUA believes that this approach creates a workable and clear standard for distinguishing information that is financial from information that is not, while at the same time giving meaning to the word "financial." NCUA recognizes that this may result in certain information being covered by the rules that typically is not thought of as financial, such as health status. However, the broad scope of what is deemed a "financial product or service" under the GLB Act requires a comparably broad scope of what is deemed "financial information." NCUA specifically invites comment on the proposed definition of "personally identifiable financial information."

The proposed rule defines "personally identifiable financial information" to include three categories of information. The first category is any information that a consumer provides a

credit union in order for the credit union to provide a financial product or service to that consumer. 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, that information would be considered "personally identifiable financial information" for purposes of the proposed rule.

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 credit union 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 credit union in connection with providing a financial product or service. 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. It would not include, however, information that is publicly available.

The examples note that the definition of "personally identifiable 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 credit union incorporates those names and addresses into a listing of one or more of the credit union's members or nonmember customers, then the entire list becomes nonpublic personal information.

NCUA notes that there are other laws that may impose limitations on disclosures of nonpublic personal information in addition to those imposed by the GLB Act and this proposed rule. 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 regulations 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. 64 FR 59918 (Nov. 3, 1999). State laws may also affect a credit union's ability to disclose information. Thus, credit unions will need to monitor and comply with relevant legislative and regulatory developments that affect the disclosure of consumer information.

(q) *Publicly available information.* The proposed rule defines "publicly available information" as information lawfully made available to members of the general public that is obtained from three broad types of source. First, it includes information from official public records, such as real estate recordations or security interest filings. Second, it includes information from widely distributed media, such as a telephone book, television or radio program, or newspaper. Third, it includes information from disclosures required to be made to the general public by federal, state, or local law, such as securities disclosure documents. The proposed rule states that information obtained over the Internet will be considered publicly available information if the information is obtainable from a site available to the general public without requiring a password or similar restriction. NCUA invites comment on what information is appropriately considered publicly available, particularly in the context of information available over the Internet.

(r) *You.* This term refers to all federally-insured credit unions.

#### *Section 716.4 Initial Notice to Consumers of Privacy Policies and Practices Required*

The GLB 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 credit unions, ordinarily this will be at the time an individual applies for membership. 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. In addition, as discussed more fully in § 716.8, a revised notice must be provided to consumers prior to disclosing nonpublic personal information if a credit union's policies have changed.

Proposed § 716.4(a) states the general rule regarding these notices. It requires a credit union to provide a clear and conspicuous notice that accurately reflects the credit union's privacy policies and practices. A notice is clear and conspicuous if it is reasonably understandable and designed to call

attention to the nature and significance of the information it provides. A credit union may not represent in the notice that it will provide certain protections and then fail to provide them; that would mean the notice is not accurate. NCUA expects that credit unions will take appropriate measures to ensure adherence to their stated privacy policies.

Affiliated institutions may use 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 rule permits a credit union to establish different privacy policies and practices for different customers, so long as they receive notices that are accurate with respect to them. Credit unions could, for example, have different notices for members and for nonmember customers.

The proposed rule requires a credit union to provide an individual a privacy notice prior to the time that it establishes a customer relationship. Ordinarily, this will be at the time an individual applies for membership. For a nonmember, a credit union could provide the notice at the same time it provides other required notices, such as those required by the Truth-in-Lending Act. This approach is intended to strike a balance between (a) ensuring that consumers will receive privacy notices at a meaningful point along the continuum of "establishing a customer relationship" and (b) minimizing unnecessary burdens on credit unions that may result if a credit union is required to provide a consumer with a series of notices at different points in a transaction. Nothing in the proposed rule is intended to discourage a credit union from providing a privacy notice at an earlier point in the relationship to make it easier for an individual to compare several institutions' privacy policies and practices in advance of conducting transactions.

Proposed § 716.4(c) identifies the time the customer relationship is established as the point at which a credit union and a consumer enter into a continuing relationship. The examples NCUA provides differ from other Agencies to account for the member or nonmember relationship and the financial products or services that credit unions offer. The examples after the statement of the general rule inform the reader that, for a member, the relationship is established when the individual becomes a member. For nonmembers in relationships that are contractual in nature, such as share accounts, loans, or purchases of a nondeposit product, a customer relationship is established

when the individual executes the contract necessary to conduct the transaction in question. In the case of a credit card, the nonmember customer relationship is established when the necessary step to open the credit card account is taken under a credit union's procedures.

For consumers that are not customers, the initial notice may be provided at any point before the credit union discloses nonpublic personal information to nonaffiliated third parties. An initial notice is not required if the credit union does not intend to disclose the information or intends to make only disclosures authorized by one of the exceptions in §§ 716.10 and 716.11.

NCUA recognizes that in some circumstances a nonmember customer does not have a choice as to the credit union with which he or she has a nonmember customer relationship, such as when a credit union purchases the nonmember customer's loan in the secondary market. In these situations, it may not be practicable for the credit union to provide a notice prior to establishing the nonmember customer relationship. NCUA invites comment on whether an exception is necessary for such circumstances and how an exception should be formulated.

Proposed § 716.4(d) sets out the rules governing how credit unions must provide the initial notices. The general rule requires initial notice be provided so that each recipient can reasonably be expected to receive actual notice. NCUA invites 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 members or nonmember customers, the notice must be given in a way so that the member or nonmember customer may either retain it or access it at a later time. This would permit a credit union to provide access to an electronic version of the notice if the consumer agrees. This requirement that the notice be given in a manner permitting access at a later time does not preclude a credit union from changing its privacy policy. See proposed 12 CFR 716.8(c). Rather, the rules are intended only to require that a member or nonmember customer be able to access the most recently adopted privacy policy. NCUA requests comment on the regulatory burden of providing initial notices. Specifically, NCUA would appreciate learning the methods credit unions expect to use to provide initial notices.

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 credit union 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 credit union and consumer orally agree to enter into a contract for a financial product or service over the telephone, the credit union 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.

NCUA requests comment on whether there are situations where providing notice by mail is impracticable.

#### *Section 716.5 Annual Notice to Customers Required*

Section 503 of the GLB Act requires a financial institution to provide notices of its privacy policies and practices at least annually to its customers. The proposed rule implements 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 rule governing how to provide an initial notice also applies to annual notices.

Section 503(a) of the GLB Act requires that the annual notices be provided "during the continuation" of a customer relationship. To implement this requirement, the proposed rules states that a credit union 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. NCUA has changed these examples to reflect the concept of member and nonmember customer relationships. The examples include, for instance, when the member terminates the member relationship. For nonmembers, the examples include share accounts that are treated as dormant by a credit union, loans that

are paid in full or charged off, or assets sold without retaining servicing rights. NCUA invites comment on whether the example of dormant accounts provides a sufficiently clear standard and whether the applicable standard should be the credit union's policies or applicable state law. In addition, NCUA invites comment on whether the standard should apply to members as well as nonmembers.

There may be certain nonmember customer relationships that do not present a clear event after which there is no longer a nonmember customer relationship. The proposed rule contains an example intended to cover these situations, stating that a relationship will no longer be deemed continuing for purposes of the proposed rule if the credit union has not communicated with a nonmember customer, other than providing an annual privacy policy notice, for a period of twelve consecutive months.

NCUA requests comment on the regulatory burden of providing annual notices. Specifically, NCUA would appreciate learning the methods credit unions expect to use to provide annual notices and whether credit unions will use different methods for providing initial notices than for providing annual notices.

#### *Section 716.6 Information To Be Included in Initial and Annual Notices of Privacy Policies and Practices*

Section 503 of the GLB Act identifies the items of information that must be included in a financial institution's initial and annual notices. Section 503(a) of the GLB 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 credit union 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 credit union may collect.*

A credit union must inform its customers about the categories of nonpublic personal information it

collects. The proposed rule provides 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 credit union will satisfy this requirement if it categorizes the information according to the sources, such as application information, transaction information, and consumer report information. Credit unions may choose to provide more detail about the categories of information collected but are not required to do so by the proposed rule.

(2) *Categories of nonpublic personal information that a credit union may disclose.*

A credit union's initial and annual notice must provide information about the categories of nonpublic personal information that may be disclosed either to affiliates or nonaffiliated third parties. This requirement is in proposed § 716.6(a)(2). The examples of how to comply focus on the content of information to be disclosed. As stated in the examples, a credit union 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).

Credit unions are free to provide more detailed information in the initial and annual notices if they choose. Conversely, if a credit union 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 credit union discloses nonpublic personal information.*

Section 503(a) of the Act 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, 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. NCUA and the other Agencies believe that, when read together, sections 503(a) and 503(b) of the GLB Act require a financial institution's notice to address disclosures of nonpublic personal information to both affiliates and nonaffiliated third parties.

The proposed rule states that a credit union 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 that they engage in. Types of businesses may be described by general terms, such as financial products or services, if the credit union provides illustrative examples of the significant lines of businesses of the recipient, such as mortgage lending, insurance brokerage, or securities brokerage.

The GLB Act does not require a financial institution to list the categories of persons to whom information may be disclosed under one of the exceptions set out in proposed §§ 716.10 and 716.11. The proposed rule states that a credit union 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. NCUA invites comment on whether such a disclosure would be adequate.

If a credit union 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 members and nonmember customers.* Section 503(a)(2) 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.

NCUA and the other 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 § 716.6(a)(4).

(5) *Information disclosed to service providers.* Section 502(b)(2) of the GLB 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. However, 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 rule implements these provisions, in proposed § 716.6(a)(5), by requiring that, if a credit union discloses nonpublic personal information to a nonaffiliated third party under the exception for service providers, the credit union 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 credit union may comply with these requirements by providing the same level of detail in the notice as is required to satisfy the requirements in proposed §§ 716.6(a)(2) and (3).

(6) *Right to opt out.* As previously noted, sections 503(a)(1) and 503(b)(1) of the GLB 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 rule implements this requirement, in proposed § 716.6(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 FCRA.* Section 503(b)(4) of the GLB 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 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 rule implements section 503(b)(4) of the GLB Act by including the requirement that a credit union's initial and annual notice include any disclosures a credit union makes under section 603(d)(2)(A)(iii) of the FCRA.

(8) *Confidentiality, security, and integrity.* Section 503(a)(3) of the GLB 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. Section 501 requires the Agencies to establish standards governing the administrative, technical, and physical safeguards of customer information.

The proposed rule implements these provisions by requiring a credit union to include in the initial and annual notices the credit union's policies and practices for protecting the confidentiality, security, and integrity of nonpublic personal information. The example in the proposed rules states that a credit union may comply with the requirement as it concerns confidentiality and security if it 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 credit union takes to protect against reasonably anticipated threats or hazards. The proposed rule does not require a credit union 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 intend to have those standards in place at the time the final privacy rules are issued. This will enable credit unions to reflect those standards in the initial and annual notices.

*Section 716.7 Limitation on Disclosure of Nonpublic Personal Information About Consumers to Nonaffiliated Third Parties*

Section 502(a) of the GLB 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 copy of the institution's privacy policy. Section 502(b) of the Act adds the requirements 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 716.7 of the proposed rule implements these provisions. Paragraph (a)(1) of § 716.7 sets out the criteria that a credit union must satisfy before disclosing nonpublic personal information to nonaffiliated third parties. These criteria apply to direct and indirect disclosures through an affiliate. NCUA invites comment on how the right to opt out should apply in the case of joint accounts. Should, for instance, a credit union 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? NCUA also requests comment on how the opt out rights should be handled with respect 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 §§ 716.9, 716.10, and 716.11. These exceptions permit disclosures of nonpublic personal information to nonaffiliated third parties without first providing the initial privacy notice and giving the consumer the right to opt out.

The proposed rule requires 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 credit union provides 30 days in which to opt out. In the latter case,

opportunity will be reasonable if the consumer must decide as part of the transaction whether to opt out before completing the transaction. NCUA invites 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 (this point is discussed further in proposed § 716.8, below). But, a decision to opt out at a time after the opportunity first is presented may result in nonpublic personal information being disclosed to nonaffiliated third parties for the period of time necessary to implement the consumer's opt out direction.

Paragraph (b) of proposed § 716.7 clarifies that the right to opt out applies regardless of whether a consumer has established a member or nonmember customer relationship with a credit union. As noted above, all members or nonmember customers are consumers under the proposed rules. Thus, the fact that a consumer establishes a member or nonmember customer relationship with a credit union does not change the credit union's obligations to comply with the requirements of proposed § 716.7(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 member or nonmember customer relationship with a credit union but then terminated that relationship. Paragraph (b) also clarifies that the consumer protections afforded by paragraph (a) of proposed § 716.7 apply to all nonpublic personal information collected by a credit union, 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 credit union's possession, regardless of when the information is obtained.

Paragraph (c) of proposed § 716.7 states that a credit union 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 credit union must



state this option in a way that clearly informs the consumer about the choices available and consequences thereof.

*Section 716.8 Form and Method of Providing Opt Out Notice to Consumers*

Paragraph (a) of proposed § 716.8 requires that any opt out notice provided by a credit union under § 716.7 must be clear and conspicuous and accurately explain the right to opt out. The notice must inform the consumer that the credit union 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 credit union will adequately provide notice of the right to opt out if it: identifies the categories of information that may be disclosed; the categories of nonaffiliated third parties to whom the information may be disclosed; and that the consumer may opt out of those disclosures. A credit union 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 credit union must provide, the credit union 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 credit union required to provide subsequent opt out notices when a consumer establishes a new type of relationship with that credit union, such as becoming a member or nonmember customer, unless the credit union's opt out policies differ depending on the type of member or nonmember customer relationship.

The examples also suggest several ways in which a credit union may provide reasonable means to opt out, including check-off boxes, self-addressed stamped reply forms, and electronic mail addresses. A credit union does not provide a reasonable means of opting out in the opt out notice by requiring consumers to send their own letter informing the credit union of an opt out election. A credit union may honor letters, particularly with respect to delayed opt outs as described in paragraph (d).

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 credit union must provide a copy of the initial notice along with the opt out notice. If a credit union and consumer orally agree to enter into a customer relationship, the credit union may provide the opt out notice within a reasonable time thereafter if the consumer agrees. NCUA invites 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 credit union's obligations in the event the credit union changes its disclosure policies. As stated in that paragraph, a credit union may not disclose nonpublic personal information to a nonaffiliated third party unless the credit union first provides a revised notice and new opportunity to opt out. The credit union must wait a period of time that is reasonable under the circumstances before disclosing information according to the terms of the revised notice in order to afford the consumer a reasonable opportunity to opt out. A credit union 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 § 716.4(c) or § 716.8(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. NCUA considered whether to include a time limit by which credit unions must effectuate a consumer's opt out election, but decided that the wide variety of practices of credit unions made one limit inappropriate. Instead, NCUA's rule requires that the sharing of nonpublic personal information stop promptly.

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.

NCUA requests comment on the regulatory burden of complying with opt out notices. How do credit unions expect to give opt out opportunities? How many opt outs do credit unions expect to receive and need to process?

*Section 716.9 Exception to Opt Out Requirements for Service Providers and Joint Marketing*

Section 502(b) of the GLB Act creates an exception to the opt out rules for the disclosure of information to service providers and for marketing. 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 credit union satisfies certain requirements.

First, the credit union 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 § 716.4. NCUA invites comment on whether the proposed rules appropriately implement the requirement of "full" disclosure in section 502(b).

Second, the credit union 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 credit union that discloses it, and (b) will use the information solely for the purposes for which the information is disclosed or as otherwise permitted by §§ 716.10 and 716.11 of the proposed rules. NCUA invites comment on the application of proposed § 716.9(a)(2)(ii) in the context of credit unions that contract with credit scoring vendors to evaluate borrower creditworthiness. Specifically, would that section prohibit the vendor from using the consumer's information without the indicators of personal identity to re-validate the underlying model? Would using the information in this manner be beyond the lender's immediate purpose of determining the consumer's propensity to perform acceptably?

The GLB 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. NCUA, like the other Agencies, has not done so in the proposed rules, but NCUA invites comment on whether additional requirements should be imposed, and, if so, what those requirements should address. NCUA notes, for instance, that joint agreements have the potential to create reputation risk and legal risk for a credit union entering into such an agreement. NCUA seeks comment on whether the rule should require a credit

union 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 credit union. These might include, for instance, ensuring that the credit union's sponsorship of the product or service in question is evident from the marketing of that product or service. NCUA also invites 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.

*Section 716.10 Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions*

Section 502(e) of the GLB 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 § 716.10 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 GLB Act.

The exceptions set out in proposed § 716.10, and the exceptions discussed in proposed § 716.11, below, do not affect a credit union's obligation to provide initial notices of its privacy policies and practices prior to the time it establishes a member or nonmember customer relationship and annual notices thereafter. Those notices must be provided to all members and nonmember customers, even if the credit union intends to disclose the nonpublic personal information only pursuant to the exceptions in § 10.

*Section 716.11 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 § 716.11 sets out those exceptions that are not made in connection with the administration, processing, servicing, and sale of a consumer's account.

One of the exceptions stated in proposed § 716.11 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 credit union 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 and may need to purchase homeowner's insurance. Consent in such a situation would enable the credit union to make the disclosure to the third party without first providing the initial notice required by § 716.4 or the opt out notice required by § 716.7, 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. NCUA invites 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, that consent be written or that it be indicated on a separate signature line in a relevant document or on a distinct Web page.

*Section 716.12 Limits on Redisclosure and Reuse of Information*

Section 716.12 of the proposed rule implements the GLB Act's limitations on redisclosure and reuse of nonpublic personal information about consumers. Section 502(c) provides that a nonaffiliated third party that receives nonpublic personal information from a financial institution shall not, directly or through an affiliate of the third party, 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 GLB Act's redisclosure limitation as it applies to a credit union that receives information from another 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 credit union.

The GLB 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 GLB 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 §§ 716.9, 716.10, or 716.11, or (2) an entity to whom the

original transferring institution could have disclosed the information as described under its 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 GLB 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 §§ 716.9, 716.10, or 716.11. NCUA invites comment on whether the rule should require a credit union 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 §§ 716.9, 716.10, and 716.11 of the proposed rule) 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 § 716.12 clarifies this limitation on reuse as it applies to credit unions. Paragraph (a)(2) provides that a credit union may use nonpublic personal information about a consumer that it receives from a nonaffiliated financial institution in accordance with an exception under §§ 716.9, 716.10, or 716.11, 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 credit union.

NCUA invites comment on the meaning of the word "lawful" as that term is used in section 502(c). NCUA specifically solicits comment on whether it would be lawful for a nonaffiliated third party to disclose information pursuant to the exception provided in proposed § 716.9. Under that exception, a credit union must comply with certain requirements before disclosing information to a nonaffiliated third party. Given that the statute and proposed rules impose those requirements on credit unions making the initial disclosure, NCUA invites comment on whether subsequent disclosures by the third party could satisfy the requirement that those disclosures be lawful when the credit union is not party to the subsequent disclosure.

*Section 716.13 Limits on Sharing of Account Number Information for Marketing Purposes*

Section 502(d) of the GLB Act prohibits a financial institution from disclosing, 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. Proposed § 716.13 restates this statutory prohibition with minor stylistic changes intended to make the rule easier to read.

NCUA notes 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.

NCUA, like the other Agencies, has not included an exception to the prohibition of section 502(d) in the proposed rules, however, because of concerns about the potential for abuse that exists when someone other than a credit union is able to access a consumer's account.

NCUA seeks comment on whether section 502(d) prohibits the disclosure by a credit union to a marketing firm of encrypted account numbers if the credit union does not provide the marketer the key to decrypt the number, and on whether an exception to the section 502(d) prohibition could avoid creating the risks that may arise when a third party is provided access to a consumer's account. NCUA also seeks comment on whether a flat prohibition as set out in section 502(d) might unintentionally disrupt routine, unobjectionable 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 credit union

coupled with a request by the institution that the service provider include literature with the statement about a product. In addition, NCUA invites 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.

*Section 716.14 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 § 716.14 implements section 506(c) of the GLB Act by restating the statute, making only minor stylistic changes intended to make the rule clearer.

*Section 716.15 Relation to State Laws*

Section 507 of the GLB 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 credit union 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 § 716.15 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 does the regulation.

*Section 716.16 Effective Date; Transition Rule*

Section 510 of the GLB 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. The provisions in sections 504 and 506 that vest various agencies with rulemaking authority

have been effective as of the date on which the GLB Act was enacted, namely, November 12, 1999.

Proposed § 716.16 states, in paragraph (a), an effective date of November 13, 2000. This assumes that a final rule will be enacted within the time frame prescribed by section 504(a)(3). NCUA intends to provide at least six months following the enactment of a final rule for credit unions to bring their policies and procedures into compliance with the requirements of the final rule. NCUA invites comment on whether six months following adoption of final rules is sufficient to enable credit unions to comply with the rules.

Paragraph (b) of proposed § 716.16 provides a transition rule for consumers who were members or nonmember customers as of the effective date of the rules. Those member or nonmember customer relationships already will have been established as of the effective date so, the rules require that the initial notice be provided within 30 days of the effective date. NCUA invites comment on whether 30 days is enough time to permit a credit union to deliver the required notices, bearing in mind that the GLB Act contemplates at least a six-month delayed effective date from the date the rules are adopted.

If a credit union intends to disclose nonpublic personal information about someone who was a consumer before the effective date but who has not obtained any financial product or service from the credit union since then, it must first provide the notices required by §§ 716.4 and 716.7 and provide a reasonable opportunity to opt out.

If, in this instance, the credit union 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 credit union must stop disclosing nonpublic personal information about that consumer to nonaffiliated third parties as soon as reasonably practicable.

*Section 741.220 Privacy of Consumer Financial Information*

This provision requires all federally-insured credit unions to adhere to the provisions in part 716.

### III. Regulatory Procedures

#### A. Paperwork Reduction Act

NCUA invites comment on:

(1) Whether the collections of information in the proposed 12 CFR part 716 are necessary for the proper performance of NCUA's functions, including whether the information has practical utility;

(2) The accuracy of NCUA's estimate of the burden of the information collections;

(3) Ways to enhance the quality, utility, and clarity of the information NCUA must collect under this regulation;

(4) Ways to minimize the burden of the information collections on credit unions, 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 purchase of services to provide information.

Recordkeepers are not required to respond to this collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. NCUA is currently requesting a control number for this information collection from OMB.

This proposed regulation contains several disclosure requirements. Credit unions must prepare and provide the initial notice to all current members and nonmember customers and all new members and nonmember customers upon the commencement of a member or nonmember customer relationship. 12 CFR 716.4(a). Subsequently, credit unions must provide an annual notice to all members and nonmember customers at least once during a twelve-month period during the continuation of the member or nonmember customer relationship. 12 CFR 716.5(a). The credit union must provide the consumer with the opt out notice (and partial opt out notice, if applicable (*see* 12 CFR 716.7(a)(1)(iii))) prior to disclosing nonpublic personal information to certain nonaffiliated third parties. If a credit union wishes to disclose information in a way that is inconsistent with the notices previously given to a consumer, the credit union must provide consumers with revised notices. 12 CFR 716.8(c).

This proposed regulation contains consumer reporting requirements. In order for consumers to invoke their right to opt out, they must respond to the credit union's opt out notice. 12 CFR 716.7(a)(2), (3)(i), and (c). The consumer has the right to change or update their opt out status with the credit union at any time. 12 CFR 716.8(d) and (e).

NCUA requests 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 a credit union. In light of the uncertainty regarding what credit unions will do to comply with the opt out requirements

and how consumers will react, NCUA estimates a nominal burden stemming from consumer responses of one hour per credit union, and will revisit this estimate in light of the comments NCUA receives.

NCUA will submit the collection of information requirements contained in the regulation to the OMB in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. The NCUA will use any comments received to develop its new burden estimates. Comments on the collections of information should be sent to Office of Management and Budget, Reports Management Branch, New Executive Office Building, Room 10202, Washington, DC 20503; Attention: Alex T. Hunt, Desk Officer for NCUA. Please send NCUA a copy of any comments you submit to OMB.

The likely respondents are federally-insured credit unions.

Estimated number of respondents: 10,627.

Estimated average annual burden hours per respondent: 45 hours.

Estimated total annual disclosure and recordkeeping burden: 478,215.

#### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA either to 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 credit unions. For purposes of the Regulatory Flexibility Act and in accordance with NCUA's authority under 5 U.S.C. 601(4), NCUA has determined that small credit unions are those with less than one million dollars in assets. *See* 12 CFR 791.8(a). NCUA cannot at this time determine whether the proposed rule would have a significant economic impact on a substantial number of small credit unions. Therefore, NCUA includes the following IRFA.

The supplementary material above contains a description of the reasons why NCUA is considering action and a statement of the objectives of, and legal basis for, the proposed rule. NCUA's proposed rule will apply to approximately 1,626 small credit unions, out of a total of approximately 10,627 federally-insured credit unions.

*Overlap with other federal rules.* While the scope of the proposed regulation (pursuant to the GLB 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 credit union that (i) does not want to be treated as a consumer reporting agency

and (ii) 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 credit union to disclose the terms and conditions of the transfer, including under what circumstances the credit union 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 regulations 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. 64 FR 59918 (Nov. 3, 1999).

4. The Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6502) (under which the NCUA must enforce the Federal Trade Commission's implementing regulations) generally requires online service operators collecting personal information from a child to obtain parental consent and post a privacy notice on the web site.

*New compliance requirements.* The proposed rule contains new compliance requirements for credit unions, most of which are required by the GLB Act. The credit unions will be required to prepare notices of their privacy policies and practices and provide those notices to consumers as the rule specifies. Credit unions 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. Credit unions will have to develop systems for keeping track of consumers' opt out directions. Some credit unions, particularly those that decide to 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. NCUA 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 credit unions.* NCUA seeks comment on whether the

requirements of the Act and this rule will create additional burden for small credit unions, particularly those that disclose nonpublic personal information about consumers to nonaffiliated third parties. The rule applies to all federally-insured credit unions, regardless of size. The Act does not provide NCUA with the authority to exempt a small credit union from the requirement to provide a notice of its privacy policies and practices to a consumer with whom it establishes a member or nonmember customer relationship. Although NCUA could exempt small credit unions from providing a notice and opportunity for consumers to opt out of certain information disclosures, NCUA 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. NCUA believes that the burden is relatively small for credit unions that do not disclose nonpublic personal information about consumers to nonaffiliated third parties. These credit unions may provide relatively simple initial and annual notices to consumers with whom they establish member or nonmember customer relationships.

NCUA 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. See H.R. Conf. Rep. No. 106-434, at 173 (1999). At this time, it is not clear if information-sharing among affiliates in large institutional entities will place small credit unions at a disadvantage. NCUA believes that further experience under the regulation would be appropriate before considering any exemptions in this area for small credit unions.

NCUA requests comment on the burdens associated with the proposed rule and whether any exemptions for small credit unions would be appropriate.

#### C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism

principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule, if adopted, will apply to all federally-insured credit unions, but it 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. Section 507 of the GLB Act states that state law may provide greater consumer protections than this proposed rule. In that event, federal law would not preempt state law. NCUA has determined the proposed rule does not constitute a policy that has federalism implications for purposes of the Executive order.

#### D. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

#### IV. Agency Regulatory Goal

NCUA's goal is clear, understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed amendment is understandable and minimally intrusive if implemented as proposed.

#### List of Subjects

##### 12 CFR Part 716

Consumer protection, Credit unions, Privacy, Reporting and recordkeeping requirements.

##### 12 CFR Part 741

Bank deposit insurance, Credit Unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on February 24, 2000.

**Becky Baker,**

*Secretary of the Board.*

For the reasons set out in the preamble, it is proposed that 12 CFR chapter VII be amended by adding a new part 716 to read as follows:

#### PART 716—PRIVACY OF CONSUMER FINANCIAL INFORMATION

Sec.

- 716.1 Purpose and scope.
- 716.2 Rule of construction.
- 716.3 Definitions.

716.4 Initial notice to consumers of privacy policies and practices required.

716.5 Annual notice to customers required.

716.6 Information to be included in initial and annual notices of privacy policies and practices.

716.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.

716.8 Form and method of providing opt out notice to consumers.

716.9 Exception to opt out requirements for service providers and joint marketing.

716.10 Exceptions to notice and opt out requirements for processing and servicing transactions.

716.11 Other exceptions to notice and opt out requirements.

716.12 Limits on redisclosure and reuse of information.

716.13 Limits on sharing of account number information for marketing purposes.

716.14 Protection of Fair Credit Reporting Act.

716.15 Relation to state laws.

716.16 Effective date; transition rule.

**Authority:** 15 U.S.C. 6801 *et seq.*, 12 U.S.C. 1751 *et seq.*

#### § 716.1 Purpose and scope.

(a) *Purpose.* This part governs the treatment of nonpublic personal information about consumers by the credit unions listed in paragraph (b) of this section. This part:

(1) Requires a credit union to provide notice to consumers about its privacy policies and practices;

(2) Describes the conditions under which a credit union may disclose nonpublic personal information about consumers to nonaffiliated third parties; and

(3) Provides a method for consumers to prevent a credit union from disclosing that information to nonaffiliated third parties by "opting out" of that disclosure, subject to the exceptions in §§ 716.9, 716.10, 716.11.

(b) *Scope.* The rules in this part apply only to nonpublic personal information about individuals who obtain financial products or services for personal, family or household purposes. 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 federally-insured credit unions. This part refers to a federally-insured credit union as "you" or "the credit union."

#### § 716.2 Rule of construction.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

#### § 716.3 Definitions.

As used in this part, unless the context requires otherwise:

(a)(1) *Affiliate* means any company that controls, is controlled by, or is under common control with another company.

(2) *Examples.* (i) An affiliate of a federal credit union is a credit union service organization (CUSO), as provided in 12 CFR part 712, that is controlled by the federal credit union.

(ii) An affiliate of a federally-insured state-chartered credit union is a company that is controlled by the credit union.

(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 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 provides nonpublic personal information to you in connection with obtaining or seeking to obtain credit union membership is your consumer regardless of whether you establish a member relationship.

(ii) An individual who provides nonpublic personal information to you in connection with using your ATM is your consumer.

(iii) An individual is not your consumer solely because you process information about the individual on behalf of a financial institution that extends credit 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 National Credit Union Administration. With respect to state-chartered credit unions, NCUA will consult with the appropriate state regulator prior to making its determination.

(h) *Credit union* means a federal or state-chartered credit union that the National Credit Union Share Insurance Fund insures.

(i) *Customer* means a consumer who has a customer relationship with you.

(j)(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 customer relationship with you if the consumer:

(A) Is your member;

(B) Is a nonmember who has a share, share draft, or credit card account with you jointly with a member;

(C) Is a nonmember who has a loan that you own or service;

(D) Is a nonmember who has an account with you and you are a credit union that has been designated as a low-income credit union;

(E) Is a nonmember who has an account in a federally-insured state-chartered credit union pursuant to state law.

(ii) A consumer does not, however, have a customer relationship with you if the consumer is a nonmember and:

(A) The consumer only obtains a financial product or service in an isolated transaction, such as withdrawing cash from your ATM or purchasing travelers checks; or

(B) You sell the consumer's loan and do not retain the rights to service that loan.

(k)(1) *Financial institution* means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activity 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.

(l)(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.

(m) *Government regulator* means-

(1) The National Credit Union Administration Board;

(2) The Board of Governors of the Federal Reserve System;

(3) The Office of the Comptroller of the Currency;

(4) The Board of Directors of the Federal Deposit Insurance Corporation;

(5) The Director of the Office of Thrift Supervision;

(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.

(n) *Nonaffiliated third party* means any person except:

(1) Your affiliate; or

(2) A person employed jointly by you and any company that is not your affiliate. The other company that jointly employs the person would still be a nonaffiliated third party.

(o)(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.

(p)(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.

(q)(1) *Publicly available information* means any information lawfully made available to the general public obtained from:

(i) Federal, state or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public 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.

(r) *You* means a federally-insured credit union.

#### **§ 716.4 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 §§ 716.10 and 716.11.

(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)(2) 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 §§ 716.10 and 716.11; and

(2) You do not have a member or nonmember 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) Becomes your member;

(ii) Is a nonmember and opens a credit card account with you jointly with a member under your procedures;

(iii) Is a nonmember and executes the contract to open a share or share draft account with you or obtain credit from you, jointly with a member;

(iv) Is a nonmember and opens an account with you and you are a credit union designated as a low-income credit union;

(v) Is a nonmember and opens an account with you pursuant to state law and you are a state-chartered credit union.

(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 from another financial institution and the customer of that loan does not have a choice about your purchase; 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 your privacy policies and practices in person or over the telephone.

(4) *Retention or accessibility of initial notice for members and nonmember 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.

#### **§ 716.5 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 twelve 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 § 716.4(d).

(c)(1) *Termination of member or nonmember customer relationship.* You are not required to provide an annual notice to an individual with whom you no longer have a continuing relationship.

(2) *Examples.* You no longer have a continuing relationship with an individual if:

(i) the individual is no longer your member and is not a nonmember customer;

(ii) In the case of a nonmember's share or share draft account, the account is dormant under the credit union's policies;

(iii) In the case of a nonmember's closed-end loan, the loan is paid in full, you charge off the loan, or you sell the loan without retaining servicing rights;

(iv) In the case of a credit card relationship or other open-end credit relationship with a nonmember, you no longer provide any statements or notices to the nonmember concerning that relationship or you sell the credit card receivables without retaining servicing rights; or

(v) For other types of relationships with nonmembers, you have not communicated with the nonmember about the relationship for a period of twelve consecutive months, other than to provide annual notices of privacy policies and practices.

#### **§ 716.6 Information to be included in initial and annual notices of privacy policies and practices.**

(a) *General rule.* The initial and annual notices about your privacy policies and practices under §§ 716.4 and 716.5 must include each of the following items of information:

(1) The categories of nonpublic personal information that you collect;

(2) The categories of nonpublic personal information that you disclose;

(3) The categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information, other than those parties to whom you disclose information under §§ 716.10 and 716.11;

(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 it, other than those parties to whom you disclose information under §§ 716.10 and 716.11;

(5) If you disclose nonpublic personal information to a nonaffiliated third party under § 716.9 (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 § 716.8(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)) (*i.e.*, notices regarding the ability to opt out of affiliate information sharing); 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 §§ 716.10 and 716.11, you are not required to list those exceptions in the initial or annual privacy notices required by §§ 716.4 and 716.5. 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 share, loan, or credit card account), and credit 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, counterparties and credit card usage; and information from credit 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 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.

**§ 716.7 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 § 716.4;

(ii) You have provided to the consumer an opt out notice as required in § 716.8;

(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 §§ 716.9, 716.10 and 716.11.

(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) to 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 traveler'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) This section applies 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 an 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.

**§ 716.8 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 § 716.7(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 § 716.6 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 detachable, pre-addressed form or self-addressed, stamped 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.

(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 member or nonmember 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 § 716.4.

(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 § 716.4, 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 § 716.4, 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 § 716.4(d) or § 716.8(b), respectively.

(3) *Examples.*

(i) Except as otherwise permitted by §§ 716.9, 716.10 and 716.11, 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 promptly.

(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 has agreed to accept notices in electronic form.

**§ 716.9 Exception to opt out requirements for service providers and joint marketing.**

(a) *General rule.* The opt out requirements in §§ 716.7 and 716.8 do not apply when you provide nonpublic personal information 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 § 716.4; 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 §§ 716.10 and 716.11 of this part.

(b) *Service may include joint marketing.* The services performed for you by a nonaffiliated third party under paragraph (a) 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.

**§ 716.10 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 § 716.4(a)(2), the opt out in §§ 716.7 and 716.8 and service providers and joint marketing in § 716.9 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.

**§ 716.11 Other exceptions to notice and opt out requirements.**

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § 716.4(a)(2), the opt out in §§ 716.7 and 716.8 and service providers and joint marketing in § 716.9 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 § 716.8(d).

**§ 716.12 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 §§ 716.9, 716.10 or 716.11 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 not affiliated with either the third party or you, 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 §§ 716.9, 716.10 or 716.11 only for the purpose of that exception.

**§ 716.13 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, share 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.

**§ 716.14 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.

**§ 716.15 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 National Credit Union Administration, on the Federal Trade Commission's own motion or upon the petition of any interested party.

**§ 716.16 Effective date; transition rule.**

(a) *Effective date.* This part is effective November 13, 2000.

(b) *Notice requirement for consumers who were your members or nonmember 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 § 716.4, to consumers who were your members or nonmember customers on the effective date of this part.

**PART 741—REQUIREMENTS FOR INSURANCE**

1. The authority citation for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766, and 1781–1790. Section 741.4 is also authorized by 31 U.S.C. 3717.

2. Add § 741.220 to part 741 to read as follows:

**§ 741.220 Privacy of consumer financial information.**

Any credit union which is insured pursuant to Title II of the Act must adhere to the requirements stated in part 716 of this chapter.

[FR Doc. 00–4814 Filed 2–29–00; 8:45 am]

BILLING CODE 7535–01–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 99–SW–43–AD]

**Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 222, 222B, 222U, and 230 Helicopters**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) applicable to BHTC Model 222, 222B, 222U, and 230 helicopters. This proposal would require inspecting each flapping bearing to yoke attachment bolt (bolt) and replacing each bolt that shows thread damage, shank wear, or corrosion

pitting with an airworthy bolt. This proposal is prompted by the discovery of a fractured bolt during a post-flight inspection. The actions specified by the proposed AD are intended to prevent a fracture of a bolt, failure of the bearing and yoke interface, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before May 1, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-43-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. 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 Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463-3036, fax (514) 433-0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, Room 663, Fort Worth, Texas.

**FOR FURTHER INFORMATION CONTACT:** Sharon Miles, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0111, telephone (817) 222-5122, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice

must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99-SW-43-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, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-43-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**Discussion**

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 222, 222B, 222U, and 230 helicopters. Transport Canada advises that an inspection revealed a fractured bolt due to stress corrosion. Stress-corrosion from a combination of mechanical wear, fatigue, and environmental exposure caused the bolt to fail.

BHTC has issued Alert Service Bulletins (ASB's) 230-98-15, 222-98-83, and 222U-98-54, all dated October 12, 1998, which specify inspecting the bolts and replacing each bolt that shows thread damage, shank wear, or corrosion pitting with an airworthy bolt. Transport Canada classified these ASB's as mandatory and issued AD's CF-99-12 and CF-99-13, both dated April 21, 1999, to ensure the continued airworthiness of these helicopters in Canada.

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

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 222, 222B, 222U, and 230 helicopters of the same type designs registered in the United States, the proposed AD would require inspecting the bolts and replacing each bolt that shows thread damage, shank wear, or corrosion with an airworthy bolt.

The FAA estimates that 101 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$20 per bolt. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$20,200.

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 adding a new airworthiness directive to read as follows:

**Bell Helicopter Textron Canada:** Docket No. 99-SW-43-AD.

*Applicability:* Model 222 helicopters, serial number (S/N) 47006 through 47089; Model 222B helicopters, S/N 47131 through 47156;

Model 222U helicopters, S/N 47501 through 47574; and Model 230 helicopters, S/N 23001 through 23038 inclusive, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 within 150 hours time-in-service, unless accomplished previously.

To prevent the fracture of a flapping bearing to yoke attachment bolt (bolt), failure of the bearing and yoke interface, and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove one bolt at a time and inspect each bolt located as shown in Figure 1.

**Note 2:** For main rotor hubs installed on rotorcraft, the bolts may be removed, inspected, and installed one at a time.

**Note 3:** Bell Helicopter Textron Canada Alert Service Bulletins 230-98-15, 222-98-83, and 222U-98-54, all dated October 12, 1998, pertain to the subject of this AD.

(1) Clean each bolt with a cloth dampened with methyl ethyl ketone, RHO SOLV756, Desoto 110, or equivalent.

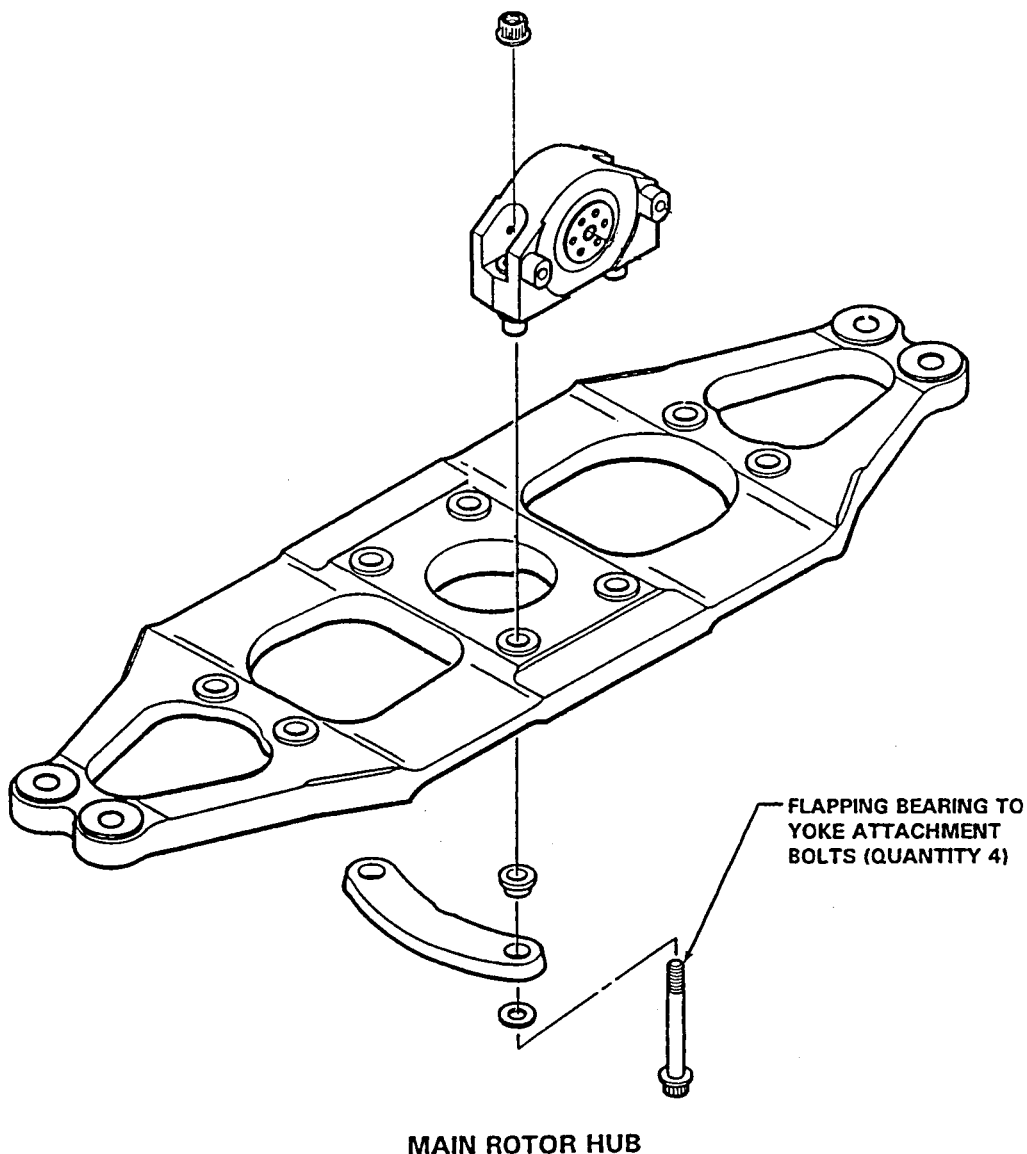
(2) Visually inspect each bolt and discard those that have thread damage, shank wear, or corrosion.

(3) Apply corrosion preventative compound MIL-C-16173 GR2, or equivalent, to the shank of the bolt only.

(4) Install, torque, and lockwire each bolt.

(5) Coat each bolt head and nut with corrosion preventative compound MIL-C-16173 GR1 or equivalent.

**BILLING CODE 4910-13-U**



**FIGURE 1**

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

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

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

**Note 5:** The subject of this AD is addressed in Transport Canada (Canada) AD's CF-99-12 and CF-99-13, both dated April 21, 1999.

Issued in Fort Worth, Texas, on February 22, 2000.

**Henry A. Armstrong,**  
Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00-4798 Filed 2-29-00; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 255

[Docket No. OST-2000-6984]

RIN 2105-AC75

#### Third Extension of Computer Reservations Systems (CRS) Regulations

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department is proposing to revise its rules governing airline computer reservations systems (CRSs), 14 CFR Part 255, for the third time by changing the rules' expiration date from March 31, 2000, to March 31, 2001. If the Department does not change the expiration date, the rules will terminate on March 31, 2000. The proposed extension of the current rules will keep them in effect while the Department carries out its reexamination of the need for CRS regulations. The Department tentatively believes that the current rules should be maintained because they appear to be necessary for promoting airline competition and helping to ensure that consumers and their travel agents can obtain complete and accurate information on airline services. The rules were previously extended from December 31, 1997, to March 31, 1999, and then to March 31, 2000.

**DATES:** Comments must be submitted on or before March 13, 2000.

**ADDRESSES:** Comments must be filed in Room PL-401, Docket OST-2000-6984, U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file six copies of its comments.

**FOR FURTHER INFORMATION CONTACT:** Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366-4731.

**SUPPLEMENTARY INFORMATION:** In 1992 the Department adopted its rules governing CRS operations, 14 CFR Part 255, because almost all airlines operating in the United States relied on the CRSs in marketing their airline services. 57 FR 43780 (September 22, 1992). We found that the rules were necessary to ensure that the owners of the systems—all of which were then airlines or airline affiliates—did not use them to unreasonably prejudice the competitive position of other airlines or to provide misleading or inaccurate information to travel agents and their customers. Travel agents relied on CRSs to provide airline information and make bookings for their customers, and almost all airlines received most of their bookings from travel agencies. These factors made CRS rules necessary. As revised, our rules will expire on March 31, 2000, unless we readopt them or extend the expiration date. 64 FR 15127 (March 30, 1999). We began a proceeding to determine whether the rules are necessary and should be readopted and, if so, whether they should be modified, by issuing an advance notice of proposed rulemaking. 62 FR 47606 (September 10, 1997). We are proposing here to extend the expiration date for the current rules to March 31, 2001, so that they will remain in force while we conduct our overall reexamination of the rules.

We have set a short comment period of ten days so that we can publish a final decision on this proposal before the rules' current expiration date. Our advance notice of proposed rulemaking has given interested persons an opportunity to comment on whether the rules should be maintained. Almost all of the commenters support a continuation of the rules, albeit with changes, and virtually none urges us to end the rules.

#### The CRS Business

Four firms provide CRS services in the United States. Each of them is affiliated with one or more U.S. or foreign airlines, although public

shareholders now hold a significant amount of stock in three of them. A CRS provides information on airline services and other travel services sold through the system to its users, who are typically travel agents but include consumers using Internet reservations services and corporate travel departments. A person using a CRS can find out what airline seats and fares are available and book a seat on each airline that "participates" in the system, that is, that makes its services saleable through the CRS. Travel agents access a CRS through computer terminals.

Most of the revenues received by the systems consist of the fees paid by airlines and other travel suppliers participating in a system. An airline participant pays a fee whenever a booking on that airline is made through the system (most systems also charge fees for related transactions, such as booking changes and cancellations). Other travel suppliers pay similar fees. Many, but not all, travel agencies subscribing to a system also pay fees, but such subscriber fees, unlike airline fees, are generally disciplined by competition. The systems' competition for subscribers enables some travel agencies to obtain CRS equipment and services at little or no charge.

#### Regulatory Background

The Civil Aeronautics Board ("the Board"), the agency formerly responsible for the economic regulation of the airline industry, initially adopted the CRS rules. The Board did so because the systems had become essential for airline distribution in the early 1980s due to the travel agents' reliance on the systems for investigating and booking airline services. 49 FR 32540 (August 15, 1984). At that time each system operating in the United States, with one minor exception, was owned by a single airline, and each owner airline was using its system to prejudice competing airlines and to give consumers biased or incomplete information in order to obtain more bookings. The Board found that regulations were essential to keep the systems from substantially injuring airline competition and from misleading consumers. The Board adopted its regulations primarily under its authority under section 411 of the Federal Aviation Act, later recodified as 49 U.S.C. 41712, to prevent unfair methods of competition and unfair and deceptive practices in air transportation and the sale of airline transportation. The Board's rules were affirmed on review. *United Air Lines v. CAB*, 766 F.2d 1107 (7th Cir. 1985).

The Board's major rules required each system to make participation available to all airlines on non-discriminatory

terms, to offer at least one unbiased display, and to make available to each airline participant any marketing and booking data from bookings for domestic travel that it chose to generate from its system. The rules also prohibited certain CRS contract terms that limited the travel agencies' ability to switch systems or use more than one system.

The Board's rules contained a sunset date to ensure that they would be reexamined, December 31, 1990. Since we became responsible for airline economic regulation after the Board's sunset on December 31, 1984, we conducted that reexamination. During our reexamination we maintained the rules by extending their expiration date. 55 FR 53149 (December 27, 1990); 56 FR 60915 (November 29, 1991); 57 FR 22643 (May 29, 1992).

Our reexamination caused us to readopt the rules with several revisions designed to strengthen them. 57 FR 43780 (September 22, 1992). We determined that the rules were still necessary. Market forces did not discipline the price or level of service offered participating airlines by the systems. In addition, without rules CRS owners could use their control of the systems to prejudice airline competition, and the systems could bias their displays of airline services. 57 FR at 43783-43787.

Like the Board, we included a sunset date—December 31, 1997—in our rules. 14 CFR 255.12; 57 FR at 43829-43830 (September 22, 1992). We began our current reexamination of the rules by publishing an advance notice of proposed rulemaking requesting comments on whether we should readopt the rules and, if so, with what changes. 62 FR 47606 (September 10, 1997). We then amended the rules twice to further promote competition. 62 FR 59784 (November 5, 1997); 62 FR 66272 (December 18, 1997). We adopted those amendments largely because market forces did not appear to discipline the CRS firms' terms for airline participation.

Almost all of the parties responding to our advance notice of proposed rulemaking urged us to maintain CRS rules, although they also argued that the rules required changes, mostly changes that would strengthen them. No party urged us to eliminate the rules, and few disputed the need for the continued regulation of the CRS business. Thus we believe that an extension of the current rules pending completion of the current reexamination of those rules would be consistent with the positions already taken by the commenters.

#### **Previous Extension of the Rules' Sunset Date**

Because we could not complete our reexamination of the rules by the original sunset date, December 31, 1997, we have amended the rules twice to extend them, first to March 31, 1999, and then to March 31, 2000. 62 FR 66272 (December 18, 1997); 64 FR 15127 (March 30, 1999). We found the extensions necessary to prevent the harm that would arise if the CRS business were not regulated, and we concluded that extending the rules would not impose substantial costs on the industry. The only party that commented on the first proposed extension—America West Airlines—supported it, as did three parties that commented on the second proposed extension—Amadeus Global Distribution System, America West, and the Association of Asia-Pacific Airlines. Worldspan's comment on the second proposed extension did not oppose the extension.

#### **Our Proposed Extension of the CRS Rules**

We are again proposing to change the expiration date for our CRS rules to March 31, 2001, so that the rules will remain in effect while we conduct our reexamination of the need for the rules and the rules' effectiveness. The completion of our overall reexamination of our rules, including the need to give parties an adequate opportunity to file comments and reply comments in response to our future notice of proposed rulemaking, will require substantial time and cannot be finished by the current expiration date, March 31, 2000. In addition, the rulemaking has increasingly come to involve issues related to the distribution of airline services over the Internet, which will require additional time for analysis.

We are aware that the delay in completing the reexamination of the rules is unfortunate due to the importance of adapting our rules on CRS operations to current industry conditions. We have had to address other airline competition issues that required expedited action, however. In addition, such industry developments as the continuing and rapid growth of Internet services and the major airlines' cuts in travel agency commissions on bookings made both by traditional travel agencies and Internet services require additional study by the staff. At the same time, notwithstanding the desirability of updating the current rules, those rules appear to address the most serious potential competitive and consumer protection issues created by

the use of computer reservations systems in airline distribution.

A number of parties have requested prompt action on certain additional CRS regulations, such as rules limiting airline booking fees and giving travel agency subscribers additional rights to cancel CRS contracts. *See, e.g.*, the petition filed by America West on airline booking fees; the Emergency Petition for Rulemaking filed by the Association of Retail Travel Agents in Docket OST-98-4775 on travel agency contracts; and the petition filed by Amadeus in Docket OST-99-5888 on the tying of an airline's corporate discount fares with the agency's use of that airline's CRS. We recognize that some issues may be of such overriding importance that they should be addressed before the completion of the overall reexamination of the rules.

We tentatively conclude that we should amend the rules to change the sunset date from March 31, 2000, to March 31, 2001. This proposed temporary extension of the current rules will preserve the status quo until we determine which rules, if any, should be adopted. Allowing the current rules to expire would be disruptive, since the systems, airlines, and travel agencies have been conducting their operations in the expectation that each system will comply with the rules. Systems, airlines, and travel agencies, moreover, would be unreasonably burdened if the rules were allowed to expire and we later determined that those rules (or similar rules) should be adopted, since they could have changed their business methods in the meantime.

The principal basis for extending the rules is the need to protect airline competition and consumers against unreasonable practices. Our past examinations of the CRS business and airline marketing convinced us that CRSs were still essential for the marketing of the services of almost all airlines. 57 FR 43780, 43783-43784 (September 22, 1992). We found that rules were needed because the airlines depended on travel agencies as their principal distribution arm, because travel agencies relied on CRSs, because most travel agency offices used only one CRS, because creating alternatives for CRSs and getting travel agencies to use them had been difficult, and because non-owner airlines were unable to cause agencies to use a CRS that provided airlines better or less expensive service instead of another that provided poorer or more expensive service. 57 FR at 43783-43784, 43831. If an airline did not participate in a system used by a travel agency, that agency was less likely to book its customers on that

airline. Since marginal revenues are important in the airline industry, an airline could not afford to lose access to a significant source of revenue. An airline (or other firm) could not practicably create a system that could compete with the existing systems. Almost all airlines therefore had to participate in each CRS, and CRSs did not need to compete for airline participants. 57 FR at 43783–43784.

We believe that these findings are still valid. Travel agencies still make most airline bookings in the United States, travel agencies still rely heavily on CRSs to determine what airline services are available and to make bookings, and few travel agency offices make extensive use of more than one CRS. That CRS participation is essential for almost all airlines is demonstrated by the decision of the low-fare airlines to participate in each system, even though several initially believed that they could reduce their costs while not forfeiting much traffic by declining to participate in the systems. 62 FR at 47608. The rapid growth in the use of the Internet by consumers may not reduce the importance of the systems, for Internet sites (except many airline sites) typically use a system as their booking engine. We doubt that the systems' growing proportion of public shareholders has invalidated our earlier findings, although that may change in the future.

As noted above, almost all of the parties that responded to the advance notice of proposed rulemaking stated that the rules remained necessary, and most urged us to strengthen them further to protect airlines and travel agencies against potential abuses by system owners.

Thus, while our staff has not completed its current study of the CRS business and we have not issued a notice of proposed rulemaking finding that the rules should be readopted, we tentatively find that our past findings on the need for CRS rules are still valid, at least for the purpose of a short-term extension of the rules' expiration date. Maintaining the current rules will protect airline competition and consumers against the injuries that would otherwise occur, given our earlier findings on the market power of the systems and each airline owner's potential interest in using its affiliated CRS to prejudice the competitive position of other airlines. Continuing the rules in effect should not impose significant costs on the systems and their owners, since they have already adjusted their operations to comply with the rules and since the rules do not

impose costly burdens of a continuing nature on the systems.

Finally, our obligation under section 1102(b) of the Federal Aviation Act, recodified as 49 U.S.C. 40105(b), to act consistently with the United States' obligations under treaties and bilateral air services agreements further supports our continuation of the rules. Many of those bilateral agreements assure the airlines of each party a fair and equal opportunity to compete. We have held that the fair and equal opportunity to compete includes, among other things, a right to have an airline's services fairly displayed in CRSs. Our rules against display bias and discriminatory treatment help to provide foreign airlines with a fair and equal opportunity to compete in the United States. 57 FR at 43791–43792. The European Union, Canada, and Australia, for example, have adopted rules regulating CRS operations that help give U.S. airlines a fair opportunity to sell their services in the countries covered by the rules.

#### Regulatory Process Matters

##### *Regulatory Assessment*

This rulemaking is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and has not been reviewed by the Office of Management and Budget under that order. The proposal is also not significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034.

Keeping the current rules in force should not impose significant costs on the systems. They have already taken all the steps necessary to comply with the rules' requirements on displays and functionality, and complying with those rules on a continuing basis does not impose a substantial burden on the systems. Maintaining the rules will benefit participating airlines, since otherwise they could be subjected to unreasonable terms for participation, and will benefit consumers, who might otherwise obtain incomplete or inaccurate information on airline services. The rules also contain provisions that are designed to prevent abuses in the systems' competition with each other for travel agency subscribers.

When we conducted our last major CRS rulemaking, we included a tentative regulatory impact statement in our notice of proposed rulemaking and made that analysis final when we issued our final rule. We believe that analysis remains applicable to our proposal to extend the rules' expiration date. As a result, no new regulatory impact statement appears to be necessary.

However, we will consider comments from any party on that analysis before we make our proposal final.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

#### Small Business Impact

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller U.S. and foreign airlines and smaller travel agencies. Our notice of proposed rulemaking sets forth the reasons for our proposed extension of the rules' expiration date and the objectives and legal basis for that proposed rule.

Furthermore, maintaining the current rules will not modify the existing regulation of small businesses. Our final rule in our last major CRS rulemaking contained a regulatory flexibility analysis on the impact of the rules. As a result of that analysis, we determined that this regulation did not have a significant economic impact on a substantial number of small entities. Our analysis appears to be valid for our proposed extension of the rules' termination date. Accordingly, we adopt that analysis as our tentative regulatory flexibility statement and will consider any comments filed on that analysis in connection with this proposal.

The continuation of our existing CRS rules will primarily affect two types of small entities, smaller airlines and travel agencies. To the extent that airlines can operate more efficiently and reduce their costs, the rules will also affect all small entities that purchase airline tickets, since airline fares may be somewhat lower than they would otherwise be, although the difference may be small.

Continuing the rules will protect smaller non-owner airlines from several potential system practices that could injure their ability to operate profitably and compete successfully. No smaller airline has a CRS ownership interest. Market forces do not significantly influence the systems' treatment of airline participants. As a result, if there were no rules, the systems' airline owners could use them to prejudice the competitive position of other airlines. The rules provide important protection to smaller airlines. For example, by



prohibiting systems from ranking and editing displays of airline services on the basis of carrier identity, they limit the ability of each system to bias its displays in favor of its owner airlines and against other airlines. The rules also prohibit charging participating airlines discriminatory fees. The rules, on the other hand, impose no significant costs on smaller airlines.

The CRS rules affect the operations of smaller travel agencies, primarily by prohibiting certain CRS practices that could unreasonably restrict the travel agencies' ability to use more than one system or to switch systems. The rules prohibit CRS contracts that have a term longer than five years, give travel agencies the right to use third-party hardware and software, and prohibit certain types of contract clauses, such as minimum use and parity clauses, that restrict an agency's ability to use multiple systems. By prohibiting display bias based on carrier identity, the rules also enable travel agencies to obtain more useful displays of airline services.

Our proposed rule contains no direct reporting, record-keeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

Interested persons may address our tentative conclusions under the Regulatory Flexibility Act in their comments submitted in response to this notice of proposed rulemaking.

I certify under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

This proposal contains no collection-of-information requirements subject to the Paperwork Reduction Act, Public Law. No. 96-511, 44 U.S.C. Chapter 35.

#### Federalism Assessment

This proposed rule has been reviewed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that this action does 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. This proposed rule will not limit the policymaking discretion of the States. Nothing in this proposal would directly preempt any State law or regulation. We are proposing this amendment primarily under the authority granted us by 49

U.S.C. 41712 to prevent unfair methods of competition and unfair and deceptive practices in the sale of air transportation. We believe that the policy set forth in this proposed rule is consistent with the principles, criteria, and requirements of the Federalism Executive Order and the Department's governing statute. Comments on these conclusions are welcomed and should be submitted to the docket.

#### List of Subjects in 14 CFR Part 255

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

Accordingly, the Department of Transportation proposes to amend 14 CFR Part 255, Carrier-owned Computer Reservations Systems, as follows:

#### PART 255—[AMENDED]

1. The authority citation for Part 255 continues to read as follows:

**Authority:** 49 U.S.C. 40101, 40102, 40105, 40113, 41712.

2. Section 255.12 is revised to read as follows:

#### § 255.12 Termination.

The rules in this part terminate on March 31, 2001.

Issued in Washington, D.C. on February 25, 2000, under authority delegated by 49 CFR § 1.56a(h)2.

**Robert S. Goldner,**

*Acting Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 00-4922 Filed 2-29-00; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-209601-92]

RIN 1545-AR19

#### Taxation of Tax-Exempt Organizations' Income From Corporate Sponsorship

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of previous proposed rules, notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed regulations relating to the tax treatment of sponsorship payments received by exempt organizations. The Taxpayer Relief Act of 1997 amended the Internal Revenue Code to provide that unrelated trade or business does not

include the activity of soliciting and receiving qualified sponsorship payments. This action affects exempt organizations that receive sponsorship payments. This document provides notice of a public hearing on these proposed regulations. This document also withdraws proposed rules published on January 22, 1993.

**DATES:** Written or electronic comments must be received by May 30, 2000. Outlines of topics to be discussed at the public hearing scheduled for June 21, 2000, at 10 a.m. must be received by May 31, 2000.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (REG-209601-92), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-209601-92), room 5226, Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at [http://www.irs.gov/tax\\_regs/regslst.html](http://www.irs.gov/tax_regs/regslst.html). The public hearing will be held in room G-043, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Lucas Caden, (202) 622-6080 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background

Exempt organizations generally must pay tax on unrelated business taxable income, as defined in section 512. Section 512(a)(1) defines *unrelated business taxable income* (UBTI) as the gross income derived by an organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions that are directly connected with the carrying on of the trade or business, both computed with the modifications provided in section 512(b).

Section 513(a) defines *unrelated trade or business* as any trade or business the conduct of which is not substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501. Section 513(c), captioned "Advertising, Etc., Activities," provides that the term *trade*

or business includes any activity carried on for the production of income from the sale of goods or the performance of services, and that an activity does not lose identity as a trade or business merely because it is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. See § 1.513-1(b).

The IRS first published a Notice of Proposed Rulemaking (1993 proposed regulations) on January 22, 1993 (58 FR 5687), proposing that the regulations under section 513 be amended to provide guidance on the proper tax treatment of sponsorship payments received by an exempt organization. The 1993 proposed regulations focused on the nature of the services provided by the exempt organization rather than the benefit received by the sponsor. The 1993 proposed regulations distinguished advertising, which is an unrelated trade or business activity, from acknowledgments, which are the mere recognition of a sponsor's payment, and therefore do not result in UBTI. Advertising was defined as any message or other programming material, broadcast or otherwise transmitted, published, displayed or distributed in exchange for any remuneration, that promotes or markets any company, service, facility or product. Acknowledgments were defined as mere recognition of sponsorship payments or identification of the sponsor rather than promotion of its products, services or facilities. Under the 1993 proposed regulations, the term acknowledgment included: sponsor logos and slogans that do not contain comparative or qualitative descriptions; locations and telephone numbers; value-neutral descriptions including displays or visual depictions; and sponsor brand or trade names and product or service listings.

In a so-called "tainting rule," the 1993 proposed regulations provided that if any activities, messages or programming material constituted advertising with respect to a sponsorship payment, then all related activities, messages or programming material that might otherwise be acknowledgments would be considered advertising.

The 1993 proposed regulations clarified that the rules regarding corporate sponsorship apply uniformly to all sponsorship activities, both broadcast and nonbroadcast activities, unless otherwise expressly stated, without regard to the local nature of the organization or activities or to the amount of the sponsorship payment. The 1993 proposed regulations

expressly did not apply to qualified convention and trade show activities or to the sale of advertising in exempt organization periodicals.

The 1993 proposed regulations also proposed to amend the regulations under section 512(a) by adding examples of the allocation rule governing exploitation of exempt activities in cases involving sponsorship income.

A public hearing on the 1993 proposed regulations was held on July 8, 1993.

Public comments received by the IRS generally welcomed the guidance as an important step in clarifying this area of the law, but suggested modifications. Several comments concerned the effective date of the amendments, but there was no consensus as to an appropriate effective date. In addition, numerous comments requested elimination of the tainting rule. One comment expressed concern that the approach taken in the 1993 proposed regulations to the exploitation rules of § 1.512(a)-1(d) was likely to create confusion and could lead to application of the exploitation exception in a manner far broader than was intended.

The Taxpayer Relief Act of 1997, Public Law 105-34, section 965 (111 Stat. 788, 893-94), amended the Internal Revenue Code by adding section 513(i). Section 513(i) governs the treatment of certain sponsorship payments by providing that qualified sponsorship payments are not subject to the unrelated business income tax (UBIT). Section 513(i) defines *qualified sponsorship payments* as payments made by a person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgment of the name or logo (or product lines) of the person's trade or business in connection with the exempt organization's activities. Section 513(i) further provides that use or acknowledgment does not include advertising (including messages containing qualitative or comparative language, price information or other indications of savings or value, or an endorsement or other inducement to purchase, sell, or use a sponsor's products or services). The legislative history to section 513(i) indicates that the use of promotional logos or slogans that are an established part of the sponsor's identity does not, by itself, constitute advertising. H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. 476 (1997). Section 513(i)(2)(B)(i) provides that qualified sponsorship payments do not include payments where the amount

is contingent upon the level of attendance at an event, broadcast ratings, or other factors indicating the degree of public exposure to an activity. However, the fact that a payment is contingent upon a sponsored activity actually being conducted or broadcast does not, by itself, cause the payment to fail to be a qualified sponsorship payment. The legislative history to section 513(i) further indicates that mere display or distribution, whether for free or remuneration, of a sponsor's products by the sponsor or the organization to the general public at a sponsored event is not considered advertising. H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. 474 (1997).

Section 513(i) differs from the 1993 proposed regulations in that section 513(i) has no tainting rule. Instead, section 513(i) specifically provides that, to the extent a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, that portion of such payment and the other portion of such payment are treated as separate payments. For example, if a sponsorship arrangement entitles the sponsor to both product advertising and use or acknowledgment of the sponsor's name or logo by the organization, the section 513(i) safe harbor applies only to the amount, if any, of the payment that exceeds the fair market value of the product advertising provided to the sponsor. Similarly, providing facilities, services or other privileges to a sponsor or the sponsor's designees (e.g., complimentary tickets, pro-am playing spots in golf tournaments, or receptions for major donors) in connection with a sponsorship arrangement is evaluated as a separate transaction in determining whether the organization has UBTI. A license granted to a sponsor as part of a sponsorship arrangement that allows a sponsor to use an intangible asset of the organization (e.g., the organization's trademark, patent, logo, or designation) is likewise treated as a separate transaction. H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. 475 (1997). Whether a separate transaction that falls outside of the section 513(i) safe harbor is subject to the UBIT depends on the application of existing rules under sections 512, 513, and 514.

Section 513(i) applies to payments solicited or received after December 31, 1997. Section 513(i) does not apply to qualified convention and trade show activities (described in section 513(d)(3)(B)) or to the sale of an acknowledgment or advertising in exempt organization periodicals. For this purpose, the term *periodicals* means regularly scheduled and printed

material published by or on behalf of an exempt organization that is not related to and primarily distributed in connection with a specific event conducted by the exempt organization.

Although section 513(i) codifies the 1993 proposed regulations in many respects, there are significant differences, including the elimination of the tainting rule. To reflect these differences, and in response to comments submitted on the 1993 proposed regulations, a number of changes are made in these proposed regulations, and some additional areas are addressed, such as exclusivity arrangements. In light of these changes, the IRS and the Treasury Department decided to issue regulations in proposed form, rather than final form, to provide an opportunity for further comment.

#### Discussion of Proposed Regulations

These proposed regulations amend the regulations under section 513 to provide guidance in the area of corporate sponsorship. Following section 513(i), these proposed regulations provide that qualified sponsorship payments are not UBIT. These proposed regulations define the term *qualified sponsorship payments* to mean payments made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit in exchange for making the payment.

These proposed regulations define the *phrase* substantial return benefit to mean any benefit other than (1) a use or acknowledgment of the payor's name or logo in connection with the exempt organization's activities, or (2) certain goods or services that have an insubstantial value under existing IRS guidelines. Generally, benefits such as complimentary tickets, pro-am playing spots, and receptions for donors have an insubstantial value only if they have a fair market value of not more than 2% of the payment, or \$74 (for tax years beginning in calendar year 2000), whichever is less. See § 1.170A-13(f)(8)(i)(A); Rev. Proc. 90-12 (1990-1 C.B. 471), as adjusted for inflation (see Rev. Proc. 99-42, 1999-46 I.R.B. 568 (November 15, 1999)). If a payor receives a substantial return benefit (such as complimentary tickets having a fair market value in excess of \$74) in exchange for a payment, the section 513(i) safe harbor does not apply to the payment (or portion thereof) attributable to the substantial return benefit. In that case, whether the payment (or portion thereof) is subject to UBIT must be determined under existing principles

and rules. Thus, the payment may not be subject to UBIT because the exempt organization's activity is not an unrelated trade or business within the meaning of section 513(a) (for example, because substantially all of the work in carrying on the trade or business is performed by volunteers) or is not "regularly carried on" within the meaning of section 512(a)(1), or because one of the section 512(b) modifications applies.

These proposed regulations clarify that sponsored activities within the scope of the section 513(i) safe harbor may include a single event (such as a bowl game, a walkathon or a television program); a series of related events (such as a concert series or a sports tournament); an activity of extended or indefinite duration (such as an art exhibit); or continuing support of an exempt organization's operation. A payment (or portion thereof) may be a qualified sponsorship payment regardless of whether the sponsored activity conducted by the organization is substantially related to its tax exempt purpose. H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. 474 n.44 (1997).

Consistent with section 513(i)(3), the tainting rule of the 1993 proposed regulations has been removed. However, these proposed regulations clarify that for an exempt organization to avail itself of the section 513(i) safe harbor, it must establish that some portion of the payment exceeds the fair market value of any substantial return benefit received by a payor in return for making the payment. In a sponsorship arrangement, the fair market value of the substantial return benefit may equal the entire amount of the sponsorship payment. The burden of establishing the fair market value of any substantial return benefit falls on the exempt organization because the exempt organization has superior access to relevant information regarding its sponsorship arrangements. These proposed regulations state that the exempt organization's determination of the fair market value of a substantial return benefit provided to the payor will not be set aside for purposes of applying the section 513(i) safe harbor so long as the organization makes a reasonable and good faith valuation of the substantial return benefit received by the payor.

These proposed regulations provide that the right to be the only sponsor of an activity, or the only sponsor representing a particular trade, business or industry is generally not a substantial return benefit. Any portion of the payment attributable to the exclusive sponsorship arrangement, therefore, may be a qualified sponsorship

payment. However, if in return for a payment, the exempt organization agrees that products or services that compete with the payor's products or services will not be sold or provided in connection with one or more activities of the exempt organization, the payor has received a substantial return benefit and the portion of the payment attributable to the exclusive provider arrangement is not a qualified sponsorship payment. Consistent with the allocation rule described above, when a payor receives both exclusive sponsorship and exclusive provider rights in exchange for making a payment, the fair market value of the exclusive provider arrangement and any other substantial return benefit is determined first (i.e., without regard to the existence of the exclusive sponsorship arrangement).

The IRS and the Treasury Department have concluded that the examples included in the 1993 proposed regulations interpreted § 1.512(a)-1(d) too broadly by allowing exempt organizations to apply excess expenses directly connected with the conduct of an exempt activity (such as the conduct of a bowl game) to offset income from a separate, unrelated business activity (such as the sale of clothing featuring the name and logo of the bowl game) which does not have a proximate and primary relationship to the exempt activity. An example in these proposed regulations clarifies that § 1.512(a)-1(d) applies only in circumstances where the unrelated business activity and the exempt activity are closely connected, such that a taxable entity pursuing the same business activity would normally also conduct the exempt activity. The example involves the sale of advertising in a museum's exhibition catalog. In this example, the sale of advertising exploits an activity—the publication of editorial material—normally conducted by taxable entities that sell advertising. Therefore, the example concludes that any net loss related to the museum's publication of its exhibition catalog (after taking into account any income derived from or attributable to publication of the catalog) may be applied to offset any net unrelated business income from the museum's sale of advertising in the catalog. In contrast, expenses related to the costs of the exhibition itself are not directly connected with the unrelated advertising activity and cannot be applied to offset income from the advertising activity.

As discussed above, existing principles and rules will determine the UBIT consequences of any portion of a payment that falls outside the section

513(i) safe harbor. Existing principles and rules will also determine the non-UBIT consequences of sponsorship arrangements, including benefits to the payor. For example, see Rev. Rul. 77-367 (1977-2 C.B. 193), and Rev. Rul. 66-358 (1966-2 C.B. 218), regarding inurement and private benefit.

These proposed regulations do not specifically address the Internet activities of exempt organizations. However, the IRS and the Treasury Department are reviewing the application of existing tax laws governing exempt organizations, including the UBIT rules, to Internet activities. Comments are specifically requested on the application of the rules governing periodicals and trade shows in section 513(i)(2)(B)(ii) to an exempt organization's Internet sites, and on whether providing a link to a sponsor's Internet site is advertising within the meaning of section 513(i)(2)(A) and § 1.513-4(c)(2)(iv).

These proposed regulations clarify that qualified sponsorship payments in the form of money or property (but not services) are treated as contributions received by the exempt organization for purposes of determining public support to the organization under section 170(b)(1)(A)(vi) or section 509(a)(2). The exclusion of contributed services for purposes of determining public support is consistent with the general rule regarding donated services. See §§ 1.509(a)-3(f), 1.170A-9(e)(7)(i), 1.170A-1(g). Thus, qualified sponsorship payments in the form of money or property are treated as contributions for purposes of Part I (Revenue, Expenses, and Changes in Net Assets or Fund Balances) of Form 990, "Return of Organization Exempt from Income Tax." The fact that a payment is a qualified sponsorship payment that is treated as a "contribution" to the payee organization does not determine whether the payment is deductible by the payor under section 162 or section 170.

#### Proposed Effective Date

These regulations are proposed to apply on the date they are published as final in the **Federal Register**, although organizations may rely on these proposed regulations for payments received between January 1, 1998, and the date the regulations are published as final in the **Federal Register**.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It

also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) and electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed regulations and how they may be made easier to understand. In particular, the IRS and the Treasury Department request comments on whether further clarification is needed regarding the application of § 1.512(a)-1(d) in the context of corporate sponsorship payments or other unrelated business activities. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 21, 2000, at 10 a.m. in room G-043, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit timely written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by May 31, 2000.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting information: The principal author of these regulations is Stephanie Lucas Caden, Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and the Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Withdrawal of Proposed Amendments

Accordingly, under the authority of 26 U.S.C. 7805, the proposed amendments to 26 CFR part 1, relating to § 1.512(a)-1 and § 1.513-4, published in the **Federal Register** for January 22, 1993 (58 FR 5687), are withdrawn.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAX

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

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** In § 1.170A-9, a sentence is added to the end of paragraph (e)(6)(i) to read as follows:

#### § 1.170A-9 Definition of section 170(b)(1)(A) organization.

\* \* \* \* \*

(e) \* \* \*

(6) *Definition of support; meaning of general public*—(i) *In general.* \* \* \* For purposes of this paragraph (e), the term *contributions* includes qualified sponsorship payments (as defined in § 1.513-4) in the form of money or property (but not services).

\* \* \* \* \*

**Par. 3.** In § 1.509(a)-3, a sentence is added to the end of paragraph (f)(1) to read as follows:

#### § 1.509(a)-3 Broadly, publicly supported organizations.

\* \* \* \* \*

(f) *Gifts and contributions distinguished from gross receipts*—(1) *In general.* \* \* \* For purposes of section 509(a)(2), the term *contributions* includes qualified sponsorship payments (as defined in § 1.513-4) in the form of money or property (but not services).

\* \* \* \* \*

**Par. 4.** In § 1.512(a)–1, paragraph (e) is amended by:

1. Revising the heading and introductory text for paragraph (e);
2. Redesignating the current *Example 1*; as *Example 1*;
3. Adding *Example 2*.

The revisions and additions read as follows:

**§ 1.512(a)–1 Definition.**

\* \* \* \* \*

(e) *Examples.* This section is illustrated by the following examples:

*Example 1.* \* \* \*

*Example 2.* (i) P, a manufacturer of photographic equipment, underwrites a photography exhibition organized by M, an art museum described in section 501(c)(3). In return for a payment of \$100,000, M agrees that the exhibition catalog sold by M in connection with the exhibit will advertise P's product. The exhibition catalog will also include educational material, such as copies of photographs included in the exhibition, interviews with photographers, and an essay by the curator of M's department of photography. For purposes of this example, assume that none of the \$100,000 is a qualified sponsorship payment within the meaning of section 513(i) and § 1.513–4, that M's advertising activity is regularly carried

on, and that the entire amount of the payment is unrelated business taxable income to M. Expenses directly connected with generating the unrelated business taxable income (i.e., direct advertising costs) total \$25,000. Expenses directly connected with the preparation and publication of the exhibition catalog (other than direct advertising costs) total \$110,000. M receives \$60,000 of gross revenue from sales of the exhibition catalog. Expenses directly connected with the conduct of the exhibition total \$500,000.

(ii) The computation of unrelated business taxable income is as follows:

(A) Unrelated trade or business (sale of advertising):

Income .....	\$100,000	
Directly-connected expenses .....	(25,000)	
	75,000	75,000

(B) Exempt function (publication of exhibition catalog):

Income (from catalog sales) .....	60,000	
Directly-connected expenses .....	(110,000)	
	(50,000)	(50,000)
Unrelated business taxable income .....		25,000

(iii) Expenses related to publication of the exhibition catalog exceed revenues by \$50,000. Because the unrelated business activity (the sale of advertising) exploits an exempt activity (the publication of the exhibition catalog), and because the publication of editorial material is an activity normally conducted by taxable entities that sell advertising, the net loss from the exempt publication activity is allowed as a deduction from unrelated business income under paragraph (d)(2) of this section. In contrast, the presentation of an exhibition is not an activity normally conducted by taxable entities engaged in advertising and publication activity for purposes of paragraph (d)(2) of this section. Consequently, the \$500,000 cost of presenting the exhibition is not directly connected with the conduct of the unrelated advertising activity and does not have a proximate and primary relationship to that activity. Accordingly, M has unrelated business taxable income of \$25,000.

**Par. 5.** Section 1.513–4 is added to read as follows:

**§ 1.513–4 Certain sponsorship not unrelated trade or business.**

(a) *In general.* Under section 513(i), the receipt of qualified sponsorship payments by an exempt organization which is subject to the tax imposed by section 511 does not constitute receipt of income from an unrelated trade or business.

(b) *Exception.* The provisions of this section do not apply with respect to payments made in connection with

qualified convention and trade show activities. For rules governing qualified convention and trade show activity, see § 1.513–3. The provisions of this section also do not apply to income derived from the sale of advertising or acknowledgments in exempt organization periodicals. For this purpose, the term *periodical* means regularly scheduled and printed material published by or on behalf of the exempt organization that is not related to and primarily distributed in connection with a specific event conducted by the exempt organization. For rules governing the sale of advertising in exempt organization periodicals, see § 1.512(a)–1(f).

(c) *Qualified sponsorship payment—*

(1) *Definition.* The term *qualified sponsorship payment* means any payment of money, transfer of property, or performance of services by any person engaged in a trade or business with respect to which there is no arrangement or expectation that the person will receive any substantial return benefit. In determining whether a payment is a qualified sponsorship payment, it is irrelevant whether the sponsored activity is related or unrelated to the recipient organization's exempt purpose. It is also irrelevant whether the sponsored activity is temporary or permanent.

(2) *Substantial return benefit—(i) In general.* For purposes of this section, a

*substantial return benefit* means any benefit other than goods, services or other benefits of insubstantial value that are disregarded under paragraph (c)(2)(ii) of this section, or a use or acknowledgment described in paragraph (c)(2)(iii) of this section.

A substantial return benefit includes advertising as defined in paragraph (c)(2)(iv) of this section, providing facilities, services or other privileges to the payor or persons designated by the payor (except as provided in paragraph (c)(2)(ii) of this section), and granting the payor or persons designated by the payor an exclusive or nonexclusive right to use an intangible asset (e.g., trademark, patent, logo, or designation) of the exempt organization.

(ii) *Certain goods or services disregarded.* (A) For purposes of paragraph (c)(2)(i) of this section, goods, services or other benefits are disregarded if—

(1) The goods, services or other benefits provided to the payor or persons designated by the payor have an aggregate fair market value of not more than 2% of the amount of the payment, or \$74 (adjusted for tax years beginning after calendar year 2000 by an amount determined under section 1(f)(3), by substituting "calendar year 1999" for "calendar year 1992" in section 1(f)(3)(B)), whichever is less (or such other amount(s) as may be specified in a revenue procedure or other form of

guidance issued by the Commissioner); or

(2) The only benefits provided to the payor or persons designated by the payor are token items (e.g., bookmarks, calendars, key chains, mugs, posters, tee shirts) bearing the exempt organization's name or logo that have an aggregate cost within the limit established for low cost articles under section 513(h)(2) (or such other limit as may be specified in a revenue procedure or other form of guidance issued by the Commissioner); however, token items (as described above) provided to employees of the payor, or to partners of a partnership that is the payor, are disregarded if the combined total cost of the token items provided to each employee or partner does not exceed the limit stated in this paragraph (c)(2)(ii)(A)(2).

(B) If the fair market value of the benefits (or the cost, in the case of token items) exceeds the amount or limit specified in paragraph (c)(2)(ii)(A) of this section, then (except as provided in paragraph (c)(2)(iii) of this section) the entire fair market value (as opposed to cost) of such benefits, not merely the excess amount, is a substantial return benefit.

(iii) *Use or acknowledgment.* For purposes of this section, a substantial return benefit does not include the use or acknowledgment of the name or logo (or product lines) of the payor's trade or business in connection with the activities of the exempt organization. Use or acknowledgment does not include advertising as described in paragraph (c)(2)(iv) of this section, but may include the following: logos and slogans that do not contain qualitative or comparative descriptions of the payor's products, services, facilities or company; a list of the payor's locations, telephone numbers, or Internet address; value-neutral descriptions, including displays or visual depictions, of the payor's product-line or services; and the payor's brand or trade names and product or service listings. Logos or slogans that are an established part of a payor's identity are not considered to contain qualitative or comparative descriptions. Mere display or distribution, whether for free or remuneration, of a payor's product by the payor or the exempt organization to the general public at the sponsored activity is not considered an inducement to purchase, sell or use the payor's product for purposes of this section and, thus, will not affect the determination of whether a payment is a qualified sponsorship payment.

(iv) *Advertising.* For purposes of this section, the term *advertising* means any message or other programming material

which is broadcast or otherwise transmitted, published, displayed or distributed, and which promotes or markets any trade or business, or any service, facility or product. Advertising includes messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use any company, service, facility or product. A single message that contains both advertising and an acknowledgment is advertising. This section does not apply to activities conducted by a payor on its own. For example, if a payor purchases broadcast time from a television station to advertise its product during commercial breaks in a sponsored program, the exempt organization's activities are not thereby converted to advertising.

(v) *Exclusivity arrangements—(A) Exclusive sponsor.* An arrangement that acknowledges the payor as the exclusive sponsor of an exempt organization's activity, or the exclusive sponsor representing a particular trade, business or industry, generally does not, by itself, result in a substantial return benefit. For example, if in exchange for a payment, an organization announces that its event is sponsored exclusively by the payor (and does not provide any advertising or other substantial return benefit to the payor), the payor has not received a substantial return benefit.

(B) *Exclusive provider.* An arrangement that limits the sale, distribution, availability, or use of competing products, services, or facilities in connection with an exempt organization's activity generally results in a substantial return benefit. For example, if in exchange for a payment, the exempt organization agrees to allow only the payor's products to be sold in connection with an activity, the payor has received a substantial return benefit.

(d) *Allocation of payment—(1) In general.* If there is an arrangement or expectation that the payor will receive a substantial return benefit with respect to any payment, then only the portion, if any, of the payment that exceeds the fair market value of the substantial return benefit (determined on the date the sponsorship arrangement is entered into) is a qualified sponsorship payment. However, if the exempt organization does not establish that the payment exceeds the fair market value of any substantial return benefit, then no portion of the payment constitutes a qualified sponsorship payment. The unrelated business income tax (UBIT) treatment of any payment (or portion thereof) that is not a qualified sponsorship payment is determined by

application of sections 512, 513 and 514. For example, payments related to an exempt organization's providing facilities, services, or other privileges to the payor or persons designated by the payor, advertising, exclusive provider arrangements described in paragraph (c)(2)(v)(B) of this section, a license to use intangible assets of the exempt organization, or other substantial return benefits, are evaluated separately in determining whether the exempt organization realizes unrelated business taxable income. The fair market value of any substantial return benefit provided as part of a sponsorship arrangement is the price at which the benefit would be provided between a willing recipient and a willing provider of the benefit, neither being under any compulsion to enter into the arrangement, and both having reasonable knowledge of relevant facts, and without regard to any other aspect of the sponsorship arrangement.

(2) *Anti-abuse provision.* To the extent necessary to prevent avoidance of the rule stated in paragraph (d)(1) of this section, where the exempt organization fails to make a reasonable and good faith valuation of any substantial return benefit, the Commissioner (or the Commissioner's delegate) may determine the portion of a payment allocable to such substantial return benefit and may treat two or more related payments as a single payment.

(e) *Special rules—(1) Written agreements.* The existence of a written sponsorship agreement does not, in itself, cause a payment to fail to be a qualified sponsorship payment. The terms of the agreement, not its existence or degree of detail, are relevant to the determination of whether a payment is a qualified sponsorship payment. Similarly, the terms of the agreement and not the title or responsibilities of the individuals negotiating the agreement determine whether a payment (or any portion thereof) made pursuant to the agreement is a qualified sponsorship payment.

(2) *Contingent payments.* The term qualified sponsorship payment does not include any payment the amount of which is contingent, by contract or otherwise, upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to the sponsored activity. The fact that a payment is contingent upon sponsored events or activities actually being conducted does not, by itself, cause the payment to fail to be a qualified sponsorship payment.

(3) *Determining public support.* Qualified sponsorship payments in the form of money or property (but not

services) are treated as contributions received by the exempt organization for purposes of determining public support to the organization under section 170(b)(1)(A)(vi) or section 509(a)(2). See §§ 1.509(a)-3(f)(1) and 1.170A-9(e)(6)(i). The fact that a payment is a qualified sponsorship payment that is treated as a contribution to the payee organization does not determine whether the payment is deductible by the payor under section 162 or section 170.

(f) *Examples.* The provisions of this section are illustrated by the following examples. The tax treatment of any payment (or portion of a payment) that does not constitute a qualified sponsorship payment is governed by general UBIT principles. In these examples, the recipients of the payments at issue are section 501(c) organizations. The only benefits received by the payors are those specifically indicated in the example. The examples are as follows:

*Example 1.* M, a local charity, organizes a marathon and walkathon at which it serves to participants drinks and other refreshments provided free of charge by a national corporation. The corporation also gives M prizes to be awarded to winners of the event. M recognizes the assistance of the corporation by listing the corporation's name in promotional fliers, in newspaper advertisements of the event and on T-shirts worn by participants. M changes the name of its event to include the name of the corporation. M's activities constitute acknowledgment of the sponsorship. The drinks, refreshments and prizes provided by the corporation are a qualified sponsorship payment, which is not income from an unrelated trade or business.

*Example 2.* N, an art museum, organizes an exhibition and receives a large payment from a corporation to help fund the exhibition. N recognizes the corporation's support by using the corporate name and established logo in materials publicizing the exhibition, including banners, posters, brochures and public service announcements. N also hosts a dinner for the corporation's executives. The fair market value of the dinner exceeds the amount specified in paragraph (c)(2)(ii) of this section. N's use of the corporate name and logo in connection with the exhibition constitutes acknowledgment of the sponsorship. However, the dinner for corporate executives is a substantial return benefit. Only that portion of the payment, if any, that N can demonstrate exceeds the fair market value of the dinner is a qualified sponsorship payment.

*Example 3.* O coordinates sports tournaments for local charities. An auto manufacturer agrees to underwrite the expenses of the tournaments. O recognizes the auto manufacturer by including the manufacturer's name and established logo in the title of each tournament as well as on signs, scoreboards and other printed material. The auto manufacturer receives complimentary admission passes and pro-am

playing spots for each tournament that have a fair market value in excess of the amount specified in paragraph (c)(2)(ii) of this section. Additionally, O displays the latest models of the manufacturer's premier luxury cars at each tournament. O's use of the manufacturer's name and logo and display of cars in the tournament area constitute acknowledgment of the sponsorship. However, the admission passes and pro-am playing spots are a substantial return benefit. Only that portion of the payment, if any, that O can demonstrate exceeds the fair market value of the admission passes and pro-am playing spots is a qualified sponsorship payment.

*Example 4.* P conducts an annual college football bowl game. P sells to commercial broadcasters the right to broadcast the bowl game on television and radio. A major corporation agrees to be the exclusive sponsor of the bowl game. The detailed contract between P and the corporation provides that the name of the bowl game will include the name of the corporation. The contract further provides that the corporation's name and established logo will appear on players' helmets and uniforms, on the scoreboard and stadium signs, on the playing field, on cups used to serve drinks at the game, and on all related printed material distributed in connection with the game. The agreement is contingent upon the game being broadcast on television and radio, but the amount of the payment is not contingent upon the number of people attending the game or the television ratings. The contract provides that television cameras will focus on the corporation's name and logo on the field at certain intervals during the game. P's use of the corporation's name and logo in connection with the bowl game constitutes acknowledgment of the sponsorship. The exclusive sponsorship arrangement is not a substantial return benefit. The entire payment is a qualified sponsorship payment, which is not income from an unrelated trade or business.

*Example 5.* Q organizes an amateur sports team. A major pizza chain gives uniforms to players on Q's team, and also pays some of the team's operational expenses. The uniforms bear the name and established logo of the pizza chain. During the final tournament series, Q distributes free of charge souvenir flags bearing Q's name to employees of the pizza chain who come out to support the team. The flags cost \$2 each. The flags are not a substantial return benefit because they are token items that qualify as low cost articles under paragraph (c)(2)(ii) of this section. Q's use of the name and logo of the pizza chain in connection with the tournament constitutes acknowledgment of the sponsorship. The funding and supplied uniforms are a qualified sponsorship payment, which is not income from an unrelated trade or business.

*Example 6.* R is a liberal arts college. A soft drink manufacturer makes a substantial payment to the college's English department, and in exchange, R names a writing competition after the soft drink manufacturer. In addition, R agrees to limit all soft drink sales on campus to the manufacturer's brand of soft drink. R's use of

the manufacturer's name in the writing competition constitutes acknowledgment of the sponsorship. However, limiting all soft drink sales on campus to the manufacturer's brand of soft drink, i.e., the exclusive provider arrangement, is a substantial return benefit. Only that portion of the payment, if any, that R can demonstrate exceeds the fair market value of the exclusive provider arrangement is a qualified sponsorship payment.

*Example 7.* S is a noncommercial broadcast station that airs a program funded by a local music store. In exchange for the funding, S broadcasts the following message: "This program has been brought to you by the Music Shop, located at 123 Main Street. For your music needs, give them a call today at 555-1234. This station is proud to have the Music Shop as a sponsor." Because this single broadcast message contains both advertising and an acknowledgment, the entire message is advertising and constitutes a substantial return benefit. Unless S establishes that the amount of the payment exceeds the fair market value of the advertising, none of the payment is a qualified sponsorship payment.

*Example 8.* T, a symphony orchestra, performs a series of concerts. A program guide that contains notes on guest conductors and other information concerning the evening's program is distributed by T at each concert. The Music Shop makes a payment to T in support of the concert series. As a supporter of the event, the Music Shop is recognized in the program guide and on a poster in the lobby of the concert hall. The Music Shop receives complimentary tickets to the concert series. The fair market value of the complimentary tickets exceeds the amount specified in paragraph (c)(2)(ii) of this section. The lobby poster states that "The T concert is sponsored by the Music Shop, located at 123 Main Street, telephone number 555-1234." The program guide contains the same information and also states, "Visit today for the finest selection of music CDs and cassette tapes." T's use of the Music Shop's name and address in the lobby poster constitutes acknowledgment of the sponsorship. However, the promotion in the program guide and complimentary tickets are a substantial return benefit. Only that portion of the payment, if any, that T can demonstrate exceeds the fair market value of the promotion in the program guide and complimentary tickets is a qualified sponsorship payment.

*Example 9.* U, a national charity dedicated to promoting health, organizes a campaign to inform the public about potential cures to fight a serious disease. As part of the campaign, U sends representatives to community health fairs around the country to answer questions about the disease and inform the public about recent developments in the search for a cure. A pharmaceutical company makes a payment to U to fund U's booth at a health fair. U places a sign in the booth displaying the pharmaceutical company's name and slogan, "Better Research, Better Health," which is an established part of the company's identity. In addition, U grants the pharmaceutical company a license to use U's logo in

marketing its products to health care providers around the country. U's display of the pharmaceutical company's name and slogan constitutes acknowledgment of the sponsorship. However, the license granted to the pharmaceutical company to use U's logo is a substantial return benefit. Only that portion of the payment, if any, that U can demonstrate exceeds the fair market value of the license granted to the pharmaceutical company is a qualified sponsorship payment.

*Example 10.* V, a trade association, publishes a monthly scientific magazine for its members containing information about current issues and developments in the field. A textbook publisher makes a large payment to V to have its name displayed on the inside cover of the magazine each month. Because the monthly magazine is a periodical within the meaning of paragraph (b) of this section, the section 513(i) safe harbor does not apply. See § 1.512(a)–1(f).

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 00–4848 Filed 2–29–00; 8:45 am]

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## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 29 CFR Part 1614

RIN 3046–AA57

### Federal Sector Equal Employment Opportunity

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Equal Employment Opportunity Commission (the Commission or EEOC) proposes to amend its regulation governing federal sector equal employment opportunity to reflect the 1992 amendment of section 501 of the Rehabilitation Act of 1973. Congress amended section 501 in October 1992 to state that the nondiscrimination standards of Title I of the Americans with Disabilities Act apply to section 501 of the Rehabilitation Act.

**DATES:** Comments must be received by May 1, 2000.

**ADDRESSES:** Comments should be submitted to the Office of the Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, D.C. 20507. Copies of comments submitted by the public will be available for review on weekdays, except federal holidays, at the Commission's library, Room 6502, 1801 L Street, N.W., Washington, D.C., between the hours of 9:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Carol R. Miaskoff, Assistant Legal

Counsel, at (202) 663–4689 or TDD (202) 663–7026. This document is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this document in an alternative format should be made to the Publications Information Center at 1–800–669–3362.

**SUPPLEMENTARY INFORMATION:** With the Rehabilitation Act Amendments of 1992, Public Law 102–569, 106 Stat. 4344 (1992 Amendments or Rehabilitation Act Amendments), Congress added a new subsection (g) to section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791 (section 501). Subsection (g) provides that the standards used to determine whether section 501 has been violated in a complaint alleging “nonaffirmative action employment discrimination”<sup>1</sup> are the standards of Title I of the Americans with Disabilities Act of 1990 (ADA), as well as sections 501 through 504, and 510 of the ADA, as such sections relate to employment.<sup>2</sup> This notice of proposed rulemaking (NPRM) sets forth proposed regulatory revisions to implement the Rehabilitation Act Amendments.

### Summary of Proposal

The Commission promulgated its latest regulation under section 501 of the Rehabilitation Act in April, 1992, several months before Congress enacted the Rehabilitation Act Amendments in October, 1992. The Commission now proposes to update this section 501 regulation, found at 29 CFR 1614.203, by deleting all of the current provisions and adding a new paragraph (b)(1) that cross-references the ADA regulation at 29 CFR Part 1630.<sup>3</sup>

### Effect of the ADA Standards

As a general matter, the ADA regulation is more extensive than the requirements in place under § 1614.203.<sup>4</sup> In other respects, however, the ADA regulation closely corresponds

<sup>1</sup> Accordingly, the 1992 Amendments do not alter affirmative action duties under section 501. For simplicity, the phrase “employment discrimination” will be used in this document in lieu of the statutory phrase “nonaffirmative action employment discrimination.”

<sup>2</sup> See 42 U.S.C. 12101–12117, 12201–12213 (1994) (codified as amended).

<sup>3</sup> The fact that the ADA's definition of “employer” excludes the United States does not impact this proposal. See 42 U.S.C. 12111(5)(B)(i); 29 CFR 1630.2 (e)(2)(i). The NPRM does not state that the ADA regulation applies directly to the federal government as an employer. Rather, the NPRM simply implements the Rehabilitation Act Amendments by applying ADA employment discrimination standards through Section 501 to the federal sector.

<sup>4</sup> Under the 1992 Amendments, the federal sector is subject to all ADA employment discrimination standards through Section 501.

to provisions in § 1614.203. The following discussion compares each paragraph in § 1614.203 to the corresponding section(s) of the ADA regulation, and identifies major consequences of applying the ADA regulation to the federal sector.

*Definitions: Change from Paragraph 1614.203(a) to 29 CFR 1630.2*

Subparagraphs 1614.203(a)(1)—(a)(5)

The Commission proposes to delete 29 CFR 1614.203(a)(1)—(a)(5) because these sections are repetitive of ADA definitions at 29 C.F.R. 1630.2. For example, the definition of “disability” in the two regulations is virtually identical, referring in both instances to an impairment that substantially limits one or more major life activities, a record of such a substantially limiting impairment, or being regarded as having such a substantially limiting impairment.<sup>5</sup> The ADA regulation also defines several important terms that are not defined in § 1614.203, such as “essential functions,” “qualification standards,” and “direct threat.”

Subparagraph 1614.203(a)(6): Safety Issues and “Qualified Individual with [a Disability]”

The Commission proposes to delete 29 CFR 1614.203(a)(6) because it is inconsistent with the ADA's standard on safety issues. Under the ADA, an employer can disqualify an individual from employment if the employer shows that the individual poses a “direct threat” to health and safety, even after considering reasonable accommodation. The ADA regulation defines “direct threat” as a “significant risk of substantial harm,” and states that an employer must consider individualized medical or other objective evidence to decide if a particular individual poses a “direct threat.” 29 CFR 1630.2(r). By contrast, the old subparagraph 1614.203(a)(6) did not even use “direct

<sup>5</sup> Compare 29 CFR 1614.203(a)(1) with 29 CFR 1630.2(g). In a decision focused closely on the wording of the ADA definition of “disability,” the Supreme Court held in *Sutton v. United Airlines*, 119 S. Ct. 2139, 9 AD Cas. (BNA) 673 (1999), that the positive and negative effects of corrective or mitigating measures must be considered when judging whether an impairment substantially limits one or more of an individual's major life activities and, therefore, whether the individual is “disabled” under the first prong of the ADA's definition of “disability.” See also *Murphy v. United Parcel Service, Inc.*, 119 S. Ct. 2133, 9 AD Cas. (BNA) 691 (1999); and *Albertsons, Inc. v. Kirkingburg*, 119 S. Ct. 2162, 9 AD Cas. (BNA) 694 (1999). The Court's decision in *Sutton* does not affect the text of the ADA regulation because the regulation does not address mitigating measures. The *Sutton* holding, however, alters the Commission's subregulatory ADA guidance to the extent such guidance sets forth a position on mitigating measures that is contrary to the Court's holding.



threat” as a defined term, and instead, addressed safety concerns by requiring the employee to show that s/he could work without endangering health or safety as part of the larger showing that s/he was a “qualified individual with a disability.”

The Commission has applied this ADA “direct threat” standard in federal sector decisions subsequent to the 1992 Amendments. See *Kahout v. USPS*, EEOC Appeal No. 01954900 (June 19, 1997); *Hobbs v. USPS*, EEOC Appeal No. 01944181 (January 26, 1996); *Robinson v. USPS*, EEOC Request No. 05940034 (September 16, 1994).

#### Paragraph 1614.203(b): Nondiscrimination Obligation and Model Employer

The Commission proposes to redesignate current paragraph (b) as new paragraph (a), and to replace the term “handicaps” with “disabilities” in its text.<sup>6</sup> Thus, new paragraph (a) sets forth the basic principle that federal agencies have an obligation not to discriminate in employment on the basis of disability. Moreover, paragraph (a) states that “[t]he [f]ederal [g]overnment shall be a model employer of individuals with disabilities.” Finally, this paragraph requires agencies to give full consideration to the hiring, placement, and advancement of qualified individuals with mental and physical disabilities.

#### Reasonable Accommodation and Undue Hardship: Change From Paragraph 1614.203(c) to 29 CFR 1630.2(o), (p) and 1630.9

The Commission proposes to delete 29 CFR 1614.203(c) and instead apply the pertinent ADA standards, thereby providing federal employers with more guidance about reasonable accommodation and undue hardship than the pre-ADA standards.<sup>7</sup> For example, the ADA regulation defines the phrase “reasonable accommodation” as “a means by which barriers to the

equal employment opportunity of an individual with a disability are removed or alleviated,” and thereby articulates a basic principle that may help federal employers and employees to evaluate potential accommodations.<sup>8</sup> The ADA regulation also states that, if an employee requests reasonable accommodation but the most appropriate accommodation is not obvious, the employer needs “to initiate an informal, interactive process with the qualified individual with a disability” to identify an effective accommodation. See 29 C.F.R. 1630.2(o)(3). In terms of specific accommodations, the ADA regulation adds reassignment and “modification of examinations, training materials, or policies” to the familiar list included in the pre-ADA regulation. See 29 CFR 1630.2(o)(2).<sup>9</sup> Finally, the ADA regulation provides an extensive discussion of the employer defense of “undue hardship,” directing the employer to consider a range of financial and operational factors to evaluate whether a particular reasonable accommodation would impose an undue hardship on its operations.<sup>10</sup>

For the federal employer, the most notable change resulting from the 1992 Amendments is that reassignment is now treated as a reasonable accommodation pursuant to express language in the ADA. 42 U.S.C. 12111(9)(B). An employer’s duty to provide reassignment is limited only by “undue hardship.” The change will be discussed in detail in the section titled “Reassignment.”

<sup>8</sup> See 29 CFR part 1630 app. 1630.9.

<sup>9</sup> A reasonable accommodation that has increasing significance in the federal workplace is providing accessible electronic and information technology to make facilities and services readily accessible to individuals with disabilities. See 29 CFR 1630.2(o)(2)(i) (it is a reasonable accommodation to make “existing facilities used by employees readily accessible to and usable by individuals with disabilities”); *id.* at 1630.2(o)(2)(ii) (“other similar accommodations for individuals with disabilities” may be required).

<sup>10</sup> A reasonable accommodation imposes an “undue hardship” on an employer’s operation when it results in “significant difficulty or expense.” 42 U.S.C. 12111(10). In assessing undue hardship, an employer should consider several factors including: (1) The nature and net cost of the accommodation; (2) the overall financial resources of the facility or facilities involved in making the accommodation; (3) the overall financial resources of the covered entity; (4) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce, and the geographic separateness and the administrative and fiscal relationship of the facility or facilities in question to the covered entity; and (5) the impact of the accommodation on the operation of the facility. See 42 U.S.C. 12111(10)(B); 29 C.F.R. 1630.2(p)(2).

Employment Criteria: Change from Paragraph 1614.203(d) to 29 CFR 1630.10 and 1630.11

The Commission proposes to eliminate paragraph (d), which governed the use of tests and selection criteria, and instead apply the ADA standards at 29 CFR 1630.10 and 1630.11. Under the ADA, it is unlawful to use qualification standards, tests, or other selection criteria that screen out or tend to screen out individuals with disabilities, based on disability, unless the standards or criteria are shown to be job-related and consistent with business necessity. 29 CFR 1630.10.

Consideration must be given to whether an individual with a disability can satisfy a qualification standard or other selection criteria with reasonable accommodation. See 29 CFR 1630.15.

Moreover, an individual with a disability must not be excluded from employment simply because his/her disability prevents him/her from taking a test, or negatively influences the results of a test. The Interpretive Guidance appended to the ADA regulation states that employment tests must be administered using accessible test sites and formats, and in a way that measures ability rather than disability. 29 CFR part. 1630 app. 1630.11.

#### Preemployment Inquiries: Change from Paragraph 1614.203(e) to 29 C.F.R. 1630.13 and 1630.14

The Commission proposes to delete paragraph (e) and apply the pertinent ADA standards at 29 CFR 1630.13 and 1630.14. Under the ADA standards, a federal agency employer remains prohibited from making inquiries as to whether an applicant is an individual with a disability, or as to the nature or severity of such disability, and may not conduct a pre-offer medical examination. See 29 CFR 1630.13(a). To the extent that an employer wants to determine if an applicant’s medical condition will prevent him/her from performing a job, the ADA only permits a few specified preemployment inquiries.<sup>11</sup> By contrast, the preemployment inquiry provision in old paragraph 1614.203(e) gave agencies broader discretion to ask applicants

<sup>11</sup> For a detailed discussion of pertinent ADA requirements, see the Appendix to 29 CFR 1630.14, and “ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations,” 8 FEP Manual(BNA) 405:7191 (1995) [hereinafter “Guidance on Preemployment Inquiries”]. Note that the ADA also permits pre-offer disability-related inquiries that are necessary for affirmative action purposes. See Guidance on Preemployment Inquiries, 8 FEP Manual (BNA) at 405:7196–97 (1995). The proposed deletion of paragraph (e) will not affect federal sector affirmative action efforts.

<sup>6</sup> The term “handicaps” is changed to “disabilities” throughout this document.

<sup>7</sup> For a discussion of reasonable accommodation and undue hardship, see 29 CFR 1630.2(o), (p) (defining reasonable accommodation and undue hardship, respectively) and 29 CFR 1630.9 (discussing failure to provide reasonable accommodation as a discriminatory practice). The Commission issued guidance on reasonable accommodation and undue hardship in its “EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act,” 8 FEP Manual (BNA) 405:7601(1999) [hereinafter “Guidance on Reasonable Accommodation and Undue Hardship”]. The analysis in this Enforcement Guidance applies to federal sector employment discrimination complaints arising under section 501 of the Rehabilitation Act. See *id.*

about their medical conditions, expressly permitting agencies to inquire "into an applicant's ability to meet the essential functions of the job, or the medical qualification requirements if applicable, with or without reasonable accommodation, \* \* \* i.e. the minimum abilities necessary for safe and efficient performance of the duties of a position."

The ADA allows medical inquiries or examinations after a conditional offer of employment but before work begins, assuming all individuals in the same job category are subjected to the same inquiries or examinations regardless of disability. See 29 CFR 1630.14(b). An employer may ask specific individuals for more follow-up information if the request is medically related to the previously obtained information.<sup>12</sup>

Under the ADA, however, an employer who withdraws a conditional offer of employment based on disability-related information obtained during a post-offer inquiry or examination can defend against a charge of discrimination only by showing: (1) that it used exclusionary criteria that were job-related and consistent with business necessity; and (2) that it considered reasonable accommodation but the person could not have performed the essential job functions even with reasonable accommodation. See 29 C.F.R. 1630.14(b)(3).

The ADA also prohibits employers from making disability-related inquiries or requiring medical examinations of employees unless those inquiries or examinations are job-related and consistent with business necessity. 42 USC 12112(d)(4); 29 CFR part. 1630, app. 1630.14(c).<sup>13</sup> Finally, the federal employer should note that part 1630 imposes confidentiality restrictions on all medical information obtained from employees and applicants. See 29 CFR 1630.14 (b)(1) and (c)(1).

Physical Access to Buildings: Change from Paragraph 1614.203(f) to 29 CFR part 1630

The Commission proposes to delete paragraph 1614.203(f), concerning physical access to buildings. If an applicant or employee is denied equal employment opportunity because she cannot obtain physical access to a building, then the nondiscrimination standards of part 1630 control.

<sup>12</sup> See *supra* note 11, Guidance on Preemployment Inquiries, 8 FEP Manual (BNA) at 405:7197-99 (1995).

<sup>13</sup> For a discussion of this standard, see "EEOC Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities," at question 14, 8 FEP Manual (BNA) 405:7461,7467-70 (1997).

As a practical matter, federal agencies' obligations in this area are not expected to change significantly. Under the old paragraph 1614.203(f), an agency may not have an inaccessible facility. Additionally, federal agencies already must comply with the Architectural Barriers Act of 1968 and the ADA's accessibility requirements. By adopting the ADA's employment nondiscrimination standards, the NPRM would require agencies to provide reasonable accommodation if an applicant or employee would be denied equal employment opportunity because she could not obtain physical access to a building.

Reassignment: Change From Paragraph 1614.203(g) to New Paragraph 1614.203(b)(2)

The Commission proposes to delete paragraph 1614.203(g) and to add a new paragraph 1614.203(b)(2) stating the ADA's requirement of reasonable accommodation as it pertains to reassignment. In the ADA, Congress listed "reassignment to a vacant position" as a form of reasonable accommodation. 42 U.S.C. 12111(9)(B). The ADA treats reasonable accommodation as a nondiscrimination obligation.<sup>14</sup> An employer's duty to provide reassignment, like any reasonable accommodation, is limited by "undue hardship." By applying the ADA standard to reassignment, federal employees will now benefit from the same protections provided employees in the private sector.

The Obligation To Reassign

Reassignment to a vacant position is the reasonable accommodation of last resort and is required only if: (1) There are no effective accommodations that will enable the employee to perform the essential functions of his/her position, or (2) all other reasonable accommodations would impose an undue hardship. See S. Rep. No. 101-116, at 31 (1989); H.R. Rep. No. 101-485, pt. 2 at 63 (1990); *Smith v. Midland Brake, Inc.*, 180 F.3d 1154, 9 AD Cas. (BNA) 738 (10th Cir. 1999) (*en banc*); *Aka v. Washington Hosp. Ctr.*, 156 F.3d 1284, 8 AD Cas. (BNA) 1093 (D.C. Cir. 1998) (*en banc*); *Stone v. City of Mount Vernon*, 118 F.3d 92, 100-01, 6 AD Cas. (BNA) 1685, 1693 (2d Cir. 1997), cert. denied, 118 S. Ct. 1044 (1998); *Kitaura*

<sup>14</sup> Consequently, the Commission now considers reassignment a reasonable accommodation rather than affirmative action for purposes of Section 501. Cf. 57 Fed. Reg. 12634, 12637-12638 (April 10, 1992) (preamble to regulation at 29 CFR 1614.203(g), which was issued before the 1992 Amendments, stated that reassignment was affirmative action).

*v. USPS*, EEOC Petition No. 03980089 (March 11, 1999); but see, e.g., *Foreman v. Babcock & Wilcox Co.*, 117 F.3d 800, 7 AD Cas. (BNA) 331 (5th Cir. 1997), cert. denied, 118 S. Ct. 1050 (1998).

Reassignment means that the employee receives the vacant<sup>15</sup> position if s/he is qualified for it. Cf. *Smith, supra* (stating that "the reassignment obligation must mean something more than merely allowing a disabled person to compete equally with the rest of the world for a vacant position").

*The Employee Must Be Qualified*

Probationary Employee

A probationary employee with a disability is eligible for reassignment to a new position as long as s/he adequately performed the essential functions of her/his original position, with or without reasonable accommodation, before the need for reassignment arose. The longer a newly hired probationary employee has adequately performed the essential functions of the original job, with or without reasonable accommodation, the more likely it is that reassignment is appropriate when the employee becomes unable to continue performing such functions due to a disability.<sup>16</sup>

Employee Qualified for New Job

An employee is "qualified" for the new position if s/he: (1) Satisfies the requisite skill, experience, education, and other job-related requirements of that position; and (2) can perform the essential functions of the position, with or without reasonable accommodation. See *Stone v. Mount Vernon*, 118 F.3d 92, 100-01, 6 AD Cas. (BNA) 1685, 1693 (2d Cir. 1997), cert. denied, 118 S. Ct. 1044 (1998). The employer is not obliged to provide training so that an employee can acquire new skills for a particular reassignment. However, the employer must provide any training routinely given to other individuals

<sup>15</sup> A position is "vacant" if it is available when the employee asks for reasonable accommodation, or if it is expected to become available within a reasonable amount of time. See 29 CFR part 1630 app. § 1630.2(o). In the federal government, a position is vacant for purposes of reassignment if it is funded and not yet encumbered, even if the agency has already posted a notice advertising the position. See *Schuetter v. DOD*, EEOC Petition No. 03970140 (January 15, 1999). An employer is not obligated to create a new position to implement a reassignment. See *Mitchell v. DOD*, EEOC Petition No. 03930164 (January 21, 1994).

<sup>16</sup> See Guidance on Reasonable Accommodation and Undue Hardship, *supra* note 7, 8 FEP Manual (BNA) at 405:7622-23 (1999). Applicants are not entitled to reassignment. An applicant for a position must be qualified for, and be able to perform with or without reasonable accommodation, the essential functions of the position s/he seeks. See 29 CFR part 1630 app. § 1630.2(o).

hired for, or transferred into, the same job. See *Quintana v. Sound Distribution Corp.*, 6 AD Cas. (BNA) 842, 846 (S.D.N.Y. 1997). See also *Schuetter v. DOD*, EEOC Petition No. 03970140 (January 15, 1999).

#### The Interactive Process

As with reasonable accommodation generally, the federal employer and the individual with a disability who has requested reassignment may need to engage in an interactive process to identify an appropriate position. The employer may not know about all of the individual's skills, and the individual may not be aware of the range of available positions. See *Mengine v. Runyon*, 114 F.3d 415 (3d Cir. 1997). The interactive process need not be onerous. The aim is to identify the employee's qualifications, potential new jobs, and the employee's willingness to accept a particular transfer, through a flexible process involving a two-way dialogue between the employer and the qualified individual with a disability.

#### *The Extent of the Agency's Duty to Search for Another Position*

#### The Federal Employer Must Search for Vacant Positions

The federal employer must search for available vacancies. The employee does not have the burden of identifying open positions without the employer's assistance. *Taylor v. Phoenixville School District*, 1999 WL 649376 (3d Cir. August 18, 1999). Of course, the employee should assist the employer in identifying appropriate positions, to the extent s/he can gather such information.<sup>17</sup>

The employer first should search for vacant positions that are equivalent to the current position in terms of pay, status, and other relevant factors (e.g., geographical location or benefits), and for which the individual is qualified. When it is not possible to identify a vacant position that is substantially equivalent to the original job, the federal employer needs to broaden its search. During interagency coordination, a question was raised about when a job technically becomes "vacant" and therefore available for reassignment in the federal government. The Commission solicits comment on this point.

<sup>17</sup> Additionally, in a unionized workplace, the employer and the union, as a collective bargaining representative, must negotiate in good faith over a variance to the collective bargaining agreement (CBA) if no reasonable accommodation exists that avoids violating the CBA. See Guidance on Reasonable Accommodation and Undue Hardship, *supra* note 7, 8 FEP Manual (BNA) at 405: 7633 (1999).

The ADA does not limit the obligation to reassign to positions within the same appointing authority or commuting area as the original job.<sup>18</sup> Indeed, reassignment to a different component of the same department may now be required, barring undue hardship. See *Kitaura supra*. If an employee is being reassigned to a different geographical area, s/he must pay for any relocation expenses unless the employer routinely pays such expenses when granting other employees' requests for transfers.<sup>19</sup>

#### The Undue Hardship Defense

Because Congress deemed reassignment to be a reasonable accommodation, a federal employer can deny a request for reassignment if it poses an undue hardship. See 42 U.S.C. 12111(10)(B); 29 CFR 1630.2(p). See *supra* note 10. The Commission evaluates undue hardship on a case-by-case basis. For example, if a federal employer claims that it would be an undue hardship to search for vacancies at different facilities in the same department, the Commission would examine the administrative and financial links between the department and its separate facilities to determine whether such a search would, in fact, impose "significant difficulty or expense" on the federal employer. Reassignment outside of the department—to a different department in the federal government—will be presumed to be an undue hardship at this time. Under current procedures, one federal department cannot compel another to accept a transferred employee, even as a reasonable accommodation.

#### *Proposal To Delete Paragraph 1614.203(h): Exclusion From Definition of "Individual(s) With [Disabilities]"*

This paragraph is deleted because it is duplicative of equivalent provisions in part 1630. Deletion of this paragraph does not change the nondiscrimination standards applicable to federal employers.

<sup>18</sup> See *Gile v. United Airlines, Inc.*, 95 F.3d 492, 5 AD Cas. (BNA) 1466 (7th Cir. 1996) (stating that lower court erroneously limited a plaintiff's request for documents since plaintiff should be able to present evidence about reassignment possibilities in other departments); *Malabarba v. Chicago Tribune Co.*, 149 F.3d 690, 8 AD Cas. (BNA) 1505 (7th Cir. 1998) (stating that company conducted conscientious intra-company search for position, even though its efforts could not result in reassignment); see *Kitaura supra*; but see *Riley v. Weyerhaeuser Paper Co.*, 898 F. Supp. 324 (W.D.N.C. 1995), 5 AD Cas. (BNA) 325, *aff'd* 77 F.3d 470, 8 AD Cas. (BNA) 1536 (4th Cir. 1996).

<sup>19</sup> If an employee freely states that s/he would not move to a different geographical area, the federal employer need not continue its search for a position in that geographical area.

#### *Effective Date of a Finalized Rule After Public Comment*

This regulation would be effective 30 days after publication of a final rule in the **Federal Register**. Like the recently-finalized procedural changes to part 1614, the current NPRM would apply to all pending Section 501 discrimination complaints.

#### Additional Amendment

The Commission proposes to delete the provision in § 1614.102(a)(9) which refers to reassignment pursuant to § 1614.203(g).

The Commission invites comment on these proposed changes. The Commission will consider all comments received in conjunction with this NPRM.

#### Regulatory Procedures

##### *Executive Order 12866*

Pursuant to Executive Order 12866, EEOC has coordinated this final rule with the Office of Management and Budget. Under section 3(f)(1) of Executive Order 12866, EEOC has determined that the regulation will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State or local tribal governments or communities. Therefore, a detailed cost-benefit assessment of the regulation is not required.

##### *Paperwork Reduction Act*

This regulation contains no information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

##### *Regulatory Flexibility Act*

In addition, the Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, because it applies exclusively to employees and agencies and departments of the federal government. For this reason, a regulatory flexibility analysis is not required.

#### List of Subjects in 29 CFR Part 1614

Administrative practice and procedure, Equal employment opportunity, Government employees, Individuals with disabilities.

For the Commission.

**Ida L. Castro,**  
*Chairwoman.*

For the reasons set forth in the preamble, EEOC proposes to amend Chapter XIV of Title 29 of the Code of Federal Regulations as follows:

**PART 1614—FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY**

1. the authority citation for part 1614 continues to read as follows:

**Authority:** 29 U.S.C. 206(d), 633(a), 791 and 794a; 42 U.S.C. 2000e-16; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964-1965 Comp., p. 306; E.O. 11478, 3 CFR, 1969 Comp., p. 133; E.O. 12106, 3 CFR 1978 Comp., p. 263; Reorg. Plan No. 1 of 1978, 3 CFR 1978 Comp., p. 321.

**§ 1614.102 [Amended]**

2. Section 1614.102 is amended by removing paragraph (a)(9) and redesignating paragraphs (a)(10) through (a)(14) as paragraphs (a)(9) through (a)(13), respectively.

3. Section 1614.203 is revised to read as follows:

**§ 1614.203 Rehabilitation Act.**

(a) *Model employer.* The Federal Government shall be a model employer of individuals with disabilities. Agencies shall not discriminate against qualified individuals with disabilities. Agencies shall give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities.

(b) *ADA standards.* (1) The standards used to determine whether section 501 of the Rehabilitation Act of 1973 has been violated in a complaint alleging nonaffirmative action employment discrimination under this part shall be the standards applied under Titles I and V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101-12102, 12111-12117, 12201-12213) as such sections relate to employment. These standards are set forth in the Commission's ADA regulations at 29 CFR part 1630.

(2) Agencies must provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the agency can demonstrate that the accommodation would impose an undue hardship. Reasonable accommodation may include reassignment to a vacant position. Reassignment is the reasonable accommodation of last resort and is required only after it has been determined either that:

(i) There are no effective accommodations that will enable the employee to perform the essential functions of his/her current position; or

(ii) All other accommodations would impose an undue hardship.

[FR Doc. 00-4596 Filed 2-29-00; 8:45 am]

**BILLING CODE 6570-01-P**

**POSTAL SERVICE**

**39 CFR Part 20**

**International Postal Rates; Proposed Changes**

**AGENCY:** Postal Service.

**ACTION:** Proposed changes in international postal rates.

**SUMMARY:** Pursuant to its authority under 39 U.S.C. 407, the Postal Service is proposing changes in international postal rates for certain surface mail categories. As required under the Postal Reorganization Act, the proposed changes will result in international postal rates that do not apportion the costs of the service so as to impair the overall value of the service to the users, are fair and reasonable, and are not unduly or unreasonably discriminatory or preferential.

**DATES:** Comments on the proposed changes must be received on or before March 31, 2000.

**ADDRESSES:** Written comments should be sent to the Manager, International Pricing, International Business, U.S. Postal Service, 475 L'Enfant Plaza SW Room 370-IBU, Washington DC 20260-6500. Copies of all written comments will be available for public inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday, in International Business, 10th Floor, 901 D Street SW, Washington DC.

**FOR FURTHER INFORMATION CONTACT:** John Alepa, (202) 268-4071.

**SUPPLEMENTARY INFORMATION:** The proposed international rates, shown in the tables below, are needed by the Postal Service to accommodate changes in the cost of providing international mail service.

The Postal Service is proposing to change only the rates contained in the charts below. These rates include the surface rates for regular printed matter and small packets to Mexico; the publishers' periodicals surface rates for Mexico and all other countries except Canada; and the books and sheet music surface rates for Mexico and all other countries except Canada. No other rates are changed at this time. Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal

Service invites public comment at the above address.

The Postal Service proposes to adopt the following rates and to amend the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

**List of Subjects in 39 CFR Part 20**

Foreign relations, International postal services.

**PART 20—[AMENDED]**

1. The authority citation for 39 CFR part 20 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. The International Mail Manual will be amended to incorporate the following postage rates:

**MEXICO—REGULAR PRINTED MATTER AND SMALL PACKETS (SURFACE)**

Weight not over—		Rate
Lb.	Oz.	
0	1 .....	\$0.72
0	2 .....	0.96
0	3 .....	1.27
0	4 .....	1.50
0	5 .....	1.80
0	6 .....	1.80
0	7 .....	2.22
0	8 .....	2.22
0	9 .....	2.63
0	10 .....	2.63
0	11 .....	2.96
0	12 .....	2.96
0	13 .....	3.37
0	14 .....	3.37
0	15 .....	3.77
1	0 .....	3.77
1	2 .....	4.12
1	4 .....	4.46
1	6 .....	4.81
1	8 .....	5.16
1	10 .....	5.50
1	12 .....	5.84
1	14 .....	6.19
2	0 .....	6.54
3	0 .....	8.84
4	0 .....	11.15
Each additional pound or fraction of a pound .....		2.30

(Note: Maximum weight is 4 pounds for small packets and 11 pounds for regular printed matter.)

**PUBLISHERS' PERIODICALS (SURFACE)**

Weight not over—		Mexico	All other <sup>1</sup>
Lb.	Oz.		
0	1 .....	\$0.48	\$0.44
0	2 .....	0.60	0.55
0	3 .....	0.78	0.71
0	4 .....	0.90	0.83
0	5 .....	1.13	1.05
0	6 .....	1.13	1.05
0	7 .....	1.36	1.27

PUBLISHERS' PERIODICALS (SURFACE)—Continued

Weight not over— Lb. Oz.	Mexico	All other <sup>1</sup>
0 8 .....	1.36	1.27
0 9 .....	1.57	1.50
0 10 .....	1.57	1.50
0 11 .....	1.80	1.71
0 12 .....	1.80	1.71
0 13 .....	2.03	1.93
0 14 .....	2.03	1.93
0 15 .....	2.26	2.15
0 16 .....	2.26	2.15
0 18 .....	2.46	2.36
0 20 .....	2.68	2.56
0 22 .....	2.88	2.77
0 24 .....	3.10	2.98
0 26 .....	3.30	3.19
0 28 .....	3.52	3.39
0 30 .....	3.72	3.60
0 32 .....	3.94	3.81
3 0 .....	5.38	5.13
4 0 .....	6.82	6.45
5 0 .....	8.26	7.77
6 0 .....	9.70	9.10
7 0 .....	11.14	10.42
8 0 .....	12.58	11.74
9 0 .....	14.02	13.06
10 0 .....	15.46	14.39
11 0 .....	16.90	15.71
Each additional pound or fraction of a pound .....	1.44	1.32

<sup>1</sup>All other countries (except Canada and Mexico).

BOOKS AND SHEET MUSIC (SURFACE)

Weight not over (lbs.)	Mexico	All other <sup>1</sup>
1 .....	\$2.26	\$2.24
2 .....	3.94	3.97
3 .....	5.38	5.35
4 .....	6.82	6.73
5 .....	8.26	8.11
6 .....	9.70	9.49
7 .....	11.14	10.87
8 .....	12.58	12.25
9 .....	14.02	13.63
10 .....	15.46	15.01
11 .....	16.90	16.39
Each additional pound or fraction of a pound .....	1.44	1.38

<sup>1</sup>All other countries (except Canada and Mexico).

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00-4810 Filed 2-29-00; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-6542-8]

RIN 2060-AH88

Stay of the Eight-Hour Portion of the Findings of Significant Contribution and Rulemaking for Purposes of Reducing Interstate Ozone Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** In today's action, EPA is proposing to amend a final rule it issued under section 110 of the Clean Air Act (CAA) related to interstate transport of pollutants. The EPA is proposing to stay its finding in the nitrogen oxides State Implementation Plan Call (NO<sub>x</sub> SIP Call) related to the 8-hour ozone standards.

In the final NO<sub>x</sub> SIP Call, EPA found that emissions of NO<sub>x</sub> from 22 States and the District of Columbia (23 States) significantly contribute to downwind areas' nonattainment of the 1-hour ozone National Ambient Air Quality Standards (NAAQS). The EPA also separately found that NO<sub>x</sub> emissions from the same 23 States significantly contribute to downwind nonattainment of the 8-hour ozone NAAQS. The EPA's findings under the 8-hour standards were completely separate from its 1-hour findings and were an independent basis for the rule.

Subsequently, the revised 8-hour ozone standards were remanded in *American Trucking Associations, Inc. v. EPA*, 175 F.3d 1027 (D.C. Cir. 1999). On October 29, 1999, a panel of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) granted in part and denied in part EPA's rehearing request in that case, and the full Court denied EPA's request for rehearing *en banc*. The panel granted rehearing as to certain parts of its original opinion which address EPA's authority to implement the 8-hour ozone NAAQS. The rehearing decision continues to create uncertainty with respect to EPA's ability to rely upon the 8-hour standards as an alternative basis for the NO<sub>x</sub> SIP Call at this time.

**DATES:** The comment period on this notice of proposed rulemaking (NPR) ends on April 17, 2000. Comments must be postmarked by the last day of the comment period and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible). The EPA must receive requests for a hearing by March 13, 2000. Please refer to

**SUPPLEMENTARY INFORMATION** for additional information on the comment period and public hearing.

**ADDRESSES:** Comments may be submitted to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-96-56, U.S. Environmental Protection Agency, 401 M Street SW, room M-1500, Washington, DC 20460, telephone (202) 260-7548. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-96-56, at the above address between 8 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning today's action should be addressed to Kimber Scavo, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC, 27711, telephone (919) 541-3354, e-mail at scavo.kimber@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**Public Hearing**

If you contact EPA requesting a public hearing, it will be held at Research Triangle Park, NC. If you wish to attend the hearing or wish to present oral testimony, you should notify Ms. Joann Allman, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-1815, e-mail allman.joann@epa.gov. The EPA will publish a notice of a hearing if a hearing is requested, in the **Federal Register**. Any hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket No. A-96-56 at the above address. A verbatim transcript of the hearing, if held, and written statements will be made available for copying during normal working hours at the Air and Radiation Docket and Information Center at the above address.

**Availability of Related Information**

The official record for the NO<sub>x</sub> SIP Call rulemaking as well as the public

version of the record, has been established under docket number A-96-56 (including comments and data submitted electronically as described below). The EPA has added new sections to that docket for purposes of today's proposed rulemaking. The public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemakings and associated documents are located at <http://www.epa.gov/ttn/rto/>.

## Outline

- I. Background
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  - A. Executive Order 12866: Regulatory Impact Analysis
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  - C. Executive Order 13132: Federalism
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  - E. Executive Order 12898: Environmental Justice
  - F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
  - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
  - H. National Technology Transfer and Advancement Act
  - I. Paperwork Reduction Act

## I. Background

### A. Findings Under Section 110 To Reduce Interstate Ozone Transport

On September 24, 1998 (63 FR 57356, October 27, 1998), EPA took final action to prohibit specified amounts of emissions of one of the main precursors of ground-level ozone, NO<sub>x</sub>, from transporting across State boundaries in the eastern half of the United States. The EPA found that sources and emitting activities in 23 States emit NO<sub>x</sub> in amounts that significantly contribute to nonattainment of the 1-hour and 8-hour ozone NAAQS downwind. The EPA set forth requirements for each of the affected upwind States to submit SIP revisions prohibiting those amounts of NO<sub>x</sub> emissions which significantly contribute to downwind air quality

problems. The reduction of those NO<sub>x</sub> emissions will bring NO<sub>x</sub> emissions in each of those States to within the resulting statewide NO<sub>x</sub> emissions budget levels established in the rule.

### B. Court Decisions

#### 1. 8-Hour NAAQS

On May 14, 1999, the D.C. Circuit issued an opinion questioning the constitutionality of the CAA authority to review and revise the NAAQS, as applied in EPA's revision to the ozone and particulate matter NAAQS. See *American Trucking Ass'ns v. EPA* No. 97-1441 and consolidated cases (D.C. Cir. May 14, 1999). The Court stopped short of finding the statutory grant of authority unconstitutional, instead providing EPA with another opportunity to develop a determinate principle for promulgating NAAQS under the statute. The Court continued by addressing other issues, including EPA's authority to classify and set attainment dates for a revised ozone standard. Based on the statutory provisions regarding classifications and attainment dates under sections 172(a) and 181(a), the Court's ruling curtailed EPA's ability to require States to comply with a more stringent ozone NAAQS. In response to EPA's petition for rehearing, the D.C. Circuit on October 29, 1999 granted in part and denied in part EPA's rehearing request. The panel granted rehearing as to certain parts of its original opinion, which address EPA's authority to implement the 8-hour ozone NAAQS. The rehearing decision continues to create uncertainty with respect to EPA's ability to rely upon the 8-hour standards as an alternative basis for the NO<sub>x</sub> SIP Call at this time. On January 27, 2000, the Administration filed a petition of certiorari with the Supreme Court seeking review of this opinion.

#### 2. Stay of SIP Submittal Schedule for NO<sub>x</sub> SIP Call

On May 25, 1999, the D.C. Circuit stayed the deadline for submission of the SIP revisions required under the NO<sub>x</sub> SIP Call. The NO<sub>x</sub> SIP Call had required submission of the SIP revisions by September 30, 1999. State Petitioners challenging the NO<sub>x</sub> SIP Call moved to stay the submission schedule until April 27, 2000. The D.C. Circuit issued a stay of the SIP submission deadline pending further order of the Court. *Michigan v. EPA*, No. 98-1497 (D.C. Cir. May 25, 1999) (order granting stay in part).

## II. Proposal

The EPA is proposing in this action to amend the final NO<sub>x</sub> SIP Call to address

the issues raised by the Court's rulings on the 8-hour NAAQS. The EPA is only soliciting comment on the specific changes proposed here in response to the Court's rulings. The EPA is not reopening the remainder of the final NO<sub>x</sub> SIP Call for public comment and reconsideration.

The EPA's belief is that EPA should not continue implementation efforts under section 110 with respect to the 8-hour standard that could be construed as inconsistent with the Court's ruling. In light of the uncertainty, EPA believes the most prudent course—and one respectful of the Court's conclusions in *American Trucking*—is to stay the findings in the SIP Call that emissions in certain States contribute significantly to nonattainment of the 8-hour ozone standards in certain downwind States.<sup>1</sup> The effect of such a stay would be to remove the 8-hour findings as an independent basis for the SIP Call. Given this position, EPA believes that the Agency should not continue to move forward with findings under section 110 based on the 8-hour standard. Thus, EPA is proposing to stay indefinitely the findings of significant contribution based on the 8-hour standard, pending further developments in the NAAQS litigation. The requirements of the SIP Call, including the findings of significant contribution by the 23 States, the emissions reductions that must be achieved, and the requirement for States to submit SIPs meeting statewide NO<sub>x</sub> emissions budgets, are fully and independently supported by EPA's findings under the 1-hour NAAQS alone. Since the rule was based independently on the 1-hour standards, a stay of the findings based on the 8-hour standards would have no effect on the required remedy. Therefore, this stay does not affect EPA's findings based on the 1-hour standards and the requirements of the SIP Call remain in effect.

## III. Administrative Requirements

### A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866, (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget (OMB) because this action is simply proposing to stay its finding in the NO<sub>x</sub> SIP Call related to the 8-hour

<sup>1</sup> The EPA's approach here is consistent with its action on a rule related to the NO<sub>x</sub> SIP Call, commonly referred to as the "Section 126 Rule." On December 17, 1999, EPA took final action on the section 126 petitions. This action indefinitely stayed its technical findings on the 8-hour ozone standards.

ozone standards. The final NO<sub>x</sub> SIP Call was submitted to OMB for review. The EPA prepared a regulatory impact analysis (RIA) for the final NO<sub>x</sub> SIP Call titled "Regulatory Impact Analysis for the NO<sub>x</sub> SIP Call, FIP, and Section 126 Petitions." The RIA and any written comments from OMB to EPA and any written EPA responses to those comments are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the ADDRESSES section of this preamble. This proposed action does not create any additional impacts beyond what was promulgated in the final NO<sub>x</sub> SIP Call; therefore, no additional RIA is needed.

#### B. Unfunded Mandates Reform Act

This proposed action also does not impose any additional enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). The EPA did not reach a final conclusion as to the applicability of the requirements of the UMRA to the final NO<sub>x</sub> SIP Call. The EPA prepared a statement that would be required by UMRA if its statutory provisions applied and has consulted with governmental entities as would be required by UMRA. Because today's action does not create any additional mandates, no further UMRA analysis is needed.

#### C. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), 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 Section 6 of 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. The 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 action does not have federalism implications. It 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. Today's action does not impose an enforceable duty on these entities. This action proposes to stay its finding in the NO<sub>x</sub> SIP Call related to the 8-hour ozone standards and imposes no additional burdens beyond those imposed by the final NO<sub>x</sub> SIP Call. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government 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 OMB, 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 action does not significantly or uniquely affect the communities of Indian tribal governments. The EPA stated in the final NO<sub>x</sub> SIP Call that Executive Order 13084 did not apply because the final rule does not significantly or uniquely affect the communities of Indian tribal governments or call on States to regulate NO<sub>x</sub> sources located on tribal lands. Accordingly, the requirements of

section 3(b) of Executive Order 13084 do not apply to this rule.

#### E. Executive Order 12898: Environmental Justice

In addition, this action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). For the final NO<sub>x</sub> SIP Call, the Agency conducted a general analysis of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the requirements of the rule. These findings are presented in the RIA. Today's action does not affect that analysis.

#### F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's (SBA) regulations at 13 CFR 12.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's technical amendment on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

This proposed action will not impose any requirements on small entities. This action proposes to stay its finding in the NO<sub>x</sub> SIP Call related to the 8-hour ozone standards and does not itself establish requirements applicable to small entities.

#### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed action also is not subject to Executive Order 13045

(Protection of Children from Environmental Health Risks and Safety Risks) (62 FR 19885, April 23, 1997) because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks and is not economically significant under Executive Order 12866.

#### *H. National Technology Transfer and Advancement Act*

In addition, the National Technology Transfer and Advancement Act of 1997 does not apply because today's proposed action does not require the public to perform activities conducive to the use of voluntary consensus standards under that Act. The EPA's compliance with these statutes and Executive Orders for the underlying rule, the final NO<sub>x</sub> SIP Call, is discussed in more detail in 63 FR 57477-81 (October 27, 1998).

#### *I. Paperwork Reduction Act*

The EPA stated in the final NO<sub>x</sub> SIP Call that an information collection request was pending. Today's action imposes no additional burdens beyond those imposed by the final NO<sub>x</sub> SIP Call. Any issues relevant to satisfaction of the requirements of the Paperwork Reduction Act will be resolved during review and approval of the pending information collection request for the NO<sub>x</sub> SIP Call.

#### **List of Subjects in 40 CFR Part 51**

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

Dated: February 18, 2000.

**Carol M. Browner,**  
*Administrator.*

For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is proposed to be 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. 7410, 7414, 7421, 7470-7479, 7491, 7492, 7601, and 7602.

#### **Subpart G—Control Strategy**

2. Section 51.121 is amended by adding paragraph (q) to read as follows:

#### **§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen.**

\* \* \* \* \*

(q) *Stay of Findings of Significant Contribution with respect to the 8-hour standards.* Notwithstanding any other provisions of this subpart, the effectiveness of the provisions in paragraph (a)(2) of this section is stayed.

[FR Doc. 00-4519 Filed 2-29-00; 8:45 am]

**BILLING CODE 6560-50-P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[CA 231-0206b; FRL-6540-7]

#### **Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve a revision to the California State Implementation Plan (SIP) which concerns the control of volatile organic compound (VOC) emissions from refinery vacuum-producing devices and systems.

The intended effect of this action is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further action is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be

addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Written comments must be received by March 31, 2000.

**ADDRESSES:** Mail comments to: Andrew Steckel, Chief, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the submitted rule revisions and our technical support documents (TSDs) may be inspected at our Region IX office from 8:00 am to 4:30 pm, Monday through Friday. To see copies of the submitted rule revisions, you may also go to the following locations:

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

South Coast Air Quality Management  
District, 21865 East Copley Drive,  
Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1135.

**SUPPLEMENTARY INFORMATION:** This document concerns South Coast Air Quality Management District Rule 465, Refinery Vacuum-Producing Devices and Systems, submitted to EPA on October 29, 1999 by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: February 11, 2000.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 00-4779 Filed 2-29-00; 8:45 am]

**BILLING CODE 6560-50-P**



**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration**

**49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178, 179, 180**

[Docket No. RSPA-99-6283 (HM-230)]

RIN 2137-AD39

**Hazardous Materials Regulations; Compatibility With the Regulations of the International Atomic Energy Agency**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Advance notice of proposed rulemaking; extension of time to file comments.

**SUMMARY:** RSPA is extending for 90 days, until June 29, 2000, the period for filing comments to an advance notice of proposed rulemaking (ANPRM) published under Docket HM-230. RSPA is taking this action in response to a petition filed by the United States Department of Energy (DOE). DOE requested that RSPA allow additional time for interested persons to review and provide comments on the ANPRM and the recent changes contained in the International Atomic Energy Agency (IAEA) publication titled "IAEA Safety Standards Series: Regulations for the Safe Transport of Radioactive Material, 1996 Edition, Requirements, No. ST-1" (hereafter referred to as ST-1).

**DATES:** Comments must be received on or before June 29, 2000. To the extent practicable, we will consider comments received after this date.

**ADDRESSES:** Submit written comments to the Dockets Management System, U.S. Department of Transportation, PL 401, 400 Seventh Street, SW, Washington, D.C. 20590-0001. Comments should refer to Docket Number RSPA-99-6283 and be submitted in two copies. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard.

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at <http://dms.dot.gov>. Click on "Help & Information" to obtain instructions for filing the comment electronically. In every case, the comment should refer to the Docket number "RSPA-99-6283".

The Dockets Management System is located on the Plaza level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9:00 a.m. and 5:00

p.m., Monday through Friday, except Federal holidays. You can also review comments on-line at the DOT Dockets Management System web site at "<http://dms.dot.gov/>."

**FOR FURTHER INFORMATION CONTACT:** Dr. Fred D. Ferate II, Office of Hazardous Materials Technology, (202) 366-4545, or Charles E. Betts, Office of Hazardous Materials Standards, (202) 366-8553; RSPA, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:** On December 28, 1999, RSPA published an ANPRM in the **Federal Register** under Docket HM-230 (64 FR 72633) that solicits comments on the development of regulations to harmonize the radioactive materials requirements in the Hazardous Materials Regulations (HMR) with the recent changes contained in the IAEA publication, ST-1, on the transportation of radioactive materials. In the ANPRM, specific comments are requested from interested persons in defining the scope of the notice of proposed rulemaking, i.e., extent to which differences between the HMR and the IAEA publication ST-1 should be considered in proposing changes to the HMR.

RSPA received a petition from DOE requesting an extension of the comment period to the ANPRM for an additional 90 days. DOE stated that it is still in the process of obtaining and distributing the information in ST-1 to its sizeable transportation community. RSPA agrees additional time should be allowed and is extending the comment period from March 29, 2000 to June 29, 2000.

Issued in Washington, DC on February 23, 2000, under authority delegated in 49 CFR Part 106.

**Robert A. McGuire,**

*Acting Associate Administrator for Hazardous Materials Safety.*

[FR Doc. 00-4926 Filed 2-29-00; 8:45 am]

**BILLING CODE 4910-60-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[I.D. 021500A]

RIN 0648-AM75

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 12 to the Fishery Management Plan (FMP) for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 12)**

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

**ACTION:** Notice of availability of Amendment 12; request for comments.

**SUMMARY:** NMFS announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 12 for review, approval, and implementation by NMFS. Amendment 12 contains a single action that would extend the expiration date of the commercial king mackerel vessel permit moratorium through October 15, 2005. Written comments are requested from the public.

**DATES:** Comments must be received at the appropriate address or fax number, (see **ADDRESSES**), no later than 5:00 p.m., eastern standard time, on May 1, 2000.

**ADDRESSES:** Written comments should be sent to Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet.

Requests for copies of Amendment 12, which includes an environmental assessment and a regulatory impact review, may be obtained from the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL 33619; telephone: 813-228-2815; fax: 813-225-7015; e-mail: [gulf.council@noaa.gov](mailto:gulf.council@noaa.gov); or from the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; telephone: 843-571-4366; fax: 843-769-4520; e-mail: [safmc@noaa.gov](mailto:safmc@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, 727-570-5305; fax 727-570-5583; e-mail: [steve.branstetter@noaa.gov](mailto:steve.branstetter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each Regional Fishery Management Council to submit an FMP or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Amendment 8 to the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic established the commercial king mackerel vessel permit moratorium in March 1998. Amendment 12 would extend the moratorium from its current expiration date of October 15, 2000, to October 15, 2005, or until the moratorium can be replaced with a license limitation, limited access, and/or individual fishing quota or individual transferrable quota system, whichever occurs earlier. The intended effects of extending the permit moratorium through the proposed action are to prevent increases in fishing effort, to possibly reduce the number of permittees in the king mackerel fishery, and to stabilize the economic performance of current participants while protecting king mackerel from overfishing.

Currently, various hook-and-line and run-around gillnet fisheries for king mackerel in the Gulf of Mexico and the South Atlantic region are subject to closures when the quotas are filled before the end of their respective fishing years. Such closures in recent years indicate that fleet size and fishery effort still exceed that needed to harvest the allowable quotas. The Councils are concerned that allowing the current moratorium to expire would increase the number of participants in the king mackerel fishery, thereby negating any reductions in effort that have been achieved as a result of the current moratorium. An increase in participants would exacerbate the current derby fisheries that occur in the western Gulf zone and in the Florida west coast gillnet fishery, would lead to even earlier closures, and would have an adverse impact on the economic returns to the current participants. Increased participation would also compound the complexity of the Councils' future task in developing a controlled access system for this fishery. For example, if the future assignment of fishing privileges under a new limited access system is weighted more toward historical rather than current

participation, new fishery entrants may lose a good part of their new investments.

In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to implement Amendment 12 to determine if it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

NMFS will consider comments received by May 1, 2000, whether specifically directed to Amendment 12 or its proposed rule, in its decision to approve, disapprove, or partially disapprove the amendment. NMFS will address all the comments received during the respective comment periods for Amendment 12 and its proposed rule in the preamble of the final rule.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 24, 2000.

**Bruce Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 00-4911 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-22-F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 000223051-0051-01; I.D. 020300A]

#### Fisheries of the Northeastern United States; Deep-sea Red Crab Fishery

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

**ACTION:** Advance notice of proposed rulemaking; notice of a control date for the purposes of controlling entry in the deep-sea red crab fishery.

**SUMMARY:** NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the deep-sea red crab (*Chaceon quinque-dens*) resource if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that limits the number of participants in the fishery. This announcement is intended, in part, to promote awareness of potential eligibility criteria for future access so as to discourage speculative entry into the

fishery while the New England Fishery Management Council (Council) and NMFS consider whether and how access to the red crab fishery should be controlled. The date of publication of this notice, March 1, 2000, shall be known as the "control date" and may be used for establishing eligibility criteria for determining levels of future access to the red crab fishery subject to Federal authority.

**DATES:** Written comments must be received on or before 5:00 p.m., local time, March 31, 2000.

**ADDRESSES:** Written comments should be sent to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, "Comments on Deep-sea Red Crab Control Date." Comments also may be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Regina L. Spallone, Fishery Policy Analyst, 978-281-9221, email: regina.l.spallone@noaa.gov

**SUPPLEMENTARY INFORMATION:** The deep-sea red crab (red crab, *Chaceon quinque-dens*) is a deep-water benthic species that supports a small commercial fishery on the Atlantic coast in southern New England and on the southern slope of Georges Bank. Although not regulated, the commercial fishery appears to be limited to approximately six vessels, with some seasonal participation by offshore lobster vessels likely.

Information is limited for this resource, but annual landings in 1998 by directed vessels of 3.5 million lbs (1,600 mt) appear to be close to the lower range of the estimate of maximum sustainable yield (MSY) (4.0-5.5 million lb (1,800-2,500 mt)). This MSY estimate was developed by NMFS Northeast Fisheries Science Center based on studies conducted in the late 1970's. No formal assessment was ever conducted. Current capacity in this fishery is sufficient to harvest or exceed this MSY. Seasonal participation by the offshore lobster fleet may have already pushed landings of red crab over the lower estimate of MSY. Also, there is concern that vessels that are not traditional participants in the red crab fishery may enter the fishery soon due to the decline of other resources, thereby increasing the likelihood of excess harvest capacity.

While there currently is no fishery management plan (FMP) for red crab, the Council has announced its intention

to prepare one. As part of that FMP, the Council is considering development of a controlled access system in the red crab fishery to address the principle of matching harvest capacity to sustainable harvest level. The limitation of entry into the fishery may be based on levels of participation (e.g., permit categories based on harvest levels of a vessel) or other criteria such as domestic harvest capacity.

The control date is intended to discourage speculative entry into the red crab fishery while controlled access schemes are developed by the Council. The control date will help to distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after the control date will not ensure them of future access to the red crab resource on the grounds of previous participation, additional and/or other qualifying criteria may also be applied. The

Council may choose different and variably weighted methods to qualify participants based on the type and length of participation in the fishery.

This notification establishes March 1, 2000, as the control date for potential use in determining historical or traditional participation in the deep-sea red crab fishery. Consideration of a control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. The Council or NMFS may choose a different control date, or may choose a management program that does not make use of such a date.

Fishermen are not guaranteed future participation in the fishery, regardless of their entry dates or intensity of participation in this fishery before or after the control date. The Council and NMFS may choose to give variably weighted consideration to fishermen active in the fishery before and after the

control date. The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council or NMFS will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the red crab fishery in Federal waters.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 23, 2000.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 00-4910 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-22-F**

# Notices

Federal Register

Vol. 65, No. 41

Wednesday, March 1, 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

### Agricultural Marketing Service

[Docket No. ST-00-001]

#### Plant Variety Protection Board; Open Meeting

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

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Plant Variety Protection Board.

**DATES:** March 23, 2000, 9 a.m. to 5 p.m., open to the public.

**ADDRESSES:** The meeting will be held at the George Washington Carver Center, 5602 Sunnyside Avenue, Beltsville, Maryland, 20705.

**FOR FURTHER INFORMATION CONTACT:** Ann Marie Thro, Commissioner, Plant Variety Protection Office, Science & Technology, AMS, USDA. Address: Room 500, National Agricultural Library Building, 10301 Baltimore Blvd., Beltsville, MD 20705-2351, (301) 504-5518 or -7475, or fax: (301) 504-5291.

**SUPPLEMENTARY INFORMATION:** Pursuant to the provisions of section 10(a) of the Federal Advisory Committee Act (Pub. L. No. 92-463 5 U.S.C. App.), this notice is given concerning a Plant Variety Protection Board meeting. The Board is constituted under section 7 of the Plant Variety Protection Act (7 U.S.C. 2327).

The proposed agenda for the meeting will include discussions of: Plant Variety Protection Office Application Process, Plant Variety Protection Office Progress Report, and other related topics. Written comments may be submitted to the contact person listed above before or after the meeting.

Dated: February 25, 2000.

**Kathleen A. Merrigan,**  
*Administrator, Agricultural Marketing Service.*

#### Tentative Agenda

Plant Variety Protection Board Meeting, March 23, 2000. USDA/AMS/S&T/PVPO—George Washington Carver Center, 5602 Sunnyside Avenue, Beltsville, Maryland, 20705.

#### Call to Order

Ann Marie Thro, Commissioner, PVPO Introductions

William J. Franks, Jr., Deputy Administrator, AMS/S&T

#### Opening Remarks

Kathleen A. Merrigan, Administrator, AMS Adoption of Agenda  
Adoption of 1999 Minutes  
Introduction for new Board members to the Plant Variety Protection Act (PVPA) and the Plant Variety Protection Office (PVPO)

Senior Examining Staff, PVPO  
PVPO Progress report

Ann Marie Thro, Commissioner, PVPO Appeals to the Secretary of Agriculture (if any)

Ann Marie Thro, Commissioner, PVPO Topics brought forward by Board Members  
PVPO Board Members

#### Meeting summary

Ann Marie Thro, Commission, PVPO  
Adjourn

[FR Doc. 00-4904 Filed 2-29-00; 8:45 am]

**BILLING CODE 3410-02-M**

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

[Docket No. 00-004N]

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 00N-0597]

#### Codex Alimentarius: Meeting of the Codex Committee on General Principles, Organization for Economic Cooperation and Development: Meeting of the Ad Hoc Group on Food Safety

**AGENCIES:** Food Safety and Inspection Service, USDA; Food and Drug Administration, HHS.

**ACTION:** Notice; public meeting and request for comments.

**SUMMARY:** The Office of Food Safety, and the Food Safety and Inspection

Service (FSIS), U.S. Department of Agriculture (USDA); and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting on March 22, 2000, to provide information and receive public comments on agenda items that will be discussed at the Fourteenth Session of the Codex Committee on General Principles, April 10-14, 2000, and to provide information and receive public comments on papers submitted and issues to be discussed at the Second Session of the Organization for Economic Cooperation and Development (OECD) Ad Hoc Group on Food Safety, scheduled for March 27-28, 2000. Both groups are scheduled to meet in Paris, France. The co-sponsors of the March 22nd public meeting recognize the importance of providing interested parties the opportunity to obtain background information on the General Principles Committee of the Codex Alimentarius Commission (CAC), and the Ad Hoc Task Force on Food Safety of the OECD, and to address issues coming before those bodies.

**DATES:** The public meeting is scheduled for Wednesday, March 22, 2000, from 1:00 p.m. to 5:00 p.m. Comments must be received by April 24, 2000.

**ADDRESSES:** The public meeting will be held in the Madison Room, Washington Plaza Hotel, 10 Thomas Circle, Massachusetts Avenue and 14th Street, NW, Washington, DC, 20005. Copies of the documents listed in the notice will be available for inspection at the office of the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250-3700, or the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. The Codex documents will also be accessible via the World Wide Web at the following address: [http://www.fao.org/waicent/faoinfo/economic/esn/codex/ccgp15/gp00\\_01e.htm](http://www.fao.org/waicent/faoinfo/economic/esn/codex/ccgp15/gp00_01e.htm). Copies of the United States' submission to the OECD compendium of national food safety systems will be available on the Internet at <http://vm.cfsan.fda.gov/~dms/fs-toc.html> on approximately March 1, 2000. Send an original and two copies of comments to: FSIS Docket Clerk, Docket #00-004N, U.S. Department of Agriculture, Food Safety

and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250-3700 or FDA/Dockets Management Branch (HFA-305), 5630 Fishers Lane, Rm. 1601, Rockville, MD 20852. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW, Washington, DC, 20250; Telephone: (202) 205-7760; Fax: (202) 720-3157; or, for the OECD Ad Hoc Working Group on Food Safety, Lois Ann Beaver, Office of International Programs, FDA, 5600 Fishers Lane, 15A16, Rockville, MD 20852; Telephone: (301) 827-4480; Fax: (301) 443-0235. Persons requiring a sign language interpreter or other special accommodations should notify Patrick J. Clerkin, telephone (202) 205-7760; Fax: (202) 720-3157.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Codex Committee on General Principles*

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

The Codex Committee on General Principles was established to deal with such procedural and general matters as are referred to by the Codex Alimentarius Commission. Such matters have included the establishment of the general principles that define the purpose and scope of the Codex Alimentarius, the nature of Codex standards and the forms of acceptance by countries of Codex standards, and the development of guidelines for Codex committees.

**Codex Issues To Be Discussed at the Public Meeting**

(1) Matters referred by the Codex Alimentarius Commission and other Codex Committees; Document: *CX/GP 00/2*

(2) Risk Analysis

- Working Principles for Risk Analysis; Documents: *CL1999/16GP, CX/GP 00/3*, Government comments *CX/GP00/3-Add.1*

- Food Safety Objectives; Document: *CX/GP 00/4*

(3) Measures intended to facilitate consensus; Document: *CX/GP 00/5*

(4) Composition of the Executive Committee and related matters; Document: *CX/GP 00/6*

(5) Review of the Statements of Principle on the Role of Science and the Extent to which Other Factors are taken into account; Documents: *CX/GP 00/7* Role of science and other factors in relation to risk analysis

(6) Revision of the Code of Ethics for International Trade in Foods; Documents: *CL 1999/19-GP, CX/GP 00/8*, Government comments *CX/GP00/8-Add.1*

(7) Consumer Participation in Codex Work and related matters; Documents: *CX/GP 00/9*, Government comments, *CX/GP00/9-Add.1*

**OECD Ad Hoc Group on Food Safety**

The Ad Hoc Group on Food Safety convened for its first session January 24-25, 2000, in Paris at the Organization for Economic Cooperation and Development. This group was established by the OECD Council late last year in response to the request for reports on biotechnology and other aspects of food safety issued by the G-8 (Group of 7 largest economies in the world: US, Japan, Germany, France, UK, Italy, Canada and Russia) after its June 1999 Summit in Cologne. The Ad Hoc Group on Food Safety was formed to develop a report on national food safety systems, including how controversial issues related to biotechnology and other aspects of food safety are managed, and a report based on submissions from international organizations involved in food safety. These reports, in the form of compendia, as well as reports from the OECD Working Group on Harmonization of Regulatory Oversight in Biotechnology and the OECD Task Force on Novel Foods and Feeds will be submitted to the G-8 in advance of the July, 2000, Summit in Okinawa.

On November 18, 1999, the OECD Council agreed that the mandate for the Ad Hoc Group on Food Safety, was to:

(1) Supervise the compilation of a

compendium of international food safety systems; (2) compile a compendium of national food safety systems; and (3) provide a report to the Council on the results of its work. Operational guidance indicated that the final report to the OECD Council should reflect the views of member countries, not the Secretariat, identify food safety activities without evaluations or policy recommendations, be finished by the end of April, 2000, and be based on current information without undertaking new work.

Participants in the First Session of the Ad Hoc Group on Food Safety, which included 130 representatives from the 29 OECD member countries and five representatives from the EC Commission, with one Russian observer, met to design the program of work for the Ad Hoc Group on Food Safety. Representatives of WHO, FAO and WTO were also present as observers. The US delegation was co-led by USDA Undersecretary for Food Safety Catherine Woteki and FDA Commissioner Jane Henney, Deputy Commissioner Sharon Smith Holston, Robert Lake, and Lois Ann Beaver from FDA, Sally McCammon from USDA and Richard White from EPA. Members of the US Mission to the OECD present during the session included Ambassador Bondurant, Gary Larson, Peter O. Thomas and Breck Milroy.

To guide its activities, the Ad Hoc Group elected a Bureau Chaired by E. Wermuth, The Netherlands, with USDA Undersecretary Woteki and K. Tomita, Japan, as Vice-Chairs.

The Ad Hoc group adopted a program of work under which:

(1) Countries would submit reports for a compendium of national food safety systems that would identify what is being done to address current and emerging food safety issues. The national reports should be 5-10 pages in length, include factual information, and have a one-page synthesis identifying key principles, changes, and areas of continuing development, and an optional annex. Food quality, availability and costs, animal welfare and biodiversity were cited as emerging issues. It was agreed that member countries might address in their national reports how such non-scientific concerns are treated in national decision-making processes in the national reports. As envisaged by the Terms of Reference, the "precautionary approach and principles" will be addressed by member countries in their reports and in optional annexes of relevant references. Under the guidance of the Bureau, the Secretariat will present the information received on the

precautionary approach and principles in a structured manner to the Second Session of the Ad Hoc Group on Food Safety.

(2) Selected international organizations (the World Health Organization, the Food and Agriculture Organization of the United Nations, the Office of International Epizootics, the World Trade Organization and the OECD) would contribute to a compendium of international food safety activities.

The Draft reports from OECD members and from international organizations are due to the OECD Secretariat by the end of February, 2000, in preparation for the Ad Hoc Group's second session, scheduled for March 27-28.

The time-frame for completion of the work of the Ad Hoc Group on Food Safety is very short. Participants agreed that the two compendia should be in suitable form by the end of April 2000 for transmittal, via the OECD Council, to the G-8.

The program of work described above, and the US' submission to the compendium of national food safety systems will be discussed at the public meeting.

#### Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this meeting notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720-5704.

Done at Washington, DC on: February 24, 2000.

**Patrick J. Clerkin,**

*Associate U.S. Manager for Codex Alimentarius.*

**Margaret M. Dotzel,**

*Acting Associate Commissioner for Policy.*

[FR Doc. 00-4849 Filed 2-29-00; 8:45 am]

**BILLING CODE FSIS 3410-DM-P; FDA 4160-01-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Reinstatement of a Previously Approved Information Collection; Request for Comments; Visitor's Permit Form FS-2300-30 and Visitor Registration Card FS-2300-32

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to request reinstatement of a previously approved information collection for Visitor's Permit Form FS-2300-30 and Visitor Registration Card Form FS-2300-32. The collected information will help the Forest Service ensure that visitors' use of National Forest System lands is in the public interest and is compatible with the mission of the agency. Information will be collected from National Forest System land visitors, who will be asked to describe their intended use of the land and their estimated duration of use.

**DATES:** Comments must be received in writing on or before May 1, 2000.

**ADDRESSES:** All comments should be addressed to the Wilderness Program Manager; Recreation, Heritage, and Wilderness Resources Staff; Mail Drop 1125; Forest Service, USDA; P.O. Box 96090; Washington, DC 20090-6090.

Comments also may be submitted via facsimile to (202) 205-1145 or by email to [jstokes/wo@fs.fed.us](mailto:jstokes/wo@fs.fed.us).

The public may inspect comments in the Office of the Director, Recreation, Heritage, and Wilderness Resources Staff, 201 14th Street, SW, Washington DC. Visitors are encouraged to call (202) 205-1706 to facilitate entrance into the building.

**FOR FURTHER INFORMATION CONTACT:** Jerry Stokes, Wilderness Program Manager, Recreation, Heritage, and Wilderness Resources Staff at (202) 205-0925.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Organic Administration Act (16 U.S.C. 473), Wilderness Act (16 U.S.C. 1131), Wild and Scenic Rivers Act (16

U.S.C. 1271), and Executive Order 11644 of February 8, 1972, (Use of Off-Road Vehicles on the Public Lands) authorize the Forest Service to manage National Forest System lands to benefit the land and the people for present and future generations.

Each year, millions of people visit National Forest System lands. These lands include wilderness and special management areas, such as wild and scenic rivers, restricted off-road vehicle areas, and campgrounds. Access to many of these areas requires reservations and/or permits.

The Forest Service developed Visitor's Permit Form FS-2300-30 and Visitor Registration Card Form FS-2300-32 to facilitate visitor access to wilderness and special management areas. Forest Service personnel collect information from visitors as they register or apply for permits to use or visit wilderness or special management areas.

Visitors will be asked to provide their name and address, the site they plan to visit, their expected length of stay, the number of people in their group, their point of entry and point of exit, their primary method of travel, the number of pack or saddle animals they plan to bring, and number of watercraft or vehicles they plan to bring.

Data gathered in this information collection is not available from other sources.

#### Description of Information Collection

The following describes the information collection to be reinstated:

*Title:* FS-2300-30, Visitor's Permit.

*OMB Number:* 0596-0019.

*Expiration Date of Approval:* October 31, 1999.

*Type of Request:* This is a request for reinstatement of an information collection previously authorized by the Office of Management and Budget.

*Abstract:* The Forest Service will analyze the collected data to identify the National Forest System lands and wilderness areas most frequently visited by the public.

Visitor's Permit Form FS-2300-30 will be used only where public access must be managed and/or monitored to prevent damage to the natural resources, to preserve the quality of the visitor's experience, or to provide for public safety.

When asking visitors to complete Form FS-2300-30, Forest Service personnel will take the opportunity to discuss with visitors how they can protect the natural resources while visiting, proper camping techniques they should use, fire prevention, safety, and sanitation requirements. The very

issuance of this permit will provide information that will help the Forest Service identify the wilderness and special management areas that will be visited most frequently and will provide the agency with opportunities to encourage people to visit less popular sites.

To determine the estimate of burden, three Forest Service employees not familiar with the form were requested to individually complete Visitor's Permit Form FS-2300-30.

*Estimate of Burden:* 3 minutes.

*Type of Respondents:* Individuals and groups requesting use of National Forest System wilderness and special management areas.

*Estimated Number of Respondents:* 100,000.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 5,000 hours.

#### Description of Information Collection

The following describes the information collection to be reinstated:  
*Title:* FS-2300-32, Visitor Registration Card.

*OMB Number:* 0596-0019.

*Expiration Date of Approval:* October 31, 1999.

*Type of Request:* This is a request for reinstatement of an information collection previously authorized by the Office of Management and Budget.

*Abstract:* The Visitor Registration Card FS-2300-32, like the Visitor Permit Form FS-2300-30, will provide the Forest Service with information that will help the agency identify National Forest System wilderness and special management areas most frequently visited and will provide the agency with opportunities to encourage people to visit less popular sites. Completing the Visitor Registration Card will be a voluntary exercise by visitors; it is not a requirement for visitation to a site.

Visitor Registration Cards will be available to visitors at field locations, such as trailheads. Visitors will complete the cards and place them in a container designed for that purpose.

To determine the estimate of burden, one Forest Service employee not familiar with the form was asked to complete the Visitor Registration Card FS-2300-32.

*Estimate of Burden:* 3 minutes.

*Type of Respondents:* Individuals and groups visiting National Forest System wilderness and special management areas.

*Estimated Number of Respondents:* 210,000 respondents.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 10,500 hours.

#### Comment is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

#### Use of Comments

All comments received in response to this notice, including names and addresses when provided, will become a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: February 22, 2000.

**Paul Brouha,**

*Associate Deputy Chief, National Forest Systems.*

[FR Doc. 00-4863 Filed 2-29-00; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Big Creek Resource Management Project, Flathead National Forest, Flathead County, Montana

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare an environmental impact statement on a proposal to harvest trees; conduct prescribed burning; pre-commercially thin trees; reconstruct recreational trails and facilities; implement access management changes, including road reclamation; and conduct rehabilitation activities in aquatic habitat within the Big Creek watershed. The area is located 10 miles north of Columbia Falls, Montana.

The Forest Service is seeking further information and written comments from Federal, State and local agencies and

other individuals or organizations who may be interested in or affected by the proposed actions. These comments will be used to prepare the draft EIS.

**DATES:** Comments concerning the scope of the analysis should be received in writing by April 4, 2000. The draft EIS is expected to be filed with the Environmental Protection Agency and made available for public review in September, 2000. No date has yet been determined for filing the final EIS.

The comment period on the draft environmental impact statement will be 45 days from the date of the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

**ADDRESSES:** Send written comments to David Ondov or Jimmy DeHerrera, Glacier View Ranger District, P.O. Box 290340, Hungry Horse, Montana, 59919.

**FOR FURTHER INFORMATION CONTACT:** David Ondov, Planning Team Leader, 406-387-3800.

#### SUPPLEMENTARY INFORMATION:

#### Nature and Scope of the Proposed Action

This proposal is necessary to address resource conditions related to wildlife, forest health, fisheries and watershed, recreation use, and other human uses within the 58,000 acre Big Creek watershed which are outside desired ranges. There is also the desire to maintain resource conditions across the landscape that are similar to what fire and other natural disturbance processes would have created historically.

The purpose of the proposal is to restore landscape composition, structure, and patterns to conditions similar to that expected under natural disturbance and succession regimes, and to restore fire as an important ecological process in this watershed; to reduce existing populations of selected invasive (noxious) weeds; to improve diversity of viewing opportunities into Glacier National Park and the east facing slope of Demers Ridge; to protect human and environmental values in this watershed from the effects of catastrophic fire; to improve the quality and quantity of ungulate winter and spring range forage; to improve grizzly bear security; to improve water quality and fisheries habitat; to reconstruct the Smokey Range Trail to an acceptable standard for visitor use; to provide a developed trailhead and visitor information at the northern terminus of the Demers Ridge Trail; and to relocate a portion of the Canyon Creek Snowmobile Trail onto a route that is suitable for grooming.

The proposed action includes approximately 3,700 acres of vegetation treatment (fuels reduction through slashing or tree thinning, prescribed burning, tree harvest along with associated fuels treatments and reforestation activities, and pre-commercial thinning), 70 miles of road reclamation and yearlong closure of other roads, placement of large woody debris in streams, stabilization or removal of several log jams in streams, review and rehabilitation of old skid roads on 20–25 acres, repair of 7 streamside slumps, reconstruction of a trail, construction of a new trailhead facility, and improvement and relocation of 6 miles of a groomed snowmobile trail system.

This EIS will tier to the Flathead National Forest Land and Resource Management Plan (LRMP) and EIS of January, 1986, and its subsequent amendments, which provide overall guidance of all land management activities on the Flathead National Forest.

#### Decision To Be Made

Should the Forest Service implement the proposed action or any action to meet the purpose and need established for the project, or defer any action at this time within the Big Creek watershed? The deciding official for the project is Jimmy DeHerrera, District Ranger, Hungry Horse/Glacier View Ranger Districts, Flathead National Forest.

#### Preliminary Issue and Alternatives

Preliminary scoping for the Big Creek project was conducted in November, 1999, through an open house and a field trip. The purpose of these public forums was to introduce a preliminary proposal which could be refined based on public comment. A public mailing is planned at the same time this notice of intent is published in the **Federal Register** to present the refined proposed action and purpose and need for the project. Based on public and internal comments, the following issues have emerged:

1. Economic feasibility of some proposed vegetation treatments.
2. Aquatic effects from vegetation treatments.
3. Sediment effect from road reclamation.
4. Effects of road management changes on human access and use of the area.

The interdisciplinary team has not yet developed any alternatives to the proposed action that respond to these issues.

The Forest Service believes it is important to give reviewers notice at

this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

Dated: February 23, 2000.

**Jimmy DeHerrera,**

*District Ranger.*

[FR Doc. 00–4878 Filed 2–29–00; 8:45 am]

**BILLING CODE 3410–11–M**

#### DEPARTMENT OF AGRICULTURE

##### Grain Inspection, Packers and Stockyards Administration

[00–A–W]

##### Designation of Springfield (IL) to provide Class X or Class Y Weighing Services

**AGENCY:** Grain Inspection, Packers and Stockyards Administration (GIPSA).

**ACTION:** Notice.

**SUMMARY:** GIPSA announces the designation of Springfield Grain Inspection, Inc. (Springfield), to provide Class X or Class Y weighing services under the United States Grain Standards Act, as amended (Act), in the Springfield geographic area.

**EFFECTIVE DATE:** March 1, 2000.

**ADDRESSES:** USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Hart, telephone 202–720–8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 1, 1999, **Federal Register** (64 FR 67246), GIPSA announced the designation of Springfield to provide official inspection services under the Act, effective March 1, 2000, and ending December 31, 2002. Subsequently, Springfield asked GIPSA to amend their designation to include official weighing services. Section 7A(c)(2) of the Act authorizes GIPSA's Administrator to designate authority to perform official weighing to an agency providing official inspection services within a specified geographic area, if such agency is qualified under Section 7(f)(1)(A) of the Act. GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act, and determined that Springfield is qualified to provide official weighing services in their currently assigned geographic area.

Effective March 1, 2000, and terminating December 31, 2002 (the end of Springfield's designation to provide official inspection services), Springfield's present designation is amended to include Class X or Class Y weighing within their assigned geographic area, as specified in the July 1, 1999, **Federal Register** (64 FR 35586). Official services may be obtained by contacting Springfield at 217–522–5233.

**Authority:** Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 4, 2000.

**Neil E. Porter,**

*Director, Compliance Division.*

[FR Doc. 00–4680 Filed 2–29–00; 8:45 am]

**BILLING CODE 3410–EN–P**



**DEPARTMENT OF AGRICULTURE**

**Grain Inspection, Packers and Stockyards Administration**

[99-04-s]

**Designation for the Lincoln (NE), Memphis (TN), Omaha (NE), Jamestown (ND), Sioux City (IA), and Fort Dodge (IA) Areas**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration (GIPSA).

**ACTION:** Notice.

**SUMMARY:** GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

- Lincoln Inspection Service, Inc. (Lincoln);
- Memphis Grain Inspection Service (Memphis);
- Omaha Grain Inspection Service, Inc. (Omaha);
- Grain Inspection, Inc. (Jamestown);

Sioux City Inspection and Weighing Service Company (Sioux City); and  
A. V. Tischer and Son, Inc. (Tischer).

**EFFECTIVE DATES:** May 1, 2000, for Lincoln, Memphis, and Omaha; July 1, 2000, for Jamestown, Sioux City, and Tischer.

**ADDRESSES:** USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, SW, Washington, DC 20250-3604.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Hart at 202-720-8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 1, 1999, **Federal Register** (64 FR 53312), GIPSA asked persons interested in providing official

services in the geographic areas assigned to Lincoln, Memphis, Omaha, Jamestown, Sioux City, and Tischer to submit an application for designation. Applications were due by October 30, 1999. Lincoln, Memphis, Omaha, Jamestown, Sioux City, and Tischer, the only applicants, each applied for designation to provide official services in the entire area currently assigned to them. Since these official agencies were the sole applicants, GIPSA did not ask for comments on the applicants.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act and, according to Section 7(f)(1)(B), determined that Lincoln, Memphis, Omaha, Jamestown, Sioux City, and Tischer are able to provide official services in the geographic areas for which they applied.

The following organizations are designated to provide official services in the geographic areas specified in the October 1, 1999, **Federal Register**.

Official agency	Designation start	Designation end	Telephone
Lincoln .....	05/01/2000	03/31/2003	402-435-4386
Memphis .....	05/01/2000	03/31/2003	901-942-3216
Omaha .....	05/01/2000	03/31/2003	402-341-6739
Jamestown .....	07/01/2000	03/31/2003	701-252-1290
Sioux City .....	07/01/2000	03/31/2003	712-255-8073
Tischer .....	07/01/2000	03/31/2003	515-955-7012

Interested persons may obtain official services by calling the telephone numbers listed above.

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: February 4, 2000.

**Neil E. Porter,**

*Director, Compliance Division.*

[FR Doc. 00-4681 Filed 2-29-00; 8:45 am]

**BILLING CODE 3410-EN-P**

**DEPARTMENT OF AGRICULTURE**

**Grain Inspection, Packers and Stockyards Administration**

[00-01-a]

**Opportunity for Designation in the Ohio Valley (IN), Idaho (ID), Lewiston (ID), Utah, Minnesota, and Mississippi Areas, and Request for Comments on the Official Agencies Serving These Areas**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration (GIPSA).

**ACTION:** Notice.

**SUMMARY:** The designations of the official agencies listed below will end in

October, November, and December 2000. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies:

- Ohio Valley Grain Inspection, Inc. (Ohio Valley);
- Idaho Grain Inspection Service, Inc. (Idaho);
- Lewiston Grain Inspection Service, Inc. (Lewiston);
- Utah Department of Agriculture (Utah);
- Minnesota Department of Agriculture (Minnesota); and
- Mississippi Department of Agriculture and Commerce (Mississippi).

**DATES:** Applications and comments must be postmarked or sent by telecopier (FAX) on or before March 30, 2000.

**ADDRESSES:** Applications and comments must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, SW, Washington, DC 20250-3604. Applications and comments may be submitted by FAX on 202-690-2755. If

an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at this address located at 1400 Independence Avenue, SW, during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Hart, at 202-720-8525.

**SUPPLEMENTARY INFORMATION:** This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act.

**1. Current Designations Being Announced for Renewal**

Official agency	Main office	Designation start	Designation end
Ohio Valley .....	Newburg, IN .....	11/01/1997	10/31/2000
Idaho .....	Pocatello, ID .....	12/01/1997	11/31/2000
Lewiston .....	Lewiston, ID .....	12/01/1997	11/31/2000
Utah .....	Salt Lake City, UT .....	12/01/1997	11/31/2000
Minnesota .....	St. Paul, MN .....	01/01/1997	12/31/2000
Mississippi .....	Jackson, MS .....	01/01/1997	12/31/2000

a. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Indiana, Kentucky, and Tennessee, is assigned to Ohio Valley.

Daviess, Dubois, Gibson, Knox (except the area west of U.S. Route 41 (150) from Sullivan County south to U.S. Route 50), Pike, Posey, Vanderburgh, and Warrick Counties, Indiana.

Caldwell, Christian, Crittenden, Henderson, Hopkins (west of State Route 109 south of the Western Kentucky Parkway), Logan, Todd, Union, and Webster (west of Alternate U.S. Route 41 and State Route 814) Counties, Kentucky.

Cheatham, Davidson, and Robertson Counties, Tennessee.

b. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Idaho, is assigned to Idaho.

The southern half of the State of Idaho up to the northern boundaries of Adams, Valley, and Lemhi Counties.

c. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Idaho, is assigned to Lewiston.

The northern half of the State of Idaho down to the northern boundaries of Adams, Valley, and Lemhi Counties.

d. Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Utah, is assigned to Utah.

e. Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Minnesota, except those export port locations within the State, is assigned to Minnesota.

f. Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Mississippi, except those export port locations within the State, is assigned to Mississippi.

g. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Indiana, is assigned to Northeast Indiana.

Bounded on the North by the northern Lagrange and Steuben County lines;

Bounded on the East by the eastern Steuben, De Kalb, Allen, and Adams County lines;

Bounded on the South by the southern Adams and Wells County lines; and

Bounded on the West by the western Wells County line; the southern Huntington and Wabash County lines; the western Wabash County line north to State Route 114; State Route 114 northwest to State Route 19; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; and the western Noble and Lagrange County lines.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: E.M.P. Coop, Payne, Paulding County, Ohio (located inside Michigan Grain Inspection Services, Inc.'s, area).

**2. Opportunity for Designation**

Interested persons, including Ohio Valley, Idaho, Lewiston, Utah, Minnesota, and Mississippi, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

**DESIGNATION TERMS**

Ohio Valley .....	10/31/2000 to 09/30/2003.
Idaho, Lewiston, and Utah.	11/30/2000 to 09/30/2003.
Minnesota and Mississippi.	12/31/2000 to 09/30/2003.

**3. Request for Comments**

GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the Ohio Valley, Idaho, Lewiston, Utah, Minnesota and Mississippi. Commenters are encouraged to submit pertinent data concerning these official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: February 4, 2000.

**Neil E. Porter,**

*Director, Compliance Division.*

[FR Doc. 00-4682 Filed 2-29-00; 8:45 am]

**BILLING CODE 3410-EN-P**

**DEPARTMENT OF COMMERCE**

**Bureau of the Census**

**Census 2000 Evaluation of the Multiple Response Resolution**

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before May 1, 2000.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to David Phelps, Bureau of the Census, PRED, Mailstop 9200, Washington, DC 20233-0001, (301)457-4142.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

To make it easier for people to be counted in the Census 2000, the Census Bureau will provide several ways for households to respond. In addition to receiving responses through mailed questionnaires and enumerator operations, the Census Bureau will enable the public to initiate responses on forms available in public places, by telephone, or via the Internet.

While multiple methods of responding increases the opportunities for people to be counted, these methods also increase the likelihood of receiving multiple responses for some housing units. The Census Bureau has devised an automated process to manage this situation, called multiple response resolution.

To evaluate this process, we will conduct a survey of those housing units which were affected by the multiple response resolution process. We will conduct this survey shortly after Census 2000 and ask questions about the residency status of the persons that were listed on the multiple responses for that housing unit on Census Day (April 1, 2000). All information collected will be pertinent to verifying the accuracy of the multiple response resolution process.

The sample will consist of approximately 7,500 housing units with the household being contacted via a personal visit in late October through early November, 2000. We will use the data collected to determine how well the multiple response resolution process functioned.

**II. Method of Collection**

Specially trained interviewers will administer the survey using a paper questionnaire designed for this evaluation.

**III. Data**

*OMB Number:* Forthcoming.

*Form Number:* Forthcoming.

*Type of Review:* Regular Submission.

*Affected Public:* Those persons who reside at a housing unit for which the Bureau received more than one response.

*Estimated Number of Respondents:* 7,500.

*Estimated Time Per Response:* 12 minutes.

*Estimated Total Annual Burden Hours:* 1,500.

*Estimated Total Annual Cost:* There is no cost to the respondent other than the time taken to complete the survey.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title XIII United States Code, Section 141 and 193.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 24, 2000.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 00-4872 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-07-P**

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[Docket 5-99]

**Foreign-Trade Zone 22—Chicago, IL; Application for Subzone Status; Amendment of Application—Clark Refining & Marketing, Inc. (Oil Refining Complex)**

Notice is hereby given that the application of the Illinois International Port District, grantee of FTZ 22, requesting authority for special-purpose subzone status for the oil refinery complex of Clark Refining & Marketing, Inc., in Cook County, Illinois (64 FR 6877, 2/11/99), has been amended to add a contiguous parcel (6 acres, 9 tanks, 46,000 barrel capacity) to proposed Site 2, the crude oil tank farm located at 131st and Homan. The additional parcel will be used for final product storage.

The application remains otherwise unchanged.

The comment period is reopened until March 31, 2000.

Dated: February 22, 2000.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 00-4919 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****International Trade Administration**

**National Institutes of Health; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument**

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

*Docket Number:* 99-028. *Applicant:* National Institutes of Health, Bethesda, MD 20892-4094. *Instrument:* Robot and Microplate Filler with accessories, Models Q-BOT and Q-Fill. *Manufacturer:* GENETIX, United Kingdom. *Intended Use:* See notice at 64 FR 70213, December 16, 1999.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

*Reasons:* The foreign instrument provides a unique multi-tasking robot for selecting recombinant DNA inserts from neural tissue with: (1) a pneumatic picking head for sampling 3500 colonies per hour, (2) replication of plates (96 or 384 wells) to distribute clones to others, (3) ability to create high density arrays of bacteria on nylon filters and (4) a re-arranging package. A university-based genomic research project advised February 8, 2000 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 00-4917 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****International Trade Administration**

**Department of Energy; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument**

This decision is made pursuant to Section 6(c) of the Educational,

Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

*Docket Number:* 99-033. *Applicant:* U.S. Department of Energy, Ames, IA 50011-3020. *Instrument:* UHV Surface Analysis System, Model Multiprobe S. *Manufacturer:* Omicron Vakuum Physik GmbH, Germany. *Intended Use:* See notice at 65 FR 284, January 4, 2000.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

*Reasons:* The foreign instrument provides an ultra-high vacuum chamber with compatible scanning tunneling, scanning electron and scanning Auger microscopes with the following: (1) An operating temperature of 50 to 1500 degrees K, (2) adequate internal and external vibration isolation and (3) a sample manipulator that can be heated or cooled. A university center for advanced microstructural devices and the National Institute of Standards and Technology advise that (1) these capabilities are pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use (comparable case).

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*  
[FR Doc. 00-4918 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 022500A]

#### Atlantic Tunas Vessel Permits; Proposed Information Collection; Request for Comments

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

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before May 1, 2000.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Christopher Rogers, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; 301-713-2347.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is responsible for management of the nation's marine fisheries. In addition, NOAA must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act as amended (16 U.S.C. 1801 *et seq.*). The National Marine Fisheries Service (NMFS) collects information via landings reports, logbooks and surveys to monitor the U.S. catch of Atlantic tunas in relation to applicable quotas and to provide catch and effort information for stock assessment, thereby ensuring that the United States complies with its international obligations to the International Commission for the Conservation of Atlantic Tunas. Permit applications allow NMFS to determine who will be subject to reporting requirements and provides the information needed to send outreach materials and information on the domestic and international regulations to affected fishermen. For example, NMFS periodically distributes compliance guides on size limits, area closures, fishing seasons, and regional quotas for the Atlantic tunas fisheries.

The information obtained through permitting provides NMFS with telephone and mailing lists to obtain data necessary to assess the status of the Atlantic tuna resources and regulatory impacts on the commercial and recreational fishing sectors. Additionally, permit lists provide essential information for domestic management policy and rulemaking. Finally, permit numbers are used to identify vessels whose operators report bluefin tuna landings to NMFS via an automated landings reporting system accessible toll free by touch tone telephone.

##### II. Method of Collection

Recreational and commercial fishermen who fish for or retain any regulated Atlantic tunas (bigeye, albacore, yellowfin, skipjack and bluefin) are required to obtain a vessel permit. The permit fee is \$25.00 and the permit is valid for the fishing year of issuance. Permit applications can be obtained via mail, fax or can be printed off of the Internet. When paying by credit card, vessel owners may quickly renew permits via an automated system accessible toll free by touch tone telephone or over the Internet. Completed permits may be mailed or faxed back to vessel owners, as requested, or printed directly off the Internet.

##### III. Data

*OMB Number:* 0648-0327.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals (private anglers) and business or other for-profit (charter boat operators and commercial fishermen).

*Estimated Number of Respondents:* 25,000.

*Estimated Time Per Response:* 6 minutes for automated telephone renewals, 30 minutes for new permit applications.

*Estimated Total Annual Burden Hours:* 4,500.

*Estimated Total Annual Cost to Public:* \$625,000 (including permit fees).

##### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and /or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 23, 2000.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Chief Information Officer.*

[FR Doc. 00-4912 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-22-F**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Denial of Participation in the Special Access Program

February 24, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

**EFFECTIVE DATE:** March 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended. P=04'≤

The Committee for the Implementation of Textile Agreements (CITA) has determined that OshKosh B'Gosh has violated the requirements for participation in the Special Access Program, and has suspended OshKosh B'Gosh from participation in the Program for the period March 1, 2000 through August 31, 2000.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by or on behalf of OshKosh B'Gosh during the period March 1, 2000 through August 31, 2000, and to prohibit entry by or on behalf of OshKosh B'Gosh under the Program of products manufactured from fabric exported from the United States during that period.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

### Committee for the Implementation of Textile Agreements

February 24, 2000.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has suspended OshKosh B'Gosh from participation in the Special Access Program for the period March 1, 2000 through August 31, 2000. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of OshKosh B'Gosh during the period March 1, 2000 through August 31, 2000. You are further directed to prohibit entry of products under the Special Access Program by or on behalf of OshKosh B'Gosh manufactured from fabric exported from the United States during the period March 1, 2000 through August 31, 2000.

Sincerely,

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00-4869 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-DR-F**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Denial of Participation in the Special Access Program

February 24, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

**EFFECTIVE DATE:** March 20, 2000.

**FOR FURTHER INFORMATION CONTACT:** Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended. P=04'≤

The Committee for the Implementation of Textile Agreements (CITA) has determined that Quitman Manufacturing has violated the

requirements for participation in the Special Access Program, and has suspended Quitman Manufacturing from participation in the Program for the period March 20, 2000 through June 19, 2000.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by or on behalf of Quitman Manufacturing during the period March 20, 2000 through June 19, 2000, and to prohibit entry by or on behalf of Quitman Manufacturing under the Program of products manufactured from fabric exported from the United States during that period.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

### Committee for the Implementation of Textile Agreements

February 24, 2000.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has suspended Quitman Manufacturing from participation in the Special Access Program for the period March 20, 2000 through June 19, 2000. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of Quitman Manufacturing during the period March 20, 2000 through June 19, 2000. You are further directed to prohibit entry of products under the Special Access Program by or on behalf of Quitman Manufacturing manufactured from fabric exported from the United States during the period March 20, 2000 through June 19, 2000.

Sincerely,

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00-4870 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-DR-F**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Request for Public Comments on a Request That the United States Consult With Mexico and Canada Concerning a Certain Filament Viscose Rayon Yarn

February 24, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Request for public comments concerning a request for consultations on a certain filament viscose rayon yarn.

**FOR FURTHER INFORMATION CONTACT:** Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The purpose of this notice is to advise the public that CITA has been petitioned to initiate consultations with Mexico and Canada under Section 7(2) of Annex 300-B of the North American Free Trade Agreement (NAFTA) for the purpose of amending the NAFTA rules of origin in Chapters 51 through 63 to permit the use of non-North American filament viscose rayon yarn classified in HTS headings 5403.10, 5403.31, 5403.32 and 5403.41 of the Harmonized Tariff Schedule of the United States in NAFTA originating goods.

There will be a 30-day comment period beginning on March 1, 2000 and extending through March 31, 2000. Anyone wishing to comment or provide data or information regarding domestic production or availability of filament viscose rayon yarn classified in HTS headings 5403.10, 5403.31, 5403.32 and 5403.41 is invited to submit 10 copies of such comments or information to Troy H. Cribb, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute a "foreign affairs function of the United States."

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00-4871 Filed 2-29-00; 8:45 am]

**BILLING CODE 3510-DR-F**

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**Revision of Currently Approved Information Collection; Submission for OMB Review; Comment Request**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

The Corporation for National and Community Service (hereinafter the "Corporation") has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, AmeriCorps\*VISTA, Rosezina Dunn, (202) 606-5000, extension 244. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 565-5256 between 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Mr. Danny Werfel, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, D.C. 20503, (202) 395-7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information to 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.

*Type of Review:* Revision of a currently approved information collection.

*Agency:* Corporation for National and Community Service.

*Title:* AmeriCorps\*VISTA Project Application, Part A and Part B.

*OMB Number:* 3045-0038.

*Agency Number:* CNS 1421 (Part A), and CNS 1421B (Part B).

*Affected Public:* All eligible public and private non-profit organizations.

*Total Respondents:* 2,200.

*Frequency:* Part A is completed initially when the project is being developed, and Part B is completed for each renewal year.

*Average Time Per Response:* Part A—1 hour; Part B—8 hours.

*Estimated Total Burden Hours:* 9,200.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* \$104,780.

*Description:* The Corporation seeks public comment on the AmeriCorps\*VISTA Project Application, Part A and Part B. This application is being resubmitted for OMB approval for a new 3-year period. The project application is submitted in order for projects to receive Federal assistance either in the form of an AmeriCorps\*VISTA member, or grant of funds to support a project approved for members. It is used by potential project sponsors, as well as continuing previously approved projects.

Dated: February 25, 2000.

**Thomasenia P. Duncan,**

*General Counsel.*

[FR Doc. 00-4914 Filed 2-29-00; 8:45 am]

**BILLING CODE 6050-28-P**

**DEPARTMENT OF DEFENSE**

**Department of the Air Force**

**HQ USAF Scientific Advisory Board Meeting**

The Air Force Battlelab Review Group will meet at Kelly Air Force Base (AFB), Texas and Lackland AFB, Texas on March 28-29, 2000 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697-8404.

**Janet A. Long,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 00-4938 Filed 2-29-00; 8:45 am]

**BILLING CODE 5001-05-P**

**DEPARTMENT OF DEFENSE****Department of the Air Force****HQ USAF Scientific Advisory Board Meeting**

The Hypersonic Research in the Air Force Study will meet in Washington, DC and Seattle, Washington on March 28–30, 2000 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

**Janet A. Long,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 00–4940 Filed 2–29–00; 8:45 am]

**BILLING CODE 5001–05–P**

**DEPARTMENT OF DEFENSE****Department of the Air Force****Notice of Intent To Grant an Exclusive Patent License**

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Spectrum Photonics Inc., a company doing business in Lake Oswego, Oregon an exclusive license in any right, title and interest the Air Force has in U.S. Patent No. 5,521,386. The inventor, John Taboada was a government employee at the time of the invention. The invention is entitled “Gamma Ray Camera Method and Apparatus.”

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within 60 days from the date of publication of this Notice. Information concerning the application may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to Mr. Randy Heald, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Heald can be reached at (703) 588–5091 or by fax at (703) 588–8037.

**Janet A. Long,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 00–4939 Filed 2–29–00; 8:45 am]

**BILLING CODE 5001–05–P**

**DEPARTMENT OF EDUCATION****Notice of Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 1, 2000. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before May 1, 2000.

**ADDRESSES:** Written comments regarding the emergency review 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, NW, Room 10235, New Executive Office Building, Washington, DC 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 Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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 this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: February 24, 2000.

**William E. Burrow,**

*Leader, Information Management Group, Office of the Chief Information Officer.*

**Office of Student Financial Assistance Programs**

*Type of Review:* New.

*Title:* The Special Leveraging Educational Assistance Partnership (SLEAP) Program.

*Abstract:* The SLEAP Program is a subprogram under the Leveraging Educational Assistance Partnership (LEAP) Program and was authorized by the 1998 Amendments to the Higher Education Act of 1965. The SLEAP Program uses matching Federal/State funds to provide (1) Aid to students with financial need to help them pay for their postsecondary education costs or (2) helps the State to carry out service programs to strengthen the opportunities for elementary and secondary students with financial need to enter postsecondary education. On this application the states provide information the Department requires to obligate program funds and for program management. The signed assurances legally bind the States to administer the program according to statutory requirements.

*Additional Information:* Due to the time constraints of having to make awards to States by July 1, 2000 under the SLEAP Program, Education is requesting an emergency approval of this form for this initial year. After publication in the **Federal Register** of the availability of this application and its closing date, the States will need 30 days to complete and return their applications. Therefore, Education needs clearance of this material by March 17, 2000.

*Frequency:* Annually.

*Affected Public:* State, Local, or Tribal Gov't, SEAs or LEAs.

**Reporting and Recordkeeping Hour Burden:**

*Responses:* 56.

*Burden Hours:* 308.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202-4651, or should be electronically mailed to the internet address OCIO\_IMG\_Issues@ed.gov, or should be faxed to 202-708-9346.

Written comments or questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at (202) 708-9266 or via his internet address Joe\_Schubart@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. 00-4858 Filed 2-29-00; 8:45 am]

BILLING CODE 4000-01-P

**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 31, 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, NW, Room 10235, New Executive Office Building, Washington, DC 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 24, 2000.

**William Burrow,**

*Leader, Information Management Group,  
Office of the Chief Information Officer.*

**Office for Civil Rights.**

*Type of Review:* Revision.

*Title:* 2000 Elementary and Secondary School Civil Rights Compliance Report.

*Frequency:* Biennially.

*Affected Public:* State, Local, or Tribal Gov't, SEAs or LEAs

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 105,000

*Burden Hours:* 506,250

*Abstract:* The Elementary and Secondary School Civil Rights Compliance Report is a biennial survey which collects data from schools and school districts on issues, including emerging issues, of interest to the Office for Civil Rights, U.S. Department of Education. Data from the Compliance Report is used by OCR to aid in identifying sites for compliance reviews and tracking trends and issues related to civil rights compliance. The Compliance Report collects data related to Title VI of the Civil Rights Act of 1964 (which prohibits discrimination on the basis of race, color, or national origin), Title IX of the Education Amendments of 1972 (which prohibits discrimination on the basis of sex) and Section 504 of the Rehabilitation Act of 1973 (which prohibits discrimination on the basis of handicap). For the 2000 Compliance Report, data will be collected from all districts and schools.

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, DC 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 Jacqueline Montague at (202) 708-5359 or via her internet address Jackie\_Montague@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. 00-4859 Filed 2-29-00; 8:45 am]

BILLING CODE 4000-01-P

**DEPARTMENT OF EDUCATION****Privacy Act of 1974; Computer Matching Program; Notice**

**AGENCY:** Department of Education.

**ACTION:** Notice—Computer matching between the Department of Education and the Immigration and Naturalization Service (INS), Department of Justice.

**SUMMARY:** Pursuant to the Computer Matching and Privacy Protection Act of 1988, Pub. L. 100-503, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the computer matching program between the Department of Education (ED) (the recipient agency), and the Immigration and Naturalization Service (INS), Department of Justice (the source agency).

Notice of the matching program was originally published in the **Federal Register** on September 29, 1997 (62 FR 50994); the program became effective on October 29, 1997. Duration was 18 months plus a one-year extension permitted by the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a(o)(2)(D)). The one-year extension will expire on April 29, 2000. This notice represents the approval of a new agreement by the Department of Justice and Department of Education Data Integrity Boards to continue the matching program on the effective date as indicated below.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), and the Office of Management and Budget (OMB) Final Guidance on Interpreting the Provisions of Pub. L. 100-503, Computer Matching and Privacy Act of 1988 (54 FR 25818, June 19, 1989), and OMB Bulletin 89-22, the following information is provided:



### 1. Name of Participating Agencies

The Department of Education (ED) and the Department of Justice (DOJ).

### 2. Purpose of the Match

The matching program entitled "Systematic Alien Verification for Entitlement (SAVE) INS/ED" will permit ED to confirm the immigration status of alien applicants for, or recipients of, assistance as authorized by Title IV, section 484(a)(5), of the Higher Education Act of 1965, as amended (HEA); 20 U.S.C. 1091(a). The Title IV programs include: The Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, Federal Work-Study, Federal Perkins Loan, Leveraging Educational Assistance Partnership, Federal Family Education Loan, and William D. Ford Direct Loan Programs.

### 3. Authority for Conducting the Matching Program

The information contained in the INS data base is referred to as the Alien Status Verification Index (ASVI), and is authorized under the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603. ED seeks access to this database under the Higher Education Act of 1965, as amended (section 484(g)); 20 U.S.C. 1091. The INS is authorized to confirm immigration status under the authority of section 103 of the Immigration and Nationality Act.

### 4. Categories of Records and Individuals Covered

The records to be used in the match and the roles of the matching participants are described as follows:

Through the use of user identification codes and passwords, authorized persons from ED will transmit electronically to INS data from its Privacy Act system of records entitled, "Federal Student Aid Application File (18-11-01)." The data will include the alien registration number and date of birth of the alien applicant for, or recipient of, Title IV assistance. This action will initiate a search for corresponding data elements in an INS Privacy Act system of records entitled "Alien Status Verification Index (JUSTICE/INS-009)." Where there is a match of records, the system will provide to ED the immigration status code of the alien applicant or recipient. In accordance with 5 U.S.C. 552a(p), ED will verify any adverse finding (independently or through the alien applicant or recipient) and provide the alien applicant or recipient with 30 days notice and opportunity to contest such finding.

### 5. Effective Dates of the Matching Program

The matching program will become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

### 6. Address for Receipt of Public Comments or Inquiries

Jeanne Saunders, Acting Director, Application Processing, Students Channel, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW, (Room 4636, ROB-3), Washington, DC 20202, Telephone: (202) 708-9874. If you use a telecommunications device for the deaf (TTD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

### 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://ifap.ed.gov/dev\\_csb/new/home.nsf](http://ifap.ed.gov/dev_csb/new/home.nsf)

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free at 1-888-293-6498, or in Washington, DC, 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://www.access.gpo.gov/nara/index.html>.

Dated: February 24, 2000.

**Greg Woods,**

*Chief Operating Officer, Office of Student Financial Assistance.*

[FR Doc. 00-4893 Filed 2-29-00; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Office of Environment, Safety and Health; Submission for OMB Review; Comment Request

**AGENCY:** Department of Energy.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Energy (DOE) has submitted the proposed collections of information described in this notice to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). OMB is particularly interested in receiving public comments which evaluate: (1) Whether the proposed collection of information is necessary, (2) the accuracy of DOE's estimate of the burden of the proposed information collection, (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 those who choose to respond.

**DATES:** Comments regarding this collection of information should be sent on or before March 31, 2000.

**ADDRESSES:** Comments should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: OMB Desk Officer for DOE, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington DC 20503. A copy of the comments should also be sent to: Jacqueline D. Rogers, Office of Environment, Safety and Health, EH-51, U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** A copy of the paperwork submission, with applicable supporting documentation, may be obtained from: Jacqueline D. Rogers, Office of Environment, Safety and Health, U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585; (301) 903-5684.

**SUPPLEMENTARY INFORMATION:** The following proposed collection of information has been sent to OMB for clearance:

*Title:* Chronic Beryllium Disease Prevention Program.

*OMB Control Number:* None.

*Type of request:* New collection.

*Frequency of response:* Monthly, weekly, on occasion (multiple collections).

*Respondents:* DOE and DOE contractor employers of workers exposed or potentially exposed to beryllium; current workers.

*Estimated number of respondents:* 1,648.

*Total annual burden hours:* 54,762 hours.

*Summary/description of need:* On December 8, 1999, DOE published a final rule to implement a Chronic Beryllium Disease Prevention Program or CBDPP (64 FR 68854). The CBDPP is aimed at reducing the number of workers currently exposed to beryllium in the course of their work at DOE facilities managed by DOE or its contractors; minimizing the levels of and potential exposure to beryllium; and establishing medical surveillance requirements to ensure early detection of the disease. DOE invited public comment on the proposed collections of information in the Notice of Proposed Rulemaking for the Chronic Beryllium Disease Program. DOE now invites the public to send comments on the collections of information in the final rule to the desk officer for DOE in the Office of Information and Regulatory Affairs.

Issued in Washington, DC on February 23, 2000.

**David Michaels,**

*Assistant Secretary, Environment, Safety and Health.*

[FR Doc. 00-4879 Filed 2-29-00; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP00-183-000]

#### Colorado Interstate Gas Company; Notice of Tariff Filing

February 24, 2000.

Take notice that on February 17, 2000, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective April 1, 2000.

CIG states it is making this filing to broaden its Rate Schedule HUB-1 Service to (i) remove the condition that the transfer of gas would be between third party pipelines to allow nominations from a CIG transportation agreement to a Rate Schedule HUB-1 Agreement, and (ii) provide for the use of compressor capacity in addition to providing the service when no compression is required. CIG's Cheyenne Station Hub currently has 6 interconnecting pipelines. These connections are between CIG and KN Interstate Gas Transmission Company

(Pony Express), Public Service Company of Colorado (Front Range), Cheyenne Light, Fuel and Power Company, Trailblazer Pipeline Company and Wyoming Interstate Company, Ltd. The proposed revision to CIG's wheeling-without-compression service will allow CIG customers much more flexibility in transporting gas between these connections at the Cheyenne Station Hub. CIG also proposes to provide a Park and Loan Service option as part of the Rate Schedule HUB-1 service.

CIG states, because the service is scheduled after all other services, it will have no adverse impact on other shippers or other services. The Cheyenne Station Hub Park and Loan Service is proposed to be the same as CIG's existing Park and Loan Service in form and functionality.

CIG states it proposes to charge shippers utilizing Rate Schedule HUB-1 Service, where compression is required, a rate based on the currently effective Interruptible Transportation Rate Schedule TI-1 rate. However, CIG notes that this issue will be fully examined in its next rate case which is required to go into effect on or before October 1, 2001. CIG proposes to offer shippers two options concerning fuel. First, CIG proposes to adjust these rates to include the cost of fuel so shippers will have the option of wheeling through the hub without a requirement of in-kind Cheyenne Hub Fuel reimbursement.

CIG further states its existing customers will not subsidize fuel when this option is chosen as CIG proposes to credit this fuel in its Fuel Reimbursement calculation. Second, CIG proposes to allow shippers the option of in-kind fuel reimbursement. CIG also proposes to charge a separate rate for Park and Loan Service at this location which is the same as CIG's existing Rate Schedule PAL-1 Rate for this service.

CIG further states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-09208-09222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00-4899 Filed 2-29-00; 8:45 am]

**BILLING CODE 6717-01-M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP92-508-008]

#### National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 24, 2000.

Take notice that on February 18, 2000, National Fuel Gas Supply Corporation (Applicant) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 2 to be effective March 19, 2000 and January 19, 1994.

Applicant states that the purpose of the filing is to reflect the cancellation of Rate Schedule X-44, a service that is no longer in effect. Applicant further states that it is also filing revised tariff sheets to update the Table of Contents in Volume No. 2 to correct typographical errors. Applicant indicates that copies of this filing were served upon its customers and interested state commissions.

Any questions regarding this filing should be directed to Mr. David W. Reitz, Assistant General Counsel for Applicant, 10 Lafayette Square, Buffalo, New York 14203 at (716) 857-7949.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest on or before March 6, 2000, with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the web at <http://>

www.ferc.fed.us/online/rims.htm (please call (202) 208-2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00-4901 Filed 2-29-00; 8:45 am]

**BILLING CODE 6717-01-M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP00-39-002]

#### Natural Gas Pipeline Company of America; Notice of Compliance Filing

February 24, 2000.

Take notice that on February 7, 2000, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Substitute First Revised Sheet No. 344, to be effective February 1, 2000.

Natural states that the filing is submitted in compliance with the Commission's order issued February 1, 2000 in Docket No. RP00-39-001 (February 1st Order), which directed Natural to file a revised tariff sheet to remove reference to any damages to the facilities of any third-party and clarifying that "receiving party" as stated in new Section 26.3(b) of the General Terms and Conditions of Natural's Tariff refers to Natural as the transporter and no other party.

Natural requested any waivers which may be required to permit Substitute First Revised Sheet No. 344 to become effective February 1, 2000, consistent with the February 1st Order.

Natural states that copies of the filing have been mailed to its customers, interested state regulatory agencies and all parties set out on the Commission's official service list in Docket No. RP00-39.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/>

rims.htm (call 202-208-2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00-4898 Filed 2-29-00; 8:45 am]

**BILLING CODE 6717-01-M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP00-184-000]

#### Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

February 24, 2000.

Take notice that on February 18, 2000, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective April 1, 2000.

Natural states that the filing is being submitted to reflect changes to its Tariff to: (1) establish a new inclusive rate form which would be an option available to all shippers under Natural's Rate Schedules FTS and DSS, (2) add to Natural's pro forma service agreement language which would allow adjustment of rate components to the extent consistent with a recent Commission order and (3) provide clarification of balancing service charges applicable to service under Natural's Rate Schedule PALS.

Natural requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets submitted to become effective April 1, 2000.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference

Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00-4900 Filed 2-29-00; 8:45 am]

**BILLING CODE 6717-01-M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER00-1609-000]

#### West Penn Power Company, West Penn Transferring Agent L.L.C. and Allegheny Energy Supply Company, L.L.C., Notice of Filing

February 24, 2000.

Take notice that on February 11, 2000, West Penn Power Company (West Penn), West Penn Transferring Agent LLC (Transferring Agent), and Allegheny Energy Supply Company, L.L.C., tendered for filing agreements assigning West Penn's right, title and interest in an Inter-Company Power Agreement among Ohio Valley Electric Corporation, Appalachian Power Company, The Cincinnati Gas & Electric Company, Columbus Southern Power Company, The Dayton Power and Light Company, Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Edison Company, Pennsylvania Power Company, The Potomac Edison Company, Southern Indiana Gas and Electric Company, The Toledo Edison Company, and West Penn, dated July 10, 1953, as amended from time to time. The Applicants state the Commission previously authorized this assignment in an order dated October 25, 1999. Allegheny Energy Supply Company, 89 FERC ¶ 62,063 (1999).

The Applicants request that the Commission accept the proposed assignment effective on February 12, 2000, one day after filing.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission and all parties of record.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426,

in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 3, 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. 00-4895 Filed 2-29-00; 8:45 am]

**BILLING CODE 6717-01-M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EG00-96-000, et al.]

#### Mexican Business Trust No. 111014-6, et al.; Electric Rate and Corporate Regulation Filings

February 22, 2000.

Take notice that the following filings have been made with the Commission:

#### 1. Mexican Business Trust No. 111014-6; Banco Nacional de Mexico, S.A.; Institucion de Banca Multiple, Division; Fiduciaria, Grupo Financiero; Banamex-Accival (as Trustee under Mexican Business Trust No. 111014-6) and Termoel-AE1ctrica del Golfo, S. de R.L. de C.V.

[Docket Nos. EG00-96-000, EG00-95-000 and EG00-97-000]

Take notice that on February 11, 2000 Mexican Business Trust No. 111014-6 (the Trust); Banco Nacional de Mexico, S.A., Institucion de Banca Multiple, Division-AE1n Fiduciaria, Grupo Financiero Banamex-Accival (the Trustee under Mexican Business Trust No. 111014-6); and Termoelctrica del Golfo, S. de R.L. de C.V. (TEG and together with the Trust and Trustee, Applicants), Ave. Constitucion 444 Pte. Centro, Monterrey, N.L., Mexico C.P. 64000, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Trust states that it is a trust organized under the laws of Mexico, the Trustee, for the purposes of acting as

trustee to the Trust only, states that it is a company organized under the laws of Mexico, and TEG states that it is a limited liability company organized under the laws of Mexico and that they will own and/or operate a 230 MW Circulation Fluidised Bed Petroleum Coke Power Plant and auxiliary facilities located in Tamuin, San Luis Potosi, Mexico.

*Comment date:* March 14, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

#### 2. MEP-II LLC

[Docket No. EG00-98-000]

Take notice that on February 16, 2000, MEP-II LLC (Applicant), a Delaware limited liability company with its principal place of business at 120 Long Ridge Road, Stamford, Connecticut 06927, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant will be owning and operating a 79.9 MW natural gas-fired qualifying cogeneration facility located in North East, Pennsylvania (the Facility), which it acquired from Norcon Power Partners, L.P. All capacity and energy from the Facility is and will be sold exclusively at wholesale.

*Comment date:* March 14, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

#### 3. Essential Utility Resources, L.L.C.

[Docket No. ER00-1453-000]

Take notice that on January 31, 2000, Essential Utility Resources, L.L.C. (EUR), applied to the Commission for (1) blanket authorization to sell electricity at market-based rates; (2) acceptance of EUR's proposed Rate Schedule FERC No. 1; (3) waiver of certain Commission Regulations; and (4) such other waivers and authorizations as have been granted to other power marketers, all as more fully set forth in EUR's application on file with the Commission.

EUR states that it intends to engage in electric power transactions as a broker and as a marketer. In transactions where EUR acts as a marketer, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with purchasing parties.

*Comment date:* March 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 4. PJM Interconnection, L.L.C.

[Docket No. ER00-1579-000]

Take notice that on February 8, 2000, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed service agreement with Cargill-Alliant, L.L.C. for firm point-to-point transmission service under the PJM Open Access Transmission Tariff.

A copy of this filing was served upon Cargill-Alliant, L.L.C.

PJM requests an effective date for the agreement of January 1, 2000.

*Comment date:* March 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 5. Carolina Power & Light Company

[Docket No. ER00-1632-000]

Take notice that on February 16, 2000, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement with Monroe Power Company under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. CP&L is requesting an effective date of January 28, 2000 for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* March 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 6. Public Service Company of New Mexico

[Document No. ER00-1633-000]

Take notice that on February 16, 2000, Public Service Company of New Mexico (PNM), tendered for filing an executed service agreement, for electric power and energy sales at negotiated rates under the terms of PNM's Power and Energy Sales Tariff with the City of Azusa Light and Water (dated February 11, 2000). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to the City of Azusa and to the New Mexico Public Regulation Commission.

*Comment date:* March 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 7. Puget Sound Energy, Inc.

[Docket No. ER00-1634-000]

Take notice that on February 16, 2000, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Avista Corporation (Avista Corp.).

A copy of the filing was served upon Avista Corp.

*Comment date:* March 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 8. Detroit Edison Company

[Docket No. ER00-1635-000]

Take notice that on February 16, 2000, Detroit Edison Company (Detroit Edison), tendered for filing an addendum to certain rate schedules that would permit the incremental cost of sulfur dioxide (SO<sub>2</sub>) emissions allowances to be included in the calculation of rates under those rate schedules.

The change is designed to conform the rate schedules to the Commission's rule regarding the ratemaking treatment of SO<sub>2</sub> emissions allowances for Phase II units issued under the Clean Air Act Amendments of 1990.

Copies of the filing were served upon Detroit Edison's jurisdictional customers and the Michigan Public Service Commission.

*Comment date:* March 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 9. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company LLC

[Docket No. ER00-1636-000]

Take notice that on February 16, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company) filed Amendment No. 1 to Supplement No. 5 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy requests a waiver of notice requirements to make service available as of November 18, 1999, to Public Service Electric and Gas Company, Inc.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

*Comment date:* March 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 10. Cinergy Services, Inc.

[Docket No. ER00-1637-000]

Take notice that on February 16, 2000, Cinergy Services, Inc. (Services), on behalf of its Operating Companies (The

Cincinnati Gas & Electric Company and PSI Energy, Inc.—collectively the Cinergy Operating Companies), tendered for filing unexecuted Service Agreements for service under the Cinergy Operating Companies FERC Electric Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff, Original Volume No. 8, applicable to customers which the Cinergy Operating Companies does business with in commodity.

Services requests an effective date of February 21, 2000.

Copies of the filing were served upon all parties listed in Attachment B of the filing.

*Comment date:* March 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 11. Kansas City Power & Light Company

[Docket No. ER00-1639-000]

Take notice that on February 17, 2000, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated February 1, 2000, between KCPL and the University of Missouri. KCPL proposes an effective date of February 4, 2000 and requests waiver of the Commission's notice requirement. This Agreement provides for Market Based Sales Service.

*Comment date:* March 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 12. Central Maine Power Company

[Docket No. ER00-1638-000]

Take notice that on February 17, 2000, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to § 35.12 of the Federal Energy Regulatory Commission's regulations, 18 CFR 35.12, an unexecuted Interconnection Agreement (IA) with Boralex Athens Energy Inc. (Boralex), and an unexecuted service agreement for Firm Local Point-to-Point Transmission Service (TSA). The IA provides for interconnection service to Boralex at the rates, terms, charges, and conditions set forth therein. The TSA provides for Firm Point-to-Point Transmission Service.

CMP is requesting that the IA and the TSA become effective on February 17, 2000.

Copies of this filing have been served upon the Maine Public Utilities Commission and Boralex.

*Comment date:* March 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 13. California Power Exchange Corporation

[Docket No. ER00-1641-000]

Take notice that on February 17, 2000, California Power Exchange Corporation (CalPX), tendered for filing proposed amendments to its tariff to accommodate new arrangements in California for the provision of ancillary services. In addition to selling to and buying from the California Independent System Operator (CAISO), ancillary services sellers and buyers will be able to register bilateral contracts or make forward trades in the California Trading Services (CTS) division of CalPX, for delivery in the CalPX Day Ahead Market. The proposed tariff changes provide for such delivery in the CalPX Day Ahead Market and provide for adjustments when sellers and buyers exceed or fall short of their ancillary services obligations as determined in real time by CAISO.

CalPX requests an effective date of May 1, 2000.

*Comment date:* March 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 14. California Power Exchange Corporation

[Docket No. ER00-1642-000]

Take notice that on February 17, 2000, California Power Exchange Corporation (CalPX), on behalf of its CalPX Trading Services Division (CTS), tendered for filing proposed changes in Appendices 1, 2, 3 and 5 of its CalPX Trading Services Rate Schedule FERC No. 1. CTS states that the changes are designed to accommodate the trading of ancillary services and the registration of bilateral agreements for ancillary services in the CTS Market.

CTS requests an effective date of May 1, 2000 for most of the changes but requests a March 1, 2000 effective date for a few specific changes related to giving notice on new software.

*Comment date:* March 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 15. Louisville Gas and Electric Company Kentucky Utilities Company

[Docket No. ER00-1643-000]

Take notice that on February 17, 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 Dynergy Power Marketing, Inc. under the Companies Rate Schedule MBSS.

*Comment date:* March 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 16. The Montana Power Company

[Docket No. ER00-1644-000]

Take notice that on February 18, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an executed Firm Point-To-Point Transmission Service Agreement with PacifiCorp Power Marketing, Inc. under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff), replacing a previously filed unexecuted service agreement.

A copy of the filing was served upon PacifiCorp Power Marketing, Inc.

*Comment date:* March 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 17. The Montana Power Company

[Docket No. ER00-1645-000]

Take notice that on February 18, 2000, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 executed Firm and Non-Firm Point-To-Point Transmission Service Agreements with Duke Energy Trading and Marketing, LLC under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff), replacing previously filed unexecuted service agreements.

A copy of the filing was served upon Duke Energy Trading and Marketing, LLC.

*Comment date:* March 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 18. Duke Energy Corporation

[Docket No. ER00-1646-000]

Take notice that on February 18, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Sempra Energy Trading Corp (Sempra) for Non-Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on February 1, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

*Comment date:* March 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 19. Duke Energy Corporation

[Docket No. ER00-1648-000]

Take notice that on February 18, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with FPL Energy Power Marketing, Inc. (FPL) for Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on January 21, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

*Comment date:* March 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 20. Duke Energy Corporation

[Docket No. ER00-1647-000]

Take notice that on February 18, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with FPL Energy Power Marketing, Inc. (FPL) for Non-Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on January 21, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

*Comment date:* March 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

#### 21. Duke Energy Corporation

[Docket No. ER00-1649-000]

Take notice that on February 18, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Sempra Energy Trading Corp (Sempra), for Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on February 1, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

*Comment date:* March 10, 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. 00-4894 Filed 2-29-00; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

February 24, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 2232-407.

c. *Date filed:* January 31, 2000.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Catawba-Wateree Project.

f. *Location:* On the Catawba River, in Lancaster, York, and Fairfield Counties, South Carolina and Gaston, Lincoln, and Burke Counties, North Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Section 791(a)-825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 10016 (EC12Y), Charlotte, NC 28201-1006, (704) 382-5778.

i. *FERC Contact:* Robert Fletcher, robert.fletcher@ferc.fed.us, 202-219-1206.

j. *Deadline for filing comments, motions to intervene and protest:* 30 days from the issuance date of this notice. Please include the project number (2232-407) on any comments or motions filed. All documents (original and eight copies) should be filed with:

David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

k. *Description of Application:* The licensee requests an amendment to its license to: (1) Grant an easement to the Charlotte-Mecklenburg Utilities Department (CMUD) for three parcels of project land containing a total of 0.33 acres (a requested increase of 0.2 acres) for maintenance of intake and raw water pumping facilities for Cells 1, 2, and 3, and construction of intake and raw water pumping facilities for Cell 4; (2) grant an easement to CMUD for a water withdrawal to be increased at the CMUD Catawba River Raw Water Pump Station located on the Mountain Island reservoir from the currently authorized maximum instantaneous withdrawal rate of 165 million gallons per day (MGD) to 330 MGD for the purpose of improving CMUD's water supply system reliability; and (3) permit CMUD to conduct maintenance and dredging to recreate the original channels associated with the three existing intake structures and to conduct the additional dredging necessary to accommodate the expansion of the pumping capacity at Cell 1.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208-1371. This filing may be viewed on <http://www.ferc.fed.us/online/rims.htm> (call (202) 208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS

AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00-4896 Filed 2-29-00; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP99-381-000]

#### Wyoming Interstate Company, Ltd.; Notice of Informal Settlement Conference

February 24, 2000.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10 a.m. on Friday, March 3, 2000, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold H. Meltz at (202) 208-2161, or Michael D. Cotleur at (202) 208-1076.

David P. Boergers,

Secretary.

[FR Doc. 00-4897 Filed 2-29-00; 8:45 am]

BILLING CODE 6717-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-34219; FRL-6494-8]

### 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, ethyl parathion and fenitrothion. 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-34171A for ethyl parathion and OPP-34197A for fenitrothion, must be received by EPA on or before May 1, 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-34171A for ethyl parathion and OPP-34197A for fenitrothion 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](mailto: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 ethyl parathion and fenitrothion, 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/fedrgrstr/>.

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-34171A for ethyl parathion and OPP-34197A for fenitrothion. 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-34171A for ethyl

parathion and OPP-34197A for fenitrothion 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: "op-docket@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-34171A for ethyl parathion and OPP-34197A for fenitrothion. 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, ethyl parathion and fenitrothion. 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 ethyl parathion and fenitrothion preliminary risk assessments, which were released to the public January 15, 1999 (64 FR 10) (FRL-6056-9) for ethyl parathion and September 2, 1999 (64 FR 170) (FRL-6380-9) for fenitrothion through notices 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 ethyl parathion and fenitrothion. 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 ethyl parathion and fenitrothion 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 May 1, 2000 at the addresses given under the **ADDRESSES** section. Comments and proposals will become part of the Agency record for the organophosphate pesticides specified in this notice.

#### List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: February 22, 2000.

**Lois Rossi,**

*Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 00-4789 Filed 2-29-00; 8:45 am]

**BILLING CODE 6450-01-F**

#### ENVIRONMENTAL PROTECTION AGENCY

[PF-916; FRL-6489-9]

#### Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

**DATES:** Comments, identified by docket control number PF-916, must be received on or before March 31, 2000.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the

**SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF-916 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Tracy Keigwin, Registration Support Branch, Registration Division (7505), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-6605; e-mail address: keigwin.tracy@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

###### B. How Can I Get Additional Information, Including Copies of this Document and 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.* The Agency has established an official record for this action under docket control number PF-916. 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 confidential business information (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 the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, 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.

###### C. 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 number PF-916 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, 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.* You may submit your comments electronically by e-mail to: "[opp-docket@epa.gov](mailto:opp-docket@epa.gov)," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in

Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF-916. Electronic comments may also be filed online at many Federal Depository Libraries.

#### *D. How Should I Handle CBI 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 identified under "FOR FURTHER INFORMATION CONTACT."

#### *E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## **II. What Action is the Agency Taking?**

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food,

Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

### **List of Subjects**

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 2000.

#### **James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

### **Summaries of Petitions**

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summaries announce the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

#### **1. Bayer Corporation**

EPA has received a pesticide petition (PP5F4475) from Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120-0013 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of cyfluthrin, cyano (4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2- in or on the raw agricultural commodity (RAC) cereal grains group; corn, starch; corn, refined oil (wet milling); corn, flour; corn, refined oil (dry milling); wheat, bran; corn, milled by-products; rice, hulls; wheat, milled by-products at 2.0, 3.0, 12, 4.0, 15, 3.0, 4.0, 9.0, 3.0 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

### *A. Residue Chemistry*

1. *Plant metabolism.* The metabolism of cyfluthrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabeled cyfluthrin in various crops all showing similar results. The residue of concern is cyfluthrin.

2. *Analytical method.* Adequate analytical methodology (gas/liquid chromatography with an electron capture detector (GLC/EC) is available for enforcement purposes.

3. *Magnitude of residues.* Cyfluthrin is the active ingredient (a.i.) in the registered end-use product Tempo 2E Grain, Bin and Warehouse Insecticide, EPA FR 3125-ULO. Data to support the proposed tolerances have been submitted to the Agency.

### *B. Toxicological Profile*

1. *Acute toxicity.* There is a battery of acute toxicity studies for cyfluthrin supporting an overall toxicity Category II for the active ingredient.

2. *Genotoxicity.* Mutagenicity tests were conducted, including several gene mutation assays (reverse mutation and recombination assays in bacteria and a Chinese hamster ovary (CHO)/HGPRT assay); a structural chromosome aberration assay (CHO/sister chromatid exchange assay); and an unscheduled DNA synthesis (UDS) assay in rat hepatocytes. All tests were negative for genotoxicity.

3. *Reproductive and developmental toxicity.* An oral developmental toxicity study in rats with a maternal and fetal no observed adverse effect level (NOAEL) of 10 milligrams/kilograms body weight/day (mg/kg bwt/day) highest dose tested (HDT). An oral developmental toxicity study in rabbits with a maternal NOAEL of 20 mg/kg bwt/day and a maternal lowest effect level (LEL) of 60 mg/kg bwt/day, based on decreased bwt gain and decreased food consumption during the dosing period. A fetal NOAEL of 20 mg/kg bwt/day and a fetal LEL of 60 mg/kg bwt/day were also observed in this study. The LEL was based on increased resorptions and increased postimplantation loss. A 3-generation reproduction study in rats with systemic toxicity NOAELs of 7.5 and 2.5 mg/kg bwt/day for parental animals and their offspring, respectively. At highest dose levels (HDLs), the bwts of parental animals and their offspring were reduced.

4. *Subchronic toxicity.* A subchronic toxicity feeding study using rats demonstrated a NOAEL of 22.5 mg/kg bwt/day, the HDT. A 6-month toxicity feeding study in dogs established a NOAEL of 5 mg/kg bwt/day. The LEL

was 15 mg/kg bwt/day based on clinical signs and reduced thymus weights.

5. *Chronic toxicity.* A 12-month chronic feeding study in dogs established a NOAEL of 4 mg/kg bwt/day. The LEL for this study is established at 16 mg/kg bwt/day, based on slight ataxia, increased vomiting, diarrhea, and decreased body weight. A 24-month chronic feeding/carcinogenicity study in rats demonstrated a NOAEL of 2.5 mg/kg bwt/day and LEL of 6.2 mg/kg bwt/day, based on decreased body weights in males, decreased food consumption in males, and inflammatory foci in the kidneys in females. A 24-month carcinogenicity study in mice was conducted. Under the conditions of the study there were no carcinogenic effects observed. A 24-month chronic feeding/carcinogenicity study in rats was conducted. There were no carcinogenic effects observed under the conditions of the study.

6. *Animal metabolism.* A metabolism study in rats showed that cyfluthrin is rapidly absorbed and excreted, mostly as conjugated metabolites in the urine, within 48 hours. An enterohepatic circulation was observed.

7. *Metabolite toxicology.* No toxicology data have been required for cyfluthrin metabolites. The residue of concern is cyfluthrin.

8. *Endocrine disruption.* There is no evidence of endocrine effects in any of the studies conducted with cyfluthrin, thus, there is no indication at this time that cyfluthrin causes endocrine effects.

#### C. Aggregate Exposure

1. *Dietary exposure—i. Food.* Dietary exposure was estimated using Novigen's Dietary Exposure Evaluation Model (DEEM) software; results from field trial and processing studies; consumption data from the Department of Agricultural (USDA) Continuing Surveys of Food Intake by Individuals (CSFIIs), conducted from 1994 through 1996; and information on the percentages of crops treated with cyfluthrin. Cyfluthrin is currently registered for use in alfalfa, carrots, citrus, cotton, sweet corn, sorghum, sunflower, sugarcane, potatoes, peppers, radishes, and tomatoes. In addition, it has an import tolerance for hops. Various formulations are registered for use in food handling establishments and in combination with another active ingredient, for use in field corn, pop corn, and sweet corn. Chronic dietary exposure estimates with the current label uses plus the proposed uses on stored grain, field and pop corn, soybeans, hops, peas and lentils, lettuce, head and stem brassica, and mustard

greens for the overall U.S. population were 5% of the population adjusted dose (PAD) (0.008 mg/kg bwt/day). For the most highly exposed population subgroup, children 1 to 6 years of age, the exposure was estimated to be 15% of the PAD. Acute dietary exposure estimates with the current label uses plus the proposed uses on stored grain, field and pop corn, soybeans, hops, peas and lentils, lettuce, head and stem brassica, and mustard greens for the overall U.S. population were 11% of the aPAD (0.07 mg/kg bwt/day). For the most highly exposed population subgroup, children 1 to 6 years of age, the exposure was estimated to be 18% of the aPAD.

ii. *Drinking water.* Cyfluthrin is immobile in soil, therefore, will not leach into ground water. Additionally, due the insolubility and lipophilic nature of cyfluthrin, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore, not contributing to potential dietary exposure from drinking water. A screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in ground water at 2 meters are essentially zero (<0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 52 parts per trillion (ppt). Concentration in actual drinking water would be much lower. Based on these analyses, the contribution of water to the dietary risk estimate is negligible.

2. *Non-dietary exposure.* Non-occupational exposure to cyfluthrin may occur as a result of inhalation or contact from indoor residential, indoor commercial, and outdoor residential uses. Pursuant to the requirements of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended by the Food Quality Protection Act (FQPA) of 1996 non-dietary and aggregate risk analyses for cyfluthrin were conducted. The analyses include evaluation of potential non-dietary acute application and post-application exposures. Non-occupational, non-dietary exposure was assessed based on the assumption that a flea infestation control scenario represents a "worst case" scenario. For the flea control infestation scenario indoor fogger, and professional residential turf same day treatments

were included for cyfluthrin.

Deterministic (point values) were used to present a worse case upper-bound estimate of non-dietary exposure. The non-dietary exposure estimates were expressed as systemic absorbed doses for a summation of inhalation, dermal, and incidental ingestion exposures. These worst case non-dietary exposures were aggregated with chronic dietary exposures to evaluate potential health risks that might be associated with cyfluthrin products. The chronic dietary exposures were expressed as an oral absorbed dose to combine with the non-dietary systemic absorbed doses for comparison to a systemic absorbed dose NOAEL. Results for each potential exposed subpopulation (of adults, children 1-6 years, and infants <1 year) were compared to the systemic absorbed dose NOAEL for cyfluthrin to provide estimates of margins of exposure (MOE). The large MOEs for cyfluthrin clearly demonstrate a substantial degree of safety. The total non-dietary MOEs are 3,800, 2,700, and 2,500 for adults, children (1-6 years), and infants (<1 year), respectively. The aggregate MOE for adults is approximately 3,700 and the MOEs for infants and children exceed 2,400. The non-dietary methods used in the analyses can be characterized as highly conservative. This is due to the conservatism inherent in the calculation procedures and input assumptions. An example of this is the conservatism inherent in the jazzercise methodology's over-representation of residential post-application exposures. It is important to acknowledge that these MOEs are likely to significantly underestimate actual MOEs due to a variety of conservative assumptions and biases inherent in the derivatization of exposure by this method. Therefore, it can be concluded that large MOEs associated with potential non-dietary and aggregate exposures to cyfluthrin will result in little or no health risks to exposed persons. The aggregate risk analysis demonstrates compliance with the health-based requirements of the FQPA of 1996 for the current label uses. The additional use of cyfluthrin on field corn and soybean crops will have no impact on the analysis for non-dietary exposure.

#### D. Cumulative Effects

Bayer will submit information for EPA to consider concerning potential cumulative effects of cyfluthrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997) (FRL-5734-6) and other EPA publications pursuant to the FQPA.

### E. Safety Determination

1. *U.S. population.* Based on the exposure assessments described above and on the completeness and reliability of the toxicity data, it can be concluded that total aggregate exposure to cyfluthrin from all label uses will utilize less than 20% of the RfD for chronic dietary exposures and that MOE in excess of 1,000 exist for aggregate exposure to cyfluthrin for non-occupational exposure. EPA generally has no concerns for exposures below 100% of the RfD, because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. MOE of 100 or more (300 for infants and children) also indicate an adequate degree of safety. Thus, it can be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to cyfluthrin residues.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of cyfluthrin, the data from developmental studies in both rat and rabbit and a 2-generation reproduction study in the rat can be considered. The developmental toxicity studies evaluate any potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates any effects from exposure to the pesticide on the reproductive capability of mating animals through 2-generations, as well as any observed systemic toxicity. The toxicology data which support these uses of cyfluthrin include: A rat oral developmental toxicity study in which maternal and fetal NOAELs of 10 mg/kg bwt/day HGT were observed. An oral developmental toxicity study in which rabbits had a maternal NOAEL of 20 mg/kg bwt/day and a maternal LEL of 60 mg/kg bwt/day, based on decreased bodyweight gain and decreased food consumption during the dosing period. A fetal NOAEL of 20 mg/kg bwt/day and a fetal LEL of 60 mg/kg bwt/day were also observed in this study. The LEL was based on increased resorptions and increased postimplantation loss. An oral developmental toxicity study performed with beta-cyfluthrin, the resolved isomer mixture of cyfluthrin, has been submitted to the Agency and is currently under review. A developmental toxicity study in rats exposed via inhalation to liquid aerosols of cyfluthrin revealed developmental toxicity, but only in the presence of maternal toxicity. The developmental NOAEL was 0.46 mg/m<sup>3</sup> on the basis of

reduced placental and fetal weights, and delayed ossification. The NOAEL for overt maternal toxicity was <0.46 mg/m<sup>3</sup>, the LDT. In a rat 3-generation reproduction study, systemic toxicity NOAELs of 7.5 and 2.5 mg/kg bwt/day for parental animals and their offspring, respectively, were observed. At HDL, the bwts of parental animals and their offspring were reduced. Another multiple-generation reproduction study in rats has been submitted to the Agency and is currently under review. To assess acute dietary exposure and determine a MOE for the overall U.S. population and certain subgroups, the Agency has used the rabbit developmental toxicity study which had a maternal NOAEL of 20 mg/kg bwt/day. Because the toxicological endpoint is one of developmental toxicity, the population group of concern for this analysis was women aged 13 and above. This subgroup most closely approximates women of child-bearing age. The MOE is calculated as the ratio of the NOAEL to the exposure. The Agency calculated the MOE to be over 600. Generally, MOE's greater than 100 for data derived from animal studies are regarded as showing no appreciable risk. FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children. The additional safety factor may be used when prenatal and postnatal threshold effects were observed in studies or to account for incompleteness of the toxicity data base. The results of the 3-generation study in rats provided evidence suggesting that, with respect to effects of cyfluthrin on body weight, pups were more sensitive than adult rats. Thus, the Agency determined that an additional 3-fold uncertainty factor (UF) should be used in risk assessments to ensure adequate protection of infants and children. Generally, EPA considers MOEs of at least 100 to indicate an adequate degree of safety. With an additional 3x uncertainty factor, this would be 300 for infants and children.

### F. International Tolerances

There is a Codex maximum residue level (MRLs) for maize of 0.05 ppm. There is a Codex MRL for sweet corn of 0.02 ppm.

2. *Bayer Corporation.* EPA has received a pesticide petition (PP0F6084) from Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120-0013 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of cyfluthrin, cyano (4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2- in or on the RAC, mustard greens, greens; lettuce, head;

lettuce, leaf; head and stem brassica subgroup (5A) at 7.0, 2.0, 3.0, 2.0 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

### A. Residue Chemistry

1. *Plant metabolism.* The metabolism of cyfluthrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabeled cyfluthrin in various crops all showing similar results. The residue of concern is cyfluthrin.

2. *Analytical method.* Adequate analytical methodology GLC/EC detector is available for enforcement purposes.

3. *Magnitude of residues.* Cyfluthrin is the active ingredient in the registered end-use product Baythroid 2 Emulsifiable Pyrethroid Insecticide, EPA FR 3125-351. Data to support the proposed tolerances have been submitted to the Agency.

### B. Toxicological Profile

1. *Acute toxicity.* There is a battery of acute toxicity studies for cyfluthrin supporting an overall toxicity Category II for the active ingredient.

2. *Genotoxicity.* Mutagenicity tests were conducted, including several gene mutation assays (reverse mutation and recombination assays in bacteria and a CHO/HGPRT assay; a structural chromosome aberration assay (CHO/sister chromatid exchange assay); and an UDS assay in rat hepatocytes. All tests were negative for genotoxicity.

3. *Reproductive and developmental toxicity.* An oral developmental toxicity study in rats with a maternal and fetal NOAEL of 10 mg/kg bwt/day HDT. An oral developmental toxicity study in rabbits with a maternal NOAEL of 20 mg/kg bwt/day and a maternal LEL of 60 mg/kg bwt/day, based on decreased body weight gain and decreased food consumption during the dosing period. A fetal NOAEL of 20 mg/kg bwt/day and a fetal LEL of 60 mg/kg bwt/day were also observed in this study. The LEL was based on increased resorptions and increased post-implantation loss. A 3-generation reproduction study in rats with systemic toxicity NOAELs of 7.5 and 2.5 mg/kg bwt/day for parental animals and their offspring, respectively. At HDLs, the body weights of parental animals and their offspring were reduced.

4. *Subchronic toxicity.* A subchronic toxicity feeding study using rats demonstrated a NOAEL of 22.5 mg/kg bwt/day, the HDT. A 6-month toxicity feeding study in dogs established a NOAEL of 5 mg/kg bwt/day. The LEL was 15 mg/kg bwt/day based on clinical signs and reduced thymus weights.

5. *Chronic toxicity.* A 12-month chronic feeding study in dogs established a NOAEL of 4 mg/kg bwt/day. The LEL for this study is established at 16 mg/kg bwt/day, based on slight ataxia, increased vomiting, diarrhea and decreased body weight. A 24-month chronic feeding/carcinogenicity study in rats demonstrated a NOAEL of 2.5 mg/kg bwt/day and LEL of 6.2 mg/kg bwt/day, based on decreased body weights in males, decreased food consumption in males, and inflammatory foci in the kidneys in females. A 24-month carcinogenicity study in mice was conducted. Under the conditions of the study there were no carcinogenic effects observed. A 24-month chronic feeding/carcinogenicity study in rats was conducted. There were no carcinogenic effects observed under the conditions of the study.

6. *Animal metabolism.* A metabolism study in rats showed that cyfluthrin is rapidly absorbed and excreted, mostly as conjugated metabolites in the urine, within 48 hours. An enterohepatic circulation was observed.

7. *Metabolite toxicology.* No toxicology data have been required for cyfluthrin metabolites. The residue of concern is cyfluthrin.

8. *Endocrine disruption.* There is no evidence of endocrine effects in any of the studies conducted with cyfluthrin, thus, there is no indication at this time that cyfluthrin causes endocrine effects.

#### C. Aggregate Exposure

1. *Dietary exposure—i. Food.* Dietary exposure was estimated using Novigen's Dietary Exposure Evaluation Model (DEEM) software; results from field trial and processing studies; consumption data from the USDA Continuing Surveys of Food Intake by Individuals (CSFIIs), conducted from 1994 through 1996; and information on the percentages of crops treated with cyfluthrin. Cyfluthrin is currently registered for use in alfalfa, carrots, citrus, cotton, sweet corn, sorghum, sunflower, sugarcane, potatoes, peppers, radishes, and tomatoes. In addition, it has an import tolerance for hops. Various formulations are registered for use in food handling establishments and in combination with another active ingredient, for use in field corn, pop corn, and sweet corn. Chronic dietary exposure estimates with

the current label uses plus the proposed uses on stored grain, field and pop corn, soybeans, hops, peas and lentils, lettuce, head and stem brassica, and mustard greens for the overall U.S. population were 5% of the PAD (0.008 mg/kg bwt/day). For the most highly exposed population subgroup, children 1 to 6 years of age, the exposure was estimated to be 15% of the PAD. Acute dietary exposure estimates with the current label uses plus the proposed uses on stored grain, field and pop corn, soybeans, hops, peas and lentils, lettuce, head and stem brassica, and mustard greens for the overall U.S. population were 11% of the aPAD (0.07 mg/kg bwt/day). For the most highly exposed population subgroup, children 1 to 6 years of age, the exposure was estimated to be 18% of the aPAD.

ii. *Drinking water.* Cyfluthrin is immobile in soil, therefore, will not leach into ground water. Additionally, due the insolubility and lipophilic nature of cyfluthrin, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore, not contributing to potential dietary exposure from drinking water. A screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in ground water at 2 meters are essentially zero (<0.001 ppb). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using Standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 52 ppt. Concentration in actual drinking water would be much lower. Based on these analyses, the contribution of water to the dietary risk estimate is negligible.

2. *Non-dietary exposure.* Non-occupational exposure to cyfluthrin may occur as a result of inhalation or contact from indoor residential, indoor commercial, and outdoor residential uses. Pursuant to the requirements of FIFRA as amended by the FQPA of 1996 non-dietary and aggregate risk analyses for cyfluthrin were conducted. The analyses include evaluation of potential non-dietary acute application and post-application exposures. Non-occupational, non-dietary exposure was assessed based on the assumption that a flea infestation control scenario represents a "worst case" scenario. For the flea control infestation scenario indoor fogger, and professional residential turf same day treatments were included for cyfluthrin.

Deterministic (point values) were used to present a worse case upper-bound estimate of non-dietary exposure. The non-dietary exposure estimates were expressed as systemic absorbed doses for a summation of inhalation, dermal, and incidental ingestion exposures. These worst case non-dietary exposures were aggregated with chronic dietary exposures to evaluate potential health risks that might be associated with cyfluthrin products. The chronic dietary exposures were expressed as an oral absorbed dose to combine with the non-dietary systemic absorbed doses for comparison to a systemic absorbed dose NOAEL. Results for each potential exposed subpopulation (of adults, children 1-6 years, and infants <1 year) were compared to the systemic absorbed dose NOAEL for cyfluthrin to provide estimates of MOE. The large MOEs for cyfluthrin clearly demonstrate a substantial degree of safety. The total non-dietary MOEs are 3,800, 2,700, and 2,500 for adults, children (1-6 years), and infants (< 1 year), respectively. The aggregate MOE for adults is approximately 3,700 and the MOEs for infants and children exceed 2,400. The non-dietary methods used in the analyses can be characterized as highly conservative. This is due to the conservatism inherent in the calculation procedures and input assumptions. An example of this is the conservatism inherent in the jazzercise methodology's over-representation of residential post-application exposures. It is important to acknowledge that these MOEs are likely to significantly underestimate actual MOEs due to a variety of conservative assumptions and biases inherent in the derivatization of exposure by this method. Therefore, it can be concluded that large MOEs associated with potential non-dietary and aggregate exposures to cyfluthrin will result in little or no health risks to exposed persons. The aggregate risk analysis demonstrates compliance with the health-based requirements of the FQPA of 1996 for the current label uses. The additional use of cyfluthrin on field corn and soybean crops will have no impact on the analysis for non-dietary exposure.

#### D. Cumulative Effects

Bayer will submit information for EPA to consider concerning potential cumulative effects of cyfluthrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997) (FRL-5734-6) and other EPA publications pursuant to the FQPA.

### E. Safety Determination

1. *U.S. population.* Based on the exposure assessments described above and on the completeness and reliability of the toxicity data, it can be concluded that total aggregate exposure to cyfluthrin from all label uses will utilize less than 20% of the RfD for chronic dietary exposures and that MOEs in excess of 1,000 exist for aggregate exposure to cyfluthrin for non-occupational exposure. EPA generally has no concerns for exposures below 100% of the RfD, because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. MOE of 100 or more (300 for infants and children) also indicate an adequate degree of safety. Thus, it can be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to cyfluthrin residues.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of cyfluthrin, the data from developmental studies in both rat and rabbit and a 2-generation reproduction study in the rat can be considered. The developmental toxicity studies evaluate any potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates any effects from exposure to the pesticide on the reproductive capability of mating animals through 2-generations, as well as any observed systemic toxicity. The toxicology data which support these uses of cyfluthrin include: A rat oral developmental toxicity study in which maternal and fetal NOAELs of 10 mg/kg bwt/day HDT were observed. An oral developmental toxicity study in which rabbits had a maternal NOAEL of 20 mg/kg bwt/day and a maternal LEL of 60 mg/kg bwt/day, based on decreased bwt gain and decreased food consumption during the dosing period. A fetal NOAEL of 20 mg/kg bwt/day and a fetal LEL of 60 mg/kg bwt/day were also observed in this study. The LEL was based on increased resorptions and increased postimplantation loss. An oral developmental toxicity study performed with beta-cyfluthrin, the resolved isomer mixture of cyfluthrin, has been submitted to the Agency and is currently under review. A developmental toxicity study in rats exposed via inhalation to liquid aerosols of cyfluthrin revealed developmental toxicity, but only in the presence of maternal toxicity. The developmental NOAEL was 0.46 mg/m<sup>3</sup> on the basis of

reduced placental and fetal weights, and delayed ossification. The NOAEL for overt maternal toxicity was < 0.46 mg/m<sup>3</sup>, the LDT. In a rat 3-generation reproduction study, systemic toxicity NOAELs of 7.5 and 2.5 mg/kg bwt/day for parental animals and their offspring, respectively, were observed. At HDL, the body weights of parental animals and their offspring were reduced. Another multiple-generation reproduction study in rats has been submitted to the Agency and is currently under review. To assess acute dietary exposure and determine a MOE for the overall U.S. population and certain subgroups, the Agency has used the rabbit developmental toxicity study which had a maternal NOAEL of 20 mg/kg bwt/day. Because the toxicological endpoint is one of developmental toxicity, the population group of concern for this analysis was women aged 13 and above. This subgroup most closely approximates women of child-bearing age. The MOE is calculated as the ratio of the NOAEL to the exposure. The Agency calculated the MOE to be over 600. Generally, MOEs greater than 100 for data derived from animal studies are regarded as showing no appreciable risk. FFDC section 408 provides that EPA may apply an additional safety factor for infants and children. The additional safety factor may be used when prenatal and postnatal threshold effects were observed in studies or to account for incompleteness of the toxicity data base. The results of the 3-generation study in rats provided evidence suggesting that, with respect to effects of cyfluthrin on body weight, pups were more sensitive than adult rats. Thus, the Agency determined that an additional 3-fold uncertainty factor (UF) should be used in risk assessments to ensure adequate protection of infants and children. Generally, EPA considers MOEs of at least 100 to indicate an adequate degree of safety. With an additional 3x UF, this would be 300 for infants and children.

### F. International Tolerances

There are currently no Codex maximum residue levels for mustard greens, lettuce or head and stem brassicas.

[FR Doc. 00-4791 Filed 2-29-00; 8:45 am]

BILLING CODE 6560-50-F

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-50862; FRL-6388-7]

### Issuance of Experimental Use Permits

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

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits (EUPs) to the following pesticide applicants. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

**FOR FURTHER INFORMATION CONTACT:** By mail: Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by telephone: Contact the designated person at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, 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 information in this action, consult the designated contact person listed for the individual EUP.

##### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document from the EPA Internet Home Page at <http://www.epa.gov/>. 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/>.

#### II. EUPs

EPA has issued the following EUPs:  
70515-EUP-1. Amendment. J.P. BioRegulators, Inc., IR-4 Project Rutgers University, Cook College, P.O. Box 231, New Brunswick, NJ 08903-0231. This experimental use permit allows the use of 72 kilograms each year of the

biochemical phospholipid plant growth regulator Lyso-PE (lysophosphatidylethanolamine) on 570 acres of apples, citrus, cranberries, grapes, nectarines, peaches, pears, strawberries, and tomatoes to evaluate ripening and extended storage shelf life. The program is authorized only in the States of Arizona, California, Florida, Massachusetts, Michigan, Ohio, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from June 3, 1998 to June 1, 2001. (Sheila A. Moats; Rm. 910W17, Crystal Mall #2; telephone number: (703) 308-1259; e-mail address: moats.sheila@epa.gov).

70515-EUP-2. Amendment. J.P. BioRegulators, Inc., IR-4 Project Rutgers University, Cook College, P.O. Box 231, New Brunswick, NJ 08903-0231. This experimental use permit allows the use of 72 kilograms each year of the biochemical phospholipid plant growth regulator Lyso-PE (lysophosphatidylethanolamine) on 570 acres of apples, citrus, cranberries, grapes, nectarines, peaches, pears, strawberries, and tomatoes to evaluate ripening and extended storage shelf life. The program is authorized only in the States of Arizona, California, Florida, Massachusetts, Michigan, Ohio, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from August 18, 1998 to June 1, 2001. (Sheila A. Moats; Rm. 910W17, Crystal Mall #2; telephone number: (703) 308-1259; e-mail address: moats.sheila@epa.gov).

34704-EUP-13. Issuance. Platte Chemical Company, 419 18th Street, Greeley, CO 80632. This experimental use permit allows the use of 5,000 pounds of the plant growth regulator 2,6-diisopropyl naphthalene on 300 million pounds of stored potatoes to inhibit sprouting. The program is authorized only in the States of Idaho, Maine, Minnesota, North Dakota, Oregon, Washington, and Wisconsin. The experimental use permit is effective from September 28, 1999 to September 28, 2000. A temporary tolerance has been established for residues of the active ingredient in or on stored potatoes. (Driss Benmhend; Rm. 937, Crystal Mall #2; telephone number: (703) 308-9525; e-mail address: benmhend.driss@epa.gov)

Persons wishing to review these EUPs are referred to the designated contact person. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4

p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

#### List of Subjects

Environmental protection, Experimental use permits.

Dated: February 8, 2000.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 00-4658 Filed 2-29-00; 8:45 am]

BILLING CODE 6560-50-F

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

#### Agency Information Collection Activities: Extension of Existing Collection; Comment Request

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of information collection under review; state and local government information (EEO-4).

**SUMMARY:** In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC) announces that it intends to submit to the Office of Management and Budget (OMB) a request for an extension of the existing information collection listed below.

**DATES:** Written comments on this notice must be submitted on or before May 1, 2000.

**ADDRESSES:** Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street NW, Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663-4114. (This is not a toll-free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4078 (voice) or (202) 663-4074 (TDD). (These are not toll-free telephone numbers.) Copies of comments submitted by the public will be available to review at the Commission's library, Room 6502, 1801 L Street NW, Washington, DC 20507

between the hours of 9:30 a.m. and 5:00 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Joachim Neckere, Director, Program Research and Surveys Division, 1801 L Street, NW, Room 9222, Washington, DC 20507, (202) 663-4958 (voice) or (202) 663-7063 (TTD).

**SUPPLEMENTARY INFORMATION:** The Commission solicits public comment to enable it to:

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

(2) Evaluate the accuracy of the Commission'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 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

*Collection Title:* State and Local Government Information (ERO-4).

*OMB Number:* 3046-0008.

*Frequency of Report:* Biennial.

*Type of Respondent:* State and local government jurisdictions with 100 or more full-time employees.

*Description of Affected Public:* State and local governments excluding elementary and secondary public school districts.

*Responses:* 10,000.

*Reporting Hours:* 40,000.

*Number of Forms:* 1.

*Federal Cost:* \$47,000.

*Abstract:* Section 709(c) of Title VII of the civil rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have or are being committed and to make reports therefrom as required by the EEOC. Accordingly, the EEOC has issued regulations which set forth the reporting requirement for various kinds of employers. State and local governments with 100 or more full-time employees have been required to submit EEO-4 reports to the EEOC since 1973 (biennially in odd-numbered years since 1993). The individual reports are confidential.

EEO-4 data are used by the EEOC to investigate charges of discrimination against state and local governments. In addition, the data are used to support EEOC decisions and conciliations, and for research. The data are shared with several other Federal government agencies. Pursuant to section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO-4 data are also shared with 86 State and Local Fair Employment Practices Agencies (FEPAs). Aggregated data are used by researchers and the general public.

**Burden Statement:** The estimated number of respondents included in the EEO-4 survey is 5,000 state and local governments. The estimated number of responses per respondent is approximately 2 EEO-4 reports and the reporting burden averages between 1 and 5 hours per response, including the time needed to review instructions, search existing data sources, gather and maintain the data, and complete and review the collection of information. The total number of responses is thus 10,000 reports while the total burden is estimated to be 40,000 hours, including recordkeeping burden. In order to help reduce burden, respondents are encouraged to report data on electronic media such as magnetic tapes and interactive diskettes.

Dated: February 24, 2000.

For the Commission.

**Ida L. Castro,**

*Chairwoman.*

[FR Doc. 00-4854 Filed 2-29-00; 8:45 am]

BILLING CODE 6570-01-M

## FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98-146; FCC 00-57]

### Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Federal Communications Commission begins its second inquiry into whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.

**DATES:** Comments are due on or before March 20, 2000. Reply Comments are due on or before April 4, 2000.

**FOR FURTHER INFORMATION CONTACT:** *Information:* John Berresford, Senior Antitrust Attorney, Industry Analysis Division, Common Carrier Bureau, at (202) 418-1886.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Inquiry released February 18, 2000 (FCC 00-57). The full text of the Inquiry is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857-3800, 1231 20th Street, NW, Washington, DC 20037. Additionally, the complete item is available on the Commission's website at <[http://www.fcc.gov/Bureaus/Common\\_Carrier/Orders/2000](http://www.fcc.gov/Bureaus/Common_Carrier/Orders/2000)>.

#### Synopsis of the Inquiry

1. In the document summarized here, the Federal Communications Commission begins its second inquiry into whether advanced telecommunications capability, commonly known as "broadband," is being deployed to all Americans. Congress charged the FCC with monitoring the deployment advanced telecommunications capability and gave the FCC authority, if necessary, to accelerate deployment if the FCC determined that deployment was not occurring in a reasonable and timely fashion. In order to make an informed judgment about whether deployment is reasonable and timely, the Inquiry seeks from various groups objective, empirical data about the current state of broadband deployment.

2. Specifically, the Inquiry seeks comment on four areas: (1) Definitional issues of "advanced telecommunications capability" (2) information about the present deployment of advanced telecommunications capability to various groups; (3) long-term economic analysis of the market forces bringing advanced telecommunications capability to the residential market and other historically underserved areas; (4) actions available to the FCC and state authorities if it is determined that advanced telecommunications capability is not being deployed to all Americans in a reasonable and timely fashion. Once the FCC has gathered this information, it will release a Report within 180 days detailing its findings.

#### Ordering Clauses

Accordingly, It is ordered that, pursuant to sections 706 of the

Telecommunications Act of 1996, this Notice of Inquiry is adopted.

Federal Communications Commission.

**Peyton Wynns,**

*Chief, Industry Analysis Division, Common Carrier Bureau.*

[FR Doc. 00-4836 Filed 2-29-00; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[FCC 00-60]

### Federal Communications Commission Announces Change to the Election Date for 218-219 MHz Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Communications Commission (Commission) is changing the election date for 218-219 MHz service in order to address the issues raised in the various petitions for reconsideration received sufficiently in advance of the deadline for mailing. A Public Notice announcing the new election date will be issued after the Order addressing the petitions is released.

**FOR FURTHER INFORMATION CONTACT:** Ben Freeman or Nicole Oden, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418-0660.

**SUPPLEMENTARY INFORMATION:** This is a summary of a Public Notice released February 18, 2000 (Notice). The complete text of the Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20035, (202) 857-3800. It is also available on the Commission's web site at <http://www.fcc.gov/wtb/auctions>.

1. On September 7, 1999, the Commission adopted the *218-219 MHz Order*, 64 FR 59656 (November 3, 1999), which, among other things, modified service and technical rules for the band and extended the license term from five to ten years. The Commission also adopted a restructuring plan for existing licensees that:

(i) Were current on installment payments as of March 16, 1998;



(ii) Were less than ninety days delinquent on the last installment payment due before March 16, 1998; or  
 (iii) Had pending properly filed grace period requests under the former installment payment rules ("Eligible Licensees").

The Commission permitted Eligible Licensees to choose between three options: (a) Reamortization and Resumption of Payments; (b) Amnesty; or (c) Prepayment. Eligible Licensees that fail to submit an election with respect to any license by Election Day will be assumed to have elected Amnesty.

2. On December 28, 1999, a Preliminary Implementation Procedures, *Public Notice* (15 FCC Rcd. 22) was issued which announced that Eligible Licensees had to make their elections by 7:00 p.m., Tuesday, February 29, 2000.

3. The Commission has received various petitions for reconsideration of the *218-219 MHz Order*. In order to address the issues raised in the petitions for reconsideration sufficiently in advance of Election Day, the Commission has determined to change the Election Day. The new date will be the last, business day of the first full month after an Order on the petitions for reconsideration is released by the Commission. A public notice announcing the new election date will be issued after the Order addressing the petitions is released.

4. Documents related to this rule making proceeding and its implementation may be found on the Federal Communications Commission web site located at <http://www.fcc.gov/wtb/auctions/218rest/218rest.html>.

Federal Communications Commission.

**Louis J. Sigalos,**

*Deputy Chief, Auctions and Industry Analysis Division.*

[FR Doc. 00-4835 Filed 2-29-00; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[DA 99-3018]

### Acceptance of Applications for Amateur Service Club and Military Recreation Station Call Sign Administrators

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces that the Commission will accept requests from organizations interested in processing applications for amateur

service club and military recreation station call signs. An organization requesting designation as a "Club Station Call Sign Administrator" will be permitted to process applications for amateur service club and military recreation station call signs.

**DATES:** Requests may be filed on or after March 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** William T. Cross, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** The *Public Notice* released on January 3, 2000, announced that the Commission will accept requests from organizations interested in processing applications for amateur service club and military recreation station call signs. On October 21, 1998, the Federal Communications Commission (FCC) adopted a *Report and Order*, 63 FR 68904, 12/14/98, reinstating the use of volunteer organizations for the purpose of processing applications for amateur service club and military recreation station call sign. A club station license is an amateur service station license granted only to the trustee of an amateur service club, which must be composed of at least four persons and have a name, a document of organization, management, and a primary purpose devoted to amateur service activities consistent with part 97 of the FCC's rules. A military recreation station license is an amateur service station license granted only to the person who is the license custodian designated by the official in charge of the United States military recreational premises where the station is situated.

The purpose of this *Public Notice* is to announce that beginning March 1, 2000, the FCC will accept requests from organizations interested in processing applications for amateur service club and military recreation station call signs. Requests received before this date will not be considered. We will accept the services of any organization meeting the requirements of section 4(g)(3)(B) of the Communications Act. Organizations interested in processing applications for amateur service club and military recreation station call signs should familiarize themselves with the *Report and Order* and the requirements of the statute.

An organization requesting designation as a "Club Station Call Sign Administrator" so that it can process applications for amateur service club and military recreation station call signs must provide information showing: (1) That it is an amateur radio organization;

(2) that it has tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986; (3) that it will provide voluntary, uncompensated and unreimbursed services for processing applications for club and military recreation station call signs; (4) that it will submit the information to the FCC in an electronic batch file; and (5) that it will retain the application information for at least 15 months and make it available to the FCC upon request. The Club Station Call Sign Administrator may collect all necessary information in any manner of its choosing, including creating its own forms.

All requests must be signed by a responsible official of the organization and include the telephone number of a person familiar with the request. Interested organizations must file their request with the Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 445 Twelfth Street, SW, Room 4-C330, Washington, DC 20554, ATTENTION: CLUB STATION CALL SIGN ADMINISTRATOR. Failure to follow these filing procedures will result in the request being returned without consideration.

Qualified organizations that successfully complete a pilot autogrant batch filing project will be authorized as Club Station Call Sign Administrators to process applications for amateur service club and military recreation station call signs and submit the information to the FCC in an electronic batch file. The FCC will announce by public notice the names and addresses of Club Station Call Sign Administrators.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00-4838 Filed 2-29-00; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 99-168; DA 00-397]

### Notice

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document invites oppositions to petitions for reconsideration of the First Report and Order in this proceeding, which established service rules for the auction of spectrum on the 700 MHz bands, and replies to the oppositions. The accelerated schedule for opposition and

reply comments to these petitions for reconsideration is necessary to expedite resolution of issues affecting the auction beginning May 10, 2000.

**DATES:** Submit oppositions on or before March 10, 2000, submit reply on or before March 17, 2000.

**ADDRESSES:** Send oppositions and replies to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Oppositions and replies may be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>, or by e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Stan Wiggins, 202-418-1310.

**SUPPLEMENTARY INFORMATION:**

1. Notice is hereby given that the parties listed below have petitioned the Commission for reconsideration of the First Report and Order in WT Docket No. 99-168. (65 FR 3139, January 20, 2000.) The First Report and Order established service rules for the auction of spectrum on the 700 MHz bands, that is scheduled to commence May 10, 2000. The auction schedule in turn reflects the Congressional mandate that receipts from auctioning this spectrum be deposited into the U.S. Treasury by September 30, 2000. (*See* Public Law. 106-113, 113 Stat. 1501, Appendix E, Section 213. *See also* 145 Cong. Rec. at H12494, H12501 ((Nov. 17, 1999)), "Making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes.")

2. In light of the auction schedule necessary to implement the Congressional mandate, and the separate statutory requirement that interested parties have a sufficient time after issuance of bidding rules "to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services" (*See* 47 U.S.C. 309(j)(3)(E)(ii). the Wireless Telecommunications Bureau has determined that good cause exists in this instance to alter the periods specified in § 1.429 of the Commission's Rules for oppositions and replies to petitions for reconsideration. (*See* 47 CFR 0.331 ((authority delegated to Wireless Telecommunications Bureau)); 47 CFR 1.3 ((suspension, amendment, and waiver of Commission Rules)). *See also* 5 U.S.C. 553(b)(3)(B).) The bidding rules for the auction have been announced. Auction of Licenses in the 747-762 and 777-792 MHz Bands, Auction Notice and Filing Requirements for 12 Licenses in the 700 MHz Bands, Auction Scheduled for May 10, 2000, DA 00-292 ((Feb. 18, 2000)).

3. Preliminary review of the petitions indicates they raise certain issues that

potentially affect petitioners' decision whether to participate in the auction. To preserve the possibility of considering and resolving such issues sufficiently in advance of the auction to provide timely guidance to prospective bidders, we must close the record on reconsideration issues on an expedited schedule. Accordingly, oppositions to petitions for reconsideration of the First Report and Order shall be filed no later than March 10, 2000, and replies shall be filed no later than March 17, 2000.

4. The list of petitions reflects Commission records as of February 23, 2000. Any petitions subsequently posted on the ECFS system, or received in paper form, that were timely filed will be subject to the filing schedule for oppositions and replies adopted herein.

**Procedural Matters**

5. Parties submitting oppositions and replies should address the petitions for reconsideration in light of the requirements of 47 U.S.C. 309, 47 CFR 1.429 and any other public interest considerations. All oppositions and replies should reference the docket number of this proceeding, WT 99-168.

6. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200(a) and 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

7. Parties may obtain the First Report and Order and petitions for reconsideration at the FCC website, <http://www.fcc.gov/e-file/ecfs.html>. The petitions are also available for public inspection and copying in the Reference Center, Room CY A257, 445 12th St., SW, Washington, DC 20554. Copies of the petitions are also available from ITS at 1231 20th St. NW, Washington, DC 20036, or by calling (202) 857-3800.

8. Oppositions to petitions for reconsideration, and replies, may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Oppositions and replies filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an

electronic submission must be filed. In completing the transmittal screen, parties should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic opposition or reply by Internet e-mail. To get filing instructions for e-mail filings, parties should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), including "get form <your e-mail address> in the body of the message. A sample form and directions will be sent in reply.

9. Interested parties who choose to file by paper must file an original and four copies of their filings with the Office of the Secretary, Federal Communications Commission, TW B204, 445 12th St. SW Washington, DC 20554. In addition, parties should send two copies to Stan Wiggins, Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th St. SW Washington, DC 20554, and one copy to ITS, at 1231 20th Street, NW, Washington, DC 20036.

**Parties Filing Petitions for Reconsideration in WT Docket 99-168**

Adaptive Broadband Corporation (Feb. 22, 2000)  
 ArrayComm, Inc. (Feb. 22, 2000)  
 Association of Local Television Stations, Inc. (Feb. 22, 2000)  
 Association of Public-Safety Communications Officials-International, Inc. (Feb. 22, 2000)  
 Association for Maximum Service Television, Inc. (Feb. 22, 2000)  
 National Association of Broadcasters (Feb. 22, 2000)  
 Nelson Repeater Services, Inc. (Feb. 22, 2000)  
 Northcoast Communications, LLC (Feb. 7, 2000)  
 Rand McNally & Company (Feb. 22, 2000)  
 TRW Inc. (Feb. 11, 2000)  
 U.S. GPS Industry Council (Feb. 22, 2000)  
 US WEST Wireless, LLC (Feb. 3, 2000)  
 Federal Communications Commission.

**Kris A. Monteith,**

*Chief, Policy Division, Wireless Telecommunications Bureau.*

[FR Doc. 00-4927 Filed 2-29-00; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**Agency Information Collection Activities: Submission for OMB Review; Comment Request**

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

**SUMMARY:** In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

*Type of Review:* Renewal of a currently approved collection.

*Title:* Recordkeeping and Confirmation Requirements for Securities Transactions.

*OMB Number:* 3064-0028.

*Annual Burden.*

Estimated annual number of respondents: 5,094.

Estimated time per response: 19.44 hours.

Average annual burden hours: 99,027 hours.

*Expiration date of OMB Clearance:* April 30, 2000.

*OMB Reviewer:* Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

*FDIC Contact:* Tamara R. Manly, (202) 898-7453, Office of the Executive Secretary, Room F-4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

*Comments:* Comments on this collection of information are welcome and should be submitted on or before March 31, 2000 to both the OMB reviewer and the FDIC contact listed above.

**ADDRESSES:** Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

**SUPPLEMENTARY INFORMATION:** The collection ensures that banks effecting securities transactions maintain adequate records and controls over securities transactions they effect.

Dated: February 23, 2000.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 00-4840 Filed 2-29-00; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Consumer Privacy in the Financial Services Industry

**AGENCY:** Federal Deposit Insurance Corporation (FDIC or Corporation).

**ACTION:** Notice of public forum.

**SUMMARY:** The FDIC is hosting an interagency public forum on Consumer Privacy in the Financial Services Industry. This notice sets forth the details concerning this public forum.

**DATES:** Thursday, March 23, 2000.

**ADDRESSES:** Federal Deposit Insurance Corporation, L. William Seidman Center, 3501 North Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** David E. Wright, Community Affairs Officer, Division of Compliance and Consumer Affairs, (202) 898-3960, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** The FDIC will host an interagency public forum on Consumer Privacy in the Financial Services Industry on March 23, 2000 from 8:30 a.m. to 1:00 p.m. The meeting will be held at the Federal Deposit Insurance Corporation, L. William Seidman Center, 3501 North Fairfax Drive, Arlington, Virginia. The purpose of this meeting is to explore different perspectives in three primary areas: Privacy of Consumer Information, the Regulators' Perspective on Consumer Privacy, and the Future of Privacy Law. These topics will be presented in moderated panel discussions. Members of the audience will have the opportunity to pose specific questions to the panel members.

The participants will include financial services industry leaders, consumer privacy experts, financial institution regulators, and government leaders. Donna Tanoue, Chairman of the FDIC, will host the meeting.

As required by Title V of the Gramm-Leach-Bliley Act, the FDIC, together with the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System, recently issued a notice of Proposed Rulemaking entitled "Privacy of Consumer Financial Information." 65 FR 8769 (February 22, 2000). The FDIC will be accepting comments on this proposal until March 31, 2000. Any discussion of this proposed rule at the public forum will be transcribed and become part of the public record for the FDIC's consideration in promulgating

the final rule. Individuals may submit written comments concerning the proposed rule to the FDIC as further detailed in the proposed rule or through the FDIC's "Electronic Public Comment" Internet site at <http://www.fdic.gov>. In addition, individuals attending the public meeting may bring their comments with them, and FDIC personnel will accept the comments for inclusion in the public record at that time.

The meeting is free and open to the public. However, space is limited to the first 300 registrants. We ask that you reserve a space in advance by calling David E. Wright, at (202) 898-3960 by March 20, 2000.

Further information concerning this event will be made available on the FDIC's web site ([www.fdic.gov](http://www.fdic.gov)) and through other media.

Dated at Washington, DC, this 24th day of February, 2000.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 00-4841 Filed 2-29-00; 8:45 am]

**BILLING CODE 6714-01-M**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1315-DR]

### Georgia; Amendment No. 1 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 Georgia, (FEMA-1315-DR), dated February 15, 2000, and related determinations.

**EFFECTIVE DATE:** February 18, 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 Georgia is hereby amended to include Utilities (Category F) under Public Assistance for 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 February 15, 2000:

Colquitt, Grady, Mitchell, and Tift Counties for utilities (Category F) under Public Assistance (already designated for debris removal (Category A) and emergency

protective measures (Category B), including direct Federal assistance, 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)

**Robert J. Adamcik,**

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 00-4820 Filed 2-29-00; 8:45 am]

**BILLING CODE 6718-02-P**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1313-DR]

### South Carolina; Amendment No. 3 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 South Carolina, (FEMA-1313-DR), dated January 31, 2000, and related determinations.

**EFFECTIVE DATE:** February 18, 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 South Carolina is hereby amended to include Road Systems (Category C) under Public Assistance for 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:

Chesterfield, Darlington, Kershaw, Lancaster, Laurens, Newberry, and Spartanburg Counties for road systems (Category C) under Public Assistance (already designated 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.)

**Robert J. Adamcik,**

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 00-4819 Filed 2-29-00; 8:45 am]

**BILLING CODE 6718-02-P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

**The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the FEDERAL REGISTER.**

*Agreement No.:* 217-011557-003

*Title:* Contship/ZIM/ML Space Charter Agreement

*Parties:*

Contship Med/Gulf Line Ltd.  
Zim-Israel Navigation Co., Ltd.  
Mexican Line Limited

*Synopsis:* The proposed Amendment expands the scope of the Agreement to include South Carolina ports.

*Agreement No.:* 217-011693

*Title:* FESCO/ANZDL Space Charter Agreement

*Parties:*

FESCO Ocean Management, Inc.  
Australia-New Zealand Direct Line

*Synopsis:* The proposed Agreement would permit the parties to charter space to one another in the trade between ports on the Pacific Coast of the United States and ports in Australia and New Zealand.

Dated: February 25, 2000.

By Order of the Federal Maritime Commission.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 00-4933 Filed 2-29-00; 8:45 am]

**BILLING CODE 6730-01-P**

## FEDERAL MARITIME COMMISSION

### Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following

freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding revocation dates shown below:

*License Number:* 26

*Name:* Advance Brokers Ltd.

*Address:* 135 American Legion Highway, Revere, MA 02151

*Date Revoked:* June 23, 1999

*Reason:* Failed to maintain a valid bond

*License Number:* 3603

*Name:* Alianza Enterprises, Inc.

*Address:* 3701 Williams Blvd., Suite 201, P.O. Box 640126, Kenner, LA 70064-0126

*Date Revoked:* December 21, 1999

*Reason:* Surrendered license voluntarily

*License Number:* 1643

*Name:* All Sea & Air Forwarding Co., Inc.

*Address:* 841 Pioneer Avenue, Wilmington, CA 90744-3748

*Date Revoked:* December 1, 1999

*Reason:* Surrendered license voluntarily

*License Number:* 1626

*Name:* Dulles International

*Customhouse Brokerage Corp. d/b/a Chantilly Freight Corporation*

*Address:* 44845 Falcon Place, Suite 109, Sterling, VA 20166

*Date Revoked:* December 3, 1999

*Reason:* Failed to maintain a valid bond

*License Number:* 3310

*Name:* Fond Express, Inc.

*Address:* 10420 La Cienega Blvd., Inglewood, CA 90304

*Date Revoked:* June 26, 1999

*Reason:* Failed to maintain a valid bond

*License Number:* 4311

*Name:* International Exports and Marketing Inc.

*Address:* 116 Jane Street, St. Rose, LA 70087

*Date Revoked:* July 8, 1999

*Reason:* Failed to maintain a valid bond

*License Number:* 3392

*Name:* Junior R. Wong d/b/a JBJ Shipping

*Address:* 285 Archer Avenue, Copiague, NY 11726

*Date Revoked:* June 27, 1999

*Reason:* Failed to maintain a valid bond

*License Number:* 3373

*Name:* Kil Moon Chang

*Address:* 17518 Sybrandy Avenue, Cerritos, CA 90703

*Date Revoked:* August 29, 1999

*Reason:* Failed to maintain a valid bond

*License Number:* 4303

*Name:* Michael W. Birch d/b/a Central Export Services

*Address:* 502 13th Street, Modesto, CA 95354

*Date Revoked:* July 29, 1999  
*Reason:* Failed to maintain a valid bond  
*License Number:* 2574  
*Name:* Stute International Inc.  
*Address:* 10 Exchange Place, Suite 1608,  
 Jersey City, NJ 07302  
*Date Revoked:* December 31, 1999  
*Reason:* Surrendered license voluntarily  
*License Number:* 2254  
*Name:* Victoria Genaro d/b/a Gulf-  
 Continental Forwarding Co.  
*Address:* 4844 Sierra Madre Drive, P.O.  
 Box 26605, New Orleans, LA 70186-  
 6605  
*Date Revoked:* July 23, 1999  
*Reason:* Failed to maintain a valid bond

**T. A. Zook,**  
*Deputy Director, Bureau of Tariffs,  
 Certification and Licensing.*  
 [FR Doc. 00-4934 Filed 2-29-00; 8:45 am]  
**BILLING CODE 6730-01-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/](http://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 24, 2000.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Cardinal Financial Corporation*, Fairfax, Virginia; to acquire 100 percent of the voting shares of Cardinal Bank Alexandria/Arlington, N.A., (in organization), Alexandria, Virginia.

Board of Governors of the Federal Reserve System, February 24, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00-4839 Filed 2-29-00; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 11 a.m., Monday, March 6, 2000.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202-452-3204.

**SUPPLEMENTARY INFORMATION:** You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 25, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00-4986 Filed 2-29-00; 8:45 am]

**BILLING CODE 6210-01-P**

## GENERAL ACCOUNTING OFFICE

### Federal Accounting Standards Advisory Board

**AGENCY:** General Accounting Office.

**ACTION:** Notice of Proposed Statement of Federal Financial Accounting Standards (SFFAS) No. 18, *Amendments to Accounting Standards for Direct Loans and Loan Guarantees*.

*Board Action:* Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and the FASAB Rules of Procedure, as amended in October, 1999 notice is hereby given that the Federal Accounting Standards Advisory Board on February 18, 2000, submitted to its principals for review for a period of 90 days a proposed Statement of Federal Financial Accounting Standards (SFFAS) No. 18, Amendments to Accounting Standards for Direct Loans and Loan Guarantees. If there is no objection from any of the principals, SFFAS No. 18 will be issued as a final FASAB statement as of May 19, 2000.

A summary of the proposed Statement follows:

SFFAS No. 18 amends SFFAS No. 2, Accounting for Direct Loans and Loan Guarantees, issued in August 1993, by adding several new requirements. The objectives of these amendments are to improve financial reporting for subsidy costs and performance of Federal credit programs. The new reporting requirements are:

- Report subsidy reestimates in two distinct components: the interest rate reestimate and the technical/default reestimate. The former is a reestimate due to a change in interest rates from the rate assumed in budget preparation and used in calculating the subsidy expense to the rates that are prevailing at the time the direct or guaranteed loans are disbursed. The latter is a reestimate due to changes made in projected cash flows under the terms of the direct loans or loan guarantees after reevaluating all the risk factors as of the financial statement date, except for the effect of interest rate reestimates.

- Display a reconciliation between the beginning and the ending balances of the subsidy cost allowance for direct loans and the liability for loan guarantees, reported in an entity's balance sheet. The reconciliation displays activities that affect the subsidy cost allowance or the loan guarantee liability, such as the subsidy expense for direct or guaranteed loans disbursed during the reporting period, subsidy reestimates, fees received, interest supplements paid, loans written off, claim payments made to lenders,

recoveries obtained, and other adjustments.

- Provide a description of program characteristics and disclose: (1) The amounts of direct or guaranteed loans disbursed in each program during reporting year, (ii) the estimated subsidy rates for the total subsidy and the subsidy components at the program level in the current year's budget for the current year's cohorts, (iii) events and changes in economic conditions, other risk factors, legislation, credit policies, and subsidy estimation methodologies and assumptions, that have had a significant and measurable effect on subsidy rates, subsidy expense, and subsidy reestimates, and (iv) events and changes in conditions that have occurred and are more likely than not to have a significant impact but the effects of which are not measurable at the reporting date. Reporting entities should discuss how those events and changes have affected or would affect credit programs' subsidy costs, subsidy reestimates, and the subsidy rates estimated in the budget.

The amendments, if finally issued, will be effective for periods beginning after September 30, 2000

**FOR FURTHER INFORMATION CONTACT:** Wendy Comes, Executive Director, 441 G St., N.W., Room 6814, Washington, D.C. 20548, or call (202) 512-7350.

**Authority:** Federal Advisory Committee Act, Pub. L. 92-463.

Dated: February 25, 2000.

**Wendy M. Comes,**  
Executive Director.

[FR Doc. 00-4937 Filed 2-29-00; 8:45 am]

**BILLING CODE 1610-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Disease, Disability and Injury Prevention and Control Special Emphasis Panel: Human Immunodeficiency Virus Prevention Projects for Community-Based Organizations, Program Announcement #00023

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

**Name:** Disease, Disability and Injury Prevention and Control Special Emphasis Panel: Human Immunodeficiency Virus Prevention Projects for Community-Based Organizations, Program Announcement #00023.

**Times and Dates:** 8:30 a.m.-12:30 p.m., March 20, 2000 (Open). 12:30 p.m.-4:30 p.m., March 20, 2000 (Closed). 8:30 a.m.-4:30 p.m., March 21-24, 2000 (Closed).

**Place:** Crowne Plaza Atlanta Airport, 1325 Virginia Avenue, East Point, Georgia, Phone 404/768-6660.

**Status:** Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92-463.

**Matters To Be Discussed:** The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #00023.

**Contact Person for More Information:** Megan Foley or Beth Wolfe, Prevention Support Office, National Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, 11 Corporate Square Boulevard, M/S E07, Atlanta, Georgia 30329, telephone 404/639-8025, e-mail MZF3@cdc.gov or EOW1@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 24, 2000.

**Carolyn J. Russell,**

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00-4861 Filed 2-29-00; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Advisory Committee for Injury Prevention and Control: 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:** Advisory Committee for Injury Prevention and Control (ACIPC).

**Times and Dates:** 1:30 p.m.-4:30 p.m., March 21, 2000. 8:30 a.m.-3:15 p.m., March 22, 2000.

**Place:** Radisson Hotel Atlanta—Northlake, 4156 LaVista Road, Atlanta, Georgia 30084.

**Status:** Open to the public, limited only by the space available.

**Purpose:** The Committee advises and makes recommendations to the Secretary, the Assistant Secretary for Health, and the Director, CDC, regarding feasible goals for the prevention and control of injury. The Committee makes recommendations regarding policies, strategies, objectives, and

priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance of intramural and extramural research, and also provides guidance on the needs, structure, progress and performance of intramural programs, and on extramural scientific program matters. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee also recommends areas of research to be supported by contracts and cooperative agreements and provides concept review of program proposals and announcements.

**Matters To Be Discussed:** The purpose of the March 21 meeting is for the Science and Program Review Work Group (SPRWG) to review program oversight issues which include discussion of (1) current/future program Injury Control Research Center program activities; (2) review of violence against women and youth violence request for applications; (3) overview of external projects from NCIPC divisions; (4) site visit for trauma center evaluation project; (5) 1999 work-in progress monitoring workshops summary; and (6) NCIPC research priorities.

At the March 22 meeting of the full Committee, following the NCIPC Acting Director's update on NCIPC, discussions will include (1) NCIPC's Division of Acute Care, Rehabilitation Research, and Disability Prevention updates on key activities in spinal cord injury, traumatic brain injury, and poison control centers; (2) reports from the March 21 meetings of the Subcommittee on Family and Intimate Violence Prevention and SPRWG; (3) follow up report on NCIPC research priorities; and (4) update on the SafeUSA Partnership.

Agenda items are subject to change as priorities dictate.

**Contact Person for More Information:** Mr. Thomas E. Blakeney, Acting Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE, M/S K61, Atlanta, Georgia 30341-3724, telephone 770/488-1481.

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 25, 2000.

**Carolyn J. Russell,**

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00-4860 Filed 2-29-00; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 84N-0102]

#### Cumulative List of Orphan Drug and Biological Designations

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the cumulative list of orphan drug and biological designations as of December 31, 1999. FDA has announced the availability of previous lists, which are updated monthly, identifying the drugs and biologicals granted orphan designation under the Federal Food, Drug, and Cosmetic Act (the act).

**ADDRESSES:** Copies of the cumulative list of orphan drug and biological designations are available from the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and the Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3666.

**FOR FURTHER INFORMATION CONTACT:** Melvin Lessing or Stephanie Donahoe, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3666.

**SUPPLEMENTARY INFORMATION:** FDA's Office of Orphan Products Development (OPD) reviews and takes final action on applications submitted by sponsors seeking orphan designation of their drug or biological under section 526 of the act (21 U.S.C. 360bb). In accordance with this section of the act which requires public notification of designations, FDA maintains a cumulative list of orphan drug and biological designations. This list includes the name of the drug or biological, the specific disease/condition for which the drug or biological is designated, and information about the sponsor such as the name, address, telephone, and contact.

At the end of each calendar year, the agency publishes a cumulative list of orphan drug and biological designations current through the calendar year. The list that is the subject of this notice is the cumulative list of orphan drug and biological designations through December 31, 1999, and, therefore,

brings the February 26, 1999 (64 FR 9515), publication up to date. This list is available upon request from the Dockets Management Branch (address above). Those requesting a copy should specify Docket No. 84N-0102, which is the docket number for this notice. In addition, the list is updated monthly and is available upon request from OPD or the FDA's Dockets Management Branch. The current list is also available on the Internet at <http://www.fda.gov/orphan>.

The orphan designation of a drug or biological applies only to the sponsor who requested the designation. Each sponsor interested in developing a drug or biological for an orphan indication must apply for orphan designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested (21 CFR 316.23). Copies of the orphan drug regulations (21 CFR part 316) (57 FR 62076, December 29, 1992) and explanatory background materials for use in preparing an application for orphan designation may be obtained from OPD (address above).

The names of the drugs and biologicals shown in the cumulative list of orphan designations may change upon marketing approval/licensing, reflecting the established, proper name approved by FDA. Because drugs and biologicals not approved/licensed for marketing are investigational, the appropriate established, proper name has not necessarily been assigned.

Dated: February 24, 2000.

**William K. Hubbard,**

*Senior Associate Commissioner for Policy, Planning, and Legislation.*

[FR Doc. 00-4875 Filed 2-29-00; 8:45 am]

**BILLING CODE 4160-01-F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

#### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information

on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443-7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

#### Proposed Project: Evaluation of the Addiction Technology Transfer Center Program (New)

The Substance Abuse and Mental Health Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) intends to conduct an evaluation of its Addiction Technology Transfer Centers (ATTCs). The goal underlying the training and education opportunities provided through the ATTCs is to enhance the competencies of professionals in a variety of disciplines to address the clinical needs of individuals with substance abuse problems using research-based curricula and training materials through both traditional and non-traditional technologies.

The ATTCs disseminate current health services research from the National Institute on Drug Abuse (NIDA), National Institute on Alcohol Abuse and Alcoholism (NIAAA), National Institute of Mental Health (NIMH), Agency for Health Care Policy and Research (ACHPR), National Institute of Justice (NIJ), and other sources and applied knowledge development activities from SAMHSA using innovative technologies by developing and updating state-of-the-art research-based curricula and developing faculty and trainers. Participants in ATTC trainings are self-identified and participate in either academic courses or continuing education/professional development trainings. Academic courses are offered at all levels. Continuing education/professional development trainings are designed to meet identified needs of counselors and other professionals who work with individuals with substance abuse problems.

Both a process and an outcome evaluation will be conducted. The process evaluation will describe the

training and education needs of pre-service and currently practicing professionals, the types of training events that students/trainees receive through the ATTCs, and student/trainee satisfaction with services. The outcome evaluation will focus on specific changes in clinical practice made by trainees as a result of knowledge received.

Analysis of this information will assist CSAT in documenting the numbers and types of participants in ATTC education/training offerings, describing the extent to which participants improve in their clinical competency, and which method is most

effective in disseminating knowledge to the various audiences. This type of information is crucial to support CSAT in complying with GPRA reporting requirements and will inform future development of knowledge dissemination activities.

The evaluation design for students and trainees will be a description of each course/training event, and a pre-post design that collects identical information at initiation of ATTC courses/trainings, at the completion to the course/training, and again after 3 months. This time frame is necessary to allow students/trainees the opportunity to implement changes in clinical

practice. In addition, the evaluation will collect satisfaction measures after each course/training event. A formal comparison group is not available.

The 13 ATTCs anticipate providing courses/trainings for 12,000 students/trainees per year over the next 2 years. Data collection burden will be borne primarily by the ATTC faculty for course descriptions (15 minutes) and students/trainees for pre and post and follow-up (30 minutes for each). ATTC staff will conduct follow-up mailings and/or interviews. The chart below summarizes the annualized burden for this project over a two-year period.

Respondent type	Number of respondents	Average responses/respondent	Average time/response (hours)	Annual burden (hours)
Students/trainees .....	12,000	3	.50	18,000
Faculty/trainers .....	195	1	.25	49
ATTC summary reports .....	13	4	8	416
Total .....	12,208	.....	.....	18,465

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16-105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 23, 2000.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 00-4862 Filed 2-29-00; 8:45 am]

**BILLING CODE 4162-20-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Fiscal Year (FY) 2000 Funding Opportunities**

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of funding availability.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2000 funds for grants

for the following activity. This activity is discussed in more detail under Section 4 of this notice. This notice is not a complete description of the activity; potential applicants must obtain a copy of Parts I and II of the Guidance for Applicants (GFA) before preparing an application. Part I is entitled National Youth Substance Abuse Prevention Initiative (State Incentive Cooperative Agreements for Community-Based Action) (short title: State Incentive Grants). Part II is entitled General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements.

Activity	Application deadline	Estimated funds available, FY 2000	Estimated Number of awards	Project period
State Incentive Grants .....	5/10/00	\$12 million .....	4 awards .....	3 years.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2000 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106-113. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health

promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-0) or Summary Report: Stock No. 017-001-00473-1) through the Superintendent of

Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone: 202-512-1800).

SAMHSA has published additional notices of available funding opportunities for FY 2000 in past issues of the **Federal Register**.

*General Instructions:* Applicants must use application form PHS 5161-1 (Rev. 6/99; OMB No. 0920-0428). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161-1 which includes Standard Form 424 (Face



Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161-1 application form and the full text of the activity described in Section 4 are also available electronically via SAMHSA's World Wide Web Home Page (address: <http://www.samhsa.gov>).

**Application Submission:** Applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC-7710, Bethesda, Maryland 20892-7710\*

(\* Applicants who wish to use express mail or courier service should change the zip code to 20817.)

**Application Deadlines:** The deadline for receipt of applications is May 10, 2000.

Competing applications must be received by the indicated receipt date to be accepted for review. An application received after the deadline may only be accepted if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

**FOR FURTHER INFORMATION CONTACT:** Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see Section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 4).

## Programmatic Information

### 1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 2000 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council members and other interested persons participated in special meetings or responded to calls for suggestions and reactions. From this input, each SAMHSA Center developed a "menu" of suggested topics.

The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 2000 KD&A program will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and it is question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, and preparation of special materials will be used, in addition to normal communication means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

### 2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health

and/or substance abuse treatment and prevention services except sometimes for costs required by the particular activity's study design. Applicants are required to propose true knowledge application or knowledge development application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

## 3. Criteria for Review and Funding

### 3.1 General Review Criteria

Review criteria that will be used by the peer review groups are specified in the application guidance material.

### 3.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

## 4. Special FY 2000 SAMHSA Activities

National Youth Substance Abuse Prevention Initiative (State Incentive Cooperative Agreement for Community Based Action (short title: State Incentive Program, SP00-004)

- Application Deadline: The receipt date is May 10, 2000.

- Purpose: The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of funds for the State Incentive Cooperative Agreements for Community-based Action (known as State Incentive Grants). This program calls upon Governors to coordinate, leverage and/or redirect, as appropriate and legally permissible, all Federal and State substance abuse prevention resources directed at communities, families, schools, and workplaces to develop and implement an effective comprehensive, new Statewide prevention strategy aimed at reducing drug use by youth.

- Eligible Applicants: Eligibility is limited to the Office of the Governor in those entities that to date have not received State Incentive Grant funds in FY1997, FY 1998, and FY 1999. Applications may be submitted only by the Office of the Governor in those entities that receive the Substance

Abuse Prevention and Treatment Block Grant (SAPT), Title XIX, Part B, Subpart II of the Public Health Service Act, 42 U.S.C. 300x-21, *et seq.* (hereinafter referred to as "States"). The Term "Governor" means the Chief Executive Officer of the eligible entity, whether a Governor of a State or territory, the Mayor of the District of Columbia, the President of those territories with a president, or the Chairman of the Tribal Council of the Red Lake Band of Chippewa.

Eligibility is limited to the Office of Governor so that a consistent State-wide strategy on substance abuse prevention will be implemented by the Governor and comprehensively evaluated as to the effectiveness in the strategies used.

- Amount: \$12 million in total costs (direct and indirect) to support four awards in FY2000.

Period of Support: Support may be requested for a period of up to 3 years.

- *Catalog of Federal Domestic Assistance Number:* 93.230.
- Program Contact: For questions concerning program issues, contact: Dave Robbins or Patricia Getty, DSCSD, Systems Applications Branch, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 930, 5600 Fishers Lane, Rockville, MD 20857 (301) 443-0369.

For questions regarding grants management issues, contact: Edna Frazier, Grants Management Officer, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 640, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-6816.

- Application kits are available from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20857, Telephone: 1-800-729-6686, TDD: (800) 487-4889, Fax: (301) 468-6433.

**5. Public Health System Reporting Requirements**

This program is not subject to the Public Health System Reporting Requirements.

**6. PHS Non-use of Tobacco Policy Statement**

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

**7. Executive Order 12372**

Applications submitted in response to the FY 2000 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental

Health Services Administration, Parklawn Building, Room 17-89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: February 24, 2000.

**Richard Kopanda,**  
Executive Officer, SAMHSA.  
[FR Doc. 00-4876 Filed 2-29-00; 8:45 am]  
BILLING CODE 4162-20-U

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Fiscal Year (FY) 2000 Funding Opportunities**

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of Funding Availability.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2000 funds for grants for the following activity. This activity is discussed in more detail under Section 3 of this notice. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Program Announcement, including Part I, Programmatic Guidance for Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing an application.

Activity	Application Deadline	Est. Funds FY 2000	Est. Number of awards	Project period
Grants for Evaluation of Outpatient Treatment Models for Persons With Co-Occurring Substance Abuse and Mental Health Disorders.	May 23, 2000 .....	Up to \$3 million .....	Approx. 9 .....	Up to 3 years.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2000 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106-113. SAMHSA's policies and

procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a

PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-0) or Summary Report: Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone: 202-512-1800).

SAMHSA will publish additional notices of available funding opportunities for FY 2000 in subsequent issues of the **Federal Register**.

*General Instructions:* Applicants must use application form PHS 5161-1 (Rev. 6/99; OMB No. 0920-0428). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161-1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 3).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161-1 application form and the full text of the activity described in Section 4 are also available electronically via SAMHSA's World Wide Web Home Page (address: <http://www.samhsa.gov>).

Application Submission Applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC-7710, Bethesda, Maryland 20892-7710\*

(\* Applicants who wish to use express mail or courier service should change the zip code to 20817.)

Applications sent to an address other than the address specified above will be returned to the applicant without review.

*Application Deadlines:* The deadlines for receipt of applications are listed in the table above. Competing applications must be received by the indicated receipt date to be accepted for review. An application received after the deadline may only be accepted if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing. Applications received after the deadline date will be returned to the applicant without review.

#### **FOR FURTHER INFORMATION CONTACT:**

Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see Section 3).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 3).

#### **Programmatic Information**

##### *1. Program Background and Objectives*

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

##### *2. Criteria for Review and Funding*

###### *2.1 General Review Criteria*

Competing applications requesting funding under the specific project activity in Section 3 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

###### *2.2 Award Criteria for Scored Applications*

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

##### *3. Special FY 2000 SAMHSA Activities*

Grants for Evaluation of Outpatient Treatment Models for Persons with Co-Occurring Substance Abuse and Mental Health Disorders (Short Title: The Co-Occurring Disorders Study), number TI 00-002).

- *Application Deadline:* May 23, 2000.

- *Purpose:* The Center for Substance Abuse Treatment (CSAT) of the Substance Abuse and Mental Health Services Administration (SAMHSA) announces the availability of funds for grants to identify effective substance abuse treatment projects or models of care that show promise for replication elsewhere. In fiscal year 2000, grants will be made to identify promising projects that provide substance abuse treatment services for persons with co-occurring substance abuse and mental health disorders.

This program, referred to as "The Co-Occurring Disorders Study," solicits applications for projects that will identify, refine, test, and document approaches and procedures for delivery of substance abuse treatment services within outpatient substance abuse treatment agencies to persons with co-occurring substance abuse and mental health problems. Funds are available for evaluation and documentation purposes and may not be expended to provide treatment services.

- *Eligible Applicants:* Applications may be submitted by units of State or local government, Indian Tribes and tribal organizations, and by public and private domestic nonprofit and for-profit entities such as community-based organizations, universities, colleges, and hospitals. If the applicant is not the provider of substance abuse treatment services—the site for observations and data collection—the applicant must have a documented working relationship with the treatment provider. The proposed service provider must at a minimum: have been providing outpatient substance abuse treatment services for the target population(s) for a minimum of two years prior to the date of the application; have been collecting data on clients in the target population(s) that include admission, course of treatment, outcome, and follow-up for at least two years; and have been in compliance with all local, city, county and/or State licensing and/or accreditation/certification requirements.

- *Amount:* It is estimated that \$3 million will be available to support approximately nine awards under this GFA in fiscal year 2000. Awards are expected to range from approximately

\$300,000 to \$400,000 in total annual costs (direct plus indirect). No award in excess of \$400,000 will be made. Actual funding levels and the number of awards will depend upon the availability of appropriated funds.

- *Period of Support:* Support may be requested for a period of up to three years. Annual awards will be made subject to continued availability of funds and progress achieved.

- *Catalog of Federal Domestic Assistance Number:* 93.230.

- *Program Contact:* For questions concerning program issues, contact: Edith Jungblut, Project Officer, Division of Practice and Systems Development, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6669.

For questions regarding grants management issues, contact: Christine Chen, Grants Management Officer, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, 6th Floor, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-8926.

- *Application kits are available from:* National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847-2345, Telephone: 1-800-729-6686.

**4. Public Health System Reporting Requirements**

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- a. A copy of the face page of the application (Standard form 424).

- b. A summary of the project (PHSIS), not to exceed one page, which provides:

- (1) A description of the population to be served.

- (2) A summary of the services to be provided.

- (3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if a particular FY 2000 activity is subject to the Public Health System Reporting Requirements.

**5. PHS Non-use of Tobacco Policy Statement**

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

**6. Executive Order 12372**

Applications submitted in response to the FY 2000 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application

guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17-89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: February 24, 2000.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 00-4873 Filed 2-29-00; 8:45 am]

**BILLING CODE 4162-20-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Fiscal Year (FY) 2000 Funding Opportunities**

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of Funding Availability.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2000 funds for grants for the following activity. This activity is discussed in more detail under Section 3 of this notice. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Program Announcement, including Part I, Programmatic Guidance for Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing an application.

Activity	Application Deadline	Estimated funds available, FY 2000	Estimated number of awards	Project period
Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services.	June 13, 2000 .....	\$16,000,000	30-40	Up to 3 years.

The actual amount available for awards and their allocation may vary,

depending on unanticipated program requirements and the number and

quality of applications received. FY 2000 funds for the activity discussed in

this announcement were appropriated by the Congress under Public Law No. 106-113. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-0) or Summary Report: Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone: 202-512-1800).

SAMHSA will publish additional notices of available funding opportunities for FY 2000 in subsequent issues of the **Federal Register**.

**General Instructions:** Applicants must use application form PHS 5161-1 (Rev. 6/99; OMB No. 0920-0428). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161-1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 3).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161-1 application form and the full text of the activity described in Section 4 are also available electronically via SAMHSA's World Wide Web Home Page (address: <http://www.samhsa.gov>).

**Application Submission:** Applications must be submitted to:

SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC-7710, Bethesda, Maryland 20892-7710\*

(\*Applicants who wish to use express mail or courier service should change the zip code to 20817.)

Applications sent to an address other than the address specified above will be returned to the applicant without review.

**Application Deadlines:** The deadline for receipt of applications is listed in the table above. Competing applications must be received by the indicated receipt date to be accepted for review. An application received after the deadline may only be accepted if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing. Applications received after the deadline date will be returned to the applicant without review.

**FOR FURTHER INFORMATION CONTACT:** Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see Section 3).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 3).

### Programmatic Information

#### 1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

#### 2. Criteria for Review and Funding

##### 2.1 General Review Criteria

Competing applications requesting funding under the specific project activity in Section 3 will be reviewed

for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

#### 2.2 Award Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

#### 3. Special FY 2000 SAMHSA Activities

Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services (Short Title: TCE/HIV Grant Program), number TI 00-005).

- **Application Deadline:** June 13, 2000.

- **Purpose:** The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of funds for grants to enhance and expand substance abuse treatment and HIV/AIDS services in African American, Hispanic/Latino, and/or other racial/ethnic minority communities highly affected by the twin epidemics of substance abuse and HIV/AIDS. This Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services, or TCE/HIV, seeks to address gaps in substance abuse treatment capacity by increasing the accessibility and availability of substance abuse treatment and HIV/AIDS related services (including treatment for STDs, TB and hepatitis B and C) to African American, Hispanic/Latino, and/or other racial/ethnic minority substance abusers. This Guidance for Applicants (GFA) solicits applications for innovative targeted responses to the epidemic of substance abuse and related HIV/AIDS, and is consistent with Congressional report language.

**Note:** SAMHSA CSAT has two FY 2000 programs under which funding is available for substance abuse treatment and HIV/AIDS services.

*The two programs are:* PA 00-001—Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need, and this program, TI 00-005—Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services. The eligibility

requirements vary for each program; therefore, potential applicants must refer to the specific announcement to determine if they are eligible to apply.

- *Eligible Applicants:* Applications may be submitted by public and domestic private non-profit and for-profit entities, such as units of State or local government and grassroots and/or community-based organizations that have the capacity to provide substance abuse treatment services to African American, Hispanic/Latino, and/or other racial/ethnic minority communities. SAMHSA's CSAT encourages applications from substance abuse treatment programs that have a good record of reaching and serving hardcore, chronic drug users and their sex/needle-sharing partner(s) and facilitating their entry into substance abuse treatment. Targeted communities must be located in a metropolitan statistical area (MSA) with an annual AIDS case rate of, or greater than, 15/100,000 or in a State with an annual AIDS case rate of, or greater than, 10/100,000. SAMHSA CSAT's intention is to target areas at highest risk for HIV transmission. In the absence of consistent reporting of HIV data by all jurisdictions, the best indicator of the magnitude of the epidemic is AIDS case rates derived from CDC HIV/AIDS Surveillance Reports.

In addition to the basic requirements for eligibility, providers of services must be in compliance with all local, city, county, and/or State licensing and/or accreditation/certification requirements, and must also have been providing substance abuse treatment services for a minimum of two years prior to the date of the application. SAMHSA believes that only existing experienced providers have the infrastructure and expertise to provide services and to address emerging and unmet needs as quickly as possible.

- *Amount:* Approximately \$16.0 million will be available to support approximately 30–40 awards under this GFA in FY 2000. Awards are expected to range from \$100,000 to \$500,000 (direct and indirect costs) for projects directed to the following substance abusing populations in African American, Hispanic/Latino, and other racial/ethnic minority communities:

- Women, and women and their children
- Adolescents
- Injecting drug users including men who have sex with men and inject drugs (MSM)
- Men or women who have been released from prisons and jails

*Prohibitions:* Federal funds awarded under this GFA may not be used to carry

out syringe exchange programs, such as the purchase and distribution of syringes and/or needles, nor can funds authorized under this program be used to pay for pharmacologics for antiretroviral therapy, STDs, TB and hepatitis B and C.

- *Period of Support:* Support may be requested for a period of up to three (3) years. Annual awards will be made subject to continued availability of funds and progress in meeting the goals and objectives of this program.

- *Catalog of Federal Domestic Assistance Number:* 93.230.

- *Program Contact:* For questions concerning program issues, contact: Lisa A. Manley, Treatment and Systems Improvement Branch, Division of Practice and Systems Development, Center for Substance Abuse Treatment, SAMHSA, Rockwall II, 7th Floor 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2297.

- For questions regarding grants management issues, contact: Christine Chen, Grants Management Officer, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, 6th Floor, 5600 Fishers Lane, Rockville, Maryland 20857, (301)443–8926.

- Application kits are available from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

#### 4. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- a. A copy of the face page of the application (Standard form 424).
- b. A summary of the project (PHSIS), not to exceed one page, which provides:
  - (1) A description of the population to be served.
  - (2) A summary of the services to be provided.
  - (3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if a particular FY 2000 activity is subject to the Public Health System Reporting Requirements.

#### 5. PHS Non-use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

#### 6. Executive Order 12372

Applications submitted in response to the FY 2000 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: February 24, 2000.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 00-4874 Filed 2-29-00; 8:45 am]

BILLING CODE 4162-20-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Endangered and Threatened Species Permit Application

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

#### Permit Number TE023308-0

*Applicant:* U.S. Fish and Wildlife Service, Twin Cities Field Office, Bloomington, Minnesota (Russ Peterson, Field Supervisor)

The applicant requests a permit to take (collect, hold in captivity, propagate, and release) endangered Higgins' eye pearlymussels (*Lampsilis higginsii*) from locations within their historic range in the States of Iowa, Minnesota, and Wisconsin (St. Croix River, Upper Mississippi River, Chippewa River, and Wisconsin River). The applicant proposes to propagate captive mussels at: (1) The U.S. Fish and Wildlife Service's Genoa National Fish Hatchery; (2) a temporary facility at the Upper Mississippi River, Pools 1-4 (River Mile 853-787); (3) a temporary facility at the lower Chippewa River (RM 0-15); and (4) a temporary facility at the lower Wisconsin River (RM 0-15). The applicant proposes to subsequently relocate host fish infected with glochidia (resulting from propagation) to a temporary facility in the lower Bad Axe River adjacent to the Genoa NFH. Artificially propagated and temporarily held specimens will be reintroduced into the wild at the Upper Mississippi River, Lower Chippewa River, and lower Wisconsin River. The Field Supervisor, Twin Cities Field Office, proposes to serve as project manager including, but not limited to, designation of individuals who meet issuance criteria to work under this permit. This permit is proposed for the enhancement of survival of the species in the wild (protection from zebra mussel (*Dreissena polymorpha*) infestation, in the interest of recovery.)

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612/713-5350); FAX: (612/713-5292).

Dated: February 24, 2000.

**Stanley L. Smith,**

*Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*

[FR Doc. 00-4928 Filed 2-29-00; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CA-350-1020-DH]

#### Notice of Intent to Amend Redding Resource Management Plan

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Intent to Amend a Redding Resource Management Plan and Initiation of Public Scoping.

**SUMMARY:** Pursuant to the Federal Land Policy and Management Act (Public Law 94-579), and the National Environmental Policy Act (Public Law 91-190), the Bureau of Land Management, Redding Field Office, will consider a proposal to amend the existing boundary of the Horseshoe Ranch Wildlife Area as delineated in the Redding Resource Management Plan.

**DATES:** Written scoping comments will be accepted until Friday, March 31, 2000. Written comments on the issues that should be addressed in this proposed Resource Management Plan amendment should be sent to the Bureau of Land Management, Redding Field Office, 355 Hemsted Drive, Redding, CA 96002, Attention: Ilene Emry.

**SUPPLEMENTARY INFORMATION:** The Redding Field Office has received a proposal from the County of Siskiyou to review the existing boundary of the Horseshoe Ranch Area of the Klamath Management Area, Redding Resource Management Plan, dated July 27, 1993. The Horseshoe Ranch Area is located

along the California-Oregon border, east of Interstate 5. The current western boundary of the Horseshoe Ranch Area is Interstate 5. The County has proposed moving the boundary back to the 1983 Horseshoe Ranch Management Plan boundary. This was a joint plan between the BLM and California Department of State Fish and Game. The BLM and the California Department of Fish and Game have a successful cooperative management relationship at Horseshoe Ranch which protects the natural values while minimizing taxpayer costs.

This relationship is mirrored by the BLM and Oregon Department of Fish and Wildlife on the north side of the state boundary. In the existing Redding Resource Management Plan, expansion of public land administration westward to Interstate 5 was to complement public management (Pacific Crest Trail, Soda Mountain Wilderness Study Area, existing public land ownership, etc.) in Oregon, enhance public accessibility, and provide more effective long term protection of the interstate deer herd.

The environmental analysis for the Redding Resource Management Plan Amendment will look at alternatives for the current Horseshoe Ranch Area Boundary, which will include no action, reduction, and expansion alternatives. These alternatives will be developed based on internal staff discussions, and public and agency input provided during this scoping process.

The Bureau of Land Management's scoping process will include: (1) identification of issues to be addressed; (2) identification of viable alternatives; and (3) notification of interested groups, individuals, Native American groups, and agencies to determine level of participation and obtain additional information.

**FOR FURTHER INFORMATION CONTACT:** Charles M. Schultz or Ilene Emry at (530) 224-2100, (530) 224-2172 (fax), or e-mail [iemry@ca.blm.gov](mailto:iemry@ca.blm.gov).

**Charles M. Schultz,**

*Field Manager.*

[FR Doc. 00-4543 Filed 2-29-00; 8:45 am]

BILLING CODE 4310-40-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Notice of Availability of a General Management Plan (GMP)/Draft Environmental Impact Statement (EIS) for Big South Fork National River and Recreation Area (National Area), Kentucky and Tennessee

**AGENCY:** National Park Service; Interior.

**SUMMARY:** The National Area was established by Congress in 1974 for the purposes of conserving and interpreting an area containing unique cultural, natural, and recreational values, preserving as a free-flowing stream the Big South Fork of the Cumberland River and portions of its Clear Fork and New River stems and portions of their tributaries, and the development of the area's potential for healthful outdoor recreation.

This is the first GMP for the National Area prepared under National Park Service (NPS) policies and procedures. The Plan presents a long-term framework for managing the National Area by: (1) Examining the elements of required management found in its establishing and related legislation and NPS policy; and (2) identifying different applications of management units that would achieve two alternative management concepts. The alternative of "no-action" is also examined for comparison.

**DATES:** The comment period will extend for ninety (90) days from the date of this notice. A series of public meetings will be held in surrounding communities during this period. Local media will announce the times and locations and the National Area may be contacted for this information.

**FOR FURTHER INFORMATION CONTACT:** Superintendent Big South Fork NRRRA, 4564 Leatherwood Ford Road; Oneida, TN 37841; Telephone (423) 569-9778, e-mail: biso\_superintendent@nps.gov.

**SUPPLEMENTARY INFORMATION:** Comments on this Draft GMP/EIS are solicited at this time. Comments may be provided to the Superintendent at the address below or at public meetings to be announced. Copies of the document may be obtained from the Superintendent.

Our practice is to make comments, including names and homes addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your 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.

Dated: February 10, 2000.

**Daniel W. Brown,**

*Acting Regional Director, Southeast Region.*

[FR Doc. 00-4831 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-M**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App 1, section 10) that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, March 17, 2000.

The Commission was reestablished pursuant to Public Law 87-126 as amended by Public Law 105-280. The purpose of the Commission is to consult with the Secretary of the Interior or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore. The Commission members will meet at 1 p.m. at Headquarters, Marconi Station, Wellfleet, MA for the regular business meeting to discuss the following:

1. Adoption of Agenda
2. Approval Minutes Previous 3 Meetings: October 1, 1999, November 19, 1999, January 14, 2000
3. Reports of Officers
4. Subcommittee Report—Personal Watercraft
5. Superintendent's Report Salt Pond Visitor Center—funding and design  
Nominations process—alternate Adv. Commission members  
Highlands Center  
Shuttle—Provincetown  
Fort Hill—burn update  
Horseshoe crabs  
Outer Cape water study—USGS
6. Old Business  
Commercial Certificates—Head of the Meadow Gas Station (deferred) and Jack's Gas  
Adv. Commission Handbook
7. New Business
8. Agenda for next meeting
9. Date for next meeting
10. Public Comment
11. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend in addition to Commission members.

Interested persons may make oral/written presentations to the Commission

during the business meeting or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: February 22, 2000.

**Maria Burks,**

*Superintendent.*

[FR Doc. 00-4833 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Notice of Intent To Repatriate Cultural Items in the Possession of the Denver Art Museum, Denver, CO

**AGENCY:** National Park Service.

**ACTION:** Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Denver Art Museum, Denver, CO which meet the definition of "object of cultural patrimony" under Section 2 of the Act.

The five cultural items are a Motoki Society buffalo headdress bundle consisting of a parfleche and a cap made of bison fur with horns; a Motoki Society belt constructed from a bison tail; a Dog Society bundle consisting of parfleche and a feather headdress, the headdress has a leather cap and trailer with feathers (possibly hawk) attached; a Dog Society headdress which consists of a separate head piece and trailer or sash; and a Dog Society bundle consisting of a parfleche, dog skin sash, and a stick rattle covered with red flannel.

The Motoki Society buffalo headdress bundle was in the keeping of a society member named Black Faced Woman until 1938, when her son, Jack Low Horn, sold this bundle to Madge Hardin Walters. In 1939, Walters sold the bundle to the Denver Art Museum where it was accessioned as 1939.127. Oral traditions of the descendants of Black Faced Woman state that she died in 1946.

The Motoki Society belt is a component of a Motoki Society buffalo headdress bundle which was in the keeping of a society member named Handsome Woman until her death in early 1938. In June 1938, Handsome Woman's daughter, Mrs. Strangling Wolf, sold the bundle to Madge Hardin



Walters. In 1939, Walters sold the bundle to the Denver Art Museum where it was accessioned as 1939.68. In 1948, this bundle was exchanged to the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, but the belt was retained by the Denver Art Museum.

In 1939, the Dog Society bundle was sold by its keeper, a citizen of the Piegan Nation named Bull Plume, to Percy Creighton, a citizen of the Blood Tribe. In April 1939, Creighton sold the headdress bundle to Madge Hardin Walters. In 1940, Walters sold this bundle to the Denver Art Museum where it was accessioned as 1940.157.

In 1937, the Dog Society headdress was in the keeping of an unnamed woman who was probably a member of the Dog Society until her death in March or April of 1937. In April 1937, a citizen of the Blood Tribe named Big Sorrel Horse acquired the headdress and sold it to Madge Hardin Walters. In 1938, Walters sold this headdress to the Denver Art Museum, where it was accessioned as 1938.142.

In 1938, the Dog Society sash bundle was sold by a man named Running Weasel to Percy Creighton, and that same year Creighton sold this bundle to Madge Hardin Walters. In January 1939, Walters sold this Dog Society sash bundle to the Denver Art Museum where it was accessioned as 1939.124. Creighton's correspondence to Walters contains the statement that the Dog Society wished to retain the bundle for society usage, but Running Weasel sold it anyway.

Denver Art Museum records show that the above five cultural items originated from two societies of the Blood Tribe during the 1930s. Consultation in 1998 with representatives and religious leaders of the Blood Tribe confirm the identifications of the cultural items as originating from the two societies of the tribe. The Blood Tribe is one of four tribes comprising the Blackfoot Confederacy, which also includes the Blackfeet Nation, the Piegan Nation, and the Siksika Nation. The present-day Blackfoot Confederacy is descended from the four tribes of the Blackfoot Confederacy as it existed during the 1930s.

The Blackfeet Nation, acting on behalf of the Blackfoot Confederacy, submitted a claim to the Denver Art Museum containing evidence showing that society organizations hold communal title to bundles which are ritually transferred from one keeper to the next. Denver Art Museum's analysis of the records of transactions showed that the individuals who sold each of the above

five cultural items were acting as individuals who lacked authority to alienate these communally-owned cultural items.

Based on the above mentioned information, officials of the Denver Art Museum have determined that, pursuant to 43 CFR 10.2 (d)(4), these five cultural items have ongoing historical, traditional, and cultural importance central to the tribe itself, and could not have been alienated, appropriated, or conveyed by any individual and were considered inalienable at the time the objects were separated from the group. Officials of the Denver Art Museum have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Blackfeet Nation on behalf of the Blackfoot Confederacy (Blackfeet Nation, Piegan Nation, Blood Tribe, and Siksika Nation).

This notice has been sent to officials of the Blackfeet Nation and the Blackfoot Confederacy (Blackfeet Nation, Piegan Nation, Blood Tribe, and Siksika Nation). Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Nancy J. Blomberg, Curator of Native Arts, Denver Art Museum, 100 West 14th Avenue Parkway, Denver, CO 80204; telephone: (720) 913-0161 before March 31, 2000. Repatriation of these objects to the Blackfeet Nation on behalf of the Blackfoot Confederacy (Blackfeet Nation, Piegan Nation, Blood Tribe, and Siksika Nation) may begin after that date if no additional claimants come forward.

Dated: February 24, 2000.

**Francis P. McManamon,**

*Departmental Consulting Archeologist,  
Manager, Archeology and Ethnography  
Program.*

[FR Doc. 00-4829 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-F**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Notice of Intent to Repatriate Cultural Items in the Possession of the Heard Museum, Phoenix, AZ

**AGENCY:** National Park Service.

**ACTION:** Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Heard Museum,

Phoenix, AZ which meets the definition of "sacred object" under Section 2 of the Act.

The cultural items consist of two rattles and four paddles. The first rattle is made of leather, bamboo, porcupine quills and fur. The second rattle is made of leather, cotton string, fur, and feathers. The four paddles are painted wood.

In 1973, the first rattle was donated to the Heard Museum by Dr. and Mrs. Byron Butler; and the rattle was collected at an unknown date in an unknown location. In 1974, the second rattle was donated to the Heard Museum by Woodard's Indian Arts; and the rattle was collected at an unknown date in an unknown location. In 1983, the four paddles were donated to the Heard Museum by Mr. and Mrs. Byron Harvey III; and these paddles were collected at an unknown date in an unknown location.

Consultation evidence presented by representatives of the Navajo Nation indicates that these rattles and paddles are used in a number of ceremonies including the Male Shooting Way Chant. Consultation further indicates these six cultural items are specific ceremonial objects needed by traditional Navajo medicine men for the practice of traditional Navajo ceremonies.

Based on the above-mentioned information, officials of the Heard Museum have determined that, pursuant to 43 CFR 10.2(d)(3), these six cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Heard Museum have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Navajo Nation.

This notice has been sent to officials of the Navajo Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Gloria Lomahaftewa, Assistant to the Director for Native American Relations, Heard Museum, 2301 N. Central Ave., Phoenix, AZ 85004-1480; telephone: (602) 252-8840 before March 31, 2000. Repatriation of these objects to the Navajo Nation may begin after that date if no additional claimants come forward.

Dated: February 9, 2000.

**Francis P. McManamon,**

*Departmental Consulting Archeologist,  
Manager, Archeology and Ethnography  
Program.*

[FR Doc. 00-4828 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-F**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### **Notice of Inventory Completion for Native American Human Remains from Georgia in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA**

**AGENCY:** National Park Service.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Georgia in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

A detailed assessment of the human remains was made by the Peabody Museum of Archaeology and Ethnography professional staff in consultation with representatives of the Choctaw Nation of Oklahoma; the Jena Band of Choctaw Indians, Louisiana; and the Mississippi Band of Choctaw Indians, Mississippi.

In 1959, human remains representing one individual were permanently loaned to the Peabody Museum by the Warren Anatomical Museum, Harvard Medical School. No known individual was identified. No associated funerary objects are present.

Based on museum documentation, these human remains are believed to have been collected from an unknown location in Georgia, possibly by an individual named Hoyt. Museum documentation further describes these human remains as Choctaw. The attribution of such a specific cultural affiliation to these human remains indicates that the interment post-dates sustained contact between indigenous groups and Europeans beginning in the 17th century.

Although these human remains were from an area commonly thought to be outside traditional Choctaw territory, oral traditions and historic evidence support cultural affiliation with the Choctaw Nation of Oklahoma. Representatives of the Choctaw Nation of Oklahoma have described wide-ranging population movements by

Choctaw individuals from Georgia. Representatives of the Jena Band of Choctaw Indians, Louisiana and the Mississippi Band of Choctaw Indians of Mississippi have indicated they were not part of those population movements. Based on consultation evidence, the condition of the human remains, and the occupation of this region by Choctaw people, these human remains have been affiliated solely with the Choctaw Nation of Oklahoma.

Based on the above mentioned information, officials of the Peabody Museum of Archaeology and Ethnography have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnography have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Choctaw Nation of Oklahoma.

This notice has been sent to officials of the Choctaw Nation of Oklahoma; the Jena Band of Choctaw Indians, Louisiana; and the Mississippi Band of Choctaw Indians, Mississippi. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Barbara Isaac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Ave., Cambridge, MA 02138; telephone: (617) 495-2254, before March 31, 2000. Repatriation of the human remains to the Choctaw Nation of Oklahoma may begin after that date if no additional claimants come forward.

Dated: February 9, 2000.

**Francis P. McManamon,**

*Departmental Consulting Archeologist,  
Manager, Archeology and Ethnography  
Program.*

[FR Doc. 00-4826 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-F**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### **Notice of Inventory Completion for Native American Human Remains from Kansas in the Possession of the Peabody Museum of Natural History, Yale University, New Haven, CT**

**AGENCY:** National Park Service

**ACTION:** Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Kansas in the possession of the Peabody Museum of Natural History (Yale Peabody Museum), Yale University, New Haven, CT.

A detailed assessment of the human remains was made by Yale Peabody Museum professional staff in consultation with representatives of the Pawnee Indian Tribe of Oklahoma.

In 1873, human remains representing two individuals recovered from the upper fork of the Solomon River, Kansas, were donated to the Yale Peabody Museum by Joseph Savage. No known individuals were identified. No associated funerary objects are present.

Based on documentary evidence and consultation with representatives of the Pawnee Indian Tribe, these individuals have been determined to be Native American. Based on geographic origin of these human remains, published accounts of the traditional territory of the Pawnee, and historical information provided by the Pawnee Indian Tribe of Oklahoma, the preponderance of the evidence for cultural affiliation of these human remains has been determined to be with the Pawnee Indian Tribe of Oklahoma.

Based on the above mentioned information, officials of the Yale Peabody Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Yale Peabody Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Pawnee Indian Tribe of Oklahoma.

This notice has been sent to officials of the Pawnee Indian Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Richard Burger, Director, Yale Peabody Museum of Natural History, 170 Whitney Avenue, P.O. Box 208118, New Haven, CT 06520-8118; telephone: (203) 432-3752, before March 31, 2000. Repatriation of the human remains to the Pawnee Indian Tribe of Oklahoma may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: February 9, 2000.

**Francis P. McManamon,**

*Departmental Consulting Archeologist,  
Manager, Archeology and Ethnography  
Program.*

[FR Doc. 00-4825 Filed 2-29-00; 8:45 am]

BILLING CODE 4310-70-F

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### **Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Madison and Oneida Counties, NY in the Possession of the Rochester Museum and Science Center, Rochester, NY**

**AGENCY:** National Park Service.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from Madison County, NY in the possession of the Rochester Museum and Science Center, Rochester, NY.

A detailed assessment of the human remains was made by Rochester Museum and Science Center professional staff in consultation with representatives of the Cayuga Nation of New York, the Oneida Nation of New York, the Oneida Tribe of Wisconsin, the Onondaga Nation of New York, the Seneca Nation of New York, the Seneca-Cayuga Tribe of Oklahoma, the St. Regis Band of Mohawk Indians of New York, the Stockbridge-Munsee Community of Mohican Indians of Wisconsin, the Tonawanda Band of Seneca Indians of New York, and the Tuscarora Nation of New York.

At an unknown date, human remains representing two individuals were recovered from the Deraway site (Msv 005) near Stockbridge, Madison County, NY by person(s) unknown. In 1979, these human remains were donated to the Rochester Museum and Science Center by Gilbert Hagerty. No known individuals were identified. The six associated funerary objects include blanket fragments, chert flakes, and a perforated cut brass fragment.

Based on skeletal morphology and the associated funerary objects, these individuals have been identified as Native American. Based on site location and continuities of material culture, the Deraway site has been identified as an Oneida occupation dating to c. 1696-1720 A.D.

At an unknown date, human remains representing 16 individuals were recovered from the Quarry site (Msv 004) near Stockbridge, Madison County, NY by person(s) unknown. In 1979, these human remains were donated to the Rochester Museum and Science Center by Gilbert Hagerty. No known individuals were identified. The 39 associated funerary objects include a chert chunk, brass fragments, a brass bead, a shell claw pendant, cut bone, charred maize kernels, and pottery sherds.

Based on the associated funerary objects and skeletal morphology, these individuals have been determined to be Native American. Based on the type of associated funerary objects, site location, and condition of the human remains, the Quarry site has been identified as an Oneida occupation dating to c. 1640-1650 A.D.

At an unknown date, human remains representing three individuals were recovered from the Sullivan site (Ond 003) near Stockbridge, Madison County, NY by person(s) unknown. In 1979, these human remains were donated to the Rochester Museum and Science Center by Gilbert Hagerty. No known individuals were identified. No associated funerary objects are present.

Based on skeletal morphology, these individuals have been identified as Native American. Based on excavation reports, site location, condition of the human remains, and continuities of material culture, the Sullivan site has been identified as an Oneida occupation dating to c. 1660-1677 A.D.

At an unknown date, human remains representing three individuals were recovered from the Thurston site (Msv 001), Eaton Township, Madison County, NY by Herbert Bigford, who donated these human remains to the Rochester Museum and Science Center in 1945. No known individuals were identified. No associated funerary objects are present.

Based on skeletal morphology, these individuals have been identified as Native American. Based on site location and continuities of material culture, the Thurston site has been identified as an Oneida occupation dating to c. 1625-1637 A.D.

At an unknown date, human remains representing one individual were recovered from the Sterling site, in Verona, Madison County, NY by person(s) unknown. In 1979, these human remains were donated to the Rochester Museum and Science Center by Gilbert Hagerty. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology, this individual has been identified as Native American. Based on site location and continuities of material culture, the Sterling site has been identified as an Oneida occupation dating to c. 1750-10.21767 A.D.

Based on the above mentioned information, officials of the Rochester Museum and Science Center have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of 25 individuals of Native American ancestry. Officials of the Rochester Museum and Science Center have also determined that, pursuant to 43 CFR 10.2(d)(2), the 45 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Rochester Museum and Science Center have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Oneida Nation of New York and the Oneida Tribe of Wisconsin.

This notice has been sent to officials of the Cayuga Nation of New York, the Oneida Nation of New York, the Oneida Tribe of Wisconsin, the Onondaga Nation of New York, the Seneca Nation of New York, the Seneca-Cayuga Tribe of Oklahoma, the St. Regis Band of Mohawk Indians of New York, the Stockbridge-Munsee Community of Mohican Indians of Wisconsin, the Tonawanda Band of Seneca Indians of New York, and the Tuscarora Nation of New York. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Connie Bodner, NAGPRA Liaison, Rochester Museum and Science Center, 657 East Avenue, Rochester, NY 14607-2177; telephone: (716) 271-4552, ext. 345, before March 31, 2000. Repatriation of the human remains and associated funerary objects to the Oneida Nation of New York may begin after that date if no additional claimants come forward.

Dated: February 23, 2000.

**Francis P. McManamon,**

*Departmental Consulting Archeologist,  
Manager, Archeology and Ethnography  
Program.*

[FR Doc. 00-4827 Filed 2-29-00; 8:45 am]

BILLING CODE 4310-70-F

**DEPARTMENT OF THE INTERIOR****National Park Service****Notice of Intent to Repatriate Cultural Items in the Possession of the School of American Research, Santa Fe, NM****AGENCY:** National Park Service.**ACTION:** Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the School of American Research, Santa Fe, NM which meet the definition of "sacred object" and "object of cultural patrimony" under Section 2 of the Act.

The four cultural items consist of four Kiva jars.

In 1923, the Indian Arts Fund, Inc. purchased a Kiva jar from J.F. Collins. In 1956, Mr. Fank Tilgham collected a Kiva jar from the Pueblo of Zia and the Indian Arts Fund, Inc. purchased this jar from Mr. Tilgham the same year. In 1931, Mr. Andrew Dasburg collected a Kiva jar from the Pueblo of Zia and donated the jar to the Indian Arts Fund, Inc.. In 1928, the Indian Arts Fund Inc. purchased a Kiva jar from the Spanish and Indian Trading Co., Santa Fe, NM. In 1972, these four Kiva jars were transferred to the School of American Research.

The six cultural items consist of three matalotes, a club, a feather bundle, and a headdress.

In 1925, Mr. Frank Applegate collected the headdress at the Pueblo of Zia and donated this headdress to the Indian Arts Fund, Inc. In 1958, Mr. Frank Tilgham collected the three matalotes, club, and feather bundle from the Pueblo of Zia, and donated these cultural items to the Indian Arts Fund, Inc. In 1972, these cultural items were transferred to the School of American Research.

Based on accession information and consultation with representatives of the Pueblo of Zia, these ten cultural items have been clearly identified as having come from the Pueblo of Zia.

Representatives of the Pueblo of Zia have indicated that these ten cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

Representatives of the Pueblo of Zia have also indicated that these ten cultural items have ongoing historical, traditional, and cultural importance central to the tribe itself, and could not

have been alienated, appropriated, or conveyed by any individual.

Based on the above-mentioned information, officials of the School of American Research have determined that, pursuant to 43 CFR 10.2 (d)(3), these ten cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the School of American Research have also determined that, pursuant to 43 CFR 10.2 (d)(4), these ten cultural items have ongoing historical, traditional, and cultural importance central to the tribe itself, and could not have been alienated, appropriated, or conveyed by any individual. Lastly, officials of the School of American Research have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Pueblo of Zia.

This notice has been sent to officials of the Pueblo of Zia. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Ms. Christy Sturm, Collections Manager, Indian Arts Research Center, School of American Research, P.O. Box 2188, Santa Fe, NM 87594; telephone: (505) 954-7205 before March 31, 2000. Repatriation of these objects to the Pueblo of Zia may begin after that date if no additional claimants come forward.

Dated: February 9, 2000.

**Francis P. McManamon,**

*Departmental Consulting Archeologist,  
Manager, Archeology and Ethnography  
Program.*

[FR Doc. 00-4824 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-F**

**DEPARTMENT OF THE INTERIOR****National Park Service****Extension of Comment Period for an Environmental Assessment and Plan of Operations for Oil and Gas Exploration (Plan) Within Big Cypress National Preserve, Florida****AGENCY:** National Park Service; Interior.

**SUMMARY:** The Preserve published a Federal Register Notice on December 14, 1999, announcing the availability of the Environmental Assessment (EA) and Plan of Operations for comment and public review. At the request of the applicant, the review period has been extended until February 21, 2000. The Plan was submitted pursuant to Title 36

of the Code of Federal Regulations, Part 9, Subpart B (36 CFR 9B). The National Park Service has prepared an Environmental Assessment in accordance with the National Environmental Policy Act to evaluate the proposed activity.

**DATES:** The Plan and EA are available for public review at Preserve Headquarters in Ochopee, FL. Copies of the EA can be requested at the address below. Written comments should be submitted to: Superintendent, Big Cypress National Preserve, HCR 61 Box 110, Ochopee, FL 34141; Telephone: (941) 695-2000, extension 325.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your 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.

**SUPPLEMENTARY INFORMATION:** The Plan calls for the construction of approximately 8 miles of road, a drilling pad, drilling an exploratory well and conducting a 41-square mile, three-dimensional geophysical survey. In 1992, the National Park Service finalized a Minerals Management Plan (MMP) for the Preserve. The MMP along with other appropriate laws and regulations provide the framework for assessing proposals from owners of non-federal oil and gas rights. The MMP was evaluated as part of the Preserve's General Management Plan/Environmental Impact Statement.

The EA for the Plan of Operations evaluates three alternatives: (1) Denial of the Plan of Operations; (2) approval of the Plan as submitted; and (3) approval of the Plan with stipulations.

Dated: February 11, 2000.

**Daniel W. Brown,**

*Acting Regional Director, Southeast Region.*

[FR Doc. 00-4832 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-M**

**DEPARTMENT OF THE INTERIOR****National Park Service****Notice of Proposed Land Exchange:  
U.S. Reservation 515**

**SUMMARY:** Notice is hereby given that the National Park Service (NPS) is proposing to conduct an exchange of perpetual easement interests with Saint Paul's English Lutheran Church, (St. Paul's) located at 4900 Connecticut Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Chief, Land Resources Program Center, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242.

**SUPPLEMENTARY INFORMATION:** Public Law 90-401, enacted July 15, 1968, authorizes the Secretary of the Interior to accept title to any non-Federal property or interests therein within a unit of the National Park System or miscellaneous area under his administration, and in exchange therefore he may convey to the grantor of such property or interest any Federally-owned property or interest therein under his jurisdiction which he determines is suitable for exchange or other disposal and which is located in the same state as the non-Federal property to be acquired. Such an exchange of land or interests therein must be conducted in accordance with all NPS Land Exchange Guidelines.

As proposed, NPS intends to convey to St. Paul's certain interests in land located within U.S. Reservation 515, Washington, DC, and more particularly identified as portions of Lot 809, Square 1983. Specifically, NPS will convey to St. Paul's easement interests in 3 parcels containing 2,341 square feet, 1,035 square feet and 342 square feet, respectively, to allow St. Paul's to construct a designated handicapped parking area and paving associated with a proposed colonnade and connecting walkways located adjacent to the existing church structure. In return, St. Paul's will convey to NPS certain interests in 2 adjacent parcels of land more particularly identified as portions of Lot 64 in Square 1983 and containing 6,197 square feet and 424 square feet, respectively. The easement interests St. Paul's will convey to NPS are intended to retain and enhance the continuity of open space within that portion of U.S. Reservation 515, located adjacent to St. Paul's property.

A recently completed independent appraisal of the land interests to be conveyed as part of the proposed exchange indicates that the respective land interests are of equal value.

NPS has concluded that the proposed exchange of land interests will have no impact either directly or indirectly on natural or cultural resources associated with U.S. Reservation 515.

Detailed information concerning this proposed exchange is available from the Land Resources Program Center, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242.

For a period of 45 calendar days from the date of this notice, interested parties may submit comments to the above address. Adverse comments will be evaluated and this action may be modified or vacated accordingly. In the absence of any action to modify or vacate, this realty action will become the final determination of the NPS.

Dated: February 9, 2000.

**Joseph M. Lawler,**

*Acting Regional Director, National Capital Region.*

[FR Doc. 00-4830 Filed 2-29-00; 8:45 am]

**BILLING CODE 4310-70-M**

**INTERNATIONAL TRADE  
COMMISSION****Submission for OMB Review;  
Comment Request**

**AGENCY:** United States International Trade Commission.

**ACTION:** Agency proposal for the collection of information submitted to the Office of Management and Budget (OMB) for review; comment request.

**SUMMARY:** Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35), the Commission intends to seek approval from the Office of Management and Budget to ask users of its on-line documents imaging system to provide certain information about themselves. Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d).

**DATES:** To be assured of consideration, written comments must be received on or before May 1, 2000.

**ADDRESSES:** Signed comments should be submitted to Donna R. Koehnke, Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

**FOR FURTHER INFORMATION CONTACT:** Copies of the proposed data input screen and draft Supporting Statement to be submitted to the Office of Management and Budget are posted on the Commission's World Wide Web site at <http://www.usitc.gov> or may be obtained from Donna R. Koehnke,

Secretary, U.S. International Trade Commission, telephone, 202-205-1802.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

Comments are solicited as to (1) whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond.

**Summary of the Proposed Information  
Collection**

The Commission seeks to ensure that only the minimal necessary information is collected for its needs and that the burden remain as little as possible on respondents.

The collection form asks that the respondent enter a userid and password and also describe her/his organization, whether he/she is a party to an action before the USITC, his/her geographic location, and whether she/he may be contacted.

The Commission estimates that the survey will impose an average burden of less than two (2) minutes on each respondent.

By order of the Commission.

Issued: February 23, 2000.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00-4908 Filed 2-29-00; 8:45 am]

**BILLING CODE 7020-02-P**

**INTERNATIONAL TRADE  
COMMISSION**

**[Investigation No. 731-TA-856 (Final)]**

**Certain Ammonium Nitrate From  
Russia**

**AGENCY:** United States International Trade Commission.

**ACTION:** Revised schedule for the subject investigation.

**EFFECTIVE DATE:** February 22, 2000.

**FOR FURTHER INFORMATION CONTACT:** Karen Taylor (202-708-4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-

205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

**SUPPLEMENTARY INFORMATION:** On January 7, 2000, the Commission established a schedule for the conduct of the final phase of the subject investigation (65 FR 2643, January 18, 2000). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from March 20, 2000, to May 22, 2000 (65 FR 6983, February 11, 2000). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than May 15, 2000; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 17, 2000; the prehearing staff report will be placed in the nonpublic record on May 11, 2000; the deadline for filing prehearing briefs is May 18, 2000; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 24, 2000; the deadline for filing posthearing briefs is June 1, 2000; the Commission will make its final release of information on June 20, 2000; and final party comments are due on June 22, 2000.

For further information concerning this investigation, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2000.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00-4909 Filed 2-29-00; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

### Certain Cigarettes and Packaging Thereof; Notice of Commission Determination To Review and Affirm an Initial Determination Terminating the Investigation as to Respondent Allstate Cigarette Distributors, Inc. on the Basis of a Consent Order; Issuance of Consent Order

[INV. NO. 337-TA-424]

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review and affirm an initial determination ("ID") (Order No. 30) issued by the presiding administrative law judge ("ALJ") terminating the above-referenced investigation as to respondent Allstate Cigarette Distributors, Inc. ("Allstate") on the basis of a consent order; to grant complainant Brown & Williamson Tobacco Corp.'s ("complainant") motion for leave to reply to Allstate's motion to strike the petition for review; and to deny Allstate's motion to strike the petition for review.

**FOR FURTHER INFORMATION CONTACT:** Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3090, e-mail [saranoff@usitc.gov](mailto:saranoff@usitc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission instituted this trademark-based investigation on September 16, 1999, based on a complaint filed by Brown & Williamson Tobacco Corp. ("complainant") alleging violations of section 337 by reason of: (a) Infringement of 11 federally registered U.S. trademarks; (b) unfair competition under the Lanham Act; (c) improper importation of products under the Lanham Act; and (d) dilution of the registered trademarks. On January 7, 2000, Allstate filed a motion to terminate the investigation based on a proposed consent order. Complainant opposed the motion and the Commission investigative attorney ("IA") supported the motion. On January 20, 2000, the ALJ issued the subject ID granting the motion to terminate the investigation as to Allstate by consent order. On January 27, 2000, complainant timely moved for a two-day extension of time within which to file its petition for review. The Chairman granted the request pursuant to Commission rule 210.14(b) (19 CFR 210.14(b)). On January 31, 2000, complainant timely filed a petition for

review. On February 7, 2000, Allstate and the IA filed timely responses to the petition for review, and Allstate filed a motion to strike the petition for review. On February 8, 2000, complainant filed a motion for leave to respond to the motion to strike and an opposition to the motion.

Having examined the record in this investigation, the final ID, the petition for review, and the responses thereto, the Commission has determined to review the ID, because it raises an issue of Commission policy. Specifically, the Commission has considered whether it is appropriate, as a matter of Commission policy, to grant a motion to terminate based on a consent order, over the objection of the complainant, in the circumstances of this investigation.

The Commission's rules no longer provide that a motion to terminate an investigation based on a consent order must be a joint motion of the respondent(s) and the complainant(s). However, there may be circumstances where granting a consent order motion over a complainant's objection may be inappropriate as a matter of policy. Such circumstances may include, for example, where granting a consent order and terminating an investigation as to a respondent would deprive the complainant of the opportunity to obtain a general exclusion order. Another circumstance may be where the respondent has failed to provide sufficient discovery such that a consent order may undermine the complainant's ability to obtain a general exclusion order. These circumstances are not presented by this ID. We agree with the administrative law judge's conclusion that this motion does not present a situation where the movant's discovery conduct undermines complainant's ability to seek a general exclusion order, and there is no indication that complainant would be deprived of its opportunity to pursue a general exclusion order given the particular circumstances of the participation of the intervener and the remaining respondents in this investigation. Accordingly, the Commission has determined to affirm the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.45 of the Commission's Rules of Practice and Procedure (19 CFR 210.45).

Copies of the public versions of Order No. 30 and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E

Street SW, Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

Issued: February 22, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00-4905 Filed 2-29-00; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-302 (Review) and 731-TA-454 (Review)]

### Fresh and Chilled Atlantic Salmon From Norway

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the countervailing duty and antidumping duty orders on fresh and chilled Atlantic salmon from Norway would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

#### Background

The Commission instituted these reviews on July 1, 1999 (64 F.R. 35680, July 1, 1999) and determined on October 1, 1999 that it would conduct expedited reviews (64 F.R. 55957, October 15, 1999). The Commission transmitted its determinations in these reviews to the Secretary of Commerce on February 24, 2000. The views of the Commission are contained in USITC Publication 3282 (February 2000), entitled Fresh and Chilled Atlantic Salmon from Norway: Investigations Nos. 701-TA-302 (Review) and 731-TA-454 (Review).

Issued: February 23, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00-4907 Filed 2-29-00; 8:45 am]

BILLING CODE 7020-02-P

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

## INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-853-854 (Final)]

### Certain Structural Steel Beams From Japan and Korea

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of the final phase of antidumping investigations.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731-TA-853-854 (Final) under section 735(b) of the Act (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Japan and Korea of certain structural steel beams, provided for in subheadings 7216.32.00, 7216.33.00, 7216.50.00, 7216.61.00, 7216.69.00, 7216.91.00, 7216.99.00, 7228.70.30, and 7228.70.60 of the Harmonized Tariff Schedule of the United States.<sup>1</sup>

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**EFFECTIVE DATE:** February 11, 2000.

**FOR FURTHER INFORMATION CONTACT:** John T. Fry (202-708-4157), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility

<sup>1</sup> For purposes of these investigations, Commerce has defined the subject merchandise as "doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These products ("structural steel beams") include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches."

impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain structural steel beams are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigations were requested in a petition filed on July 7, 1999 by counsel on behalf of Northwestern Steel & Wire Co., Sterling, IL; Nucor-Yamato Steel Co., Blytheville, AR; TXI-Chaparral Steel Co., Midlothian, TX; and The United Steelworkers of America AFL-CIO, Pittsburgh, PA.

The petition also alleged that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Korea of certain structural steel beams that were being subsidized by the Government of Korea. The Commission made an affirmative preliminary injury determination with regard to those imports. Subsequently, however, Commerce made a negative preliminary determination concerning whether manufacturers, producers, or exporters of certain structural steel beams in Korea received subsidies. In the event Commerce makes an affirmative final determination regarding the issue of subsidies, the Commission will activate the final phase of its countervailing duty investigation on certain structural steel beams from Korea (inv. No. 701-TA-401 (Final)). The briefing schedule, hearing, and other deadlines applicable to the final phase of inv. No. 731-TA-854 (the antidumping investigation on Korea), as outlined below, will also apply to inv. No. 701-TA-401.

#### Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as

provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List**

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Staff Report**

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on April 12, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

**Hearing**

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on April 25, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 13. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 17, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules.

Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

**Written Submissions**

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 19, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 2; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before May 2. On May 24, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 26, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. Parties may also submit supplementary final comments on July 6 pertaining to Commerce's final determination(s) on certain structural steel beams from Korea. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: February 25, 2000.

By order of the Commission.

**Donna R. Koehnke,**  
*Secretary.*

[FR Doc. 00-4906 Filed 2-29-00; 8:45 am]

BILLING CODE 7020-02-P

**DEPARTMENT OF JUSTICE**

**Immigration and Naturalization Service**

**Agency Information Collection Activities: Comment Request**

**ACTION:** Notice of information collection under review; Liberian Deferred Enforced Departure (DED) Supplement to Form I-765.

The Department of Justice, Immigration and Naturalization Service has submitted on the following information collection request (ICR) 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 May 1, 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 information collection.

(2) *Title of the Form/Collection:* Liberian Deferred Enforced Departure (DED) Supplement to Form I-765.

(3) *Agency form number, if any, and the applicable component of the*



Department of Justice sponsoring the collection: Form I-765D. Office of Examinations, 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 is used by the INS to determine eligibility for the requested benefit. The data will enable adjudication officers to adjudicate the underlying benefit without the need of requiring individual interviews in local INS offices on the majority of application.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 15,000 responses; at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 15,000 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 23, 2000.

**Richard A. Sloan,**

*Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.*

[FR Doc. 00-4935 Filed 2-29-00; 8:45 am]

**BILLING CODE 4410-01-M**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### Agency Information Collection Activities: Comment Request

**ACTION:** Notice of information collection under review; Application to Extend/Change Nonimmigrant Status.

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 May 1, 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 previously approved collection.

(2) *Title of the Form/Collection*: Application to Extend/change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection*: Form I-539. 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. This form is used by a nonimmigrant to apply for an extension of stay or change of nonimmigrant status. The INS will use the data on this to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 256,210 responses at 45 minutes (.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the*

*collection*: 192,158 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 23, 2000.

**Richard A. Sloan,**

*Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.*

[FR Doc. 00-4936 Filed 2-29-00; 8:45 am]

**BILLING CODE 4410-10-M**

## DEPARTMENT OF LABOR

### Office of the Secretary; Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, Departmental Management is soliciting comments concerning the proposed revision of the "Customer Satisfaction Surveys and Conference Evaluations Generic Clearance."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed

below in the addresses section of this notice.

**DATES:** Written comments must be submitted to the Office listed in the addresses section below on or before May 1, 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:** Send comments to Karin G. Kurz, OASAM-ITC, 200 Constitution Avenue, NW, Washington, DC 20210. Ms. Kurz can be reached on 202-218-5095, extension 159 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Department of Labor (DOL) plans to conduct a variety of voluntary Customer Satisfaction Surveys of regulated/non-regulated entities which will be specifically designed to gather information from a customer's perspective as prescribed by E.O. 12862, Setting Customer Service Standards, September 11, 1993.

These Customer Satisfaction Surveys will provide information on customer attitudes about the delivery and quality of agency products/services and will be used as part of an ongoing process to improve DOL programs. This generic clearance will allow agencies to gather information from both Federal and non-Federal users.

**II. Current Actions**

Over the past three years the DOL has conducted more than two dozen Customer Satisfaction Surveys which have helped assess the Departments products and services and has led to improvements in areas deemed necessary. In addition to conducting

Customer Satisfaction Surveys, the Department would like to include the use of evaluation forms for those DOL agencies conducting user conferences. These evaluations will be helpful in determining the success of the current conference, in developing future conferences, and in meeting the needs of the Department's product/service users.

*Type of Review:* Revision of a currently approved collection.

*Agency:* Office of Assistant Secretary for Administration and Management, Departmental Management.

*Title:* Customer Satisfaction Surveys and Conference Evaluations Generic Clearance.

*OMB Number:* 1225-0059.

*Affected Public:* Individuals and households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; and State, Local, or Tribal Government.

*Total Respondents:* Varies by survey/evaluation; may range from as few as 10 to over 63,750.

*Frequency:* On occasion.

*Total Responses:* Varies by survey/evaluation; may range from as few as 10 to over 63,750.

*Average Time Per Response:* Varies by survey/evaluation with an average of 9.5 minutes per survey and 2.5 minutes per evaluation.

*Total Burden Hours:* 13,500.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 24th day of February 2000.

**Karin G. Kurz,**

*Lead Analyst, Office of the Assistant Secretary for Administration and Management.*

[FR Doc. 00-4903 Filed 2-29-00; 8:45 am]

**BILLING CODE 4510-23-M**

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

[Docket No. ICR-1218-0184(2000)]

**Methylenedianiline (MDA) Standard for General Industry (29 CFR 1910.1050); Extension of the Office of Management of Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements**

**AGENCY:** Occupational Safety and Health Administration (OSHA); Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the extension of the information-collection requirements contained in the Methylenedianiline Standard for General Industry (the "MDA General Industry Standard") (29 CFR 1910.1050).

**Request for Comment**

The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
  - The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
  - The quality, utility, and clarity of the information collected; and
  - Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATES:** Submit written comments on or before May 1, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR-1218-0184(2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693-2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693-1648.

**FOR FURTHER INFORMATION CONTACT:** Todd R. Owen, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3641, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693-2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements

in the MDA General Industry Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd R. Owen at (202) 693-2444. For electronic copies of the ICR on the MDA General Industry Standard, contact OSHA on the Internet at <http://www.osha.gov>.

#### SUPPLEMENTARY INFORMATION:

### I. Background

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 continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the MDA General Industry Standard protect employees from the adverse health effects that may result from their exposure to MDA. The major information-collection requirements of the MDA General Industry Standard include notifying employees of their MDA exposures, implementing a written compliance program, providing examining physicians with specific information, ensuring that employees receive a copy of their medical-examination results, maintaining employees' exposure-monitoring and medical records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected employees, and their authorized representatives.

### II. Proposed Actions

OSHA proposes to reduce the existing burden hour estimate, and to extend OMB's approval of, the collection-of-information (paperwork) requirements contained in the MDA General Industry Standard. The Agency is reducing its previous burden hour estimate of 722 hours, by 401 hours, as a result of lowering the estimate of MDA

establishments in the general industry section. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the MDA General Industry Standard.

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* MDA General Industry Standard (29 CFR 1910.1050).

*OMB Number:* 1218-0184.

*Affected Public:* Business or other for-profit; Federal government; state, local or tribal government.

*Number of Respondents:* 10.

*Frequency:* On occasion.

*Total Responses:* 652.

*Average Time per Response:* Varies from 5 minutes to provide information to the examining physician to 2 hours to update and review compliance plans.

*Estimated Total Burden Hours:* 294.

*Estimated Cost (Operation and Maintenance):* \$13,787.

### III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No 6-96 (62 FR 111).

Signed at Washington, DC on February 24, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00-4865 Filed 2-29-00; 8:45 am]

**BILLING CODE 4510-26-M**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. ICR-1218-0183 (2000)]

#### **Methylenedianiline (MDA) Standard for Construction (29 CFR 1926.60); Extension of the Office of Management of Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements**

**AGENCY:** Occupational Safety and Health Administration (OSHA); Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the extension of the information-collection requirements contained in the Methylenedianiline Standard for Construction (the "MDA Construction Standard") (29 CFR 1926.60).

### Request for Comment

The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATES:** Submit written comments on or before May 1, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR-1218-0183 (2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693-1648.

#### **FOR FURTHER INFORMATION CONTACT:**

Todd R. Owen, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3641, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements in the MDA Construction Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd R. Owen at (202) 693-2444. For electronic copies of the ICR on the MDA Construction Standard, Contact OSHA on the Internet at <http://www.osha.gov>.

#### **SUPPLEMENTARY INFORMATION:**

### I. Background

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 continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and

OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the MDA Construction Standard protect employees from the adverse health effects that may result from their exposure to MDA. The major information-collection requirements of the MDA Construction Standard include notifying employees of their MDA exposures, implementing a written compliance program, providing examining physician with specific information, ensuring that employees receive a copy of their medical-examination results, maintaining employees' exposure-monitoring and medical records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected employees, and their authorized representatives.

## II. Proposed Actions

OSHA proposed to reduce the existing burden hour estimate, and the extend OMB's approval of, the collection of information (paperwork) requirements contained in the MDA Construction Standard. The Agency is reducing its previous estimate, 1,796 hours, by 418 hours which occurred because the burden associated with information used for respirator fit-testing is already included in the burden estimates calculated for the Respiratory Protection Standard (29 CFR 1926.103). OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the MDA Construction Standard.

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* MDA Construction Standard (29 CFR 1926.60).

*OMB Number:* 1281-0183.

*Affected Public:* Business or other for-profit; Federal government; state, local or tribal government.

*Number or Respondents:* 66.

*Frequency:* On occasion.

*Total Response:* 2,859.

*Average Time per Response:* Varies from 5 minutes to provide information to the examining physician to 2 hours to update and review compliance plans.

*Estimated Total Burden Hours:* 1,378.  
*Estimated Cost (Operation and Maintenance):* \$69,276.

## III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 6-96 (62 FR 111).

Signed at Washington, D.C. on February 24, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00-4866 Filed 2-29-00; 8:45 am]

**BILLING CODE 4510-29-M**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. ICR-1218-0061 (2000)]

#### 1, 2-dibromo-3-chloropropane (DBCP); Extension of the Office of Management of Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA); Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the extension of the information-collection requirements contained in the Cotton Dust Standard (29 CFR 1910.1043).

#### Request for Comment

The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATES:** Submit written comments on or before May 1, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR-1218-0061 (2000), Occupational Safety

and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693-1648.

#### FOR FURTHER INFORMATION CONTACT:

Todd R. Owen, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3641, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements in the Cotton Dust Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd R. Owen at (202) 693-2444. For electronic copies of the ICR on the Cotton Dust Standard, contact OSHA on the Internet at <http://www.osha.gov>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

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 continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the Cotton Dust Standard provide protection for employees from the adverse health effects associated with exposure to cotton dust. In this regard, the Cotton Dust Standard requires employers to monitor employee's exposure to cotton dust, monitor employee health, and provide employees with information about their exposures and the health effects of exposure to cotton dust.

##### II. Proposed Actions

OSHA proposes to reduce the existing burden hour estimate, and to extend the

OMB approval of, the collection-of-information (paperwork) requirements contained in the Cotton Dust Standard (29 CFR 1910.1043). The Agency is reducing its previous burden hour estimate of 138,184 hours by 57,974 mainly due to a reduction of its earlier estimate of the number of employees potentially exposed to cotton dust. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the Cotton Dust Standard (29 CFR 1910.1043).

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* Cotton Dust Standard.

*OMB Number:* 1218-0101.

*Affected Public:* Business or other for-profit; Federal government; state, local or tribal government

*Number of Respondents:* 547.

*Frequency:* On occasion.

*Total Responses:* 280,655.

*Average Time per Response:* Varies from 5 minutes to provide information to the examining physician to 2 hours to conduct exposure monitoring.

*Estimated Total Burden Hours:* 80,210.

*Estimated Cost (Operation and Maintenance):* \$5,777,108.

### III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No 6-96 (62 FR 111).

Signed at Washington, D.C., on February 24, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00-4867 Filed 2-29-00; 8:45 am]

BILLING CODE 4510-26-M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. ICR-1218-0101(2000)]

#### 1,2-dibromo-3-chloropropane (DBCP); Extension of the Office of Management of Budget's (OMB Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA); Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the extension of the information collection requirements contained in the DBCP Standard 929 CFR 1910.1044).

#### Request For Comment

The Agency is particularly interested in comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;

- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;

- The quality, utility, and clarity of the information collected; and

- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATE:** Submit written comments on or before May 1, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR-1218-0101(2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-2350. Comments may transmit written comments of 10 pages or less in length by facsimile to (202) 693-1648.

**FOR FURTHER INFORMATION CONTACT:** Todd R. Owen, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3641, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in the DBCP Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd R. Owen at (202) 693-2444. For electronic copies of the ICR on the DBCP Standard, contact OSHA on the Internet at <http://www.osha.gov>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

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 continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95)(44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information collection requirements in the DBCP Standard provide protection for employees from the adverse health effects associated with exposure to DBCP. In this regard, the DBCP Standard requires employers to monitor employees' exposure to DBCP, monitor employee health, and provide employees with information about their exposures and the health effects of exposure to DBCP.

##### II. Proposed Actions

OSHA proposes to extend the OMB approval of the collection of information (paperwork) contained in the DBCP Standard (29 CFR 1910.1044). OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the DBCP Standard (29 CFR 1910.1044).

*Type of Review:* Extension of currently approved information collection requirements.

*Title:* 1,2-dibromo-3-chloropropane Standard.

*OMB Number:* 1218-0101.

*Affected Public:* Business or other for-profit; Federal government; state, local or tribal government.

*Number of Respondents:* 1.

*Frequency:* On occasion.

*Estimated Total Burden Hours:* 1.

##### III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 6-96 (62 FR 111).

Signed at Washington, D.C., on February 24, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00-4868 Filed 2-29-00; 8:45 am]

**BILLING CODE 4510-26-M**

## **NATIONAL CREDIT UNION ADMINISTRATION**

### **Sunshine Act Meeting; Notice of Change in Subject of Meeting**

The National Credit Union Administration Board determined that its business required the deletion of the following item from the previously announced closed meeting (**Federal Register**, Vol. 65, No. 35, page 8748, February 22, 2000) scheduled for Thursday, February 24, 2000.

2. One (1) Personnel Matter. Closed pursuant to exemptions (2), (5), (6), (7) and (9)(B).

The Board voted unanimously that agency business required that this item be deleted from the closed agenda and that no earlier announcement of this change was possible.

The previously announced items were:

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. 00-5085 Filed 2-28-00; 3:46 pm]

**BILLING CODE 7535-01-M**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-255]**

### **Consumers Energy Company; 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-20, issued to Consumers Energy Company for operation of the Palisades Plant located in Van Buren County, Michigan.

The proposed amendment would change Current Technical Specification

(CTS) 4.9a.2, "Auxiliary Feedwater System Tests—Surveillance Requirements—Auxiliary Feedwater Pumps," by removing the surveillance requirement with respect to the backup steam supply to turbine-driven auxiliary feedwater (AFW) pump P-8B. As changed, the monthly surveillance requirement would apply to the switch for the primary steam supply valve (CV-0522B) and the pump test-key switch on the automatic AFW actuation system, but not to the switch for the manual backup steam supply valve.

Related changes would also be made to the Improved Technical Specification (ITS) 3.7.5, "Auxiliary Feedwater (AFW) System," as issued November 30, 1999 (Amendment 189). Condition A for ITS 3.7.5 currently provides a completion time of 7 days for restoration if one of the two steam supplies for the turbine-driven AFW pump becomes inoperable (provided the other supply is operable). The proposed amendment would delete ITS 3.7.5 Condition A, and the remaining conditions and their associated actions would be relettered. ITS 3.7.5 Condition B currently allows a completion time of 72 hours for restoration of an inoperable AFW pump (provided that at least 100% of required AFW flow and at least two operable AFW pumps are available). Condition B also specifies a second completion time: "10 days from discovery of failure to meet the LCO [limiting condition for operation]." The proposed amendment would delete this second completion time in Condition B. The proposed amendment would also revise ITS Surveillance Requirement 3.7.5.1 to only require verification of valve alignment in the remaining steam supply to P-8B (*i.e.*, reference to the backup steam supply would be eliminated). The licensee also forwarded associated changes for the CTS and ITS Bases.

Exigent circumstances exist which cause the Commission to act promptly upon the proposed amendment request. During a maintenance outage on February 5, 2000, a steam leak developed beneath the floor of the turbine building from the underground piping that provides a manual backup steam supply to AFW pump P-8B. The licensee states that this manual backup steam supply line provides no required safety function, but it does provide an alternative steam supply to P-8B for operational flexibility. The licensee subsequently excavated the area immediately surrounding the leak and removed and replaced the leaking pipe section. Since the apparent cause of the leak was corrosion originating from the exterior of the pipe, the licensee

concluded that the integrity of the remainder of the line, which has not been completely inspected, cannot be quantitatively proven and cannot easily be demonstrated to be in compliance with the requirements of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code for the entire length of underground pipe. Therefore, the licensee decided on February 13, 2000, to consider this manual backup steam supply line inoperable. Since the plant was scheduled to start up, the licensee requested in a letter and telephone call on February 16, 2000, that the Commission grant enforcement discretion to permit plant startup and subsequent operation until a TS change request could be processed. During the phone call, and in a subsequent letter dated February 18, 2000, the Commission noted its intention to exercise enforcement discretion for the period of time necessary to process a license amendment to change the TS. In its letter granting enforcement discretion, the Commission stated that the license amendment application was to be submitted no later than 12:50 p.m. on February 18, 2000. Thus, the licensee's application for amendment, dated February 18, 2000, is in response to the degraded condition of an underground pipe that is not needed for any safety function and to the Commission's actions in granting enforcement discretion.

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:

A. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed Technical Specifications changes would allow plant operation without requiring the manual backup steam supply to the turbine driven auxiliary feedwater pump.

The connections to the former underground backup steam supply for Pump P-8B turbine will be isolated from the main steam piping using at least one manual isolation valve, and from the P-8B turbine driver with a pipe cap or flanged connection prior to leaving Cold Shutdown from the current outage. Since the backup underground steam supply is not credited in any plant safety analyses nor required for any design or license basis events, adequate redundancy in other required sources of supplying auxiliary feedwater exists such that no increase in consequences of an accident will result. Probabilistic Safety Analysis, comparing plant operation with and without the manual backup steam supply, has shown there to be no significant change in risk. Therefore, operation of the plant in accordance with the proposed Technical Specifications would not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Operation of the plant in accordance with the proposed Technical Specifications would not add any new equipment, settings, or alter any plant operating methodology. The only change is the elimination of a testing requirement for a removed plant component. Functioning of that plant component is not assumed in any safety analyses. Since there will be no change in operating plant equipment, settings, or normal operating methodology, operation in accordance with the proposed Technical Specifications would not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. Does this change involve a significant reduction in a margin of safety?

The proposed Technical Specifications change would allow operation of the plant without the manual backup steam supply to the turbine driven auxiliary feedwater pump. There are no analyzed accidents which require the manual backup steam supply to mitigate the effects of the accident. A Probabilistic Safety Analysis, comparing plant operation with and without the manual backup steam supply, has shown there to be no significant change in risk.

Therefore, operation of the plant in accordance with the proposed Technical Specifications would not involve a significant reduction in the margin of safety.

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 31, 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 Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, MI 49201, 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 18, 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 24th day of February, 2000.

For the Nuclear Regulatory Commission.

**Darl S. Hood,**

*Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00-4892 Filed 2-29-00; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-423]**

### **Northeast Nuclear Energy Company, et al. (Millstone Nuclear Power Station, Unit 3); Order Approving Transfer of License and Conforming Amendment**

#### **I**

Northeast Nuclear Energy Company (NNECO) is authorized to act as agent for the joint owners of the Millstone Nuclear Power Station, Unit 3 (Millstone 3), and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in Facility Operating License No. NPF-49. Montaup Electric Company (Montaup), one of the joint owners, currently owns a 4.0-percent interest in Millstone 3; New England Power Company (NEP), another of the joint owners, currently owns a 12.2 percent interest. The U.S. Nuclear Regulatory Commission (NRC) issued Facility Operating License No. NPF-49 on January 31, 1986, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located in New London County, on the southern coast of the State of Connecticut.

#### **II**

Under cover of a letter dated June 15, 1999, Montaup and NEP submitted an application requesting approval of the direct and indirect transfers of the license to the extent held by Montaup in connection with its 4.0-percent ownership interest in Millstone 3, regarding a proposed acquisition of that interest by NEP. The June 15, 1999, application, which incorporated by reference a related application dated March 15, 1999, filed by NEP (NEP—National Grid submittal), was supplemented July 20, September 3, and November 29, 1999, and January 18, 2000 (collectively hereinafter “the application”). In addition, the

application requested approval of a conforming amendment to reflect the direct transfer.

According to the application, on February 1, 1999, New England Electric System (NEES), the parent company of NEP, entered into an Agreement and Plan of Merger and Consent Agreement (Merger Agreement) with Eastern Utilities Associates (EUA), a Massachusetts business trust, which is the indirect parent of Montaup. Under the Merger Agreement, certain transactions will occur that will ultimately result in the indirect transfer of Montaup's interest in Millstone 3 to NEES and the direct transfer of that interest to NEP. NEP would then own a 16.2-percent interest in Millstone 3.

In addition, by virtue of a separate merger agreement between NEES and the National Grid Group, plc (National Grid), an indirect transfer of Montaup's Millstone 3 license to National Grid would occur by virtue of National Grid acquiring NEES and, indirectly, NEP. NNECO, the sole licensed operator of the facility, would remain the managing agent for the joint owners of the facility and continue to have exclusive responsibility for the management, operation, and maintenance of Millstone 3. The application did not propose a change in the rights, obligations, or interests of the other joint owners of Millstone 3. In addition, no physical changes to Millstone 3 or operational changes were proposed.

The proposed conforming amendment, submitted by NNECO on behalf of NEP to address the proposed direct transfer of the license from Montaup to NEP with regard to NEP's acquisition of Montaup's 4.0-percent interest in Millstone 3, would remove references to Montaup in the license and change the number of license holders as stated in the license from 14 to 13. NEP is currently referenced in the license as a licensee, given its existing 12.2-percent ownership interest in Millstone 3, and therefore would not need to be added to the license.

Approval of the above described license transfers and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on January 19, 2000 (65 FR 2990). No hearing requests were filed.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall



give its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that (1) the merger between EUA and NEES will not affect the qualifications of Montaup as a holder of Facility Operating License NPF-49, (2) NEP is qualified to hold the license following the acquisition of Montaup's ownership interest in Millstone 3 by NEP, and (3) the acquisition of NEES by National Grid will not affect the qualifications of NEP to hold the license as proposed in the application; and that the direct and indirect transfers of the license, to the extent effected by the described mergers and acquisitions, are otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein.

The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated February 24, 2000.

### III

Accordingly, pursuant to Sections 161B, 161i, 161o, and 184 of the Atomic Energy Act of 1954 (AEA), as amended, 42 U.S.C. § 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the direct and indirect license transfers referenced above are approved, subject to the following conditions:

(1) No later than the time the proposed NEES merger with National Grid is consummated, NEP shall establish and make operational a Special Nuclear Committee, as described in the NEP-National Grid

submittal, having the composition, authority, responsibilities, and obligations specified in the NEP-National Grid submittal, provided, however, the Special Nuclear Committee may also have exclusive authority on behalf of NEP over taking any action which is ordered by the NRC or any other agency or court of competent jurisdiction. No material changes with respect to the Special Nuclear Committee may be made without the prior written consent of the Director, Office of Nuclear Reactor Regulation. The foregoing provisions may be modified by the Commission upon application and for good cause shown.

(2) The Special Nuclear Committee, once established in accordance with Condition (1) above, shall have the responsibility and exclusive authority to ensure, and shall ensure, that the business and activities of NEP with respect to the Millstone 3 license are at all times conducted in a manner consistent with the protection of the public health and safety and common defense and security of the United States.

(3) NEP shall provide the Director, Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from NEP to its current or proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of NEP's consolidated net utility plant, as recorded on NEP's book of accounts.

(4) Should any of the proposed license transfers approved by this Order not be completed by February 28, 2001, this Order shall become null and void with respect to such transfer, provided, however, upon application and for good cause shown, such date may be extended.

It is Further Ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes the changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer from Montaup to NEP is approved. Such amendment shall be issued and made effective at the time the proposed direct license transfer from Montaup to NEP is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated June 15, 1999, and supplements dated July 20, September 3, and November 29, 1999, and January 18, 2000, the NEP-National Grid submittal dated March 15,

1999, and the safety evaluation dated February 24, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov>.

Dated at Rockville, Maryland, this 24th day of February 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00-4883 Filed 2-29-00; 8:45 am]

BILLING CODE 7590-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-423]

### **Northeast Nuclear Energy Company; 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 Nos. NPF-49 issued to Northeast Nuclear Energy Company for operation of the Millstone Nuclear Power Station, Unit No. 3 (Millstone 3) located in New London County, Connecticut.

The proposed amendment request dated February 1, 2000, would revise limiting conditions for operation (LCOs) 3.0.1 and 3.0.2 and add LCO 3.0.5 to the Technical Specifications (TSs) for Millstone 3. LCO 3.0.5 establishes allowances for restoring equipment to service under administrative controls when the equipment has been removed from service or declared inoperable to comply with actions in the TS. LCOs 3.0.1 and 3.0.2 would be revised by adding an exception that states "except as provided in Specification 3.0.5." The Bases to the TS would also be changed.

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.

The Commission has made a proposed determination 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 proposed amendment does not] involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of Technical Specification 3.0.5 allows restoration of equipment to service under administrative controls when it has been removed from service or declared inoperable to comply with action requirements [of the TS]. The potential impact of temporarily returning the equipment to service is considered to be insignificant since the equipment has been restored to a condition which is expected to provide the required safety function. As stated in Generic Letter 87-09, "The vast majority of surveillances do in fact demonstrate that systems or components are operable." Also, returning the equipment to service for testing will promote timely restoration of the equipment and reduce the probability of events that may have been prevented or mitigated by such operable equipment. Therefore, the proposed changes do not involve a significant increase in the probability of an accident previously evaluated.

Since the equipment to be restored is already out of service, the availability of the equipment has been previously considered in the evaluation of consequences of an accident. Temporarily returning the equipment to service in a state [in] which [the equipment] is expected to function as required to mitigate the consequences of a previously analyzed accident will promote timely restoration of the equipment and restore the capabilities of the equipment to mitigate the consequences of any events previously analyzed. Therefore, the proposed changes do not involve a significant increase in the consequences of an accident previously evaluated.

2. [The proposed amendment does not] create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not introduce a new mode of plant operation and do not involve [a] physical modification to the plant. Operation with the inoperable equipment temporarily restored to service is not considered a new mode of operation since existing procedures and administrative controls prevent the restoration of equipment to service until it is considered capable of providing the required safety functions.

Performance of the surveillance is considered to be a confirmatory check of that capability which demonstrates that the equipment is indeed operable in the majority of the cases. For those times when equipment which may be temporarily returned to service under administrative controls is

subsequently determined to be inoperable the resulting condition is comparable to the equipment having been determined to be inoperable during operation, with continued operation for a specified time allowed to complete required actions. Since this condition has been previously evaluated in the development of the current Technical Specifications, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. [The proposed amendment does not] involve a significant reduction in a margin of safety.

Temporarily returning [previously declared] inoperable equipment to service for the purpose of confirming operability, places the plant in a condition which has been previously evaluated and determined to be acceptable for short periods. Additionally, the equipment has been determined to be in a condition which provides the previously determined margin of safety. The performance of the surveillance simply confirms the expected result and capability of the equipment. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

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 30 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 30-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 30-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 and provide for opportunity for a hearing after 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 31, 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 from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room). 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 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. 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 Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut, 06141-0270, 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 1, 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 from the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 24th day of February 2000.

For the Nuclear Regulatory Commission.

**James W. Clifford,**

*Chief, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00-4884 Filed 2-29-00; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-272 and 50-311]

### Public Service Electric & Gas Company; 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 Nos. DPR-70 and DPR-75 issued to Public Service Electric & Gas Company for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (Salem Units 1/2) located in Salem County, New Jersey.

The proposed amendment request dated January 24, 2000, would revise the radiological effluent technical specifications (RETS) and administrative controls requirements (*i.e.*, Sections 3/4.3, Instrumentation; 3/4.11, Radioactive Effluents; 3/4.12, Radiological Environmental Monitoring; 6.0, Administrative Controls, and the table of contents and definitions) in the Salem Units 1/2 Technical Specifications (TS) by implementing programmatic controls for RETS in the administrative controls section and relocating procedural details of the RETS, with various changes, to the offsite dose calculation manual (ODCM) or to the process control program (PCP). The proposed changes follow the guidance and requirements in the Commission's Generic Letter (GL) 89-01, "Implementation of Programmatic Controls in the Technical Specifications for Radiological Effluent Technical Specifications (RETS) in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program," that was issued in 1989. There is also the proposed change to add the word "oxygen" to the title of "Radioactive Gaseous Effluent Monitoring Instrumentation" on page iv of the table of contents.

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.

The Commission has made a proposed determination 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. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect accident initiators or precursors and do not alter the design assumptions, conditions, configuration of the facility or the manner in which the plant is operated. The proposed changes do not alter or prevent the ability of structures, systems, or components to perform their intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Updated Final Safety Analysis Report (UFSAR). The proposed changes are administrative in nature and do not change the level of programmatic controls and procedural details relative to radiological effluents.

Implementation of programmatic controls for RETS in [the] TS will assure that the applicable regulatory requirements pertaining to the control of radioactive effluents will continue to be maintained. Since there are no changes to previous accident analyses, the radiological consequences associated with these analyses remain unchanged. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not alter the design assumptions, conditions, or configuration of the facility; nor do the proposed changes change the manner in which the plant is operated. The proposed changes have no impact on component or system interactions. The proposed changes are administrative in nature and do not change the level of programmatic controls and procedural details relative to radiological effluents. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

There is no impact on equipment design or operation and there are no changes being made to the TS required safety limits or safety system settings that would adversely affect plant safety as a result of the proposed changes. The proposed changes are administrative in nature and do not change the level of programmatic controls and procedural details relative to radiological effluents. A comparable level of administrative control will continue to be

applied to those design conditions and associated surveillances being relocated to the ODCM or PCP. Therefore, the proposed changes do not involve a significant reduction in a margin to safety.

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 30 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 30-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 30-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 and provide for opportunity for a hearing after 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 31, 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 from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room). 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 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. 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 Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236,

Hancocks Bridge, NJ 08038, 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 January 24, 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 from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room).

Dated at Rockville, Maryland, this 23rd day of February 2000.

For the Nuclear Regulatory Commission.

**William C. Gleaves,**

*Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00-4887 Filed 2-29-00; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 070-00784 and 040-07044]

### Notice Consideration of the Approval of the Site Remediation Plan for the Formerly Licensed Union Carbide Facility in Lawrenceburg, TN

**SUMMARY:** The U. S. Nuclear Regulatory Commission (NRC) is considering a Remediation (Decommissioning) Plan (RDP) submitted by UCAR Carbon Company, Inc. (UCAR) to authorize decommissioning of its formerly licensed Union Carbide Corporation (UCC) facility in Lawrenceburg, Tennessee.

**SUPPLEMENTARY INFORMATION:** On August 19, 1998, UCAR submitted the RDP of its formerly licensed facility in Lawrenceburg, Tennessee. The RDP summarized the decommissioning activities that will be undertaken to remediate the contamination identified in three buildings, on an incinerator pad, and in the surrounding outdoor areas. Radioactive contamination at the UCC facility consists of building structures and soil contaminated with enriched uranium and thorium resulting

from licensed operation that occurred from 1963 to 1974.

NRC will require the licensee to remediate the UCC facility to meet NRC's decommissioning criteria, and during the decommissioning activities, to maintain effluents and doses within NRC requirements and as low as reasonably achievable.

Prior to approving the RDP, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

UCAR has submitted the RDP and NRC hereby provides notice that the RDP is under review. Please address any questions or comments to the information contact person listed below.

The RDP for the formerly licensed UCC facility, Lawrenceburg, Tennessee, License Nos. SNM-00724 (Terminated) and SMB-00720 (Terminated), is available for inspection at the NRC's Public Document Room, 2120 L Street NW, Washington, DC 20555.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Tadesse, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, at (301) 415-6221 or e-mail [rxt@nrc.gov](mailto:rxt@nrc.gov).

Dated at Rockville, Maryland, this 24th day of February 2000.

For the Nuclear Regulatory Commission.

**Michael C. Layton,**

*Acting Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 00-4886 Filed 2-29-00; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Notice of the Staff's Intention to Combine Draft Regulatory Guide DG-4006 With the Standard Review Plan for Decommissioning

**SUMMARY:** The U. S. Nuclear Regulatory Commission (NRC) plans to combine the guidance in Draft Regulatory Guide DG-4006, with the Standard Review Plan (SRP) for decommissioning currently being developed by NRC staff.

**SUPPLEMENTARY INFORMATION:** In August 1998, NRC issued "Draft Regulatory Guide DG-4006, Demonstrating Compliance with the Radiological Criteria for License Termination" for a 2-year use and comment period. DG-4006 addressed the release from regulatory control of buildings and soil but did not pertain to the release of contaminated equipment. It included

regulatory positions on dose modeling, methods for conducting final status surveys, as low as reasonably achievable analysis, and license termination under restricted conditions. DG-4006 also discussed how these regulatory positions should be integrated during license termination activities. NRC staff initially intended to finalize the DG by July 2000. In September 1999, NRC staff stated that it would accept comments on DG-4006 until November 1999. NRC staff received approximately 185 comments on DG-4006 from four professional organizations, one Federal agency, three State regulatory agencies and the Conference of Radiation Control Program Directors, and two private concerns.

In late 1999, NRC staff, in recognition that similar guidance was being presented in the SRP, decided to combine the guidance in DG-4006 with the guidance in the SRP and use the SRP as the primary guidance document. This action will aid in consolidating decommissioning guidance in a user-friendly manner. As such, NRC staff does not plan to publish a final version of the Regulatory Guide. Comments submitted by interested individuals on DG-4006 will be considered as NRC staff finalizes the SRP.

**FOR FURTHER INFORMATION CONTACT:** Dominick A. Orlando, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, at (301) 415-6749.

Dated at Rockville, Maryland, this 24th day of February 2000.

For the Nuclear Regulatory Commission.

**Michael C. Layton,**

*Acting Chief, Decommissioning Branch,  
Division of Waste Management, Office of  
Nuclear Material Safety and Safeguards.*

[FR Doc. 00-4888 Filed 2-29-00; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. STN 50-528, STN 50-529, and  
STN 50-530]**

### **Arizona Public Service Company; Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating Licenses Nos. NPF-41, NPF-51, and NPF-74, issued to the Arizona Public Service Company (the licensee), for operation of the Palo Verde Nuclear Generating Station (Palo Verde), Units 1,

2, and 3, located in Maricopa County, Arizona.

### **Environmental Assessment**

#### *Identification of Proposed Action*

The proposed action would increase the number of fuel assemblies that can be stored in the Palo Verde spent fuel pools (SFPs) from 1034 fuel assemblies per SFP (1033 fuel assemblies for the Unit 2 SFP) to 1205 fuel assemblies per SFP. The increase in storage capacity is based on taking credit for fuel assembly burnup, for soluble boron, and for fuel assembly configuration in the SFP. In addition, the proposed action would increase the maximum radially averaged fuel enrichment from 4.3 weight percent to 4.8 weight percent.

The proposed action is in accordance with the licensee's application for amendments dated June 8, 1999, as supplemented by letters dated July 20 and November 24, 1999.

#### *The Need for the Proposed Action*

The licensee is planning on implementing dry cask storage in the second half of 2002. Since all three Palo Verde SFPs will lose the capacity to fully offload the core prior to that time, the licensee needs to increase the maximum number of fuel assemblies that can be stored in the SFPs. The higher enrichment limit is needed to provide flexibility in future core designs.

#### *Environmental Impacts of the Proposed Action*

##### **Thermal Impact**

The change in temperature of the SFP water was evaluated for the potential increase in reactivity. The current design basis for the SFP cooling system is based on the proposed increased capacity of the SFP, so no significant increase in SFP temperature is expected. In addition, because the reactivity coefficient in the SFP is negative, a temperature increase will result in a decrease in reactivity. Since increasing the capacity of the SFPs would increase the maximum heat load, the pool temperature would tend to be higher, not lower, after the proposed action was implemented. Therefore, the thermal impact of the proposed action would tend to increase the ability of the SFP system to maintain criticality parameters within the design bases of the plants.

The increased heat loads that result from increasing the SFP capacity would cause the total heat load rejected to the environment to increase. The maximum increase in heat rejection to the environment is less than 0.1 percent of

the total heat load rejected to the environment by an operating Palo Verde unit, and is not considered a significant impact to the environment.

##### **Radioactive Waste Treatment**

The Palo Verde units use waste treatment systems designed to collect and process gaseous, liquid, and solid waste that might contain radioactive material. These radioactive waste treatment systems were evaluated in the Final Environmental Statement (FES) dated February 1982 (NUREG-0841). The proposed increase in the capacity of the SFPs and the proposed increase in the enrichment limit will not involve any change in the waste treatment systems described in the FES.

##### **Gaseous Radioactive Wastes**

The storage of additional and higher enriched spent fuel assemblies in the pools is not expected to affect the releases of radioactive gases from the SFPs. Gaseous fission products such as krypton-85 and iodine-131 are produced by the fuel in the core during reactor operation. A small percentage of these fission gases is released to the reactor coolant from the small number of fuel assemblies that are expected to develop leaks during reactor operation. During refueling operations, some of these fission products enter the pools and are subsequently released into the air. Since the frequency of refueling (and, therefore, the number of freshly offloaded spent fuel assemblies stored in the pools at any one time) will not increase, there would be no increase in the amounts of these types of fission products released to the atmosphere as a result of the increased pool fuel storage capacity.

The increased heat load on the pools from the storage of additional spent fuel assemblies would potentially result in an increase in the pools' evaporation rate. However, this increased evaporation rate is not expected to result in an increase in the amount of gaseous tritium released from the pool. The overall release of radioactive gases from Palo Verde would remain a small fraction of the limits of 10 CFR 20.1301.

##### **Solid Radioactive Wastes**

Spent resins are generated by the processing of SFP water through the pools' purification system. These spent resins are disposed of as solid radioactive waste. Resin replacement is determined primarily by the requirement for water clarity and is normally done approximately once per year. No significant increase in the volume of solid radioactive waste is

expected with the expanded storage capacity.

#### Liquid Radioactive Wastes

The release of radioactive liquids would not be affected directly as a result of increasing the capacity of the SFPs. The SFP ion exchanger resins remove soluble radioactive materials from the pool water. When the resins are replaced, the small amount of resin sludge water that is released is processed by the radwaste systems. Resin replacement is determined primarily by the requirement for water clarity and is normally done approximately once per year. The increase in the amount of radioactive liquid released to the environment as a result of increasing the capacity of the SFPs is expected to be negligible.

#### Occupational Dose Consideration

There are no physical modifications needed to increase the capacity of the Palo Verde SFPs, so no increase in occupational doses will result from this proposed action. The existing procedures for normal activities associated with handling fuel assemblies limit the radiological exposure for plant workers, and these limits are not affected by the higher enrichment limits or increased SFP capacity.

#### Accident Considerations

The licensee evaluated three events related to the proposed action to verify that the previous accident analyses as incorporated in the plants' design bases remain bounding. They are a fuel handling accident, a fuel misloading event, and a boron dilution event.

The design-basis fuel handling accident is the dropping of a single fuel assembly during fuel handling. Increasing the SFP capacity and increasing the enrichment limit does not affect the method of handling spent fuel or the design of the fuel handling equipment. The fuel assembly design (clad material and structural components) is not affected by this change. The equilibrium source term used in the fuel handling accident analysis is based on rated core thermal power and an infinite cycle, and therefore is independent of fuel assembly enrichment. Therefore, the radiological consequences of the fuel handling accident remains unchanged.

The effect of a single misloaded spent fuel assembly on the SFP maximum effective multiplication factor has been analyzed and shown to remain within the design limit for this parameter ( $\leq 0.95$ ). Therefore, the radiological

consequences of a misloaded fuel assembly remains unchanged.

Analyses were conducted to evaluate the possibility of unacceptable dilution of the soluble boron in the SFPs due to operational events or accidents. The analyses verified that the SFP maximum effective multiplication factor remained  $\leq 0.95$  for all credible accident scenarios. Therefore, the proposed action will not result in a criticality event and no increases in radiological consequences will occur as a result of a boron dilution event.

The NRC has reviewed the above analyses conducted by the licensee and concludes that increases in the enrichment limit and in the capacity of the SFPs at Palo Verde will not be accompanied by an associated increase in the radiological consequences of fuel-handling accidents. The potential offsite doses will not be increased over the values given in the updated Final Safety Analysis Report.

#### Environmental Impact Conclusions

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impacts. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with this action.

#### Alternatives to the Proposed Action

##### Shipping Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to a high-level radioactive storage facility is an alternative to increasing the onsite spent fuel storage capacity. However, the U.S. Department of Energy's (DOE's) high-level radioactive waste repository is not expected to begin receiving spent fuel until approximately 2010, at the earliest. To date, no location has been identified and an interim Federal storage facility has yet to be identified in advance of a decision on a permanent repository. Therefore, shipping the spent fuel to the DOE repository is not considered a viable alternative to increased onsite fuel storage capacity at this time.

##### Shipping Fuel to a Reprocessing Facility

Reprocessing of spent fuel from Palo Verde is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Therefore, spent fuel would have to be shipped to an overseas facility for reprocessing. However, this approach has never been used and it would require approval by the Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium; reprocessing represents an added cost.

##### Shipping the Fuel Offsite to Another Utility

The shipment of fuel to another utility would provide short-term relief from the fuel storage problems at Palo Verde. The Nuclear Waste Policy Act of 1982, Subtitle B Section 131(a)(1), however, clearly places the responsibility for the interim storage of spent fuel with each owner or operator of a nuclear plant. The SFPs at the other reactor sites were designed with capacity to accommodate spent fuel from those particular sites. Therefore, transferring spent fuel from Palo Verde to other sites would create storage capacity problems at those locations.

##### Alternatives Creating Additional Storage Capacity

Alternative technologies that would create additional storage capacity include rod consolidation, dry cask storage, modular vault dry storage, and constructing a new pool. Rod consolidation involves disassembling the spent fuel assemblies and storing the fuel rods from two or more assemblies into a stainless steel canister that can be stored in the spent fuel racks. Industry experience with rod consolidation is currently limited, primarily due to concerns for potential gap activity release due to rod breakage, the potential for increased fuel cladding corrosion due to some of the protective oxide layer being scraped off, and because the prolonged consolidation activity could interfere with ongoing plant operations. Dry cask storage is a method of transferring spent fuel, after storage in the pool for several years, to high capacity casks with passive heat dissipation features. The licensee is planning on implementing dry cask storage at the Palo Verde site, but the SFPs will lose the capacity to fully offload the core prior to the time dry cask storage will be available. Vault storage consists of storing spent fuel in shielded stainless steel cylinders in a horizontal configuration in a reinforced

concrete vault. The concrete vault provides missile and earthquake protection and radiation shielding. Concerns for vault dry storage include security, land consumption, eventual decommissioning of the new vault, and high cost. The alternative of constructing and licensing new SFPs is not practical for Palo Verde because such an effort would require about 10 years to complete and would not be available in the time frame needed.

The alternative technologies that could create additional storage capacity involve additional fuel handling with an attendant opportunity for a fuel handling accident, involve higher cumulative dose to workers affecting the fuel transfers, require additional security measures that are significantly more expensive, and would not result in a significant improvement in environmental impacts compared to the proposed action to increase the capacity of the current SFPs.

#### Reduction of Spent Fuel Generation

Generally, improved usage of the fuel and/or operation at a reduced power level would be an alternative that would decrease the amount of fuel being stored in the SFPs and, thus, increase the amount of time before the maximum storage capacities of the SFPs are reached. However, operating the plant at a reduced power level would not make effective use of available resources, and would cause unnecessary economic hardship on the licensee and its customers. Therefore, reducing the amount of spent fuel generated by increasing burnup further or reducing power is not considered a practical alternative.

#### The No-Action Alternative

The NRC staff also considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

#### Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Palo Verde, Units 1, 2, and 3.

#### Agencies and Persons Contacted

In accordance with its stated policy, on January 27, 2000, the staff consulted with the Arizona State official, Mr. Audbry Godwin of the Arizona Radiation Protection Agency, regarding

the environmental impact of the proposed action. The State official had no comments.

#### Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated June 8, July 20, and November 24, 1999, which are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room).

Dated at Rockville, Maryland, this 24th day of February 2000.

For the Nuclear Regulatory Commission.

**Mel B. Fields,**

*Project Manager, Section 2, Project Directorate IV & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00-4890 Filed 2-29-00; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-1026]

### **BNFL Fuel Solutions Corporation; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Requirements of 10 CFR Part 72**

By letter dated January 14, 2000, BNFL Fuel Solutions Corporation (BFS or applicant) requested an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.234(c). BFS, located in Scotts Valley, California, is seeking Nuclear Regulatory Commission (NRC or the Commission) approval to procure materials for and fabricate 14 Wesflex W150 storage casks prior to receipt of a Certificate of Compliance (CoC) for the Wesflex Spent Fuel Management System (Wesflex System). The Wesflex storage cask is a basic component of the Wesflex System, a cask system designed for the dry storage of spent fuel. The Wesflex System is intended for use under the general license provisions of Subpart K of 10 CFR part 72 by Consumers Energy at the

Palisades Nuclear Plant, located in Covert, Michigan, and at the Big Rock Point Nuclear Plant, located in Charlevoix, Michigan. The application for the CoC was submitted by BFS to the Commission on February 3, 1998, as supplemented.

#### Environmental Assessment (EA)

##### *Identification of Proposed Action*

BFS is seeking Commission approval to procure materials for and fabricate 14 Wesflex W150 storage casks prior to receipt of the CoC. The applicant is requesting an exemption from the requirements of 10 CFR 72.234(c), which states that "Fabrication of casks under the Certificate of Compliance must not start prior to receipt of the Certificate of Compliance for the cask model." The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7.

##### *Need for the Proposed Action*

BFS requested the exemption to 10 CFR 72.234(c) to ensure the availability of storage casks so that Consumers Energy can maintain full core offload capability at the Palisades Nuclear Plant. Palisades will lose full core offload capability after its planned April 2001 refueling outage. Currently, the Ventilated Storage Cask—24 (VSC-24), fabricated by Sierra Nuclear Corporation, is used at Palisades for the dry storage of spent fuel. However, the licensee requires another cask option because the storage capability of the VSC-24 is limited by its burnup and enrichment requirements. Beyond April 2001, a significant portion of the remaining and future spent fuel inventory at Palisades will not meet the VSC-24 burnup and enrichment limits. Already, there are nearly 250 spent fuel assemblies at Palisades that do not qualify for storage in the VSC-24.

BFS is also requesting the exemption to ensure the availability of dry storage casks at Big Rock Point to support its decommissioning schedule. The Big Rock Point decommissioning schedule requires that all fuel be loaded into dry storage casks by 2002.

To maintain full core offload at Palisades and to meet Big Rock Point's decommissioning schedule, Consumers Energy anticipates that fuel loading of Wesflex Systems would need to begin in 2001 at both sites. Thus, at both Palisades and Big Rock Point, the availability of the Wesflex System is needed in 2000 to support training and dry runs in anticipation of loading fuel in the following year. To meet this schedule, procurement of the W150



storage cask materials must begin promptly.

The Wesflex System CoC application is under consideration by the Commission. It is anticipated that, if approved, the CoC would be issued in early 2001.

The proposed procurement and fabrication exemption will not authorize use of the Wesflex System to store spent fuel. That will occur only when, and if, a CoC is issued. NRC approval of the procurement and fabrication exemption request should not be construed as an NRC commitment to favorably consider BFS's application for a CoC. BFS will bear the risk of all activities conducted under the exemption, including the risk that the 14 storage casks that BFS plans to construct may not be usable because they may not meet specifications or conditions placed in a CoC that NRC may ultimately approve.

#### *Environmental Impacts of the Proposed Action*

The Environmental Assessment for the final rule, "Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites" (55 FR 29181 (1990)), considered the potential environmental impacts of casks which are used to store spent fuel under a CoC and concluded that there would be no significant environmental impacts. The proposed action now under consideration would not permit use of the Wesflex System, but only procurement and fabrication. There are no radiological environmental impacts from procurement or fabrication since the storage cask material procurement and fabrication does not involve radioactive materials. The major non-radiological environmental impacts involve use of natural resources due to fabrication. Each W150 storage cask weighs approximately 127 tons and is made of reinforced concrete and steel. The amount of steel required for these storage casks is expected to have very little impact on the steel industry. Fabrication of the steel liner and guide rails would be at a metal fabrication facility, not at the reactor site. Fabrication of the storage casks is insignificant compared to the amount of metal fabrication performed annually in the United States. If the storage casks are not usable, they could be disposed of or recycled. The amount of material disposed of is insignificant compared to the amount of steel that is disposed of annually in the United States. Based upon this information, the procurement of materials and fabrication of the storage cask will have no significant impact on the environment since no radioactive materials are involved, and

the amount of natural resources used is minimal.

#### *Alternative to the Proposed Action*

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption and, therefore, not allow procurement of materials and fabrication of the storage cask until a CoC is issued. This alternative would have the same, or greater, environmental impact.

Given that there are no significant differences in environmental impacts between the proposed action and the alternative considered and that the applicant has a legitimate need to procure materials and fabricate prior to certification and is willing to assume the risk that any material procured or any storage cask fabricated may not be approved or may require modification, the Commission concludes that the preferred alternative is to approve the procurement and fabrication request and grant the exemption from the prohibition on fabrication prior to receipt of a CoC.

#### *Agencies and Persons Consulted*

Mr. Lou Brandon, an official from the Michigan Department of Environmental Quality, was contacted on February 2, 2000, about the EA for the proposed action and had no comments.

#### **Finding of No Significant Impact**

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.234(c) so that BFS may procure materials for and fabricate 14 Wesflex W150 storage casks prior to issuance of a CoC for the Wesflex System will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

The request for the exemption from 10 CFR 72.234(c) was filed by BFS on January 14, 2000. For further details with respect to this action, see the application for a CoC for the Wesflex System, dated February 3, 1998, as supplemented. The exemption request and CoC application are docketed under 10 CFR part 72, Docket 72-1026. The exemption request and the non-proprietary version of the CoC application are available for public

inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 22nd day of February 2000.

For the Nuclear Regulatory Commission.

**Susan F. Shankman,**

*Deputy Director, Licensing and Inspection Directorate, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*  
[FR Doc. 00-4889 Filed 2-29-00; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-315 and 50-316]

### **Indiana Michigan Power Company and Donald C. Cook, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Facility Operating License No. DPR-58 and No. DPR-74, issued to the Indiana Michigan Power Company (the licensee), for operation of the Donald C. Cook Nuclear Plant (D. C. Cook), Units 1 and 2, located in Berrien County, Michigan.

#### **Environmental Assessment**

##### *Identification of the Proposed Action*

The proposed action would delete Technical Specification (TS) 5.4.2, "Reactor Coolant System Volume," regarding the reactor coolant system (RCS) volume information. This information is not required to be in the TS for compliance with 10 CFR 50.36(c)(4). Information concerning the RCS volume is included in the D. C. Cook Updated Final Safety Analysis Report and any changes to the information are controlled in accordance with 10 CFR 50.59. In addition, format changes are proposed to TS page 5-5 for both Unit 1 and Unit 2.

The proposed action is in accordance with the licensee's application for amendment dated December 22, 1999.

##### *The Need for the Proposed Action*

The proposed action is necessary to correct the plant Technical Specifications. This information is not required to be in the TS for compliance with 10 CFR 50.36(c)(4) and is redundant to information contained in the D. C. Cook Updated Final Safety Analysis Report.

*Environmental Impacts of the Proposed Action*

The NRC has completed its evaluation of the proposed action and concludes that the removal of the RCS volume from the TSs and the associated format changes to the TS pages do not impact any other requirements.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the D. C. Cook Nuclear Plant.

*Agencies and Persons Consulted*

In accordance with its stated policy, on February 18, 2000, the staff consulted with the Michigan State official, Mr. David Minnaar of the Michigan Department of Environmental Quality, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an

environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 22, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW, Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room).

Dated at Rockville, Maryland, this 23d day of February 2000.

For the Nuclear Regulatory Commission.

**John F. Stang,**

*Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00-4885 Filed 2-29-00; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION****Sunshine Act Meeting**

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission

**DATE:** Weeks of February 28, March 6, 13, 20, 27, and April 3, 2000

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland

**STATUS:** Public and Closed

**MATTERS TO BE CONSIDERED:**

*Week of February 28*

Tuesday, February 29

1:30 p.m. Briefing on Draft 50.59 Regulatory Guide (Public Meeting) (Contact: Eileen McKenna, 301-415-2189)

Thursday, March 2

9:25 a.m. Affirmation/discussion and Vote (Public Meeting)

(a) Private Fuel Storage L.L.C., Docket No. 72-22-ISFSI, Memorandum and Order (Denying Request for Admission of Late-Filed Amended Contention Utah C), LBP-99-43, 50 NRC 306 (November 4, 1999)

(b) In the Matter of Michel A. Philippon (Denial of Senior Reactor Operator License Application), LBP-99-44 (December 9, 1999)

9:30 a.m. Meeting with ACRS on Risk Informing Part 50 (Public Meeting) (Contact: John Larkins, 301-415-7360)

Friday, March 3

9:30 a.m. Briefing on Calvert Cliffs License Renewal (Public Meeting) (Contact: Chris Grimes, 301-415-1183)

*Week of March 6—Tentative*

Monday, March 6

1:30 p.m. Meeting with NARUC (Public Meeting)

Tuesday, March 7

1:00 p.m. Briefing on Improvements in the Reactor Oversight Process (Public

Meeting) (Contact: Bill Dean, 301-415-1257)

*Week of March 13—Tentative*

There are no meetings scheduled for the Week of March 13.

*Week of March 20—Tentative*

Wednesday, March 22

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Briefing on Risk-Informed Regulation Implementation Plan (Public Meeting) (Contact: Tom King, 301-415-5790)

Friday, March 24

9:30 a.m. Briefing on Evaluation of the Requirement for Licensee to Update Their Inservice Inspection and Inservice Testing Program Every 120 Months (Public Meeting) (Contact: Tom Scarbrough, 301-415-2794)

*Week of March 27—Tentative*

Thursday, March 30

8:55 a.m. Affirmation/Discussion and Vote (Public Meeting) (If needed)

9:00 a.m. Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301-415-7380)

*Week of April 3—Tentative*

There are no meetings scheduled for the Week of April 3.

\* THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415-1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415-1661.

\* \* \* \* \*

**ADDITIONAL INFORMATION:** By a vote of 5-0 on February 22, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Discussion of Management Issues" (Closed-Ex. 2 & 6) be held on February 22, and on less than one week's notice to the public.

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

\* \* \* \* \*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301-415-1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [wmh@nrc.gov](mailto:wmh@nrc.gov) or [dkw@nrc.gov](mailto:dkw@nrc.gov).

February 24, 2000.

**William M. Hill, Jr.,**

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 00-5003 Filed 2-28-00; 11:18 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549.

Extension: Rule 204-3, SEC File No. 270-42, OMB Control No. 3235-0047

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget request for extension of the previously approved collection of information discussed below.

Rule 204-3 requires an investment adviser to deliver, or offer, to prospective clients a disclosure statement, or "brochure," containing specified information as to the business practices and background of the adviser. The rule also requires that an investment adviser deliver, or offer, its brochure on an annual basis to existing clients. Investors use this information to determine whether to retain or continue to employ the investment adviser. There are currently approximately 8,300 investment advisers subject to this rule; the estimated burden resulting from the rule is 203,350 total annual hours.

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

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 22, 2000.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-4850 Filed 2-29-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42444; File No. SR-CTA/CQ-00-01]

### Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of Second Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and the First Substantive Amendment to the Restated Consolidated Quotation Plan

February 18, 2000.

Pursuant to Rule 11A3-2<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> notice is hereby given that on January 19, 2000, the Consolidated Tape Association ("CTA") and the Consolidated Quotation ("CQ") Plan Participants ("Participants")<sup>3</sup> filed with the Securities and Exchange Commission ("Commission" or "SEC") amendments to the Restated CTA Plan and CQ Plan. The amendments propose to adopt, as an additional form under Exhibit D of the Plans, a Consolidated Subscriber Form for use in connection with the implementation of new procedures under which vendors (rather than Network B) will now: (1) Execute directly with professional subscribers a Consolidated Subscriber Form for receipt and use of Network B market data that runs to the benefit of the Network B Participants and (2) assume responsibility for the billing, collecting and forwarding of all Network B subscriber charges to Network B.

Pursuant to Rule 11Aa3-2(c)(3)(ii), the CTA and CQ Participants have designated the amendments as a matter concerned solely with the administration of the Plans on behalf of all of the sponsors and the participants, which renders the amendments effective upon receipt of this filing by the Commission. At any time within 60 days of the filing of the amendments, the Commission may summarily

<sup>1</sup> 17 CFR 240.11Aa3-2.

<sup>2</sup> 15 U.S.C. 78k-1.

<sup>3</sup> The amendments were executed by each Participant in each of the Plans. The Participants include American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.

abrogate the amendment and require that the amendment be refiled in accordance with the paragraph (b)(1) of this section and reviewed in accordance with paragraph (c)(2) of this section, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act. The Commission is publishing this notice to solicit comments from interested persons on the amendments.

### I. Description and Purpose of the Amendments

#### A. Rule 11Aa3-2

#### Purpose of the Amendments

Currently, Network B uses a Consolidated Subscriber Form that it executes directly with professional subscribers. While the subscriber also executes an agreement with its vendor to receive Network B market data from the vendor (the "Vendor-Subscriber Agreement"), Network B generally bills all subscriber charges directly to the subscriber and collects the fees itself.<sup>4</sup>

Network B is now proposing to shift the billing and collecting functions to the vendors. As part of that effort, Network B is proposing to amend the CTA and CQ Plans by adding a new Consolidated Subscriber Form to Exhibit D of each Plan. The new form implements new procedures pursuant to which vendors will replace Amex as the party that will now (1) execute directly with professional subscribers a Consolidated Subscriber Form for receipt and use of Network B market data that runs to the benefit of Network B Participants and (2) bill and collect all Network B subscriber charges for Network B. The new Consolidated Subscriber Form that will be used for Network B vendor billing will be virtually identical to the existing Consolidated Subscriber Form, except for (1) the vendor signature block (replacing the Network B signature block), (2) language indicating that the agreement runs to the benefit of the Network B Participants as third-party beneficiaries; and (3) minor changes reflecting the shift of the billing and collection functions to the vendors (including such things as allowing vendors to examine records and request equipment descriptions).

The Network B Participants believe that the shift to vendor billing will

<sup>4</sup> Exhibit D to each Plan sets forth the forms of market data subscriber agreements currently in use.

significantly improve customer service for all subscribers to Network B market data services. Professional subscribers will now receive one bill from the vendor, instead of two bills (one from the vendor and one from Network B). As CTA currently relies on vendor data for subscriber billing and vendors are often late in furnishing such data, many discrepancies occur in billing subscribers. Vendor billing, with single bill and single point of contact, should streamline the billing process and reduce confusion among Network B subscribers. In this regard, the Network B subscriber community has been very supportive of this proposal to shift to vendor billing for Network B market data.

Vendor billing will also enable Network B to reduce its administrative function and thereby realize significant cost savings. Vendors will be able to utilize their current billing infrastructures to bill for Network B subscriber charges, taking advantage of existing efficiencies. This should also allow for a tighter receivable cycle.

These amendments further the objectives of the national market system regarding the dissemination of last sale information delineated in Sections 11A(a)(1)(C), 11A(a)(1)(D) and 11A(a)(3)(B) of the Act.

#### *B. Governing or Constituent Documents*

See Exhibit 1 to CTA and CQ Plan Amendments.

#### *C. Implementation of Amendment*

The Participants have manifested their approval of the proposed amendments to the CTA and CQ Network B by means of their execution of the amendments. The Participants will begin the conversion process to vendor billing as soon as practicable after the Plan amendments are filed with the Commission.

To accomplish this conversion, the Network B administrator intends to provide written notice to all Network B vendors and subscribers of the planned shift to vendor billing for Network B subscribers. It then plans to visit all Network B vendors, explaining the new procedures to them as well as reconciling their subscriber inventory. Vendors will be required to use the new Consolidated Subscriber Form for all new professional subscribers to Network B market data, executing it directly with those subscribers. All current Network B professional subscribers will be allowed to continue receiving Network B market data under their existing Consolidated Subscriber Form (which they entered into with Amex) without being required to sign the new form.

The administrator plans to have the new vendor billing program implemented by the end of the third quarter of 2000.

#### *D. Development and Implementation Phases*

See Item I(C).

#### *E. Analysis of Impact on Competition*

The proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan*

Not applicable.

#### *G. Approval by Sponsors in Accordance With Plans*

In accordance with Section IV(b) of the CTA Plan and Section IV(c) of the CQ Plan, each of the Participants has approved the Plan amendments.

#### *H. Description of Operation of Facility Contemplated by the Proposed Amendment*

Not applicable.

#### *I. Terms and Conditions of Access*

See Item I(A) above.

#### *J. Method of Determination and Imposition, and Amount of Fees and Charges*

Vendors will perform the billing and collection functions with respect to all Network B subscriber charges.

#### *K. Method and Frequency of Processor Evaluation*

Not applicable.

#### *L. Dispute Resolution*

Not applicable.

### **II. Rule 11Aa3-1 (Solely in Its Application to the Amendment to the CTA Plan)**

#### *A. Reporting Requirements*

Not applicable.

#### *B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information*

Not applicable.

#### *C. Manner of Consolidation*

Not applicable.

#### *D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports*

Not applicable.

#### *E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination*

Not applicable.

#### *F. Terms of Access to Transactions Reports*

See Item I(A).

#### *G. Identification of Marketplace of Execution*

Not applicable.

### **III. Solicitation of Comments**

The CTA has designated these amendments as a matter concerned solely with the administration of the Plans on behalf of all of the sponsors and participants which, under Section 11Aa3-2(c)(3)(i) of the Act, renders the proposal effective upon receipt of this filing by the Commission.

The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendments by Commission order pursuant to Section 11Aa3-2(c)(3)(iii), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors and maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a National Market System, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendments that are filed with the Commission, and all written communications relating to the proposed plan amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CTA. All submissions should refer to the file number in the caption above and should be submitted by March 22, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland.**

*Deputy Secretary.*

[FR Doc. 00-4851 Filed 2-29-00; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

[Public Notice 3236]

### Culturally Significant Objects Imported for Exhibition; Determinations: "Art and Oracle: Spirit Voices of Africa"

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition "Art and Oracle: Spirit Voices of Africa," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, from on or about April 24-July 30, 2000, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619-6982). The address is U.S. Department of State, SA-44; 301-4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: February 24, 2000.

**William P. Kiehl,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 00-4916 Filed 2-29-00; 8:45 am]

BILLING CODE 4710-08-U

## DEPARTMENT OF STATE

[Public Notice # 3224]

### Advisory Committee on Labor Diplomacy; Notice of Meeting

The Advisory Committee on Labor Diplomacy (ACL D) will hold a meeting from 9:30 a.m. to 4:00 p.m. on March 14, 2000, in room 1107, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520. Committee Chairman Thomas Donahue, former President of the AFL-CIO, will chair the meeting.

The ACL D is comprised of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACL D advises the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures U.S. leadership before the international community in promoting the objectives and ideals of U.S. labor policies now and in the 21st century. The ACL D will make recommendations on how to strengthen the Department of State's ability to respond to the many challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the March 14 meeting includes discussion of operational aspects of the State Department's labor diplomacy function and State Department policy as it relates to labor diplomacy.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by close of business March 10, to Mark Simonoff at (202) 647-4327 or fax (202) 647-0431 or email [simonoff@state.gov](mailto:simonoff@state.gov): name; company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the C Street entrance to the State Department and have a driver's license with photo, a passport, a U.S. Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Mr. Simonoff at the phone and fax numbers provided above.

Dated: February 24, 2000.

**Harold Hongju Koh,**

*Assistant Secretary, Bureau of Democracy, Human Rights and Labor, U.S. Department of State.*

[FR Doc. 00-4915 Filed 2-29-00; 8:45 am]

BILLING CODE 4710-18-P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP); Public Hearings for the Petitions for the GSP 1999 Country Practices Review, Change in Schedule of Hearings and Deadlines for Submitting Comments on Petitions for the GSP 1999 Country Practices Review

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice of change in schedule of hearings and deadlines for submitting comments on petitions for the GSP 1999 Country Practices Review.

**FOR FURTHER INFORMATION CONTACT:** GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518; Washington, DC 20508 (Tel. 202/395-6971).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of changes in the dates and location, and changes in dates for submission of comments, for the GSP public hearings to be held for country practice petitions accepted for review in the GSP 1999 Country Practices Review. These hearings were scheduled for April 3 and April 4, 2000, beginning at 10 a.m. A **Federal Register** notice regarding these hearings was published on February 14, 2000 (65 FR 7410-7412).

The scheduled dates for the GSP public hearings are changed from Monday, April 3, and Tuesday, April 4, to Thursday, April 13, and Friday, April 14. The location of the GSP hearings is changed from the Annex of the Office of the U.S. Trade Representative to the White House Conference Center, the Truman Room, 726 Jackson Place, NW, Washington, DC 20500. The deadline for Requests to Appear at Public Hearings and Submission of Pre-Hearing Briefs is changed to March 16. The deadline for submission of Post-Hearings Briefs and Rebuttal Briefs is changed to April 28. The hearings will begin at 10 a.m. each day. See attached calendar.

All other information in the notice at 65 FR 7410 (February 14, 2000) remains the same.

**Jon Rosenbaum,**

*Assistant USTR for Trade and Development.*

BILLING CODE 3190-01-M

<sup>5</sup> 17 CFR 200.30-3(a)(27).

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

Rev. 2-22-2000

**GENERALIZED SYSTEM OF PREFERENCES (GSP)****1999 GSP ANNUAL REVIEW****IPR COUNTRY PRACTICE CASES ACCEPTED FOR REVIEW**

<b>Armenia</b>	<b>005-CP-99</b>
<b>Dominican Republic</b>	<b>007-CP-99</b>
<b>Kazakhstan</b>	<b>008-CP-99</b>
<b>Moldova</b>	<b>011-CP-99</b>
<b>Ukraine</b>	<b>015-CP-99</b>
<b>Uzbekistan</b>	<b>016-CP-99</b>

**PUBLIC HEARINGS AND COMMENT SCHEDULE**

March 16, 2000	Deadline for <b>REQUESTS TO APPEAR AT PUBLIC HEARINGS</b> and submission of <b>PRE-HEARING BRIEFS</b> .  Deadline for providing the name, address, and organization of witnesses.
April 13 and 14, 2000	<b>PUBLIC HEARINGS</b> , White House Conference Center, 726 Jackson Place, N.W., Washington, D.C. 20500
April 28, 2000	Deadline for submission of <b>POST-HEARING BRIEFS</b> and <b>REBUTTAL BRIEFS</b> .
Future Federal Register Notice	Date Modifications to GSP List of Beneficiary Developing Countries will take effect.
For further information contact:	GSP Information Center Office of the U.S. Trade Representative 600 17th Street Washington, D.C. 20508 202-395-6971
Notification of any changes will be given in the <u>Federal Register</u> .	

[FR Doc. 00-4932 Filed 2-29-00; 8:45 am]

BILLING CODE 3910-01-C

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### [Summary Notice No. PE-2000-07]

#### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

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

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before March 22, 2000.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. \_\_\_\_, 800 Independence Avenue, SW, Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267-3132.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267-7271 or Vanessa Wilkins (202) 267-8029 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of

Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 25, 2000.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

#### Petition for Exemption

*Docket No.:* 29848.

*Petitioner:* Baltimore County Police Department.

*Section of the CFR Affected:* 14 CFR 1.1 and 61.45(a).

*Description of Relief Sought:* To permit BCPD pilots to undergo part 61 flight training and practical tests in the BCPD's public aircraft, specifically former military Bell OH-58 helicopters.

*Docket No.:* 29875.

*Petitioner:* Airbus Industrie.

*Section of the CFR Affected:* 14 CFR 25.785(d), 25.791, 25.807(c)(1), 25.807(d)(1), 25.809(f)(1), 25.811(a), 25.812(g), 25.857(e), and 25.1447(c)(1), (c)(3) 25.807(c)(1).

*Description of Relief Sought:* To allow carriage of up to four supernumeraries on the Airbus Model A300F4-600R series airplanes.

#### Dispositions of Petitions

*Docket No.:* 29028.

*Petitioner:* Mobil Business Resources Corporation.

*Section of the FAR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit MBRC to operate certain Bell Model 206L and Sikorsky S-76A helicopters under part 135 without a TSO-C112 transponder installed on each helicopter. *Grant, 10/28/99, Exemption No. 6696A.*

*Docket No.:* 29716.

*Petitioner:* Century Aviation, Inc.

*Section of the FAR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Century to operate its Israel Aircraft Industries 1124 Westwind (Registration No. N598JM, Serial No. 222) under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft. *Grant, 10/28/99, Exemption No. 7059.*

*Docket No.:* 29728.

*Petitioner:* Air Wilmington.

*Section of the FAR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Air Wilmington to operate its Beechcraft King Air A90 (Registration No. N198BC, Serial No. LJ-147) under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft. *Grant, 10/28/99, Exemption No. 7060.*

*Docket No.:* 29161.

*Petitioner:* World Airways Inc.  
*Section of the FAR Affected:* 14 CFR 121.434(e).

*Description of Relief Sought/Disposition:* To permit World to use flight attendants trained and qualified by Garuda Indonesia Airlines (Garuda) to act as required flight attendants during Hadj-related flight operations without each of those flight attendants having received 5 hours of supervised in-flight operating experience required by 14 CFR 121.434(e). *Grant, 2/4/00, Exemption No. 7116.*

*Docket No.:* 29651.

*Petitioner:* Experimental Aircraft Association, Inc.

*Section of the FAR Affected:* 14 CFR 135.251, 145.255, 135.353, and appendices I and J of part 121.

*Description of Relief Sought/Disposition:* To allow the EAA to conduct local sightseeing flights at charity or community events, for compensation or hire, without complying with certain anti-drug and alcohol prevention requirements of part 135, subject to the following conditions and limitations. *Partial Grant, 2/3/00, Exemption No. 7111.*

*Docket No.:* 29648.

*Petitioner:* Aircraft Owners and Pilots Association.

*Section of the FAR Affected:* 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

*Description of Relief Sought/Disposition:* To allow those AOPA members who can demonstrate current AOPA membership to conduct local, nonstop, sightseeing flights for charity or community events, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to the following conditions and limitations. *Grant, 2/3/00, Exemption No. 7112.*

*Docket No.:* 29630.

*Petitioner:* National Air Transportation Association.

*Section of the FAR Affected:* 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

*Description of Relief Sought/Disposition:* To allow NATA members to conduct local sightseeing flights for charity or community events, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to the following conditions and limitations. *Grant, 2/3/00, Exemption No. 7113.*

*Docket No.:* 29578.

*Petitioner:* Hawaiian Airlines, Inc.

*Section of the FAR Affected:* 14 CFR 121.433(c)(1)(iii) and 121.411(a)(1) and (b)(1) and appendix F of part 121.

*Description of Relief Sought/Disposition:* To allow Hawaiian to combine recurrent flight and ground training and proficiency checks for Hawaiian's flight crewmembers into a single annual training and proficiency evaluation program. Grant, 1/31/00, Exemption No. 7108.

*Docket No.:* 29841.

*Petitioner:* BD Aviation, Inc.

*Section of the FAR Affected:* 14 CFR 135.299(a).

*Description of Relief Sought/Disposition:* To permit DB Aviation pilots to accomplish a line operational evaluation (LOE) in a Level C or Level D flight simulator in lieu of a line check in an aircraft. *Denial, 2/3/00, Exemption No. 7109.*

[FR Doc. 00-4902 Filed 2-29-00; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 13, 1999, [64 FR 69582]. No comments were received.

**DATES:** Comments must be submitted on or before March 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Frederick A. Slauch, Office of Financial and Rate Approvals, Maritime Administration, MAR 561, 400 7th St., SW, Washington, DC 20590. Telephone 202-366-2324, or FAX 202-366-7901. Copies of this collection can also be obtained from that office.

**SUPPLEMENTARY INFORMATION:** Maritime Administration (MARAD).

*Title:* Records Retention Schedule

*OMB Control Number:* 2133-0501.

*Type of Request:* Extension of currently approved collection.

*Affected Public:* U.S. shipping companies.

*Form(s):* None.

*Abstract:* Section 801, Merchant Marine Act, 1936, as amended, requires retention of Construction Differential Subsidy (CDS) or Operating Differential Subsidy (ODS) records. The records are required to be retained to permit proper audit of pertinent records at the conclusion of a CDS or ODS contract.

*Annual Estimated Burden Hours:* 150 hours.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention MARAD Desk Officer.

*Comments Are Invited On:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on February 23, 2000.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 00-4925 Filed 2-29-00; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Return-Free Tax Filing System Focus Group Interviews

**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 Return-

Free Tax Filing System Focus Group Interviews.

**DATES:** Written comments should be received on or before May 1, 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 information collection should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

#### SUPPLEMENTARY INFORMATION:

*Title:* Return-Free Tax Filing System Focus Group Interviews.

*OMB Number:* 1545-1682.

*Abstract:* As required by the IRS Restructuring and Reform Act of 1998, the IRS will be reporting to Congress annually on its progress in developing a Return-Free Tax Filing System. The purpose of these focus groups is to collect information to accurately and objectively establish a benchmark of current levels of taxpayer acceptance and potential use of a Return-Free Tax System. The focus groups would also provide the IRS with information to be used in marketing and communications efforts related to such a system.

*Current Actions:* There are no changes being made to the information collection at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Focus Group Participants:* 48.

*Estimated Time Per Focus Group Participant:* 2 hrs., 30 min.

*Estimated Total Annual Burden Hours for Focus Group Participants:* 120.

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 15, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00-4821 Filed 2-29-00; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Notice 2000-12

**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 Notice 2000-12, Pre-filing Agreements Pilot Program.

**DATES:** Written comments should be received on or before May 1, 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 notice should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Pre-filing Agreement Pilot Program.

*OMB Number:* 1545-1684.

*Notice Number:* Notice 2000-12.

*Abstract:* Notice 2000-12 describes a pilot program under which certain large business taxpayers may request examination and resolution of specific issues relating to tax returns they expect to file between September and December, 2000. The resolution of such issues under the pilot program will be memorialized by a type of closing agreement under Code section 7121 called a pre-filing agreement.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents/Recordkeepers:* 24.

*Estimated Average Time Per Respondent/Recordkeeper:* 40 hours, 17 minutes.

*Estimated Total Annual Reporting/Recordkeeping Hours:* 967.

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 22, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00-4822 Filed 2-29-00; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### Proposed Agency Information Collection Activities

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on proposed changes to the Thrift Financial Report. The proposed changes, which are discussed in more detail below, are comprised of collection of additional information on: (1) High loan-to-value loans; (2) trust assets administered; (3) residual interests in financial assets sold; and (4) structured liabilities. OTS would also delete asset maturity data in Schedule SI and margin accounts in Schedule CMR.

**DATES:** Submit comments on or before May 1, 2000.

**ADDRESSES:** Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention 1550-0223. Hand deliver comments to 1700 G Street, NW, from 9 a.m. to 5 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:** Trudy Reeves, Financial Reporting Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, (202) 906-7317. Interested persons may also obtain additional information on the Internet at [www.ots.treas.gov/tfrpage.html](http://www.ots.treas.gov/tfrpage.html), or by calling (202) 906-6078.

**SUPPLEMENTARY INFORMATION:**

*Title:* Thrift Financial Report.

OMB Number: 1550-0023.

Form Number: OTS 1313.

Abstract: All Office of Thrift

Supervision (OTS) regulated savings associations must comply with the information collections described in this notice. OTS collects this information each calendar quarter. OTS needs this information to monitor and supervise the thrift industry.

**Current Actions:** After reviewing its current supervisory and examination needs, OTS proposes to revise the Thrift Financial Report (TFR), effective with the September 30, 2000 report. OTS deferred the decision to propose changes until after the impact of the rollover to 2000 was known.

### High Loan-to-Value Loans

OTS has considerable supervisory concerns regarding high loan-to-value (LTV) lending. Currently, OTS expects associations to report loans with LTV ratios in excess of supervisory limits to their board of directors quarterly (12 CFR 560.101 (Appendix A, Interagency Guidelines for Real Estate Lending Policies)). However, OTS does not require associations to report LTV data on the TFR. Due to increased supervisory concern regarding high LTV lending, coupled with OTS's need to effectively monitor potential high risk lending, OTS proposes to collect high LTV balances in Schedule SI (Supplemental Information). With this change, the TFR will be more useful in promptly identifying regulated institutions involved in this activity.

### Trust Assets

There has been a substantial increase in the number of institutions granted fiduciary powers as well as in the assets administered by those institutions. Currently all institutions with fiduciary powers file the Federal Financial Institutions Examination Council's (FFIEC's) Annual Report of Trust Assets. Quarterly data would enable OTS to better monitor and analyze trust activities, would provide information used in examination planning, and would provide information to be used in the OTS assessment. OTS proposes to add six items and delete one item in Schedule SI (Supplemental Information) to collect the volume and amount of fiduciary accounts and nonfiduciary accounts with administrative responsibilities. OTS proposes to not publicly release the detail information on trust activities at the thrift level, but to publicly release the market value of total assets administered at the individual thrift level. All items collected will be released in the aggregate. After collection of this data

for several periods, OTS will reconsider its policy on the public release of trust information.

OTS recently issued Thrift Bulletin 48-16, which addressed how OTS will compute assessments under the complexity component for trust assets administered by a savings association. See 12 CFR 502.25. The Thrift Bulletin provides different assessment rates for trust assets administered in a fiduciary and non-fiduciary capacity. OTS will use the information reported under the new items to compute assessments.

### Residual Interests in Financial Assets Sold

Residual interests in financial assets sold (RIFAS) are certain financial assets retained after the transfer of loans, securities, or other financial assets, where the transfer is recorded as a sale under Statement of Financial Accounting Standards (SFAS) No. 125. RIFAS represent the right to receive "residual" cash flows from the transferred assets. The "residual" cash flows are those that are available after payment of all other contractual obligations to holders of other beneficial interests in the transferred assets, and after all payments for servicing fees and other costs. RIFAS may be acquired by either origination or purchase, and may be in either security or nonsecurity form. Examples of RIFAS include, but are not limited to, interest-only strips, spread accounts, and cash collateral accounts.

Credit enhancement RIFAS are those that are structured, through subordination provisions or other credit enhancement techniques, to absorb more than a pro rata share of credit loss in relation to the transferred assets. Depending on their form, RIFAS may be included in Schedule SC (Statement of Condition in four lines: Mortgage Derivatives (SC150), Other Investment Securities (SC185), Interest-only Strip Receivables and Certain Other Instruments (SC655, and Other Assets (SC690)). Because three of these lines (SC150, SC185, and SC690) may contain other instruments, OTS cannot currently determine the total residual interests retained or purchased by an institution. Therefore, OTS proposes to add two memoranda lines in Schedule SI (Supplemental Information); one to collect credit enhancement residual interests in financial assets sold and one to collect other residual interests in financial assets sold. The addition of these two items will provide OTS with more complete information for monitoring and supervisory purposes.

### Federal Home Loan Bank (FHLB) Structured Advances and Other Structured Liabilities

In recent years, structured liabilities (especially FHLB structured advances) have become an increasingly popular funding source for savings associations. Because such liabilities often have complex embedded options, the use of these instruments can raise safety and soundness concerns. OTS proposes to change Schedule CMR (Consolidated Maturity/Rate) to collect estimates of the market value of structured liabilities to better evaluate the interest rate risk they pose. Market value data for structured liabilities may be provided at the option of the institution, unless otherwise directed by OTS.

### Asset Maturity Data

OTS proposes to delete five lines that collect data on asset maturities on Schedule SI (Supplemental Information). Currently, only savings associations that meet the Schedule CMR (Consolidated Maturity/Rate) exemption criteria (assets less than \$300 million and risk-based capital in excess of 12%) and that opt not to file Schedule CMR must provide these data. OTS no longer needs to collect these data.

### Margin Accounts

OTS proposes to delete CMR452, Margin Accounts, as it is no longer used.

### A Detailed Description of the Proposed Changes Follows

#### I. Schedule SI (Supplemental Information)

##### A. Delete Five Lines as Follows

#### Asset Repricing/Maturing Data

- S1700: Will the reporting association file Schedule CMR for this quarter?
- Assets Repricing/Maturing in Three Years or Less:
  - S1710: Mortgage Loans and Securities
  - S1720: Nonmortgage Loans, Interest-earning Deposits and Investment Securities
- Assets Repricing/Maturing in More Than Three Years:
  - S1730: Mortgage Loans and Securities
  - S1740: Nonmortgage Loans, Interest-earning Deposits and Investment Securities

##### B. Add the Following 12 Lines

#### High Loan-to-Value Loans (Outstanding Balances)

- Loans Without PMI or Government Guarantee*
- Permanent Mortgages on 1-4 Dwelling Units:
  - S1412:  $\geq 90$  to 100 LTV
  - S1415: Over 100 LTV
- Consumer Loans Secured (In whole or in part) by Real Estate, Reported on SC316 and SC340:
  - S1422:  $\geq 90$  to 100 LTGV

S1425: Over 100 LTV

**Note:** Savings Associations should determine Loan-to-Value ratios at origination in accordance with the definition in the interagency guidelines attached to 12 CFR 5670.101.

#### Trust Assets

Fiduciary accounts for which you have discretion

S1351: Value

S1352: Number

Fiduciary accounts for which you have no discretion

S1353: Value

S1354: Number

Nonfiduciary accounts for which you have administrative responsibilities

S1355: Value

S1356: Number

#### Residual Interests in Financial Assets Sold

S1490: Credit Enhancement Residual

Interests in Financial Assets Sold

S1495: Other Residual Interests in

Financial Assets Sold

#### II. Schedule CMR (Consolidated Maturity/Rate)

##### A. Delete:

CMR542: Margin Account

##### B. Variable-rate, Fixed-maturity Liabilities, Page 32:

Delete all existing cells under this heading. Outstanding balances for these instruments will be reported in new fields for deposits and borrowings as described below. Additionally, detailed information will be reported on these instruments on page 36 in Supplemental Reporting for Assets/Liabilities.

##### 1. Delete:

CMR721 through CMR748

##### 2. Add:

Liabilities Reported in Supplemental Reporting for Assets and Liabilities

CMR749: Outstanding Balance of Variable-Rate, Fixed-Maturity Deposits (reported under liability code 200)

CMR751: Outstanding Balance of Variable-Rate Fixed-Maturity Borrowings (reported under liability codes 220 or 229)

CMR753: Outstanding Balance of FHLB Structured Advances (reported under liability codes 280, 281, 282, 283 or 289)

CMR754: Outstanding Balance of Other Structured Liabilities (reported under liability code 290)

##### C. Reporting of Market Value Estimates, Page 35:

Delete the values for the plus and minus 400 basis point rate shocks. Thrift Bulletin 13a no longer requires institutions to maintain interest rate risk limits for the plus and minus 400 basis point interest rate scenarios. Also delete the column for Options on Liabilities, which will be replaced by the new reporting of structured liabilities.

Delete: CMR911, CMR921, CMR941 through CMR949, CMR951, CMR961, CMR919, CMR929, CMR949, CMR959, and CMR969

##### D. Optional Supplemental Reporting for Assets/Liabilities, Page 36:

Rename this section as "Supplemental Reporting for Assets/Liabilities." The current nine column headings (for example, "asset/liability code," "rate index code," etc.) will continue to apply for existing instruments. New codes will be added for reporting: (a) internal valuations of nonmortgage servicing rights (as reported on SC644); (b) certain nonsecurity financial instruments (as reported on SC655); (c) FHLB structured advances (as reported on SC720); and (d) other structured liabilities (as reported on SC730 through SC760). The nine columns will be modified for these instrument codes to collect the instrument's code, book value, and institution-reported valuation in the seven interest-rate scenarios (plus/minus 300, plus/minus 200, plus/minus 100, and no change). These instrument-specific fields (rather than fixed column definitions) will improve the ability of institutions to report financial information in a more detailed manner than is currently collected and will improve interest rate risk measures produced by the OTS model. This change to the form will also facilitate the addition of future codes for new

instruments with customized cell content.

*Type of Review:* Revision.

*Affected Public:* Business or For Profit.

*Estimated Number of Respondents and Recordkeepers:* 1100.

*Estimated Time Per Respondent:* 33 hours average.

*Estimated Total Annual Burden Hours:* 145,200 hours.

Because these proposed changes will not affect all savings associations that file the TFR, the burden hours reflected above are unchanged from the current burden. We invite comment on how savings associations think the burden will change given these form changes.

*Request for Comments:* OTS will summarize or include comments submitted in response to this notice with the request for OMB approval, and will include these comments in the public record. OTS invites comments 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; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 25, 2000.

**Margaret Celia Winter,**  
*Manager, Dissemination Branch.*

[FR Doc. 00-4931 Filed 2-29-00; 8:45 am]

**BILLING CODE 6720-01-M**



# Federal Register

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**Wednesday,  
March 1, 2000**

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**Part II**

## **Office of Personnel Management**

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**SES Positions That Were Career Reserved  
During 1999; Notice**

**OFFICE OF PERSONNEL  
MANAGEMENT**

**SES Positions That Were Career  
Reserved During 1999**

**AGENCY:** Office of Personnel  
Management.

**ACTION:** Notice.

**SUMMARY:** As required by the Civil  
Service Reform Act of 1978, this gives

notice of all positions in the Senior  
Executive Service (SES) that were career  
reserved during 1999.

**FOR FURTHER INFORMATION CONTACT:**  
Charles Vaughn, Office of Executive  
Resources Management, (202) 606-1927.

**SUPPLEMENTARY INFORMATION:** Below is a  
list of titles of SES positions that were  
career reserved at any time during  
calendar year 1999, regardless of

whether those positions were career  
reserved on December 31, 1999. Section  
3132(b)(4) of title 5, United States Code,  
requires that the head of each agency  
publish such list by March 1 of the  
following year. OPM is publishing a  
consolidated list for all agencies.

Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

**POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999**

Agency and organization	Career reserved positions
Advisory Council on Historic Preservation: OFC of the Exec Director .....	Executive Director. Special Assistant.
Department of Agriculture: OFC of the Inspector General .....	Asst Inspector General for Investigations. Dep Asst Inspector General for Investigation. Asst Inspector General for Audit. Dep Assistant Inspector General for Audit. Dep Assistant Inspector General for Audit. Asst Inspector Gen for Pol Dev & Res Mgmt. Dep Asst Insp Gen for Invest Immediate Office. Deputy Inspector General.
Office of the Chief Economist .....	Dir Ofc of Risk Assessment & Cost-benefit ANL. Dir Global Change Program Office.
World Agricultural Outlook Board .....	Director, Office of Energy Policy and New Uses. Chairperson
Office of Chief Information Officer .....	Director, USDA Program Outreach Division. Deputy Chief Information Officer Associate Deputy Director, NTIC.
Office of Operations .....	Director Office of Operations.
Office of the Chief Financial Officer .....	Deputy Chief Financial Officer Project Manager.
National Finance Center .....	Director, Applications Systems Division. Dir, Info Resources Management Division. Director, Financial Services Division. Dir. Thrift Savings Plan Division. Deputy Director.
Rural Housing Service .....	Conroller Deputy Administration for Operations & Mgmt Director Centralized Servicing Center.
Rural Business Service .....	Deputy Administrator for Business Programs.
Agricultural Marketing Service .....	Director, Fruit & Vegetable Division. Director, Cotton Division. Director, Dairy Division. Director, Livestock Division. Director, Tobacco Division. Agricultural Marketing SVC, Dir Poultry Div. Director, Compliance Staff. Director. Director.
Grain Inspection, Packers & Stockyards Administration .....	Dir Field Management Division.
Animal & Plant Health Inspection Service .....	Deputy Administrator for Management & Budget, Deputy Administrator.
Veterinary Services .....	Director, Northern Region. Dir, SE Region, Veterinary Services. Director, Western Region. Director, South Central Region. Dep Admr, Animal Damage Control. Dir, Operational Support, Veterinary Services. Dir, Natl Ctr for Veterinary Epidemiology. Dep Admr, International Services. Director, South Central Region. Director, Western Region. Director, Operational Support PPQ. Director.
Plant Protection & Quarantine Service .....	Asst Dep Admin (Admin Mgt). Deputy Administrator. Deputy Administrator. Deputy Administrator.
Food Safety and Inspection Service .....	

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	U.S. Coordinator for Codex Alimentarius. Assistant Deputy Administrator. Director. Associate Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Deputy Administrator. Associate Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Asst Deputy Administrator. Assistant Deputy Administrator. Director. Deputy Administrator. Director. Assistant Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Associate Deputy Administrator. Deputy Administrator. Administrator.
Food and Consumer Service .....	Deputy Admin for Financial Management. Deputy Admr for Management.
Farm Service Agency .....	Director, Office of Analysis and Evaluation. Controller. Assistant Dept Administrator for Mgmt. Director Management Services Division. Director, Budget Division. Deputy Administrator for Farm Loan Programs.
Foreign Agricultural Service .....	Dir, Grain & Feed Div. Assistant Deputy Administrator Management. Director, Cotton, Oilseeds, Tobacco and Seeds Division.
Risk Management Agency .....	Asst Manager for Research & Development Director, Insurance Services Division.
Agriculture Research Service .....	Asst Administrator for Technology Transfer. Assistant Administrator for Genetic Resources. Dep Admin for Admin & Financial Mgmt. Director, Office of Pest Management Policy. Director, National Animal Disease Center. Associate Administrator, Special Interagency Programs.
National Program Staff Office .....	Associate Deputy Admin Financial Management. Deputy Administrator National Program Staff. Assoc Dep Admr. Assoc Deputy Administrator for Animal PPV&S Assoc Dep Admin for Natural Resources & SAS. Associate Deputy Administrator for Crop Production, Product Value and Safety.
Beltsville Area Office .....	Director Beltsville Area Office. Assoc Dir Beltsville Area. Dir US National Arboretum. Dir Beltsville Human Nutrition Research Ctr. Director Plant Sciences Institute. Dir Livestock & Poultry Sciences Institute. Dir Natural Resources Institute.
North Atlantic Area Office .....	Director, Eastern Regl Research Center. Director, North Atlantic Area. Assoc Dir, North Atlantic Area. Director, Plum Island Animal Disease Center. Director, North Atlantic Area.
South Atlantic Area Office .....	Associate Dir South Atlantic Area. Supervisory Research Geneticist. Director, South Atlantic Area.
Midwest Area Office .....	Dir, Center for Medical A&V Entomology. Dir Midwest Area. Assoc Dir, Midwest Area. Supervisory Veterinary Medical Office.
Midsouth Area Office .....	Dir Natl Ctr for Agri Utilization. Dir, Southern Regional Res Center, New Orlean.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Southern Plains Area Office .....	Director, Mid-South Area. Associate Director, Mid South Area. Director Southern Plains Area.
Northern Plains Area Office .....	Assoc Dir, Southern Plains Area. Dir, Subtropical Agricultural Res Laboratory. Director, Northern Plains Area.
Pacific West Area Office .....	Associate Director, Northern Plains Area Ofc. Dir R.L. Hruska US Meat Animal Res Center. Director, Western Regional Research Center. Dir, Western Human Nutrition Research Center. Director, Pacific West Area Office. Associate Director, Pacific West Area Office. Dir, Western Cotton Research Laboratory. Supervisory Soil Scientist.
Cooperative State Res Education, & Extension Service .....	Deputy Administrator Partnerships. Deputy Admin for Rural, Economic & Social Dev. Special Asst to the Administrator, CSREES.
Economic Research Service .....	Admr, Economic Research Service. Associate Administrator-Economic Rsch Svc. Dir, Natural Res & Environment Division. Director, Information Services Division. Budget Coordinator and Strategic Planner. Dir Food & Consumer Economics Division. Director, Market and Trade Economics Division.
National Agricultural Statistics Service .....	Admr, National Agricultural Statistics Serv. Dir Estimates Div. Dir, Systems & Information Division. Director, Survey Management Division. Deputy Administrator for Field Operations. Associate Administrator. Dir Census Division.
Natural Resources Conservation Service .....	Director Engineering Division. Dir Ecological Sciences and Technology Divisi. Dir, Conserv Planning and App. Dir, Community Asst & Rural Development Div. Dir, Soils (Soil Scientist). Director, Strategic Planning Division. Director, Operations Management and Oversight. Dir Conservation Operations Division. Dep. Chief for Mgnt & Strategic Planning. Spec Asst to the Dep Chf for Soil S/R Assesmt. Natural Resources Manager. Special Asst to the Chief (Program Manager). Deputy Chief for Strategic Planning and Accountability. Director, Resource Conservation & Community Development Division. Director, Resource Inventory Division. Director, Animal Husbandry and Clean Water Programs Division. Regional Conservationist—Northern Plains. Director, Resource Economics & Social Sciences Division.
Forest Service .....	Dep Chf for Administration. Associate Deputy Chief-Administration. Dir Forest Pest Mgmt Staff. Dir Fiscal & Accounting Services. Director, Fire and Aviation Staff. Deputy Chief for Operations. Deputy Chief Financial Operations. Deputy Chief, Business Operations. Chief Operating Officer.
Research .....	Director, Vegetation Management & Protection Research Staff. Director, Resource Valuation and Use Research Staff. Director, Wildlife, Fish & Watershed Research Staff. Director, Science Policy, Planning, and Information Staff.
Natl Forest System .....	Dir, Range Management Staff. Dir, Recreation, Mgmt Staff. Dir Timber Management Staff. Director, Engineering Staff. Director, Lands Staff. Dir Land Management Planning Staff. Dir, Wildlife & Fisheries Mgmt Staff. Dir, Minerals & Geology Staff. Director, Watershed & Air Management Staff. Dir, Recreation, Heritage, & Wilderness Res.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
State & Private Forestry ..... Field Units .....	Dir Cooperative Forestry. Ne Area Dir, State & Private Forestry, U Darb. Dir N Eastern Forest Experiment Station. Dir, North Central Forest Exp Station. Dir, Pacific NW Forest & Range Exp Station. Dir, Pacific SW For & Range Exper Stat. Director Rocky Mt Forest & Range Exper Stat. Dir S Eastern Forest Experiment Station. Director, Forest Products Laboratory. Dep Regional Forester, Pacific NW Region. Dir International Institute of Tropical Forest.
International Forest System .....	Executive Director.
American Battle Monuments Commission: Office of Executive Director .....	Executive Director.
Department of Commerce: Commerce Department .....	Deputy Director for Financial Service/Deputy CFO. Chief Financial Officer and Chief Administrative Officer. Director for Y2K Outreach.
Office of the Chief Financial Officer and Assistant Secretary for Administration.	Deputy Director, Office of Budget. Deputy Chief Information Officer. Director for Administrative Services.
Office of the General Counsel .....	Asst General Counsel for Finance & Litigation. Director, Office of Intelligence Liaison.
Director for Human Resources Management .....	Director for Human Resources Management. Dep Dir of Human Resources Management.
Director for Financial Management .....	Dir for Financial Management.
Office of Budget Mgmt & Info & Chief Information Offcr .....	Director, Office of Budget. Chief Information Officer.
Director for Executive Budgeting & Assistance Mgmt .....	Dir for Federal Asst & Management Support.
Office of Security and Administrative Services .....	Director, Office of Security. Director, Office of Acquisition Management.
Office of the Assistant Secretary for Administration .....	Director for Technology Management. Deputy Assistant Secretary for Security.
Office of Inspector General .....	Asst Inspect Genrl for Compliance Admin. Asst Inspector General for Syst Evaluation.
Office of Counsel to the Inspector General .....	Counsel to the Inspector General.
Office of Inspections and Program Evaluation .....	Assistant Inspector General for Inspections and Program Evaluation.
Office of Audits .....	Assistant Inspector General for Auditing.
Office of Investigations .....	Asst Inspector General for Investigations.
Economics and Statistics Administration .....	Director, STAT-USA.
Bureau of the Census .....	Assistant Director for Marketing and Customer Liaison. Chief, Human Resource Division.
Office of the Director .....	Assoc Dir for Field Operations. Chief Decennial Sys & Contracts Magnt Office. Principal Assoc Dir and Chief Financial Offc. Principal Associate Director for Programs. Chief, Policy & Strategic Planning Division. Assistant to the Director.
Administrative and Customer Services Division .....	Chief Admin & Customer Services Division.
Associate Director for Information Technology .....	Assoc Dir for Information Technology.
Data Preparation Division .....	Chief National Processing Center.
Associate Director for Economic Programs .....	Associate Director for Economic Programs. Assistant Director for Economic Programs.
Economic Planning and Coordination Division .....	Chf, Economic Planning & Coordination Div.
Economic Statistical Methods and Programming Division .....	Chf, Economic Statistical M&P Division.
Agricultrue and Financial Statistics Division .....	Chief Company Statistics Division.
Services Division .....	Chief Service Sector Statistics Division.
Foreign Trade Division .....	Chf, Foreign Trade Div.
Governments Division .....	Chf, Government Div.
Manufacturing and Construction Division .....	Chf, Manufacturing & Construction Division.
Associate Director for Decennial Census .....	Associate Director for Decennial Census. Asst to the Assoc Dir for Decennial Census.
Decennial Management Division .....	Assistant Director for Decennial Census. Chief Decennial Management Division.
Geography Division .....	Chf, Geography Div.
Decennial Statistical Studies Division .....	Chief, Decennial Statistical Studies Div.
Associate Director for Demographic Programs .....	Associate Dir for Demographic Progs. Chf, Population Div. Chief Demographic Surveys Division.
Housing & Household Economic Statistics Division .....	Chf, Housing & Household Econ Statistics Div.
Demographic Statistical Methods Division .....	Chief, Statistical Methods Division.
Associate Director for Methodology & Standards .....	Chief, Planning, Research, and Evaluation Division. Assoc Dir for Methodology & Standards.



POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Statistical Research Division ..... Bureau of Economic Analysis ..... Office of the Director .....	Chief Statistical Research Division. Associate of Economic Analysis. Director.
Associate Director for Regional Economics ..... Associate Director for International Economics ..... Assoc Director for Natl Income, E&W Accounts .....	Dep Dir, Bur of Economic Analysis. Chief Economist. Chf Statistician. Assoc Dir for Regional Economics. Assoc Dir for International Economics. Assoc Dir for Natl Inc, Exp, Wealth Accounts. Chf Natl Income & Wealth Div.
Director of Administration ..... Office of the Asst Secretary for Export Enforcement .....	Chief International Investment Division. Chief, Computer Systems and Services Division. Director of Administration. Deputy Assistant Secretary for Export Enforcement.
Office of the Asst Secretary for Economic Development ..... Office of the Under Secretary ..... Office of Consumer Goods ..... DAS for Market Access and Compliance ..... Market Access and Compliance ..... Deputy Assistant Secretary for Agreement Compliance ..... National Oceanic and Atmospheric Administration .....	Director Office of Export Enforcement. Chief Financial Officer/Chief Administrative Officer (CFO/CAO). Chief, Financial Officer & Director of Admin. Director Office of Consumer Goods. Dir Trade Compliance Center. Director, Office of Eastern Europe, Russia, and Independent States. Associate Director for Management. Chief Financial Officer/Chief Admin Officer. Dir Staff Ofc for International Programs.
Office of International Affairs ..... Office of Finance and Administration .....	Director, Office of Operations, Management and Information. Chief Financial Officer/Admin Officer. Director, Budget Office. Chief Information Officer.
Office of High Performance Computing and Communications ..... Systems Acquisition Office ..... National Ocean Service .....	Dir. for Human Resources Management. Dir. Finance Office/Comptroller (FO/COMPT). Dir for High Performance Computing Commun. Information Technology Acquisition Manager. Chf Fin Ofcr/Chf Adm Ofcr (Dir M&B Ofc). Director, National Centers for Coastal Ocean Science and Scientists for NOS.
Strategic Environmental Assessments Division ..... Coastal Monitoring and Bioeffects Assessment Division ..... Hazardous Materials Response and Assessment Division ..... Office of Assistant Administrator, Weather Services ..... Management and Budget Office ..... Office—Fed Coordinator—Meteorology .....	Deputy Director, National Centers for Coastal Ocean Science. Dir, Office of National Geodetic Survey (NGS). Chf, Strategic Environmental Assessments Div. Chief Coastal Monitoring Bioeffects Asses Div. Chf, Hazardous Materials R&A Division. Dir, Ofc of Aeronautical Charting/Cartography. Dep Chf Fin Ofc/Chief ADM Officer. Senior Advisor.
Office of Meteorology ..... Service Division ..... Office of Hydrology ..... Hydrologic Operations Division ..... Hydrologic Research Laboratory ..... Office of Systems Development ..... Techniques Development Laboratory ..... Office of Systems Operations ..... Systems Integration Division ..... Systems Operations Center ..... Engineering Division ..... WSR-88D Operational Support Facility ..... National Data Buoy Center ..... Eastern Region ..... Southern Region ..... Central Region ..... Western Region ..... Alaska Region ..... National Centers for Environmental Prediction .....	Dir, Ofc of the Fed Coord for Meterology. Dir, Office of Meteorology. Chief, Service Division. Director, Office of Hydrology. Chief, Hydrologic Services Division. Chief, Hydrologic Research Laboratory. Director, Office of Systems Development. Chief, Techniques Devel Laboratory. Dir, Office of Systems Operations. Chief, Systems Integration Division. Chief Telecommunications Operations Center. Chief, Engineering Division. Dir, Nexrad Operational Support Facility. Director, NOAA Buoy Office. Dir Eastern Region NWS. Dir Southern Region, Ft Worth. Director Central Region. Dir, Salt Lake City Region. Dir, Alaska Region, Anchorage. Dir Nat'l Severe Storms Lab. Dir Nat'l Severe Storms Lab.
NCEP Central Operations .....	Dir Nat'l Ctr for Environmental Prediction. Director, Environmental Modeling Center (EMC) and Deputy Director for Science.
Hydrometeorological Prediction Center ..... Climate Prediction Center ..... Storm Prediction Center ..... Tropical Prediction Center .....	Director, Central Operations. Director, Aviation Weather Center (AWC). Chf, Meteorological Operations Division. Dir Climate Prediction Ctr (CPC) Director, Storm Prediction Center. Dir Tropical Prediction Ctr/Natl Hurricane Ct.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
National Marine Fisheries Service .....	Dir Seafood Inspection Program. Dir Ofc of Inspection Fisheries (SF). Dir Ofc of Sustainable Fisheries (SF). Director, Office of Habitat Protection.
Office of Fisheries Conservation and Management .....	Chief Intergovernmental & Recreational F&M.
Office of Protected Resources .....	Dir Ofc of Science & Technology.
Northeast Fisheries Science Center .....	Science & Research Dir Northeast Region.
Southeast Fisheries Science Center .....	Science & Research Dir.
Northeast Fisheries Science Center .....	Science & Research Dir.
Southwest Fisheries Science Center .....	Science & Research Dir Southwest Region.
Alaska Fisheries Science Center .....	Science and Research Director.
Office of Asst Administrator Satellite, Data Info Serv .....	Sr Sci for Environ Satel, D&I Serv (NESDIS)
Director NPOESS Integrated Program .....	Director, Information Technology Mgmt Office.
National Climatic Data Center .....	Systems Program Director.
National Oceanographic Data Center .....	Director, National Climatic Data Center.
National Geophysical Data Center .....	Dir, Natl Oceanographic Data Center.
Office of Systems Development .....	Dir, National Geophysical Data Center.
Ofc of Asst Administrator, Ocean & Atmospheric Research .....	Dir Ofc of Sys Development.
National Sea Grant College Program .....	Program Director for Weather Research.
Aeronomy Laboratory .....	Director, Weather and Air Quality Research.
Air Resources Laboratory .....	Dep Asst Admr for Extramural Research.
Atlantic Ocean and Meteorology Laboratory .....	Director, National Sea Grant College Program.
Geophysical Fluid Dynamics Laboratory .....	Director, Aeronomy Laboratory.
Great Lake Environmental Research Laboratory .....	Director Air Resources Laboratory.
Pacific Marine Environmental Research Laboratory .....	Dir, Atlantic Oceanographic & Meteorological.
Space Environment Center .....	Director.
Environmental Technology Laboratory .....	Dir Great Lakes Environmental Research Lab.
Forecast Systems Laboratory .....	Dir Pacific Marine Environmental Lab.
Climate Monitoring and Diagnostics Laboratory .....	Dir Space Environment Laboratory.
Institute for Telecommunication Sciences .....	Director.
ITS, Systems and Networks Division .....	Director, Forecast Systems Laboratory.
Patent and Trademark Office .....	Dir Climate Monitoring & Diagnostics Lab.
Chemical Patent Exam Groups .....	Assoc Admr for Telecommunication Science.
	Deputy Dir for Systems & Networks.
	Dep Admin for Legislative & International Aff.
	Group Director—110.
	Group Director—120.
	Group Director—120.
	Group Director—130.
	Group Director—150.
	Deputy Group Director—110.
	Group Director—180.
	Deputy Group Director—150.
Office of Asst Commissioner for Patents .....	Administrator for Search & Information Res.
Electrical Patent Exam Groups .....	Dep Asst Comm for Patent Process Services.
	Deputy Group Director—1300.
	Group Director for—260.
	Group Director—210.
	Group Director for—230.
	Group Director—240.
	Group Director—250.
	Deputy Group Director—250.
	Deputy Group Director—260.
	Deputy Group Director—230.
Mechanical Patent Exam Groups .....	Group Director—310.
	Group Director—320.
	Group Director—330.
	Group Director—340.
	Group Director—350.
Office of Asst Commissioner for Trademarks .....	Chairman, Trademark Trial & Appeal Board.
	Deputy Asst Commissioner for Trademarks.
National Institute of Standards and Technology .....	Director, Trademark Examining Operation.
	Deputy Director, NIST Center for Neutron Research.
	Chief, Optical Technology Division.
Office of the Director, NIST .....	Director, Information Technology and Applications Office.
	Director for Administration and Chief Financial Officer.
	Deputy Director for Management Services.
	Deputy Director for Safety and Facilities.
	Executive Director, Visiting Committee on Advanced Technology Program.
Office of Quality Programs .....	Director for Quality Programs
	Dep Dir, Ofc of Quality Programs.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Program Office .....	Director, Program Office
Office of International and Academic Affairs .....	Deputy Director, Information Tech Laboratory. Dir International & Academic Affairs Chief Financial Officer.
Office of the Director for Technology Services .....	Deputy Director, Technology Services.
Manufacturing Extension Partnership Program .....	Assoc Dir for National Programs. Dir, Manufacturing Extension Partnership Prog. Dep Dir, Manufacturing Ext Partnership Prog.
Directors Office, Technology Innovation .....	Dir, Ofc of Technol Evaluation & Assessment.
Directors Ofc, Advanced Technology Program .....	Dir Information Technology Laboratory. Associate Dir for Policy & Operations. Dep Director, Advanced Technology Program. Director, Advanced Technology Program. Dir, Materials & Manufacturing Technology Ofc. Dir Electronics & Photonics Tech Office.
Electronics and Electrical Engineering Laboratory Ofc .....	Dir, Electronics & Electrical Eng Laboratory. Chief Optoelectronics Division. Deputy Directory.
Manufacturing Engineering Laboratory Office .....	Dir, Office of Microelectronics Programs. Chief, Office of Manufacturing Programs. Dep Dir, Manufacturing Engineering Laboratory. Dep Dir, Manufacturing Engineering Laboratory.
Precision Engineering Division .....	Chief, Precision Engineering Division.
Intelligent Systems Division .....	Chief, Intelligent Systems Division.
Chemical Science and Technology Laboratory Office .....	Chief, Process Measurements Division. Dir, Chemical Sci & Technology Laboratory. Dep Dir, Chemical Sci & Technol Laboratory.
Physical and Chemical Properties Division .....	Chief, Physical & Chemical Properties Div.
Analytical Chemistry Division .....	Chief, Analytical Chemistry Division.
Physics Laboratory Office .....	Mgr, Fundamental Constants Data Center. Director, Physics Laboratory. Deputy Director, Physics Laboratory.
Electron and Optical Physics Division .....	Chief Electron & Optical Physics Division.
Atomic Physics Division .....	Chief Quantum Metrology Division Chief Atomic Physics Division.
Time and Frequency Division .....	Chief, Time and Frequency Division.
Quantum Physics Division .....	Senior Scientist & Fellow of JILA. Senior Scientist & Fellow of JILA. Chief, Quantum Physics Division.
Materials Science and Engineering Laboratory Office .....	Dir, Materials Sci & Eng Laboratory.
Ceramics Division .....	Dep Dir, Materials Sci & Eng Lab Chief, Ceramics Division.
Materials Reliability Division .....	Chief Materials Reliability Div.
Reactor Radiation Division .....	Chief, Reactor Radiation Division. Group Leader Neutron Condensed Matter Science. Chief, Reactor Operations.
Building and Fire Research Laboratory .....	Chief, Fire Safety Engineering Division. Dir, building & Fire Research Laboratory. Dep Dir, Building & Fire Research Laboratory.
Building Materials Division .....	Chf, Building Materials Div.
Building Environment Division .....	Chief, Building Environment Division.
Fire Science Division .....	Chief, Fire Science Division.
Computer Systems Laboratory Office .....	Associate Director for Program Implementation.
Advanced Network Technologies Division .....	Chief Advanced Network Technologies Div.
Computing and Applied Mathematics Laboratory Office .....	Associate Director for Computing Chief High Perf Systems & Services Division.
National Technical Information Service .....	Deputy Director, Natl Technical Info Service.
O/AD for Financial & Administrative Management .....	Assoc Dir for Finance & Administration Comptroller.
Commodity Futures Trading Commission:	
Office of the General Counsel .....	Deputy General Counsel (Litigation). Deputy General Counsel (Opinions & Review) Deputy General Counsel (Reg & Adm) Deputy General Counsel
Office of the Executive Director .....	Dep Exec Dir. Dir, Ofc in Information Resources Mgmt. Director, Office of Financial Management.
Division Economic Analysis .....	Dep Chf Economist. Chief Counsel.
Division of Enforcement .....	Associate Director for Surveillance. Deputy Director (Western Operations).

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Division of Trading and Markets .....	Deputy Director (Eastern Operations). Associate Director. Associate Director. Associate Director.
Consumer Product Safety Commission:	Deputy Director (Contract Markets). Chief Counsel. Counsel for Special Projects.
Ofc of Executive Dir .....	Assistant Executive Director for Compliance. Associate Executive Dir for Field Operations. Asst Exec Director for Information Services.
Office of Hazard Identification & Reduction .....	Assoc Exec Dir for Engineering Science. Associate Executive Director for Economic. Asst Exec Dir for Hazard I&R. Deputy Assistant Executive Director for Hazard Identification and Reduction. Assoc. Exec. Director for Epidemiology.
Corporation for National and Community Service:	Senior Director for Budget & Trust Operations.
Department of the Chief Financial Officer .....	
Office of the Secretary of Defense:	Asst to the Secy of Def Intelligence Oversight. Deputy Assistant to the Secretary of Defense (Intelligence Oversight). Foreign Relations and Defense Policy Manager. Foreign Relations and Defense Policy Manager.
Office of the Secretary .....	Principal Director for Strategy. Director for Nuclear Safety and Security NATO Policy. Dusd for Technology Security Policy/Director, Technology Security.
Office of Under Secretary for Policy .....	Dep Asst secy of Defense (Forces & Resources). Director for Programs, Resources and Assessments. Dir Requirements & Technology & Acquisition.
Office of the ASD (Strategy & Requirements) .....	Dep Dir for Live Fire Test & Evaluation. Associate Director for Test and Evaluation Studies & Analyses. Deputy Director for Resources and Ranges.
Office of Assistant Secretary (SOLIC) .....	Deputy Inspector General. Asst Inspector General for Investigations. Dep Asst Inspector Gen for Investigations. Dep Asst Inspector General for Inspections. Asst Insp Gen for Adm & Info Management. Dep Asst Inspector Gen for Adm & Info Mgmt. Dir, Audit Planning & Technical Support. Director, Logistics and Support. Director, Contract Management. Director, Financial Management. Deputy Asst Inspector General for Auditing. Asst Inspector General for Auditing. Dir for Investigative Operations. Dep Asst Inspector Gen for Program Evaluation. Director, Readiness & Operational Support. Director, Acquisition Management Directorate. Asst Inspector General for Policy & Oversight. Director, Audit Followup Directorate. Dep Asst Insp Gen for Criminal Invest P&O. Dep Asst Inspect General Audit Policy Oversight. Director, Office of Departmental Inquiries. Deputy Inspector General for Intelligence. Principal Director (Manpower and Personnel). Principal Director and Director, Workforce Relations and Development. Director, Program and Budget Coordination. Chief of Educational Support Policy & Legisl. Associate Director for Management. Deputy Director Dept of Defense Education. Dir Info Management Tech & Reengineering. Director Acquisition Management & Support. General Counsel. Director, AFIS. Dir Armed Forces Radio & Television Service. Deputy Director, American Forces Information Service. Dir, Prog & Fin Control. Dep Dir for Program & Financial Control. Deputy Chief Financial Officer. Director of Personnel and Security. Dir, Freedom of Information & Security Review.
Director Operational Test and Evaluation .....	
Ofc of Inspector General .....	
Ofc of Asst Secy of Defense (Reserve Affairs) .....	
Ofc Dep Asst Secy (Civilian Personnel P/E Opportunity) .....	
ODASD (Requirements & Resources) .....	
Department of Defense Education Activity .....	
Office Assistant Sec Health Affairs .....	
Office of Asst Secy of Def for Public Affairs .....	
Deputy Comptroller (Program Budget) .....	
Deputy Comptroller (Management Systems) .....	
Washington Headquarters Services .....	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of the General Counsel ..... Ofc of Under Secy of Def for Acq & Technology ..... Principal Deputy Under Secretary of Defense (Acquisition & Technology).	Director Real Estate and Facilities. Dep Dir, Real Estate & Facilities. Dep Dir, Personnel and Security. Deputy General Counsel (IG). Dir Def Ofc of Hearings & Appeals. Executive Director, Defense Science Board. Dep Dir Arms Control Implementation Compl. Director for Defense Procurement.
Asst to the Sec of Def for Nuclear & Chemical & Biological Defense Programs. Office of the Director of Defense Research & Engineering .....	Deputy Dir, Cost Pricing & Finance. Dep Dir, Contract Pol & Administration. Director, Pacific Armaments Cooperation. Dep Dir, Def Syst Procurement Strategies. Dir Planning & Analysis. Dep Dir, Foreign Contractor. Dep Dir Mayor Policy Initiatives. Dir OSD Studies & FFRDCA. Director Ind Capabilities & Assessments. Assistant Deputy Under Secretary of Defense (Acquisition Process & Policies). Principal Assistant Deputy Under Secretary of Defense (Acquisition Reform). Director, Acquisition Resources and Analysis. Das of Def (Nuclear Treaty Programs). Deputy Assistant to the Under Secretary of Defense (Nuclear Matters) Dep Dir Naval Warfare. Dep Dir Munitions. Sr Staff Special for Air Superiority Systems. Dep Dir Land Warfare. Dep Dir Electronic Warfare. Special Asst Concepts & Plans. Deputy Director Defensive Systems. Princ Dep Dir, Strategic & Tactical Systems. Deputy Director Air Warfare. Asst Dep Dir, Arms Control I&C. Dir for Infor Tech. Director, Sensor & Electronics Technology. Dir Weapons Technology. Deputy Director, Developmental Test and Evaluation. Assistant Deputy Under Secretary of Def (FDP). Director for Life Sciences. Director for Science and Technology Plans and Programs. Assistant Deputy Under Secretary of Defense (Dominant Maneuver).
Ofc of Asst Secy (Command, Control, Commun & Intel) ..... Director, Strategic & Theater Nuclear Forces ..... Deputy Assistant Secretary of Defense (Intelligence) ..... Deputy Assistant Secretary of Defense (Defense-Wide C3) ..... Director for Special Technology ..... Defense Advanced Research Project Agency (DARPA) .....	Director, Program Analysis & Integration. Director, Counterintelligence. Director, International Affairs. Director, IT Acquisition and Investment. Director, Intelligence Policy and Collection. Deputy Director, Communications and C2 Battle Management. Director, Technology and Evaluation. Dir, Contracts Management Office. Special Asst, Information Technology. Dep Dir for Warfare Info Technology. Deputy Director Darpa. Prog Manager (Joint Applications Study Group). Director, Tactical Technology Office. Deputy Director for Management. Program Manager (Acquisition Innovation). Director, Microsystems Technology Office. Dep Dir for Wargaming, Simulation & Analysis.
Office of the Joint Chiefs of Staff ..... Ballistic Missile Defense Organization .....	Deputy for Program Operations. Director, Contracts Directorate. Deputy for Technology. Asst Dep for Theater Air & Missile Defense. Deputy for System Integration. Chief Architect/Engineer. Deputy Chief Architect/Engineer. Asst Deputy for Technical Operations. Deputy for System Development. Executive Director. Deputy Program Manager, National Missile Defense Joint Program Office.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Defense Contract Audit Agency .....	Deputy Director, DCAA. Assistant Director, Operations. Asst Dir, Policy & Plans. Director, Field Detachment. Director, DCAA.
Regional Managers .....	Deputy Regional Director, Western Region. Regional Director, Eastern. Regional Director, Northeastern. Regional Director, Central. Regional Director, Western. Regional Director, Mid-Atlantic. Dep Regional Director Eastern Region. Deputy Regional Director Northeastern Region. Deputy Regional Dir Central Region. Dep Reg Dir Mid Atlantic Region.
Defense Logistics Agency .....	Special Asst for Integrity in Contracting. Chief Actuary. Dir, Defense Manpower Data Center. Dep Gen Counsel (Acquisition & Contract Mgmt). Dep Commander, Def Construction Supply Ctr. Director CPMS. Deputy Commander Defense Distribution Center. Exe Dir, Resource, Planning & Performance Dir. Chief Information Officer. Dir, Civilian Personnel Mgmt Service. Director, Defense Property Accountability System (DPAS) Program Management Office. Director Defense Energy Support Center. Executive Director Human Resources. Executive Director, International Logics. Executive Director Logistics Management. Director, Defense Automated Printing Service. Executive Director, Business Operations. Deputy Chief Information Officer. Executive Director, Contract Mgmt Operations. Dep Commander, Def Contract Mgmt Command. Staff Dir, Small & Disadv Busin Utilization. General Counsel, DLA. Deputy General Counsel (Administration). Comptroller. Executive Director Procurement. Deputy Commander, Defense General Supply Ctr. Executive Dir, Info System & Technology Dir. Deputy Commander (DLSC). Deputy Commander, DPSC.
Office of Deputy Director, Acquisition .....	Executive Director, Contract Mgmt Operations.
Ofc of Staff Dir—Small & Disadvantaged Business Util .....	Dep Commander, Def Contract Mgmt Command.
Office of General Counsel .....	Staff Dir, Small & Disadv Busin Utilization.
Office of the Comptroller .....	General Counsel, DLA.
Office of Deputy Director, Material Management .....	Deputy General Counsel (Administration).
Defense Personnel Support Center .....	Comptroller.
Defense Training & Performance Data Center .....	Executive Director Procurement.
Defense Contract Management .....	Deputy Commander, Defense General Supply Ctr.
Defense Information Systems Agency .....	Executive Dir, Info System & Technology Dir.
	Deputy Commander (DLSC).
	Deputy Commander, DPSC.
	Deputy Dir Defense Manpower Data Center.
	Executive Director, Program Integration.
	Dep Director for Strategic Plans & Policy.
	Special Assistant for Liaison Activities.
	Chief, Technology & Standards Division.
	Professor of Information Science.
	Special Asst/Infrastructure & Info Assurance.
	Dir, Joint Electronic Commerce Prog Office.
	Chief Engineer, Information Systems Security.
	Technical Adv, C4I Sys, Program & Info Assurance.
	Chief, Networks Division.
	Advisor for Cross Program Integration.
	Chief Spectrum Anal & Mangnt Division.
	Commander, DISA Westhem.
	Deputy Chief Engineering Executive for Electronic Commerce.
	Chief, Policy, Plans, and Appropriated Programs Division.
	Chief, Defense Computing Business Office.
	Chief, Defense Information Systems Network Business Office.
	Principal Information for 2000 Operations.
	Deputy Chief Engineering Executive for Information Processing.
	Associate Deputy Director for Acquisition Strategy.
	Assistant for Program Oversight.
	Defense Message Systems Implementation/Integration Manager.
	Chief Engineering Executive for Information Transport.
Office of the Director .....	Deputy Manager National Commun Systems.
Directorate for Strategic Plans and Policy .....	Inspector General.
	Chief, Information Officer.
	Tech Advso, Strategic Plans, Program & Policy.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
DISA (Field Activity) .....	Dep Comm Ctr for Computer Systems Engineering.
Directorate for C4 & Intelligence Programs .....	Tech Dir Joint Intero & Eng Comm (JIEO).
	Tech Dir Adv Info Tech Services Joint Prog.
	Dep Dir for C4I Programs.
	Dep Dir for C4I Modeling, Simulation & Assess.
	Chief Current Network Operations.
Directorate for Operations .....	Asst Deputy Dir for Operations.
	Technical Director, Space Information Syst Office.
Directorate DISA, for Logistics, F & S Projects .....	Dep Dir for Procurement & Logistics.
	Chief Management Support Operations DISA West.
	Dep Dir for Personnel & Manpower.
Directorate for Personnel and Manpower .....	Assoc for Technical & Management Support.
Directorate for Engineering & Interoperability .....	Assoc Deputy Director for C4I Modeling, S&A.
Directorate for C4 Modeling, Simulation and Assessment .....	Deputy Director for Joint RA&I.
Directorate for Enterprise Integration .....	Comptroller.
Comptroller Directorate .....	Staff for Spec Tech Program.
Defense Threat Reduction Agency .....	Chief, Weapons Lethality Division.
	Dir, Acquisition Management.
	Deputy Director, Operations Directorate.
	Director for Electronics and Systems.
	Director for Weapons Effects.
	Chief, Simulation and Test Division.
	Director for Programs.
	Prog Dir, Hard Target Defeat Program Office.
	Program Director, Special Programs Office.
	Dir for Counterproliferation Programs.
	Comptroller.
	Deputy Director, On Site Inspection Plans and Resources.
Defense Security Assistance Agency .....	Chief Information Officer.
Defense Finance & Accounting Service .....	Deputy Director, Cleveland Center.
	Deputy Director Defense Finance and Accounting Service.
Defense Security Service .....	Dir, Defense Investigative Service.
	Special Asst to the Director.
	Deputy Director for Policy.
	Dir DOD Polygraph Institute.
	Chief Operating Officer.
	Comptroller.
Defense Commissary Agency .....	Executive Director for Operations.
Department of Air Force:	
Office of the Secretary .....	Association Director, Legislative Liaison.
Office of Administrative Assistant to the Secretary .....	Administrative Assistant.
	Dep Admin Assistant.
Office of Small & Disadvantaged Business Utilization .....	Dir, Ofc of Small, & Disadv Bus Utilization.
Office of the Inspector General .....	Dep Asst Inspector Gen/Spec Investigations.
Office of ASAF for Financial Management & Comptroller .....	Principal Dep Asst Secy (Financial Mgmt).
ODAS Budget .....	Director of Budget Investment.
	Director of Budget Management & Execution
	Deputy for Budget.
ODAS Cost & Economics .....	Dep Asst Secy (Cost of Economics).
Office of ASAF for Acquisition .....	Principal DAS (Acquisition & Mgmt).
Centralized Rep Support Team Office .....	DIR, Centralized Rep Support Team.
ODAS Science, Technology & Engineering .....	DAS (Science, Technology & Engineering).
ODAS Management Policy & Program Integration .....	Dep Asst Secy (Mgmt Pol & Prog Integration).
ODAS Contracting .....	Assoc Dep Asst Sect (Contracting).
Air Force Program Executive Office .....	Program Exec Officer, Info Systems.
	Prog Exec Ofcr, Conventional Strike.
	Prog Executive Officer Logistics Systems.
	Program Executive Officer Space.
OFC Of ASAF for Manpower, Reserve Affairs, Install & Env. ....	Dep for Air Force Review Boards.
Air Force Base Conversion Agency .....	Dir Air Force Base Conversion Agency.
Office of the Chief of Staff .....	Air Force Historian.
Test and Evaluation .....	Deputy Dir Test & Evaluation.
Deputy Chief of Staff, Communications & Information .....	Director of CIO Support, AFCIC.
Deputy Chief of Staff, Installations & Logistics .....	Deputy Director of Supply.
Civil Engineer .....	Deputy Civil Engineer.
Services .....	Director of Services.
Maintenance .....	Associate Director of Maintenance.
Logistics Support & Integration .....	Director of Plans & Integration.
	Deputy Dir or Global Combat Support System.
Supply .....	Chief Modification & O&M Programs Division.
	Chief, Combat Support Division.
Filed Operating Agencies .....	Dir AF Center for Environmental Excellence.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Deputy Chief of Staff, Plans, Programs ..... Manpower, Organization & Quality ..... Programs ..... Strategic Planning ..... Deputy Chief of Staff, Personnel .....	Asst Deputy Chief of Staff Plans & Programs. Deputy Director, Manpower and Organization. Associate Director or Programs & Evaluation. Dep Dir of Strategic Planning. Asst Deputy Chief of Staff Personnel. Dir of Personnel Force Development. Dep Dir Personnel Management.
Deputy Chief or Staff, Air and Space Operations. ....	Director, Palace Compass Program Management Office. Dep Dir of Operational Requirements. Assoc Dir Modeling Simulation & Analysis. Director Nuclear Weapons and Counter Proliferation Agency. Associate Director for Ranges and Airspace. Associate Director for Civil Aviation.
Air Force Material Command ..... Personnel ..... Contracting ..... Logistics .....	Executive Director. Director, Personnel. Deputy Director Contracting. Deputy Director, Logistics. Deputy Director for Depot Maintenance. Deputy Director for Supply Management.
Engineering & Technical Management ..... Financial Management & Comptroller ..... Communications & Information ..... Plans & Programs ..... Space and Missile Systems Center .....	Director, Engineering & Technical Mgmt. Dep Director, Financial Mgmt & Comptroller. Director, Communications & Information. Deputy Director, Plans & Programs. Executive Director. Director Contracting.
Electronic Systems Center .....	Director, Plans & Advanced Programs. Executive Director. Prog Dir Strategic & Nuclear Deterrence C2. Director, Material Systems Group. Program Director, Defense Information Infrastructure Air Force. Director, Information Programs Office. Director, Contracting.
Standard Systems Center ..... Aeronautical Systems Center .....	Director, Standard Systems Center. Executive Director. Director System Management. Program Director, Mobility Spo. Dir Financial Management & Comptroller. Dir Advanced Systems Analysis.
Development Planning ..... Engineering Directors ..... Directors of Engineering .....	Dir Systems Engineering. Dir of Engineering F-22. Director of Engineering, C-22 Director of Engineering Propulsion. Director of Engineering Joint Strike Fighter. Prog Dir Joint Air-to-Surface Standoff Miss. Program Dir Air to Joint SPO.
Systems Program Officers .....	Executive Director.
Human Systems Center ..... Air Force Research Laboratory .....	Executive Director, AFRL. Director, Plans & Programs. Assoc Dir for Investment Strategy. Director, AFRL Washington Office. Dir High Perf Computing Modernization.
Air Vehicles Directorate ..... Space Vehicles Directorate .....	Assoc Dir for Air Platforms. Director, Space Vehicles. Assoc Dir for Space Vehicles.
Information Directorate ..... Air Armaments Center ..... Directed Energy Directorate ..... Materials and Manufacturing Directorate .....	Dir Information. Director, Plans and Programs. Director Directed Energy. Director, Materials & Manufacturing. Assoc Dir for Manufacturing Tech & Afford.
Sensors Directorate .....	Director Sensors. Associate Director for Sensors. Director, Propulsion.
Propulsion Directorate ..... Human Effectiveness Directorate .....	Director, Human Effectives.
Arnold Engineering Development Center ..... Air Force Development Test Center .....	Executive Director. Executive Director.
Air Force Flight Test Center ..... Air Logistics Center, San Antonio .....	Executive Director. Director, Financial Management. Executive Director.
Air Logistics Center, Oklahoma City .....	Product Group Manager, Propulsion Systems. Dir, Privatization & Realignment. Director, Financial Management. Director, Commodities Management.



## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Air Logistics Center, Warner Robins .....	Executive Director. Director, Contracting. Director, Financial Management. Director, Technology & Industrial Support.
Air Logistics Center, Ogden .....	Executive Director. Director, Contracting. Director, Financial Management.
Air Logistics Center, Sacramento .....	Executive Director. Director Commodities. Director, Contracting. Director, Financial Management.
Air Force Audit Agency .....	Executive Director. Director, Contracting. Asst Aud Gen (Materiel & Systems Audits). Auditor General of the Air Force. Asst Aud Gen (Field Activities). Asst Aud Gen (Operations). Asst Aud Gen (Financial & Support Audits).
Air Combat Command .....	Senior Technical Director ASC2 Agency.
Air Education & Training Command .....	Provost, Air University.
Air Mobility Command .....	Principal Dep Dir of Operations for Transport.
Air Force Reserve Command .....	Air Commander 4th Air Force. Air Commander 10th Air Force. Air Commander 22nd Air Force. Assistant Vice Commander.
AF Space Command .....	Director, Plans.
AF Operational Test & Eval Ctr .....	Director of Operations.
U.S. Central Command .....	SR Scientist & Tech Advisor for AFSPACECOM.
U.S. Strategic Command .....	Technical Director. Scientific Advisor.
Department of Army:	Assoc Dir for Strategic Planning.
Office Deputy Under Secretary of Army (OPS Research) .....	Dep Dir Comd Ctrl Comm Computer & Intel Sys.
Office Deputy Under Secretary of the Army (Intl Affairs) .....	Spec Asst for Air & Missile Defense.
Office Administrative Asst to the Sec of Army .....	Asst Dep Under Secy of the Army for Oper Res. Special Assistant for Electronic Systems. Dir, Test and Evaluation Management Agency.
Office of the General Counsel .....	Dir of International Dev & Security Asst.
Ofc Asst Secretary Army (Civil Works) .....	Adm Asst to the Secy of the Army. Dep Admin Asst to the Secy of the Army.
Ofc Asst Sec Army (Financial Management & Comptroller) .....	Dir Single Agency Mgr for Pentagon Info Tech. Chief, Technical Officer & Director Engineering & Product Development.
Ofc Asst Sec Army (Manpower & Reserve Affairs) .....	Deputy General Counsel (Ethics & Fiscal).
Ofc Asst Sec Army (Acquisition, Logistics and Technology) .....	Deputy ASA (Management & Budget). DAS of the Army (Policy & Legislation). Assistant Deputy ASA for Army Budget. Deputy for Cost Analysis.
HQDA Army Acquisition Executive .....	Dir of Investment. DAS of the Army (Financial Operations). Spec Adv for Economic Pol & Productivity Prog. Director for Business Resources.
	Director for Civilian Personnel Mgmt & Ops.
	Deputy Asst Secy of the Army (ARBA).
	Deputy Assistant Secretary of the Army (Civilian Personnel Policy).
	DAS for Res & Tech/Chief Scientist.
	Deputy Asst Secy of the Army (Procurement).
	Dep Asst Secy for Plans & Programs.
	Director for Research.
	Director for Technology.
	Director for Assessment & Evaluation.
	Director, Procurement Policy and Acquisition Reform.
	Dep Prog Mgr for Chem Demilitarization Oper.
	Deputy PEO, Armored Systems Modernization.
	Dep Prog Exec Ofcr, Command & Control Systems.
	Deputy Prog Executive Officer Comm Systems.
	Program Executive Officer Stamis.
	Dep Program Executive Officer for Aviation. Dep Peo, Intelligence & Electronic Warfare. Deputy Prog Executive Ofcr, Missile Defense. Program Manager, National Missile Defense. Dep Prog Executive Ofcr Tactical Missiles.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Ofc of Dir of Info Sys for Comm, Contl, Comms/Computers .....	Prog Manager for Chemical Demi Operations. Dep Prog Executive Officer for Fire Supp Sys. Dir of Army Information Vice Director to the Disc4.
Army Audit Agency .....	The Auditor General. Deputy Auditor General. Director, Logistical & Financial Audits. Dir, Acquisitions & Force Mgmt. Director, Policy and Operations Management.
Operations Test & Evaluation Command (OCSA FOA) .....	Tech Dir, Test & Exper Command Dir Evaluation Analysis Center.
Army Center or Military History (OCSA FOA) .....	Chief Historian.
Office, Assistant Chief of Staff for Installation Mgmt .....	Dep Asst Chief of Staff for Installation Mgmt.
Office, Deputy Chief of Staff for Logistics .....	Asst Dir for Transportation. Director for Resources and Management. Executive Director, Strategic Logistics Agcy. Chief Aviation Logistics Office.
Office Dep Chf of Staff for Operations & Plans .....	Associate Dir for Supply & Maintenance. Tech Adv to the DCSOPS
Office, Dep Chief of Staff for Personnel .....	Director, Army Model & Simulation Office.
Army Research Institute (DCSPER FOA) .....	Director of Manprint. Dir, Manp & Pers Res Lab & Assoc Dir, Ari Dir, US Army Res Inst & Chief Psychologist.
U.S. Total Army Personnel Command (DCSPER FOA) .....	Director, Army Declassification Activity.
National Guard Bureau .....	Program Executive Officer for Information Systems & Chief Information Officer.
Walter Reed Army Institute of Research .....	Chief Dept of Pharmacology.
USA Space and Missile Defense Command .....	Prin Assistant Resp for Contracting Dir, Advanced Technology Directorate. Director, Weapons Directorate.
Training and Doctrine Command (TRADOC) .....	Dir, Miss Def Battle Integration Ctr. Asst Deputy Chief of Staff for Resources Mgmt. ADCOS for Training Policy Plans and Programs.
TRADOC Analysis Center .....	Deputy to the Commanding Gen, CASCOM. Asst Dep Chief of Staff for Base Ops Support. Asst Dep Chief of Staff for Combat Develop. Dep Chief of Staff for Base Operations Supp.
U.S. Army Nuclear and Chemical Agency .....	Director of Operations. Director of Operations.
Military Traffic Mgmt Command .....	Director. Dir, U.S. Army Nuclear & Chemical Agency. Special Asst for Transportation Engineering Deputy to the Commander.
U.S. Army Forces Command .....	Deputy Director Resource Management Asst DCS for Pers & Inst Mgmt. Assistant Deputy Chief of Staff for Logistics and Readiness.
US Army Signal Command .....	Technical Director/Chief Engineer.
U.S. Army Corps of Engineers .....	Dir of Real Estate. Director of Human Resources. Director Resource Management. Director, U.S. Army Center for Public Works. Principal Asst Responsible for Contracting. Dep to the Commander for Prog & Tech Mgmt. Deputy Chief of Staff for Corporate Information.
Directorate of Research & Development .....	Deputy Chief of Staff for Research & Development. Asst Dir for Research & Dev (Civil Works Prog). Asst Dir Research & Dev (Military Prog).
Directorate of Civil Works .....	Chief, Programs Management Division. Chief, Planning Division. Principal Assistant for Civil Works. Chief Engineering Division. Chf, Ops, Construction & Readiness Division. Chief Policy Review & Analysis Division.
Directorate of Military Programs .....	Chief Construction Division. Deputy Director, Military Programs. Chief, Engineering Division. Chief, Programs Management Division. Chief, Environmental Restoration Division.
Directors of Programs Management .....	Dir Programs Management, MVD. Dir Programs Management, NAD. Director of Programs Management. Director Programs Management.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Directors of Engineering & Technical Services .....	Dir Programs Management, POD. Dir of Programs Management, SAD. Dir Programs Management, SPD. Dir Programs Management, SWD.
Engineer Waterways Experiment Station, COE .....	Director of Engineering & Technical Services. Dir Engineering & Technical Services, NWD. Dir Engineering & Technical Services, NAD. Dir Engineering & Technical Services, LRD. Dir Engineering & Technical Services, NWD. Dir Engineering & Technical Services, LRD. Dir Engineering & Technical Services, POD. Dir Engineering & Technical Services, SAD. Dir Engineering & Technical Services, SPD. Dir of Engineering & Technical Services, SWD.
Engineer Waterways Experiment Station, COE .....	Director, Geotechnical Laboratory. Director Hydraulics Laboratory. Director Environmental Lab. Director, Structures Laboratory.
Engineer Waterways Experiment Station, COE .....	Director Coastal Engineering Research Center. Dir Waterways Experiment Station.
Engineer Topographic Laboratories, C of Engineers .....	Director.
Construction Engineering Res Lab Champaign, IL .....	Director.
Cold Regions Research & Engineering Lab Hanover, NH .....	Director.
U.S. Army Material Command .....	Deputy Chief of Staff for Corporate Information/CIO.
Office of Dcs for Logistic & Operations .....	Asst Dep Chief of Staff for Logs & Operations.
Office Deputy Commanding General .....	Principal Deputy for Logistics. Principal Deputy for Acquisition. Principal Deputy for Technology.
Office of Dcs for Research, Dev and Acquisition .....	ADCS for RDA Science Technology & Engineering ADCS for RDA—Business OPS/Director AMC Tocr Program.
Office of Deputy Chief of Staff for Ammunition .....	Asst Deputy Chief of Staff for Ammunition.
Office of Dcs for Acquisition .....	Asst Dep Chief of Staff for Res DAAC & P Mgmt.
Office of Deputy Chief of Staff for Personnel .....	Dep Chief of Staff for Personnel.
Office of the Deputy Chief of Staff for Res Management .....	ADCS for Resource Mgmt/Exec Dir for Busin Deputy Chief of Staff for Resource Management.
USA Security Assistance Command .....	Deputy.
US Army Industrial Operations Command .....	Deputy to the Commander.
U.S. Army Soldier & Biological Command (SBCCOM) .....	Deputy to the Commander Director for Operations, Remediation and Restoration.
US Army (SBCCOM)—Edgewood Biological Chemical Center .....	Director, Engineering Directorate. Dir, Res & Technology Directorate. Technical Director.
Natick Soldier Center .....	Director, Natick Rd & E Center.
US Army Communications Elect Comd (CECOM) .....	Director CECOM Acquisition Center. Assoc Dir, CECOM Acq Center—Washington Operations Office. Deputy to the Commander.
CECOM Research, Development & Engineering Center .....	Dir—Night Vision/Electro Sensors Directorate. Dir, Space & Terrestrial Comm Directorate. Dir, I&E Warfare Directorate. Dir, Software Engineering Directorate. Director/Army Systems Engineer. Dire for C4I Log & Readiness Center. Assoc Tech Dir Research Devel & Engineering Ctr. Director, Command, Ctrl & Syst Integration Dir.
U.S. Army Research Laboratory .....	Director. Dir, Research & Technology Integration. Director US Army Research Laboratory. Associate Director for Plans, Programs and Budget. Dep Dir Info Sci/Tech/Dir of Atmospherics Res. Director, Engineering Sciences Directorate. Director, Physical Science Directorate. Deputy Director. Director, Survivability/Lethality Analysis Directorate. Dir, Information Sci & Technology Directorate. Deputy Director and Director Electron Devices Research Director. Dir Corporate Information & Computing Ctr. Deputy Director and Directorate Materials Research Director.
Survivability/Lethality Analysis Directorate .....	Director, Human R&E Directorate.
Information Science and Technology Directorate .....	Executive Director, Acquisition Center.
Sensors and Electron Devices Directorate .....	Executive Dir, Integrated Materiel Mgmt Ctr.
Corporate Information and Computing Center .....	Deputy Executive Director for Tmde.
Weapons and Material Research Directorate .....	
Human Research and Engineering Directorate (ARL) .....	
U.S. Army Aviation and Missile Command (AMCOM) .....	

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Missile Res Development & Engineering Center (RDEC) .....	Deputy to the Commander. Deputy to the Commander. Executive Director Acquisition Center. Executive Dir Integrated Materiel Magnit Ctr. Director for Propulsion. Dir for Systems Simulation & Development. Tech Dir for M&D Res, Dev. & Eng Center. Dir for System Engineering & Production. Associate Director for Systems, Missiles Director for Weapons Sciences. Dir for Missile Guidance.
Aviation Research, Development and Engineering Center .....	Techn Dir (Aviation) & Ed-US Army Ard & Ec. Director of Aviation Engineering. Dir of Aeroflight Dynamics. Dir of Advanced Syst/Assoc Dir for Technol. Assoc Dir for Tech Appl/Dir of Spec Prog. Director of Acquisition Center. Director, Integrated Materiel Mgmt Center. Dir US Army Armament & Chemical A&L Act.
Tank—Automotive and Armaments Comd (TACOM) .....	Deputy to the Commander. Vice President for Research. President/Director. Vice President for Customer Engineering. Vice President for Product Development. Technical Director for Armament.
Tank—Automotive Res, D&E Center (TARDEC) .....	Asst Technical Director (System Development & Engineering). A/Tech/Dir (Systems Concepts & Technology). Dir, WE & Combat Support Armaments Center. Senior Technical Executive for Fire Support. Senior Technical Executive for Close Combat. Deputy to the Commander.
US Army Armament Research, D&E Center (ARDEC) .....	Tech Dir & Chf Sci. Director, Technical Mission Dir, Joint Prog OFC for Test & Evaluation Director. Chief, Combat Integration Division.
Warleads, Energetics & Combat Support Armaments Center .....	Asst Dep Chf of Staff, Personnel (CIV Pers). Asst Dep Chief of Staff Eng for Eng & Housing. Asst Dep Chf of Staff for Eng (Intl Affairs). Deputy Chief of Staff for Resource Management. Director of Cemetery Operations. Spec Asst for Technology & Requirements Integ.
Fire Support Armaments Centers .....	U.S. Army Military District of Washington .....
Close Combat Armaments Center .....	U.S. Southern Command .....
US Army Simulation, Training & Instrumentation Command .....	Department of Navy: Office of the Secretary .....
US Army Test and Evaluation Command, (TECOM) .....	Office of the Under Secretary of the Navy .....
US Army Materiel Systems Analysis Activity .....	Office of the Auditor General .....
Headquarters, US Army, Europe .....	Naval Audit Service .....
U.S. Army Military District of Washington .....	Naval Criminal Investigative Service .....
U.S. Southern Command .....	Ofc of the Asst Secy of Navy (Manpwr & Res Affs) .....
Department of Navy: Office of the Secretary .....	OAS of Navy (Installations & Environment) .....
Office of the Under Secretary of the Navy .....	OAS of the Navy (Research, Dev & Acquisition) .....
Office of the Auditor General .....	Program Executive Officers .....
Naval Audit Service .....	
Naval Criminal Investigative Service .....	
Ofc of the Asst Secy of Navy (Manpwr & Res Affs) .....	
OAS of Navy (Installations & Environment) .....	
OAS of the Navy (Research, Dev & Acquisition) .....	
Program Executive Officers .....	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	Deputy PEO for Aircraft Carriers. Director, Plans & Programs Division. Chf Engr. Asst for Fire Control & Guidance Systems. Branch Head, Reentry Systems Branch. DEP P/E Officer for Unmanned Aerial Vehicles. Dep Prog Exec Officer for Theater Air Defense. Technical Plans Officer. Head, Res Branch & De Dir, Plans & Progs Div. Assistant for Missile Engineering Systems. DEP P/E Officer for Cruise Missiles Program. Prog Manager for Comm Satellite programs. Dep Prog Officer Submarines. Program Executive Officer, Undersea Warfare. Asst for Systems Integration & Compatibility. Dep Prog Exec Ofcr for ASW, A/S Mission Prog. Dep Prog Exec Ofcr for Tactical Air Programs. Deputy PEO, Mine Warfare. Prog Exec Officer for Space Comms & Sensors. Aegis Deputy Program Manager. Prog Exec Officer ASW Assault & Spec Miss Pro. Chief Engineer, PEO, SCS.
Ofc of the Asst Secy of Navy (Fin Mgmt Comptroller) .....	Deputy Program Mgr., Future Carrier Program Office. Assoc Dir, Budget & Reports/Fiscal Manag Div. Asst General Counsel (Financial Management). Dir, Investment & Dev Div. Dir, Financial Mgmt Pol & Systems Division. Dir, Budget Evaluation Group. Dir Resource Allocation & Analysis Division. Director, Financial Management Division. Director, Business and Civilian Resources Division.
Naval Center for Cost Analysis ..... Office of the Naval Inspector General ..... Office of the General Counsel ..... Chief of Naval Operations .....	Dir Naval Center for Cost Analysis. Deputy Naval Inspector General. Special Counsel for Litigation. Asst Dep Chf of Naval Operations (Logistics). Dep Dir of Naval Training. Asst Dep Chief Naval Oper Res Warfare. Asst Dep Chf of Naval Oper Manpower/Personnel. Head, Readiness & Sustainability Branch. Associate Director, Assessment Division. Tech Dir, Submarine & SSBN Security Program. Technical Director. Deputy Director for Programming. Head Assessement & Affordability Branch. Assoc Dir, Expeditionary Warfare Division. Dir Naval History/Dir, Naval Historical Ctr. Head Deep Submergence Systems Branch. Dep Dir Envir Protection Safety Occp Heal Div. Director Strategic Sealift Division.
Bureau of Naval Personnel ..... Bureau of Medicine & Surgery ..... Military Sealift Command .....	ACNP for MPN Financial Management. Dep Commander for Fin Mgmt & Comptroller. Counsel. Comptroller. Asst Dep Comdr for Business Operations.
Naval Meteorology & Oceanography Comm, Stennis SC, MS. Ofc of Commander in Chf/Allied Forces/Southern Eur .....	Dir Joint Train Analysis & Simulation Ctr. Dep Dir Fleet Maintenance. Director, Joint Battle Lab. Director, Command, Control Communications and Computers Systems Deputy Director, Shore Activities Readiness.
Ofc of the Commander-in-Chief, U.S. Pacific Command ..... Cincpacflt .....	Chief Information Officer. Deputy Director Fleet Maintenance. Deputy Director Shore Installation Management. Executive Director, Planning & Resources. Fleet Human Resources Mgr and Policy Director.
Ofc of the Chief of Naval Education and Training ..... Naval Recruiting Command ..... Naval Air Systems Command Headquarters .....	Conptroller. Deputy Commander. Acquisition Reform, Strategy and Metrics Executive. Executive Dir, Corporate Operations. Deputy Commander for Acquisition & Operations. Executive Director for Logistics. Executive Director for Contracts.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	Deputy Comptroller. Counsel, Naval Air Systems Command. Assoc Director Weapons Sys Eng Division. Deputy Head, Avionics Dept. Deputy Head Air Vehicle Dep. Dep Head Logistics Management. Head, Tactical A&M Contracts Department. Head Aircraft Support Dept. Head Cost Department. Deputy Acquisition Executive. Executive Director for Engineering. Dir Industrial Operations. Head Concepts Analysis Evaluation Plan Dept. Head Propulsion & Power Systems Dept. Dep Head Aircraft Sys Engineering Department. Head Logistics Support Department. Deputy Commander, Naval Air Sys Command. Head, Cruise Missiles, Uav & Navair Programs, Contracts Department. Dir Budget Formulation Justification Exe Div. Deputy Counsel, Navair. Executive Dir for Industrial Capabilities. Dir Naval Aviation Science & Tech Office. Asst Commander for Corporate Operations. Joint Eng Data Mgmt I&C Syst Prog Manager. Head Air Asw Assault & Special Mission Prog. Special Asst for Navy test & Evaluation.
Naval Air Warfare Center Aircraft Division Lakehurst .....	Director, Engineering & Research
Naval Air Warfare Center Aircraft Division .....	HD Supp Equip Aircraft Launch & Recovery Dept. Exec Dir, T&E Group Nawc-Aircraft Div Head, Avionics Department.
Naval Air Warfare Center Weapons Div, China Lake, CA .....	Dir of Atlantic Ranges & Facilities Dept. Head, Res and Technology Division. Head, Pacific Ranges & Facilities Depart. Head, Avionics Dept. Head Test Evaluation Engineering Department. Head, Syst Engineering Department. Director for Test & Evaluation. Head Weapons Engineering Dept Dir for Eng, Nawc-Weapons Division. Director of Corporate Operations. Head, Threat/Target Syst Depart.
Naval Training Systems Center .....	Executive Director
Space & Naval Warfare Systems Command .....	Dir of Acq, Analysis, Engineering & Research. Exec Dir, Contracts. Deputy Comptroller.
	Counsel Space & and Naval Warfare Systems Com. Chief Engineer Command Sys Prog Directorate. Executive Dir, Space Tech Systems Prog Dir. Exec Dir, Undersea Surveillance Prog Dir. Exe Dir, Intelligence S&R System Prog Dir. Dir of Tech Head Engineering Tech Group. Prog Dir Command C&C System Program Dir. Prog Dir, I&E Warfare Syst Program Dir. Deputy Commander. Deputy Chief Engineer.
Space and Naval Warfare Systems Center .....	Dir Strategic Corporate Plann & Devel Office. Exec Dep Dir Info Supp Sys Progr Directorate. Head Intelligence S&R Department. Executive Director. Head Navigation & Applied Sciences Dept. Head, Command and Control Department. Dep Exec Dir Sci Tech Engineering. Head Communication & Information Sys Dept. Dep Executive Dir for Corporate Operations.
Space and Naval Warfare Systems Center, Charleston .....	Executive Director.
Naval Facilities Engineering Command .....	Director Navy Crane Center. Counsel Naval Facilities Engineering Command. Deputy Comptroller. Director for Contracts Support. Chief Engineer. Dir of Real Estate Support. Dir of Base Closure.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Naval Sea Systems Command .....	Director of Environment. Executive Director. Counsel Naval Sea Systems Command. Executive Director for Contracts. Executive Director/Deputy Comptroller. Director, Reactor Materials Divisions. Director, Secondary Plant Components Division. Head, Advanced Reactor Branch. Director, Hydrodynamics Group. Dep Dir Surface Ship Design & Sys Eng Group. Dir Cost Engineering & Industrial Analysis. Dir, Shipbuilding Contracts Division. Assistant Deputy Cdr for Industrial Ops. Executive Director, Surface Ship Directorate. Exec Dir Submarine Directorate. Dep Commander for Warfare Systems. Director, Corporate Operations. Chief Information Officer. Executive Director for Logistics, M&I OPS. Dep Prog Mgr/Techn Dir, New Attack Submarines. Dep Prog Mgr for S&A Submarine Program. Dep Prog Manager, Aircraft Carrier Prog Ofc. Director, Auxillary and Crew Systems Group. Dir Reactor Plant Components Auxil Equip Div. Dep Dir/Advanced Submarine Reactor S&SF Mgmt. Dir Surface Ship Systems Division. Dir, Reactor Plant Safety & Analysis Division. Dir, Ship S&S Integrity Group. Dir Power Systems Group. Director, Materials Engineering Office. Exec Dir, Ship Design & Engrng Directorate. Program Manager for Commissioned Submarines. Dir, Surface Systems Contracts Division. Dep Cdr Ssd/Dep Peo for Clw & Auxiliary Ships. Director, Office of Resources Management. Dir, Reactor Refueling Division. Deputy Counsel, Naval Sea Systems Command. Dir Environmental Protection Office. Deputy Dir Environmental Health & Safety. Program Manager, Commercial Ship/Craft Program Office. Asst Deputy Commander, Fleet Maintenance Policy and Process Division. Asst Deputy Cdr Fleet Logistics Support. Director, Fleet Readiness Division. Deputy Program Mgr., Stnd., Missile Program Mgmt. Office.
Norfolk Naval Shipyard .....	Naval Shipyard Nuclear Engineering & Plan Mgr. Nuclear Eng & Planning Manager Budget Naval Ship.
Naval Surface Warfare Center .....	Technical Director.
Naval Undersea Warfare Center .....	Technical Director.
Naval Surface Warfare Center, Crane Division. ....	Executive Director.
Naval Undersea Warfare Center Div, Keyport, WA .....	Executive Director.
Naval Surface Warfare Center, Pt. Hueneme Division .....	Executive Director.
Naval Surface Warfare Center, Indian Head Division .....	Director.
Coastal Systems Station .....	Executive Director.
Naval Surface Warfare Center, Carderock Division .....	Head, Coastal Sci, Technology & Analysis Dept. Head, Coastal Warfare Systems Department.
Naval Surface Warfare Center, Carderock Division .....	Director.
Naval Surface Warfare Center, Carderock Division .....	Assoc Dir for Hydromechanics/Head, Hd.
Naval Surface Warfare Center, Carderock Division .....	Assoc Dir for Syst/P&H Ship S/P Directorate.
Naval Surface Warfare Center, Carderock Division .....	Assoc Dir for Ship A/E S/H S/Directorate.
Naval Surface Warfare Center, Carderock Division .....	Assoc Dir for SS & M/HSS & M Directorate.
Naval Surface Warfare Center, Carderock Division .....	Associate Director for Machinery.
Naval Surface Warfare Center, Dahlgren Division .....	Head, Weapons Systems Department.
Naval Surface Warfare Center, Dahlgren Division .....	Head, Combat Systems Department.
Naval Surface Warfare Center, Dahlgren Division .....	Exec Director.
Naval Surface Warfare Center, Dahlgren Division .....	Deputy Executive Director.
Naval Surface Warfare Center, Dahlgren Division .....	Head Strategic & Strike Systems Dept.
Naval Surface Warfare Center, Dahlgren Division .....	Head, Systems Res & Technology Department.
Naval Surface Warfare Center, Dahlgren Division .....	Head Joint Warfare Applications Dept.
Naval Surface Warfare Center, Dahlgren Division .....	Dir, Combat Systems Design & Eng Group.
Naval Undersea Warfare Center Division, Newport, RI .....	Head Warfare Analysis & Systems Dept. Head, Submarine Sonar Department.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Naval Supply Systems Command Hdqtrs .....	Executive Director. Head Test and Evaluation Dept. Director for Submarine Combat Systems. Director, Submarine Warfare Systems. Director, Surface Undersea Warfare. Hd, Submarine Electromagnetic Sys Dept. Head Combat Control Systems Department. Head Torpedo Systems Technology Dept. Asst Dep Commander for Fin Mgmt/Comptroller. Counsel. Executive Director Office of Special Projects. Assistant Commander for Fleet Logistics Ops.
Naval Inventory Control Point .....	Executive Director.
Navy Fleet Material Support Office .....	Vice Commander.
U.S. Marine Corps Headquarters Office .....	Executive Director.
Marine Corps Systems Command .....	Dep Dir Facilities & Services Division. Dir Contracts Division. Counsel for the Commandant. Director of Administration and Resources. Deputy Counsel for the Commandant. Director Dep Chf for Prog & Resourc Fiscal Div. Asst Dep Chf of Staff for Installations & Log. Assistant to the Deputy Commandant of the Marine Corps for M & RA. Asst Dep. Chf of Staff for Requirements & Prog.
Marine Corps Logistics Base, Albany GA Office of Naval Research	Director, C41. Executive Director. Deputy for Financial Management. Deputy Commander for Logistics Operations. Dir, Ship Structures & Systems S&T Div. Dir, Mechanics & Energy Conversion S&T Div. Director, Marine Corps Science & Technology. Executive Director/Technical Director. Head Special Programs Department. Executive Dir for Acquisition Management. Dir Financial Management Comptroller. Patent Counsel. Counsel, Office of Naval Research. Head Engineering. Dir Strike Technology Division. Dir Math Computer & Information Science Div. Dir OAS S&T Processes & Prediction Division. Dir OAS at Sensing & Systems Division. Head Industrial Programs Department. Dir Congitive & Neural Science & Tech Div. Head, Human Systems S&T Department. Dir, Bimolecular & Biosyst Sci & Techn Div. Head Info Electronics & Surveil Sci Tech Dept. Dir of Surveillance Communications Electronic. Director, Electronics Division. Head Ocean Atmosphere Space Sci Tech Dept. Associate Technical Director. Director, Naval Fleet/Force Tech Innovation Office. Dir Materials Sci and Technology Division. Assoc for Intergration OAS St Sensing Sys Div. Chf Sci, Lab for Structure of Matter. Dir of Research. Assoc Dir of Res For Matl Sci & Comp Technol. Superintendent, Chemistry Division. Superintendent, Optical Sciences Div. Superintendent Space Science Div. Supt, Radar Div. Supt, Materials Sci and Tech Division. Supt, Acoustics Div. Superintendent, Plasma Physics Div. Superintendent Electronics Technology Div. Superintendent, Info Technol Div. Supt, Tactical Electronic Warfare Div. Chief Scientist Lab for Compt Phy Fluid Dynam. Superintendent, Remote Sensing Division. Assoc Dir of Res for Business Operations. Chief Sci & Head, Beam Physics Program.
Naval Research Laboratory .....	



POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	Superintendent, Marine Meteorology Division. Mgr, Joint Space Systems Technology Programs. Assoc Dir Res for Ocean & Atmospheric Sci Tec. Superintendent Ctr Bio/Molecular Science Eng. Head Elect Warfare Strategic Planning Org. Assoc Dir of Res for Warfare Sys & Senors Res. Superintendent, Space Syst Development Dep. Superintendent, Oceanography Division. Superintendent, Spacecraft Engineering Dep. Dir, Naval Center for Space Technology. Superintendent, Marine Geosciences Division.
Defense Nuclear Facilities Safety Board: Defense Nuclear Facilities Safety Board .....	Dep Gen Counsel for Pol & Litigation Deputy General Manager. Tech Adv for Hazards Anal & Health Physics. Technical Advisor for Technical Studies. Technical Lead for Engineering Programs. Technical Lead for Nuclear Weapons Programs. Technical Lead for Materials Processing & Environmental Restoration Programs. Technical Lead for Materials Processing & Environmental Restoration.
Department of Education: Ofc of the Chief Financial Officer .....  Office of the Chief Information Officer .....  Office of Management .....  Office of Inspector General .....	Director, Grants and Contracts Service. Deputy Chief Financial Officer. Director, Fin Rep & Systems Operations. Dir Financial Management Operations. Deputy Chief Information Officer. Chief Information Officer. Dir Admin Resource Management Service. Chairperson, Education Appeal Board. Dir Human Resources Group. Assistant Inspector General for Audits. Dep Asst Gen for Audit Operations. Dep Asst Inspector Gen for Techn Audit Svc. Associate Inspector General. Counsel to the Inspector General. Deputy Inspector General. Asst Inspector General for Operations. Asst Inspec General for Operations East Area. Asst Inspec Gen for Investigation Services. Asst Inspector General for Audit Services. Deputy Assistant IG for Audit Services.
Office of the General Counsel .....  Office of Educational Research and Improvement ..... National Center for Education Statistics .....	Asst Gen Coun For Busin & Adm Law. Asst General Counsel for Educational Equity. Asst Gen Counsel for Regulations. Asst Gen Coun for Div of Legislative Counsel. Asst Gen Coun for Postsecondary Ed & Ed Res. Special Assistant to Assistant Secretary. Assoc Commr/Surveys & Cooperative Syst Group. Associate Commr for Data Collection and Dissemination. Assoc Comr for Stat Std & Methodology Div. Assoc Commissioner Educ Assessment Division. Chief Financial Officer.
Student Financial Assistance ..... Department of Energy:	Deputy Director.
Office of Counterintelligence ..... Office of Security and Emergency Operations .....	Dir Ofc of Classification & Technology. Director, Office of Security Affairs.
Office of Safeguards & Security Evaluations .....	Director.
Office of Chief Financial Officer .....	Deputy Director. Dir Ofc of Budget. Dep Dir Ofc of Budget. Director, Budget Analysis Division. Director Capital Accounting Center. Director, Budget Operations Division. Dir Ofc of Dep Accounting & Fin Sys Dev. Dir Ofc of Financial Policy. Dir Ofc Compliance and Audit Liaison. Deputy Controller. Controller.
Asst Secy for Defense Programs .....	Assoc Dep Asst Secy for Military Application. Nuclear Weapons Complex Project Manager. Assoc Das for Human & Administrative Res.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of Economic Impact & Diversity .....	Assoc Das for Program A&F Management. Dir of Sm and Disadv Bus Utilz.
Asst Secy for Energy Efficiency & Renewable Energy .....	Assoc Dep Asst Secretary for Utility Tech. Manager, Golden Field Office.
Asst Secy for Environment, Safety & Health .....	Dir Nuclear Operations & Analysis. Dir Office of Environmental Compliance. Deputy Director Ofc of ES&H Evaluations. Dir Office of Enforcement & Investments. Dir Ofc of Nuclear Safety Policy & Standards. Dir Occupational Safety & Health Policy.
Energy Information Administration .....	Dir, Ofc of Oil and Gas. Dir Ofc of Coal Nucl Elec & Altern Fuels. Director, Ofc of Energy Markets & End Use. Director Economics & Statistic Division. Director, Statistical and Methods Group. Director Quality Assurance Division. Director, Natural Gas Division. Director, Petroleum Division. Dir, Ofc of Integration Nal & Forecasting. Director, Coal 7 Electrical Power Division. Director, Electrical Power Division. Director, International Economic & Greenhouse Gases Division. Dir Survey Mgmt Div.
Asst Secy for Environmental Management .....	Director, Information Technology Group. Director, Office of Research & Development. Assoc DAS for Oversight & Self-Assessment. Director, Office of Acquisition Management. Director, Office of Budget.
Office of Science .....	Dir Chem Sci Div. Dir Adv Egy Proj Div. Chf Processes and Tech Br. Dir High En Physics Div. Director, Human Health & Assessment Div. Deputy Dir for Management. Dir, Health Effects & Life Sci Research Div. Deputy Dir for Nuclear Safety Safeguard. Dir, Office of Assessment & Support. Assoc Dir Ofc of Computational & Tech Research.
Office of Field Management .....	Director, Financial Management Division. Dir, Ofc of Resource Management & Services.
Albuquerque Operations Office .....	Director, Weapons Surety Division. Dir Transportation Safeguards Div. Dir, Production Assurance & Ops Division. Dir, Weapons Programs Div. Dir of Emergency Plans & Operations. Asst Manager for Management & Administration. Carlsbad Area Office Manager. Chief Financial Officer.
Chicago Operations Office .....	Director, Ops Management Division. Acquisition & Asst Group Manager. Fermi Group Manager Asst Mgr for Laboratory Management. Chief Financial Officer.
Idaho Operations Office .....	Assistant Manager for Administration. Chief Financial Officer. Asst Mgr Ofc of Program Execution.
Nevada Operations Office .....	Asst Manager for Applied E&T Transfer. Chief Counsel. Assistant Manager for Administration.
Ohio Field Office .....	Asst Manager for Business & Financial Service. Manager Ohio Filed Ofc. Deputy Manager, Ohio Field Office.
Oakland Operations Office .....	Director, Fernald Environmental Management Projects. Field Chf Fin Officer and Business Manager Assoc Manager for Site Management.
Oak Ridge Operations Office .....	Asst Manager for Administration Chief Financial Officer.
Rocky Flats Office .....	Manager, Rocky Flats Field Office. Deputy Manager, Rocky Flats Field Office.
Richland Operations Office .....	Dep Asst Mgr for Matl Stabilization & Disp. Asst Mgr Business Mgmt & Chief Fin Ofcr Source Evaluation Board Advisor.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Savannah River Operations .....	Asst Manager for Business & Logistics.
Office of Hearings & Appeals .....	Dep Dir for Legal Analysis.
	Dep Dir for Financial Analysis.
	Dep Dir for Econ Analysis.
Office of Management and Administration .....	Dir HQ Personnel Operations Div.
	Director, Office of Administration.
	Associate Dir, Office of Resource Mgmt.
	Dep Dir of Administrative Services (Wash, DC).
	Dep Dir of Personnel.
	Director, Office of Procurement and Assistance Policy.
	Dir Ofc of Mgmt Sys (Competition Advocate).
	Director Ofc Contract & Resource Management.
	Executive Assistant to the Director.
	Dir, Headquarters & Executive Personnel Serv.
	Chief Information Officer/Director of Information Management.
Office of Inspector General .....	Asst Inspector General for Investigations.
	Manager, Western Regional Audit Office.
	Director, Audit Policy, Plans & Programs.
	Manager, Eastern Regional Audit Office.
	Dir Capitol Regional Audit Office.
	Deputy Asst Inspector Gen for Investigations.
	Spec Asst for Policy and Planning.
	Counsel to the Inspector General.
	Dir, Office of Contractor Employee Protection.
	Asst Inspector General for Resource Mgmt.
	Principal Deputy Inspector General.
	Assistant Inspector General for Audits.
	Deputy Inspector General for Inspections.
	Deputy Inspector General for Audits.
	Director for Financial Audits.
Office of Fissile Materials Disposition .....	Deputy Director.
Office of Nuclear Energy, Science & Technology .....	Dir Advanced Submarine Systems Division.
	Dir Instrumentation & Control Div.
	Asst Program Manager for Surface Ships.
	Deputy Director for Naval Reactors.
	Senior Naval Reactors Rep (Pearl Harbor).
	Director Nuclear Technology Div.
	Dir Reactor Engineering Division.
	Head, Core Manufacturing Branch.
	Dep Director Reactor Materials Division.
	Director, Fiscal Division.
	Asst Manager for Operations.
	Program Manager for Shipyard Matters.
	Dir Nuclear Components Division.
	Senior Naval Reactors Representative.
	Manger, Idaho Branch Office.
	Program Manager Submarine Technology Develop.
	Assoc Dir, Isotope Production & Distribution.
	Prog Mgr for Analysis & Regulatory Matters.
	Director Acquisition Division.
	Director for Submarine Refuelings.
	Senior Naval Reactors Representative.
	Dep Program Mgr for Commissioned Subs.
	Prog Mgr Prototype & Moored Training Ship.
	Dir Regulatory Affairs.
Office of Nonproliferation and National Security .....	Special Asst to the Ast Secretary.
	Dir Ofc of Security Affairs.
	Dep Dir, Ofc of Security Affairs.
Western Area Power Administration .....	Asst Admr for Mgmt Svcs.
	Chief Administrative Officer.
	Chief Financial Officer.
Environmental Protection Agency:	
Office of the Chief Financial Officer .....	Deputy Chief Financial Officer.
Office of the Comptroller .....	Deputy Comptroller.
	Dir Ofc of the Comptroller.
	Deputy Comptroller
	Director, Annual Planning & Budget Division.
	Director, Financial Services Division.
Office of Planning, Analysis & Accountability .....	Director, Office of Planning Analy & Account.
Ofc of the Asst Admr for Admin & Resources Management .....	Director, Ofc of Pol & Resource Mgmt
	Principal Dep Asst Admr for Amd & Res Mgmt.
Office of Administration .....	Dir Ofc of Administration.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of Information Resources Management .....	Deputy Dir Ofc of Administration. Dir, Facilities & Support Services Division. Dir, Sfty, Health & Environmental Mgmt Div. Dir, Ofc of Information Resources Management Dep Dir Ofc of Information Resources Mgmt.
Ofc of Administration & Resources Mgmt—Cincinnati OH .....	Dir Ofc of Admin and Resources Management.
Office of Administration & Resources Mgmt—Rtp, NC .....	Director Office of Administration & Res Mgmt.
Ofc of Human Resources and Organizational Services .....	Dir Office of Human Resources & Org Services. Dep Dir Ofc of Human Resources & Org Services. Assoc Director for Reengineering & Automation. Dir Exec Resources & Special Programs Staff. Director, Org & Management Consulting Serv. Dir Strategic Planning & Policy Systems.
Office of Acquisition Management .....	Dir, Superfund/Rcra Regl Procurement Ops/Div. Director, Office of Acquisition Management. Dep Dir, Office of Acquisition Management.
Office of Grants and Debarment .....	Dir, Grants Admin Div. Director, Office of Grants & Debarment. Dep Dir Ofc of Grants and Debarment.
Office of the Asst Admr for Enf & Comp Assurance .....	Director, Ofc of Environmental Justice.
Office of Federal Activities .....	Dir, International Enforcement Program Div.
Office of Regulatory Enforcement .....	Director, Office of Regulatory Enforcement. Dep Dir, Office of Regulatory Enforcement.
Office of Criminal Enforcement, Forensics & Training .....	Dir Air Enforcement Division. Dir Natl Enforcement Training Institute. Dir Ofc of Criminal Enforce Forensics Train. Director, Criminal Investigations Division.
Office of Compliance .....	Deputy Director, Office of Criminal Enforcement, Forensics Training. Director, Office of Compliance. Dir, Enforcement Planning, T&D Division. Dir, Manufacturing E&T Division. Deputy Director, Office of Compliance.
Office of Site Remediation Enforcement .....	Dir Import Export Program. Director, Ofc of Site Remediation Enforcement Dep Dir, Ofc of Site Remediation Enforcement.
Federal Facilities Enforcement Office .....	Dir Federal Facilities Enforcement Office.
Office of the Inspector General .....	Deputy Inspector General Asst. Inspector General for Planning, Analysis & Results.
Office of Investigations .....	Assist Inspector Gen for Investigations Dep Asst Inspector General for Investigations.
Office of Audit .....	Asst Inspector General for Audits. Prin Dep Asst Inspector Gen for A&F Audits. Dep Asst Inspector General for External Audits. Dep Asst Inspector General for Internal Audit.
Office of Management .....	Assistant Inspector General for Management.
Office of Wastewater .....	Director, Municipal Support Division Deputy Director, Municipal Support Division.
Office of Science and Technology .....	Dir, Standards & Applied Science Division Dir, Health & Ecological Criteria Division.
Office of Wetlands, Oceans and Watersheds .....	Dir, Assessment & Watershed Protection Div. Dir, Oceans & Coastal Protection Division. Director, Wetlands Division.
Office of Ground Water & Drinking Water .....	Director, Engineering & Analysis Division. Dir, E&P Implementation Division. Director, Standards & Risk Mgmt Division. Dir Implementation & Assistance.
Ofc of the Asst Admr for Solid Waste and Emgy Resp .....	Director, Outreach and Special Projects Staff Director, Federal Facilities Restoration and Reuse Office.
Office of Solid Waste .....	Dir Hazardous Waste Identification Division. Dir Permits & State Prog Division. Director, Hazardous Waste Minimization & Management Division.
Office of Air Quality Planning and Standards .....	Dir, Emission Standards Division. Dir Air Quality Strategies & Standards Div. Dir Emissions Monitoring & Analysis Division. Deputy Dir Ofc of Air Quality Planning & Stds.
Office of Mobile Sources .....	Dir Advanced Technology Support Division Dir Fuels & Energy Division.
Office of Radiation & Indoor Air .....	Director, Indoor Environments Division.
Office of Atmospheric Programs .....	Director, Acid Rain Division Director, Atmospheric Pollution Prevention Division.
Office of the Asst Admr for Prevention P&T Substances .....	Dir Ofc of Program Management Operations.
Office of Pesticide Programs .....	Dir-Registration Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of Pollution Prevention and Toxics .....	Dir, Biological & Economic Analysis Division. Dir, Spec Review & Reregistration Division. Dir, Envir Fate and Effects Division. Dir Policy & Special Projects Staff. Dir Antimicrobials Division. Dir Field & External Affairs Division. Dir Inf Resources & Services Division. Director, Biopesticides and Pollution Prevention Division.
Office of Resources Management and Administration .....	Director, Environmental Assistance Division. Dir, Economic Exposure and Technology Div. Director, Chemical Control Division. Director, Information Management Division. Dir, Pollution Prevention Div. Dir Chemical Management Division. Dir Health Effects Division. Director, of Risk Assessment Division.
Office of Science Policy .....	Dir Ofc of Resources Mgmt & Admin. Director, Office of Science Policy.
National Health & Environmental Effects Res Lab (RTP) .....	Dir Natl Health & Envir Effects Res Lab (RPT). Assoc Dir for Health NHEERL (RTP). Association Director for Ecology NHEERL (RTP). Deputy Director for Management.
Western Ecology Division—Corvallis .....	Dir Western Ecology Division Corvallis.
Gulf Ecology Division—Gulf Breeze .....	Director, Gulf Ecology Division.
Mid-Continent Ecology Division .....	Director, Mid-Continent Ecology Division.
National Exposure Research Laboratory (RTP) .....	Dir Natl Exposure Res Laboratory (RTP). Dep Dir for Management NERL (RTP). Assoc Dir for Ecology NERL (RTP).
Environmental Sciences Division—Las Vegas .....	Dir Environmental Sciences Division.
Ecosystems Research Division—Athens .....	Dir Ecosystems Res Div Athens.
National Risk Mgmt Research Laboratory (Cincinnati) .....	Dir Natl Risk Mgmt Lab (CINN). Dep Dir for Mgmt NRML (CINN). Assoc Dir for Health NRML (CINN).
Air Pollution Prevention and Control Division—RTP .....	Director, Water Supply & Water Resources Division. Dir Air Pollution Prevention & Control Div.
Subsurface Processes and Systems Division—ADA .....	Dir Sub-Surface Process & Systems Division.
National Center for Environmental Assessment .....	Dir Natl Ctr for Environmental Assessment. Associate Director for Health, NCEA. Associate Director for Ecology NCEA. Deputy Director for Management.
National Center for Environmental Assessment—Washington .....	Dir Natl Ctr Environ Assessment.
National Center for Environmental Assessment—RTP .....	Dir Natl Ctr Environ Assessment.
National Center for Environmental Assessment—Cincinnati .....	Dir Natl Ctr for Environmental Assessment.
Natl Center for Environmental Res & Quality Assurance .....	Deputy Dir for Mgmt (NCERQA). Dir Environmental Engineer Research Division. Associate Director for Science (NCERQA).
Region I—Boston .....	Dir Natl Ctr for Env Res & Quality Assurance.
Region I—Boston .....	Regional Counsel.
Region I—Boston .....	Dir Ofc of Ecosystem Protection.
Region I—Boston .....	Dir Ofc of Site Remediation Restoration.
Region I—Boston .....	Asst Regional Administrator.
Region I—Boston .....	Dir, Ofc of Administration & Resources Mgmt.
Region I—Boston .....	Special Assistant to Regional Administrator.
Region I—Boston .....	Director, Office of Environmental Stewardship.
Region II—New York .....	Asst Regl Admr for Policy and Management.
Region II—New York .....	Regional Counsel.
Region II—New York .....	Dir, Office of Emergency & Remedial Response.
Region II—New York .....	Dir Div of Environmental Plnng & Protection.
Region II—New York .....	Dir, Div of Enforcement & Compliance Asst.
Region II—New York .....	Dir, Div of Environmental Science & Assessment.
Region III—Philadelphia .....	Director, Caribbean Environmental Protection Division.
Region III—Philadelphia .....	Director, Water Management Division.
Region III—Philadelphia .....	Regional Counsel.
Region III—Philadelphia .....	Director, Hazardous Waste Mgmt Div.
Region III—Philadelphia .....	Asst Reg Admin for Policy & Management.
Region III—Philadelphia .....	Dir, Air Management Division.
Region III—Philadelphia .....	Dir Chesapeake Bay Program Office.
Region III—Philadelphia .....	Director, Science & Ecosystem Support Div.
Region III—Philadelphia .....	Director, Air Protection Division.
Region III—Philadelphia .....	Director, Hazardous Site Cleanup Division.
Region IV—Atlanta .....	Dir Water Management Division.
Region IV—Atlanta .....	Asst Regional Admin for Policy and Mgmt.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Region V—Chicago .....	Regional Counsel. Director Waste Management Division. Director, Air, Pesticides and Toxics Management Division. Director Air Management Division. Director Water Management Division. Director, Resources Management Regional Counsel. Dir Waste Pesticides & Toxics Division. Dir Great Lakes Natl Prog Ofc. Director Superfund Division.
Region VI—Dallas .....	Asst Regional Admr for Management. Regional Counsel. Director, Compliance A&E Division. Dir Superfund Division. Dir Water Quality Protection Division. Dir Multimedia Plann & Permitting. Regional Counsel.
Region VII—Kansas City .....	Asst Regional Admin for Policy & Management. Dir Superfund Division. Dir Air RCRA and Toxics Division. Dir Water Wetlands & Pesticides Division. Dir Ecosystems Protection & Remediation. Dir Ofc of Pollution Prevention State Tribal. Dir Ofc of Tech & Mgmt Services. Regional Counsel.
Region VIII—Denver .....	Regional Counsel. Director, Water Management Division. Director, Air Management Division. Regional Counsel.
Region IX—San Francisco .....	Asst Regional Admr for Policy & Management. Dir, Strategic Planning & Emerging Issues. Dir Superfund Division. Director, Cross Media Division. Director, Water Management Division. Regional Counsel.
Region X—Seattle .....	Asst Reg Admr for Environmental Cleanup Ofc. Asst Regl Admr for Policy & Management. Dir Superfund Division. Director, Water Management Division. Director, Office of Ecosystems and Communities. Director, Office of Environmental Cleanup.
Equal Employment Opportunity Commission:	
Office of the Chairman .....	Inspector General.
Office of Field Programs .....	District Director (Baltimore).
	Dist Dir (New York).
	Dist Dir (Atlanta).
	Dist Dir (Houston).
	District Director (Detroit).
	Dist Dir (San Francisco).
	Dist Dir (Dallas).
	Dist Dir (Chicago).
	Dist Dir (St Louis).
	Dist Dir (Miami).
	Dist Dir (Indianapolis).
	Dist Dir (Memphis).
	District Director (Los Angeles).
	Dist Dir (Denver).
	Dist Dir (Birmingham).
	Dist Dir (New Orleans).
	Dist Dir (Phoenix).
	District Dir (San Antonio).
	Dist Dir (Charlotte).
	District Director (Seattle).
	District Director (Cleveland).
	Dist Dir (Philadelphia).
	District Director (Milwaukee).
	Program Manager.
Field Management Programs .....	Director Field Management Programs.
Field Coordination Programs .....	Director Field Coordination Programs.
Federal Communications Commission:	
Office of Inspector General .....	Inspector General.
Office of the Managing Director .....	Assoc Managing Director/Human Resources Mgmt.
Office of Engineering & Technology .....	Assistant Bureau Chief for Technology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Compliance and Information Bureau .....	Chief Enforcement Division.
Common Carrier Bureau .....	Chief, Competitive Pricing Division.
	Chief Accounting & Audits Division.
Mass Media Bureau .....	Chief Audio Services Division.
	Chief Video Services Division.
	Chf, Enforcement Div.
Federal Emergency Management Agency:	
Office of the Director. ....	Chief of Staff.
Office of Financial Management .....	Chief Financial Officer.
	Deputy Chief Financial Officer.
	Senior Procurement Executive.
Office of Human Resources Management .....	Director, Ofc of Human Resources Management.
Office of Inspector General .....	Deputy Inspector General.
	Asst Inspector General for Auditing.
	Asst Inspector General for Investigations.
Mitigation Directorate .....	Sr Policy Advisor to the Associate Director.
	Director, Program Support Division.
Response & Recovery Directorate .....	Div Dir, Human Services Support Division.
	Div Dir, Infrastructure Support Division.
Federal Insurance Administration .....	Deputy Administrator.
Federal Energy Regulatory Commission (DOE):	
Ofc of Chief Accountant .....	Director, Division of Accounting Systems.
	Director, Division of Gas and Oil Operations.
	Dir, Div of Planning & Policy Development.
	Chief Accountant and Deputy Director.
Ofc of Hydropower Licensing .....	Dir Div of Dam Safety & Inspections.
Federal Labor Relations Authority:	
Office of the Chair .....	Solicitor, Chief Counsel.
Office of Member .....	Chief Counsel.
Office of Member .....	Chief Counsel.
Federal Service Impasses Panel .....	Exec Director FSIP.
Ofc of the Executive Director .....	Executive Director.
Ofc of the General Counsel .....	Deputy General Counsel,
	Director of Operations & Resources Management.
Regional Offices .....	Regional Director, Washington, D.C.
	Regional Director, Boston.
	Regional Director, Atlanta.
	Regional Director, Dallas.
	Regional Director, Chicago Illinois.
	Regional Director, San Francisco.
	Regional Director, Denver.
Federal Maritime Commission:	
Office of the Secretary .....	Secretary.
Office of the General Counsel .....	Dep Gen Cnsl for Reports Opinions & Decisions.
Office of the Managing Director .....	Dep Managing Dir,
	Deputy Managing Director.
Bureau of Tariffs, Certification and Licensing .....	Prog Mgr (Dir Bur of Tariffs C&L).
Bureau of Administration .....	Dir, Bureau of Administration.
Bureau of Economics & Agreement Analysis .....	Prog Manager (Dir Bur of E&A Analysis).
Bureau of Enforcement. ....	Deputy Director Bureau of Enforcement.
	Dir Bureau of Enforcement.
Federal Retirement Thrift Investment Board:	
Federal Retirement Thrift Investment Board .....	Director of Investments.
	Director of Contracts & Administration.
	Director of Automated Systems.
	Director of Accounting.
	Director of Communications.
	Associate General Counsel.
	Director of the Office of Benefits & Investments.
Federal Trade Commission:	
Office of the Inspector General .....	Inspector General.
Ofc of Executive Director .....	Deputy Exec Dir for Management.
	Chief Information Officer.
	Deputy Executive Director.
General Services Administration:	
Office of Management and Workplace Programs .....	Director of Human Resources.
	Dir of Management Services.
Office of the Chief People Officer .....	Chief Information Officer.
Office of Governmentwide Policy .....	Deputy Associate Admin for Acquisition Policy.
	Director, Governmentwide Information Systems.
	Deputy Assoc Administrator for Real Property.
	Director of Intergovernmental Solutions.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of Inspector General .....	Asst Inspector Gen for Auditing. Deputy Inspector General. Deputy Asst Inspector General for Auditing. Counsel to the Inspector General. Asst Inspector Gen for Investigations. Dep Asst Inspector General for Investigations.
Office of the Chief Financial Officer .....	Director of Finance. Director of Budget. Chief Financial Officer. Dir of Financial Management Systems.
Public Buildings Service .....	Assistant Commr for Fed Protective Service. Dep Asst Commissioner for Property Management. Asst Comm for Portfolio Management. Dep Asst Comr for Special Projects. Asst Comr for Property Acq & Realty Services. Asst Commr for Business Development. Assistant Commr for Property Disposal. Assistant Commissioner for Property Devel. Asst Commissioner for Strategic Innovations. Asst Commissioner for Financial & Info System. Assistant Commissioner for Business Performance.
Federal Technology Service .....	Assistant Commissioner for Serv Development. Assistant Reg Admin for Fed Tech Service. Assistant Commissioner for Service Delivery. Asst Commr for Info Technology Integration. Assistant Commissioner for Regional Services. Asst Commissioner for SP & Business Dev. Asst Commissioner for Acquisition. Senior Executive Blue Pages Project. Assistant Commissioner for Information Security. Assistant Commissioner for Sales.
Office of the Chief Information Officer .....	Assistant Chief Information Officer. Assistant Chief Information Officer.
Federal Supply Service .....	Asst Commissioner for Acquisition. Asst Comr for Transportation & Property Mgt. Asst Comm for Bus Management & Marketing. Asst Comm for Distribution Mgt. Dep Asst Commissioner for Acquisition. Asst Chief Information Officer. Asst Comm for Vehicle Acquisition & Leasing Svc.
New England Region .....	Asst Reg Admr for Public Bldg Service.
Northeast & Caribbean Region .....	Asst Reg Admr for Public Blds Service.
Mid-Atlantic Region .....	Asst Reg Admr for Federal Supply Service.
National Capital Region .....	Asst Reg Admr for Public Blds Service.
Southeast Sunbelt Region .....	Asst Regl Admr Federal Supply Service.
Great Lakes Region .....	Assistant Regional Administration, PBS, Ncr.
The Heartland Region .....	Asst Reg Admr for Public Blds Service.
Greater Southwest Region .....	Asst Reg Admr for Public Blds Service.
Rocky Mountain Region .....	Asst Reg Admr for Public Blds Service.
Pacific Rim Region .....	Asst Regl Admr for Public Buildings Services.
Northwest/Arctic Region .....	Asst Reg Admr for Federal Supply Service.
Department of Health and Human Services:	Asst Reg Admr for Public Blds Service.
Odas for Budget .....	Senior Advisor.
Odas for Finance .....	Asst Regional Administrator, PBS Region 10.
Odas for Grants & Acquisition Management .....	Dir Div of Integrity & Organ Review.
OAS for Planning and Evaluation .....	Dep Asst Sec, Finance.
OAS for Public Health and Science .....	Dir, Office of Financial Policy.
Odas for Grants & Acquisition Management .....	Dep Asst Secy, Ogam.
OAS for Planning and Evaluation .....	Dept to Deputy Asst Secy for Plann & Evaluat.
OAS for Public Health and Science .....	Dir Div of Research Investigations.
Associate General Counsel Divisions .....	Dir Ofc of HIV/AIDS Policy.
Office of the Inspector General .....	Dep Dir Ofc of Management.
Associate General Counsel Divisions .....	Reg Health Administrator.
Office of the Inspector General .....	Director, Office of Research Integrity.
Associate General Counsel Divisions .....	Assoc Gen Coun, Business & Adm Law Division.
Office of the Inspector General .....	Dep Assoc Gen Counl, Bus & Adm Law Div.
Office of the Inspector General .....	Principal Dep Inspector General.



POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Odig for Investigations .....	Deputy Inspector General for Mgmt & Policy. DEO Inspector General for Legal Affairs. Dep Insp Gen for Investigations.
Odig for Audit Services .....	Asst Insp General for Criminal Investigations. Asst Insp Gen for Civil & Adm Remedies. Asst Insp Gen for Investigation P&O. Dep Insp General for Enforcement & Compliance.
Odig for Evaluation & Inspections .....	Dep Inspector General for Audit Services. Asst Insp Gen for Adm of C/F & Agin Audits. Asst Inspector Gen for Health Care Fin Audits. Asst Inspector Gen for Audit Pol & Oversight.
Program Support Center .....	Asst Insp Gen for Public Health Serv Audits. Dep Insp Gen for Evaluation & Inspections. Dir Program Support Center.
Office of Financial Management Service .....	Dep Dir of Operations.
Office of Program Support .....	Director, Financial Management Service.
Health Care Financing Administration .....	Dir Ofc of Financial Management.
Office of the Actuary (OACT) .....	Director, Ofc of Internal Customer Suupport.
Center for Beneficiary Services (CBS) .....	Dir, Ofc of the Actuary (Chief Actuary).
Center for Medicaid and State Operations (CMSO) .....	Deputy Director, Center for Beneficiary Services (Medicare Contractor Mgmt).
Office of Information Services (OIS) .....	Director, Ofc of Medicare & Medicaid Cost Est. Director, Office of Information Services (Chief Information Officer)
Office of Financial Management (OFM) .....	Dep Dir Ofc of Info Services.
Substance Abuse & Mental Health Services Administration .....	Deputy Director, Ofc of Financial Management.
Center for Substance Abuse Prevention .....	Dep Dir Ofc Financial Management.
Center for Mental Health Services .....	Dir Program Integrity Group.
Centers for Disease Control & Prevention .....	Dir Financial Services Group.
Natl Institute for Occupational Safety & Health .....	Assoc Admin for Policy & Prog Coordinator.
National Center for Chronic Disease Prevention & Hlth Promotion .....	Director, Division of Workplace Programs
Center for Veterinary Medicine .....	Dir, Div of State & Community Systems Dev.
Office of Chief Counsel .....	Director Center for Mental Health Services
Office of Management and Systems .....	Dir Div of State & & Community Systems Develop.
Office of Regulatory Affairs .....	Director, Financial Management Office.
Center for Biologics Evaluation and Research .....	Assoc Director for Management & Operations.
Center for Drug Evaluation and Research .....	Director, Office on Smoking and Health.
Center for Devices and Radiological Health .....	Director, Office of Surveillance.
Center for Drug Evaluation and Research .....	Deputy Chief Counsel for Program Review.
Center for Drug Evaluation and Research .....	Director, Office of Financial Mgmt.
Center for Drug Evaluation and Research .....	Assoc Comr for Regulatory Affairs.
Center for Drug Evaluation and Research .....	Dep Assoc Comr for Regulatory Affairs.
Center for Drug Evaluation and Research .....	Regl Food & Drug Director, NE Region.
Center for Drug Evaluation and Research .....	Regl Food & Drug Director, Mid-Atlantic Region.
Center for Drug Evaluation and Research .....	Regl Food & Drug Director, Southeast Region.
Center for Drug Evaluation and Research .....	Regl Food & Drug Director, Southwest Region.
Center for Drug Evaluation and Research .....	Regl Food & Drug Director, Pacific Region.
Center for Drug Evaluation and Research .....	Dir Ofc of Criminal Investigations.
Center for Drug Evaluation and Research .....	Dir Div of Biostatistics & Epidememiology.
Center for Drug Evaluation and Research .....	Dir Ofc of Therapeutics Research & Review.
Center for Drug Evaluation and Research .....	Dir Ofc of Blood Research & Review.
Center for Drug Evaluation and Research .....	Dir Ofc of Sys & Management.
Center for Drug Evaluation and Research .....	Director, Office of Compliance and Biologics Quality.
Center for Drug Evaluation and Research .....	Special Advisor.
Center for Drug Evaluation and Research .....	Dir, Center for Drug Evaluation & Research.
Center for Drug Evaluation and Research .....	Director, Office of Management.
Center for Drug Evaluation and Research .....	Assoc Dir for Med Pol Dir Ofc of Drug Eval I.
Center for Drug Evaluation and Research .....	Dir, Div of Neuropharmacological Drug Prod.
Center for Drug Evaluation and Research .....	Dir, Div of Midical Imaging S&D Products.
Center for Drug Evaluation and Research .....	Director, Office of Generic Drugs.
Center for Drug Evaluation and Research .....	Associate Director for Drug Monograph.
Center for Drug Evaluation and Research .....	Dir, Office of Epidemiology & Biostatistics.
Center for Drug Evaluation and Research .....	Dep Dir, Ofc of Epidemiology & Biostatistics.
Center for Drug Evaluation and Research .....	Director, Office of Compliance.
Center for Drug Evaluation and Research .....	Dir, Div of Scientific Investigations.
Center for Drug Evaluation and Research .....	Director, Division of Biopharmaceutics.
Center for Drug Evaluation and Research .....	Dep Ctr for Pharmaceutical Science.
Center for Drug Evaluation and Research .....	Senior Advisor for Policy.
Center for Drug Evaluation and Research .....	Deputy for Scientific & Medical Affairs.
Center for Drug Evaluation and Research .....	Dir Ofc of Drug Evaluation V.
Center for Drug Evaluation and Research .....	Dir Office of Device Evaluation.
Center for Drug Evaluation and Research .....	Dir, Division of Cardiovascular Devices.
Center for Drug Evaluation and Research .....	Dir, Div of General & Restorative Devices.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Center for Food Safety and Applied Nutrition .....	Dir, Office of Compliance. Dir, Office of Science and Technology. Dir, Div of Reproductive Abdominal Ear Throat. Director, Office of Seafood Dir Ofc of Premarket Approval. Dir Ofc of Field Programs. Dir, Ofc of Plant & Dairy Foods & Beverages. Director, Office of Food Labeling. Dir, Ofc of Pol, P&S Initiatives.
Center for Veterinary Medicine .....	Director, Office of Science Dir, Ofc of New Animal Drug Evaluation.
National Center for Toxicological Research .....	Director, Div of Biometry.
Health Resources & Services Administration .....	Director, Office of Special Programs Director, Office of Science and Epidemiology.
Bureau of Health Resources Development .....	Dep Dir, Bureau of Health Resources Dev.
Office of the Director .....	Director, Div of Financial Management. Director, Division of Contracts & Grants. Associate Director for Extramural Affairs. Associate Director for Disease Prevention. Dir, Ofc of Medical Applications of Research. Associate Director for Administration. Director, Office of Policy for Extramural Research Administration. Assistant Director for Financial Management. Senior Advisor for Policy. Chief Operating Officer.
Natl Heart, Lung, & Blood Institute .....	Director, Office of Reports and Analysis. Dir Div of Lung Diseases. Dir, Div of Blood Diseases & Resources. Director, Division of Extramural Affairs. Assoc Dir for International Programs. Dir Ofc of Biostatistics Research. Dep Dir Div of Heart Vascular Diseases. Dep Dir Div of Epidem & Clinical Application. Director, Epidemiology and Biometry Program. Director, National Center for Sleep Disorders.
Intramural Research .....	Chf Lab of Biochemical Genetics. Chf Lab of Biochemistry. Chief Lab of Biophysical Chemistry. Chief Macromolecules Section. Chf, Intermediary M & B Section. Chf, Lab of Kidney & Electrolyte Metabolism. Chief Lab of Cardiac Energetics. Chief, Metabolic Regulation Section.
National Cancer Institute .....	Assoc Dir for Intramural Management. Assoc Director for Extramural Management. Associate Director, Cancer Diagnosis Program. Chief Financial Officer. Associate Director, Referral Review and Program Coordination.
Division of Cancer Biology, Diagnosis and Centers .....	Deputy Director for Administrative Operations. Chf, Microbial G & B Section, Lab of Biochem. Chief, Lab of Biochem Intramural Res Prog. Assoc Dir, Extramural Research Program. Dep Dir, Div of Cancer Biology Diag & Centers. Chief Dermatology Br, Intramural Res Prog. Chief, Cell Mediated Immunity Section. Chief, Lab of Tumor & Biol Immunology, IRP. Dir, Div of Cancer Biology Diagnosis & Ctrs. Assoc Dir, Ctrs Training & Resources Prog.
Division of Cancer Etiology .....	Chief Lab of Biology. Chief Laboratory of Molecular Carcinogenesis. Chf Lab of Experimental Pathology Dir, Div of Cancer Etiology.
Division of Cancer Prevention & Control .....	Dep Dir, Div of Cancer Prevention & Control. Associate Dir, Surveillance Program, DCPC. Assoc Dir, Early D & C Oncology Program.
Division of Extramural Activities .....	Dir, Div of Extramural Activities Deputy Dir, Div of Extramural Activities.
Division of Cancer Treatment .....	Chf-Radiation Oncology Br Assoc Dir, Cancer Therapy Evaluation Program.
Natl Institute of Diabetes & Digestive & Kidney Dis .....	Dir Div Kidney Urologic & Hematologic Diseases. Dir Division of Extramural Activities. Chf, Lab of Molecular & Cellular Biology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Intramural Research .....	Dep Dir for Management & Operations. Associate Director for Management and Operations. Chief Section on Biochemical Mechanisms. Chf Sect on Metabolic Enzymes. Chf Sect on Physical Chemistry. Chief, Section on Molecular Structure. Chief Theoretical Biophysics Section. Chief, Laboratory of Bio-Organic Chemistry. Chief Oxidation Mechanisms Section L B C Chief Laboratory of Biochemistry & Metabolism. Clinical Dir & Chief, Kidney Disease Section. Chief, Section on Molecular Biophysics. Chf, Sec Carbohydrates Lab of Chemistry/NIDDK. Chief, Laboratory of Neuroscience, NIDDK. Chf, Laboratory of Medicinal Chemistry. Chief, Morphogenesis Section.
Natl Inst of Arthr & Musculoskeletal & Skin Diseases .....	Director, Extramural Program Deputy Dir.
National Library of Medicine .....	Dep Dir, Natl Lib of Medicine. Dep Dir for Res and Education. Associate Director for Library Operations. Assoc Dir for Extramural Programs. Dir, LHNC for Biomedical Commun. Dep Dir Lister Hill Natl Ctr for Biomed Comms. Director, Information Systems. Dir Natl Ctr for Biotech Info. Assoc Dir for Health & Info Prog Development. Associate Director for Administrative Management.
Natl Inst of Allergy & Infectious Diseases .....	Dir, Div of Allergy/Immunology/Transplantatn. Chf, Lab of Parasitic Diseases. Dir, Div of Microbiology/Infectious Diseases. Chief, Lab of Immunogenetics. Dir, Div of Extramural Activities. Ch, Lab of Microbial Structure and Function. Chief Lab of Molecular Microbiology. Dir, Div Acquired Immunodeficiency Syndrome. Chief, Biological Resources Branch. Head, Lymphocyte Biology Section. Chief, Laboratory of Infectious Diseases. Dep Dir Div of Acquired Immunodeficiency. Head Epidemiology Section. Chief, Laboratory of Malaria Research. Dir Div Intramural Research.
Natl Inst on Aging .....	Dep Chief Lab of Imm & Head Lymp Biol Section. Scientific Director Gerontology Rsch Cntr. Clin Director and Chief Clin Physiology Br. Associate Dir for Behavioral Sciences Res. Assoc Dir Biology of Aging Program. Assoc Dir, Office of Extramural Affairs. Assoc Dir, Epidemi, Demo, & Biometry Program. Assoc Dir, Ofc of Plnng, A & I Activities. Assoc Dir Neurosci & Neuropsych of Aging Prog. Associate Director for Administration.
Natl Inst of Child Health & Human Development .....	Chief, Laboratory of Molecular Genetics. Chf, Endocrinology & Reproduction Research Br Director Ctr Forres for Mothers & Children Director Cntr for Population Research. Chief, Section on Growth Factors. Assoc Dir for Prevention Research. Chief Laboratory of Mamalian Genes & Develop. Chief, Section on Molecular Endocrinology. Chief Section Neuroendocrinology. Chief Section on Microbial Genetics. Chief, Laboratory of Comparative Ethology. Associate Director for Administration.
Natl Inst of Dental Research .....	Dir, Natl Center for Medical Rehab Research. Chief, Laboratory of Immunology Dir, Extramural Program
Natl Inst of Environmental Health Sciences .....	Associate Director for Management. Chf Lab of Pulmonary Pathobiology. Head Mutagenesis Section. Head Mammalian Mutagenesis Section.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Natl Inst of General Medical Sciences .....	Senior Scientific Advisory. Associate Director for Management. Chief Lab of Molecular Carcinogenesis. Dir Natl Inst of Environmental Health Science. Dir Environmental Toxicology Program. Dir Genetics Program. Assoc Dir for Program Activities Director, Division of Pharamcology, Physiology, and Biological Chemistry. Dir Bio Phys Sciences Program Branch. Dep Dir Natl Institute of General Med Sci. Dir, Minority Opportunities in Res Prog Br.
Natl Inst of Neurological Disorders and Stroke .....	Associate Director for Administration and Operations. Dir, Div of Fundamental Neurosciences. Associate Director for Administration.
Intramural Research .....	Dir, Basic Neurosci Prog/Chf/Lab of Neurochem Chf, Lab of Molecular & Cellular Neurobiology. Chief Lab of Central Nervous System Studies Chf, Dev & Metabolic Neurology Branch. Deputy Chief, Lab of Central Nervous Sys Stud. Chief, Neuroimaging Branch. Chief, Laboratory of Neurobiology. Chief, Laboratory of Neura Control. Chief Brain Structural Platicity Section. Chief Stroke Branch.
Natl Eye Institute .....	Chief Laboratory of Retinal Cell & Mol Biolog Chief, Lab of Molecular & Dev. Biology Chief, Laboratory of Sensorimotor Research.
Natl Inst on Deafness & Other Communication Disorders .....	Director, Division of Human Communication Chief Laboratory of Cellular Biology Associate Director for Administration
NIH Clinical Center .....	Director, Division of Extramural Research. Associate Director for Planning Assoc Chf, Position Emission T&R
Division of Computer Research & Tech .....	Deputy Director for Magament and Operations. Chief, Computer Center Branch Deputy Director
John E Fogarty Intl Center .....	Assoc Dir Ofc of Computing Resources Services.
National Center for Research Resources .....	Assoc Dir for Int'l Advance Studies. Dir, Natl Center for Research Resources Dir, Gen Clinical Res Ctr for Res Resources Dep Dir, Natl Center for Research Resources.
Division of Research Grants .....	Associate Director for Referral and Review Assoc Dir for Statistics & Analysis Director, Division of Physiological Systems Director, Division of Clinical & Population-Based Studies.
National Center for Nursing Research .....	Director National Cntr for Nursing Research.
National Center for Human Genome Research .....	Deputy Director. Dir Div of Intramural Res Natl Ctr H G R Chief Diag Devel Br Natl Ctr Human Gen Res Chf, Lab of Genetic Dis Res Natl Ctr for HGR Associate Director for Management.
National Institute on Drug Abuse .....	Assoc Dir for Planning & Resources Management. Dir, Office of Extramural Program Review. Director Division of Clinical Research. Dir, Medications Development Division. Chief, Neuroscience Research Branch. Associate Director for Clinical Neuroscience & Medical Affs.
National Institute of Mental Health .....	Division of Treatment Research & Development. Dep Dir, National Institute of Mental Health. Associate Director for Special Populations. Associate Director for Prevention. Exec Ofcr, Natl Institute of Mental Health. Dir, Ofc of Legislative Analysis & Coord. Dir, Div of Neuroscience & Behavioral Sci. Chief, Neuropsychiatry Branch. Chief, Child Psychiatry Branch. Chief, Biological Psychiatry Branch. Chief, Laboratory of Clinical Science. Chief, Section on Histopharmacology. Director, Office on Aids. Director, Division of Mental Disorders, Behavioral Research and Aids.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
National Institute on Alcohol Abuse & Alcoholism .....	Director, Division of Services and Intervention Research. Dir, Natl Institute on Alcohol A&A
Agency for Healthcare Research and Quality .....	Director, Division of Basic Research. Dir Ctr for Outcomes & Effectiveness Research.
Department of Housing and Urban Development:	
Office of the General Counsel .....	Assoc Gen Coun for Program Enforcement.
Office of the Inspector General .....	Asst Inspector General for Investigations. Assistant Inspector General for Audit Deputy Inspector General. Asst Inspector General for Management & Pol. Deputy Asst Inspector Gen for Audit Operation. Dep Asst Inspector Gen for P&O. Dep Asst Inspector General for Investigation. Counsel to the Inspector General.
Office of the Chief Financial Officer .....	Assistant Chief Financial Officer for Budget. Assoc Dep Chief Financial Officer for Account. Dep Chief Financial Officer for Accounting. Dep Chief Financial Officer for Finance. Deputy Chief Financial Officer.
Office of the Chief Procurement Officer .....	Director, Office of Procurement & Contracts Senior Advisor for Procurement Planning and Program Liaison.
Departmental Enforcement Center .....	Chief Counsel Deputy Director, Departmental Enforcement Center Associate Director.
Departmental Real Estate Assessment Center .....	Deputy Director for Finance.
Assistant Secretary for Administration .....	Deputy Director, Office of Human Resources Special Advisor/Comptroller.
Assistant Secy for Housing .....	Director Office of Financial Services. Dir Ofc of Multifamily Asset Management Dispo. Housing/Fed Housing Adm Comptroller. Dir of Multifamily Housing Development. Housing—FHA Deputy Comptroller. Program Systems Project Officer.
Asst Secy for Fair Housing and Equal Opportunity. ....	Director, Office of Investigations. Dir, Ofc of Fair Housing I&V Programs. Director, Office of Enforcement. Director, Office of Programs.
Office of Departmental Equal Employment Opportunity .....	Dep Dir Ofc of Equal Employment Opportunity. Dir, Ofc of Departmental Equal Employ Opport.
Asst Secy for Community Planning and Development .....	Director, Office of Economic Development. Director, Ofc of Community Viability. Comptroller. Deputy Assistant Secretary for Special Needs Programs.
Government National Mortgage Association .....	Vice President for Finance. Vice President, Ofc of Pol, P&R Management. Vice President Ofc of Customer Service. VP Office of Multifamily Programs.
Asst Secy for Public and Indian Housing .....	Gen Dep Asst Secy for Public & Indian Housing. Public & Indian Housing-Comptroller. Dep Asst Secy for Public & Asst Housing Oper. Deputy Public & Indian Housing Comptroller. Dir, Ofc of Public Housing Partnership. Director Office of Troubled Agency Recovery.
Department of Interior:	
Office of the Inspector General .....	Assistant Inspector General for Auditing. Asst Inspector General for Investigations. Assistant Inspector General for Management and Policy. Assistnat Inspector Genral for Strategic Initiatives. General Counsel. Deputy Asst Inspector General for Audits.
Office of Special Trustee for American Indians .....	Special Assistant (Special Projects Officer). Deputy Assoc Solicitor, General Law. Asst Solicitor Bureau of Parks and Recreation. Deputy Associate Solicitor—Mineral Resources. Associate Solicitor for Administration. Dep Assoc Solicitor Land & Water Resources. Dep Associate Solicitor—Indian Affairs.
Office of the Solicitor .....	Asst Dir for Economics. Manager, Science and Engineering. Natural Resource Damage Assessment Prog Mgr. Dir, Ofc of Fin Mgmt & Dep Chf Fin Officer. Chief Div of Budget & Program Review.
Assistant Secretary—Policy, Management and Budget .....	

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
National Park Service ..... Field Offices .....	Chief Div of Budget Admin. Deputy Agency Ethics Staff Officer. Park Manager—Grand Canyon. Park Manager—Yosemite (Superintendent). Park Manager Everglades. Park Manager—Yellowstone (Superintendent). Asst Dir, Design & Construction (Mgr, Dsc). Park Manager—Independence Natl Historic Park Executive Dir Regional Ecosystem Office.
Field Offices ..... Field Offices ..... Field Offices .....	Research Director. Director, Technical Services Center. Spec Asst to the Dir, Reclamation Serv Center. Project Manager/Arizona Projects Office. Director, Management Services Office. Assoc Chief Geologist for Operations. Associate Chief Geologist for Science. Regional Geologist Western Region. Regional Geologist, Eastern Region. Regional Chief Biologist, Eastern Region.
U.S. Geological Survey .....	Chief, National Mapping Division. Assoc Chief Programs & Finances. Associate Chief for Operations. Chief, EROS Data Center. Chief Mid-Continent Mapping Center. Chief Rocky Mountain Mapping Center. Chief Mapping Applications. Chief Hydrologist. Assoc Chief Hydrologist. Asst Chief Hydrologist for Operations. Chief, Natl Water Quality Assessment (NAWQA). Asst Chief Hydrologist for Tech Support. Asst Chief Hydrologist for Water Information. Chf, Ofc of Hydrologic Research. Chf, National Water Data Exchange Program. Regional Hydrologist Central Region. Regl Hydrologist Southeastern Region. Regional Hydrologist, Western Region. Regional Hydrologist, Northeastern Region.
National Mapping Division .....	Chief Geologist. Chief, Ofc of Scientific Publications. Assoc Chf Geologist. Chf Ofc of Mineral Resources. Assistant Chief Geologist for Programs. Asst Dir, Budget and Administration. Associate Chief Biologist for Operations. Asst Dir for Information & Technology Service. Spec Asst to the Reg Dir Research & Develop. Assistant Director for Inventory & Monitoring.
Field Offices .....	Director National IRM/Center. International Tech Asst Program Manager. Helium Program Administrator. Regional Director. Regional Director. Regional Director.
Water Resources Division .....	Associate Dir for Policy and Mgmt Improvement. Assistant Assoc Dir for Offshore Minerals Mgt. Special Assistant to the Director. Regional Director, Gulf of Mexico OCS Region. Regional Director, Alaska OCS Region. Regional Director, Pacific OCS Region. Dir Program Reengineering Office. Dep Assoc Dir for Audit. Dep Assoc Dir for Valuation & Operations. Deputy Assoc Director for Administration. Deputy Assoc Dir for Royalty Mgmt. Deputy Director, Office of Indian Education Programs.
Field Offices .....	Counsel on Professional Responsibility. Dep Counsel on Professional Responsibility. Special Counsel. Special Counsel.
Geologic Division .....	Asst Inspector General for Inspections.
Biological Resources Division .....	
Field Offices .....	
Bureau of Land Management .....	
Office of Surface Mining .....	
Minerals Management Service .....	
Field Offices .....	
Bureau of Indian Affairs .....	
Department of Justice:	
Office of the Attorney General .....	
Ofc of the Legal Counsel .....	
Office of the Inspector General .....	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of the Deputy Attorney General .....	Assistant Inspector General for Audit. Assistant Inspector General for Investigation. Asst Inspector Gen for Management & Planning. Deputy Inspector General. General Counsel. Dir, Special Investigational Review. Director, Office of Legal Education.
Justice Management Division .....	Director, Professional Responsibility Advisory Office. Correctional Prog Ofcr/Sr Dep Asst Dir Prd. Asst Attorney General for Administration. Deputy Asst Attorney General. Dir, Security & Emergency Plnng Staff. Dep Asst Attorney Gen Human Res/Admin. Dir Library Staff. Dir, Facilities and Administrative Svc Staff. Dir Telecommunications Services Staff. Director Management and Planning Staff. Director, Budget Staff. Senior Policy Advisory.
Office of the Controller .....	Dep Asst Attorney General, Info Res Mgt. Dir Procurement Services Staff. Dir, Systems Technology Staff. General Counsel. Dir, Equal Employment Opportunity Staff. Senior Counsel. Director, Department Ethics Office. Deputy Director, Budget Staff. Dir Finance Staff.
Office of Human Resources and Administration .....	Dep Asst Attorney General; Controller. Director, Debt Collection Management Staff. Asst Dir, Management & Planning Staff. Director Personnel Staff.
Office of Info & Admin Services .....	Director, Ofc of Atty Pers Mgmt. Director, Computer Services Staff.
Executive Office for Immigration Review .....	Director, Information Mgmt & Security Staff. Chief Immigration Judge. Assistant to the Director. Chairman, Board of Immigration Appeals. General Counsel. Attorney-Examiner (Immigration). Chief Admin Hearing Officer.
Antitrust Division .....	Senior Litigator. Executive Officer. Chief Computers and Finance Section. Senior Litigator. Senior Litigator, Atlanta Field Office. Deputy Chief, Litigation II Section.
Office of Litigation .....	Dep Dir of Operations. Chief, Competition Policy Section.
Civil Division .....	Director of Management Programs. Deputy Director, Commercial Litigation Branch. Appellate Litigation Counsel. Deputy Director, Tobacco Litigation Team. Deputy Director, Appellate Staff.
Commercial Litigation Branch .....	Spec Litigation Counsel (Foreign Litigation). Spec Litigation Coun, C/L Branch. Deputy Branch Director/Commercial Litigation. Deputy Branch Dir Civil Frauds. Deputy Branch Director.
Federal Programs Branch .....	Special Litigation Counsel (Federal Programs). Deputy Branch Director.
Torts Branch .....	Spec Litigation Counsel. Spec Litigation Counsel. Deputy Branch Director. Deputy Branch Director. Deputy Branch Director.
Civil Rights Division .....	Director Office of Consumer Litigation. Special Litigation Counsel.
Environment and Natural Resources Division .....	Executive Officer.
Office of Environmental Resources .....	Senior Litigation Coun Attorney-Examiner. Dep Chf, Environmental Enforcement Section. Principal Deputy Chief Environ Enforce Sec.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Tax Division .....	Chief Civil Trial Section Southwestern Region.
Deputy Assistant Attorney General—I .....	Executive Officer. Special Litigation Counsel. Sr Trial Attorney. Special Litigation Counsel. Spec Litigation Counsel.
Immigration and Naturalization Service .....	Asst Commissioner for Detention & Deportation. Asst Commissioner for Adjudication & Natural Assistant Commissioner for Border Patrol. Director of Internal Audit. Director of Security. Asst Comr, Budget. Regional Director Central Region. Asst Commissioner Administration. Chief Patrol Agent. District Director. Chief Patrol Agent. District Dir, Western Reg, Phoenix District. Asst Commissioner Data Systems. Deputy General Counsel. Chief Patrol Agent, El Paso, TX. Asst Comm for Inspections. Assistant Commissioner for Investigations. Assistant Comr, Human Resources & Development. District Director Newark District. District Director, Newark, District. Executive Officer (Principal Assoc Director). Deputy Director for Support Services. Dir Ofc of Mgnt Information Systems Support. Dir, Office of Administration & Review Dep Dir for Operations. Deputy Director, Financial Management Staff.
Associate Commissioner for Examinations .....	Senior Counsel to the Assistant Attorney General.
Associate Commissioner for Enforcement .....	Deputy Chief, Fraud Section.
Executive Associate Commissioner for Management .....	Dir Ofc of Asset Forfeiture.
Regional Offices—INS .....	Senior Appellate Counsel.
Ofc of the Associate Attorney General .....	Senior Counsel.
Executive Ofc for U.S. Attorneys .....	Executive Officer.
Criminal Division .....	Dir Intl Criminal Invest Train Asst Program.
Ofc of Senior Counsels .....	Chief, General Litigation & Legal Advice Sect.
Ofc of Deputy Asst Attorney General I .....	Senior Counsel for Natl Security Matters.
Ofc of Deputy Asst Attorney General II .....	Dep Chief Terrorism & Violent Crime Section.
Federal Bureau of Prisons .....	Chf of International Training & Dev Programs.
	Senior Counsel to the Assistant Attorney General.
	Sr Counsel for Litigation.
	Counsel to the Office Fraud Section.
	Chf Public Integrity Section.
	Deputy Chief Public Integrity Section.
	Asst Dir for Planning and Development
	General Counsel.
	Assoc Commr, Fed Prisons Industries, Unicor.
	Dep Assoc Commr Fed Prison Industries.
	Warden Ft. Worth Texas.
	Warden Marianna FL.
	Asst Director for Human Res Mgmt
	(Warden) Miami, FL.
	Senior Deputy Asst Dir Health Services Div.
	Regional Director Mid Atlantic Division.
	Asst Dir., Community Corrections & Detention.
	Asst Dir, Info, Pol, & Public Afrs Div.
	Gen Counsel, Fed Prison Industries (Unicor)
	Warden, Allenwood, Pennsylvania.
	Sr Mgt Counsel, (Federal Bureau of Prisons).
	(Warden) Fort Dix, NJ.
	(Warden) FCC, Floren, CO.
	Correctional Inst Admr (ARD) SCR, Dallas, TX.
	Corrl Inst Admr (SDAD), CC & D Div, Wash, DC.
	Warden, USP, Florence, CO.
	CIA (Warden) Fed Medical Center, Carswell, TX.
	CIA (Warden) U.S. Penitentiary, Allenwood, PA.
	(Warden) FTC, Oklahoma, OK.
	Senior Dep Asst Dir (Administration).



POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	CIA (Warden) Fed Cortl Inst/EI Reno, OK. CIA (Warden) Fed Medical Center/Miami, FL. Correctional Prog Offcr/Sr Dep Regl Dir. Correctional Inst Admr (Warden) FCI. Correctional Program Officer. Correctional Prog Officer (WFCI, Estill, SC). Correctional Prog Officer (Warden Fed CI, SC). Correctional Institution Admin (W, FMC, FTC, MA). Correctional Institution Administrator. Correctional Institution Admr (Warden). Correction Institution Administrator (Warden, U.S. Penitentiary, Beaumont, TX). Correctional Program Officer (Assistant Director). Deputy Assistant Director. Correctional Program Officer.
Office of Correctional Program .....	Asst Dir Correctional Program Div.
Northeast Region .....	Regional Director, Northeast Region. Warden, Lewisburg, PA. Warden, McKean, PA. (Warden), Oakdale, LA. Correctional Institution Admr (Warden). Warden.
Southeast Region .....	Regional Director, Southeast Region. Warden Atlanta. Warden, Lexington, Kentucky.
North Central Region .....	Warden, Butner, North Carolina. Regional Director, North Central Region. Warden, Leavenworth, Kansas. Warden, Springfield, MO. Warden, Marion, IL. Warden, Terre Haute, IN.
South Central Region .....	Correctional Institution Admr. Regional Director, South Central Region. Warden, El Reno, Okla.
Western Region .....	Regional Director, Western Region. Warden, Lompoc, CA. Warden, Phoenix, AZ. Warden Federal Correctional Institution.
Ofc of Justice Programs .....	Correctional Institution Admr (Warden). Director of Administration. Dep Director, National Institute of Justice. General Counsel. Comptroller. Deputy Director, Office for Victims of Crime (Policy and International Programs).
Ofc of Juvenile Justice and Delinquency Prevention .....	Deputy Administrator, Office Discretionary Grants.
Bureau of Justice Statistics .....	Supervisory Statistician.
U.S. Marshals Service .....	Assistant Director for Human Resources. Assoc Director for Operational Support. Senior Management Advisor. Assistant Director for Prisoner Services. Assistant Director for Business Services. Associate Director for Mgmt and Budget. Assistant Director for Executive Service. Assistant Director for Investigative Servs. Assistant Director for Judicial Security. Asst Director for Organizational Development. Assistant Director for Training.
Department of Labor:	
Office of the Secretary .....	Deputy Assistant Secretary for Information Technology.
Ofc of the Inspector General .....	Deputy Inspector General. Asst Inspector General for Investigations. Asst Inspector Gen for Audit. Deputy Assistant Inspector General for Audit. Asst Inspector Gen for Labor Racketeering. Asst Inspector Gen for Mgmt & Counsel. Asst Inspector Gen/Analysis Complaints/Eval.
Office of the Solicitor .....	Associate Solicitor for Labor-Management Laws. Assoc Solicitor for Plan Benefits Security. Assoc Solicitor for Civil Rights. Assoc Solicitor for Occupational Safety & Hlt. Assoc Solicitor for Mine Safety & Health.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Regional Solicitors .....	Assoc Solicitor for Fair Labor Standards. Assoc Solicitor for Employee Benefits. Deputy Solicitor (Regional Operations). Assoc Sol for Spec Appel & Sup Court Lit. Dep Solicitor for Planning and Coordination. Associate Solicitor for Black Lung Benefits. Regional Solicitor. Regional Solicitor Region IV—Atlanta. Regl Solicitor Boston. Regl Solicitor New York. Regional Solicitor Philadelphia. Regl Solicitor Dallas. Regl Solicitor Kansas City. Regl Solicitor San Francisco.
Chief Financial Office .....	Deputy Chief Financial Officer. Das for Admin & Mgmt/Chf Information Ofcr. Director of Human Resources. Director of Information Technology. Director Office of Budget. Deputy Assistant Secy for Budget. Director Business Operations Center. Director of Civil Rights. Dir of Program Devel for Human Resources. Dir Div of Agency Programs. Director of Safety and Health.
Office of Management, Administration and Planning .....	Deputy Assistant Secretary for Administration and Management. Dir Ofc of Mgmt, Administration and Planning. Director Division of Programs Operations. Asst Admin for Policy Planning & Review. Dep Wage & Hour Admin.
Ofc of Federal Contract Compliance Programs .....	Dep Natl Ofc Program Administrator. Dir Federal Employees Compensation. Dir Coal Mine Workers Compensation.
Wage and Hour Division .....	Dir of Regulations & Interpretations. Dep Asst Secy for Program Operations. Director of Exemption Determinations. Senior Policy Advisor.
Ofc of Workers Compensation Programs .....	Regional Director. Regional Director. Regional Director. Regional Director. Dir of Enforcement.
Pension & Welfare Benefits Administration .....	Director of Health Plan Standards Compliance and Assistance. Associate Commissioner for Field Operations. Deputy Commissioner.
Bureau of Labor Statistics .....	Assoc Commr for Publications & Spec Studies. Asst Commr for Consumer Prices/Price Indexes. Asst Commr for Fedl/State Coop Stat Programs. Assoc Commissioner for Employment Projections. Assoc Comr for Prices and Living Conditions. Assoc Commr Productivity & Technology. Assoc Commissioner/Survey Methods Research. Assoc Comm for Employment & Unempl Statistics. Asst Commr for Industrial Prices & Price Indexes. Asst Commr for Indust Prices & Price Indexes. Assistant Commissioner for Economic Research. Asst Commissioner for Federal-State Programs. Asst Commissioner for Current Employ Analysis. Asst Comr for Compensation Levels & Trends. Asst Comr for Safety, H&W Conditions. Assoc Comr Compensation & Working Conditions. Asst Comm for Survey Methods Research. Asst Comm for International Prices.
Data Analysis .....	Associate Commissioner for Administration. Director of Survey Processing. Dir of Technology & Computing Svcs. Asst Comr for Technology & Survey Processing. Dir Quality & Info Management.
Administrative and Internal Operations .....	Comprtroller. Admr, Ofc of Financial & Administrative Mgmt. Dir, Adm Progs.
Office of Financial & Administrative Management .....	Dir Health Standards Programs.
Administrative Programs .....	
Health Standards Programs .....	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Safety Standards Programs ..... Federal/State Operations ..... Technical Support ..... Mine Safety and Health Administration .....	Director Safety Standards Programs. Director, Federal/State Operations. Director, Technical Support. Chf of Standards, Regulations & Variances. Director of Administration and Management. Director of Technical Support. Director of Prog Evaluation & Info Resources.
Merit Systems Protection Board: Office of the Board, Chairman .....	Director, Information Resources Management. Director, Financial and Administrative Management.
Office of the General Counsel ..... Office of the Clerk of the Board ..... Office of Policy and Evaluation ..... Office of Planning & Resource Management Services ..... Office of Regional Operations ..... Atlanta Regional Office ..... Central Regional Office ..... Northeastern Regional Office ..... Washington Office ..... Western Regional Office .....	Deputy General Counsel. Clerk of the Board. Director, Office of Policy & Evaluation. Director, Office of Administration. Director, Office of Regional Operations. Regional Director, Atlanta. Regional Director, Chicago. Regional Director, Philadelphia. Regional Director, Washington, D.C. Regional Director, San Francisco.
National Aeronautics and Space Administration: National Aeronautics and Space Administration .....	Technical Assistant to the Director, Office of Space Science. Manager, Earth Sciences Department. Director, Aviation Safety Program Office. Associate Director for Program Integration. Dep Dir of Safety and Mission Assurance. Director, for Systems Engineering. Senior Program Executive, Advanced Technology Program Management. Senior Systems Engineer. Director, Aerospace Proj Directorate. Dep, Director, Aerospace Projects. Aerospace Engineer (Ch Engineer). Deputy Chief Financial Officer.
Office of the Chief Financial Officer/Comptroller .....	Director, Financial Management Division. Director, Resources Analysis Division. Deputy Dir, Financial Management Division.
Office of Headquarters Operations .....	Chief, Information Syst & Technol Office. Director Headquarters Acquisition Division.
Office of Equal Opportunity Programs .....	Director, Discrimination Complaints Division.
Office of Human Resources & Education .....	Director, Multicultural Prog & Support Div. Associate Administrator for Human Resources. Director, Education Division. Director, Personnel Division. Director, Management Systems Division. Dep Assoc Adm for Human Res & Education. Special Asst to the Associate Admr.
Office of Procurement .....	Asst Admr for Procurement. Director, Program Operations Division. Director, Contract Management Division. Dep Assistant Administrator for Procurement. Dir Contract Management Division. Director Analysis Division.
Office of External Relations ..... Defense Affairs ..... Policy Coordination ..... Office of Management Systems & Facilities ..... Environmental Management ..... Security, Logistics & Industrial Relations ..... Aircraft Management ..... Information Resources Management ..... Facilities Engineering .....	Dep Assoc Admin for External Relationships. Director, Space Flight Division. Manager, International Technol Transfer Pol. Special Assistant to the Assoc Administrator. Dir Environmental Management Division. Dir, Logistics & Security Division. Director, Aircraft Management Office. Director, Information Resources Mgmt Division. Deputy Director, Facilities Engineering Div. Dir Environmental Management Division. Director, Facilities Engineering Division.
Office of Small & Disadvantaged Business Utilization .....	Assoc Admr for S&D Business Utilization.
Office of Legislative Affairs .....	Dep Assoc Admin.
Office of Space Flight .....	Dep Assoc Admin for Programs. Spec Asst to Dep Assoc Adm for Space Shuttle. Director, Advanced Project Office. Senior NASA Representative. Dep Assoc Administrator for Space Flight Dev. Deputy Assoc Admr for Space Communications.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Institutions .....	Deputy Associate Admr for Business Mgmt.
Chief Engineer .....	Techn Asst to the Dep Assoc Adm for Bus Mgmt.
Mission Director .....	Tech Asst to the Chief Engineer.
Space Flight Operations .....	Deputy Chief.
Space Flight Development .....	Senior Engineer.
Center Operations Directorate .....	Asst Mission Dir Mir.
Johnson Space Center .....	Manager Space Shuttle Syst Integration.
	Mgr, Natl Space Trans Syst Integration & Ops.
	Manager, Safety & Obsolescence.
	Manager Strategic Utilization & Ops Office.
	Deputy Director, Space Station Program.
	Senior Engineer Space Station Program.
	Dir Environmental Engineering & Mgmt Office.
	Chief Financial Officer.
	Director of Human Resources.
	Dir of Tech Transfer & Commercialization.
	Chief Information Officer.
	Deputy Chief Information Officer.
	Manager, Phase One Program Office.
	Associate Director (Technical).
	Assistant Director, Space Operations.
	Manager Advanced Communications Operations.
	Technical Assistant for External Reviews.
	Associate Director (Management).
	Assistant Director for University Research and Affairs.
	Manager EVA Project Office.
	Business Manger.
	Director, Public Affairs Office.
	Manager, Space Operation Mgmt Office.
	Manager, Space Ops Engineering Office.
	Director, Space Operations Office.
	Deputy Dir, Space Operations Office.
	Director Space Operations.
	Space Operations Commercialization Manager.
	Space Station Program Manager.
	Space Station Vehicle Manager.
	Director, Management Operations.
	Deputy Space Station Vehicle Manager.
	Manager International Partners Office.
	Tech Asst to the Mgr, Space Station Program.
	Dep Program Manager for Business Management.
	Deputy Program Mgr for Technical Development.
	Manager, Research Programs.
	Manager, Space Station Payloads Office.
	Space Station Program Manager.
	Mgr, Space Shuttle Vehicle Engineer Ofc.
	Mgr, Space Shuttle Mgmt Integration Office.
	Manager, Shuttle Projects Office (MSFC)
	Mgr, Launch Integration (KSC).
	Director, Space Shuttle Operations.
	Mgr, Space Shuttle Business Office.
	Asst Mgr, Space Shuttle Prog Space Flight o/c.
	Asst Manager Space Shuttle Program.
	Manager for Space Shuttle Program Development.
	Manager, Space Shuttle Program Integration.
	Director, Mission Operations.
	Chief Flight Director Office.
	Deputy Director, Mission Operations.
	Asst Dir for Operations.
	Chief Integrated Planning System Office.
	Chief Simulator & Operations Technology Div.
	Chief Engineer, Mission Operations Directorate.
	Flight Director.
	Chief, Aircraft Operations Division.
	Dep Dir, Flight Crew Operations.
	Asst Chief, Aircraft Operations Division.
	Chief Structures and Mechanics Division.
	Chief, Crew & Thermal Systems Division.
	Deputy Director, Engineering.
	Chief, Automation, R & S Division.
	Director, Engineering.
	Chief Engineer Space Station Program.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Space & Life Sciences .....	Chief Avionic Systems Division. Assistant to the Director, Engineering. Deputy Chief, Avionic Systems Division. Chief, Aeroscience & Flight Mechanics Div. Manager, Advanced Development Office. Deputy Mgr, Advanced Development Office. Asst Mgr, Advanced Development Office. Deputy Manager for Exploration. Special Assistant for Program Planning. Chief Energy Systems Division. Chief, Manufacturing, Materials, & Process Tech Div. Deputy Director of Engineering for Flight. Chief, Medical Sciences Division. Assistant Director for Engineering. Assistant to the Director for Russian Progs. Chief, Flight Crew Support Division. Associate Director, Space & Life Sciences. Deputy Director, Space and Life Sciences. Manager Science Payloads Management Office. Chief, Solar System Exploration Division. Deputy Director, Space and Life Sciences. Assistant Director for Flight Programs. Assistant Director for Space Medicine. Asst Director, Space and Life Sciences.
Information Systems .....	Director, Business Manager. Director, Information Systems. Manager Management Configuration Office. Dep Dir Information Systems. Director, Information Systems. Procurement Officer.
Business Management .....	Assistant Director, Business & Info Systems. Special Assistant to the Director. Manager Space Station Business Office. Asst Dir Business Management. Deputy director, Business Management.
Center Operations .....	Special Assistant for Facility Management. Dir Center Operations. Deputy Director, Center Operations.
Safety, Reliability & Quality Assurance. ....	Dir, Safety, Reliability & Quality Assurance Dep Dir, Safety, Reliability & Qual Assurance. Deputy Director for Russian Projects. Deputy Director SR&QA.
White Sands Test Facility .....	Manager, NASA White Sands Test Facility.
Kennedy Space Center .....	Dir Public Affairs. Associate Director. Asmdir for Advanced Devel & Shuttle Upgrades. Dir, Space Station Hardware Integration OFC. Director, Safety Assurance. Deputy Director for Planning and Projects. Manager Launch Integration (KSC). Dep Mgr Elv & Payload Carriers Program Office.
Shuttle Management & Operations .....	Dir of Shuttle Operations. Director Process Integration Deputy Dir of Shuttle Processing. Director Process Engineering.
Installation Operations .....	Director, Installation Operations. Deputy Dir, of Installation Mgmt & Operations.
Payload Processing .....	Director, Expendable Vehicles. Director Logistics Operations. Dir Inter Space Station Launch Site Support.
Procurement .....	Director, Procurement.
Biomedical Office .....	Director, Biomedical Office.
Marshall Space Flight Center .....	Chief Financial Officer. Director, Safety & Mission Assurance Office. Associate Director. Assistant to the Center Dir for Space Station. Associate Director (Technical). Manager, Space Transportation Prog Office. Manager X-34 Program. Assistant to the Manager, X-34 Program.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Science Directorate .....	Deputy Manager for Space Station Research. Deputy for Management.
Program Development .....	Assistant Director for Space Propulsion Systems. Deputy Director, Program Development. Deputy Manager, Technology Transfer Office. Dir, Research & Technology Office.
Engineering Directorate .....	Director, Space Sciences Lab. Director, Propulsion Laboratory. Director, Syst Anal & Integration Laboratory. Dep Dir Structures & Dynamics Laboratory. Deputy Dir, Materials & Processes Laboratory. Dep Dir, Mission Operations Laboratory. Dep Dir, Syst Anal & Integration Laboratory. Deputy Director, Propulsion Laboratory. Dir Astrionics Laboratory. Dir Structures Dynamics Laboratory. Deputy Director, Structures & Dynamics Lab. Chief Engineer Space Shuttle Main Engine Proj. Asst Director Science & Engineering. Manager Space Station Furnace Facility. Director, Mission Operations Laboratory. Dep Manager Super Lightweight External Tank. Deputy Director, Space Sci Laboratory. Chf Eng, Reusable Launch Vehicle Project. Assistant Director, Science Engineering Dir. Assistant to the Director, Engineering. Deputy Director, Engineering. Deputy Manager, Materials, Processes and Manufacturing Dept.
Center Operations Directorate .....	Director, Information Systems Services Office. Dir Center Operations. Director, Procurement Office. Dep Dir, Institutional & Program Support. Director, Facilities Office. Director Center Operations.
Space Shuttle Projects .....	Deputy Director, Center Operations. Manager, External Tank Project. Mgr Solid Rocket Booster Project. Manager Space Shuttle Main Engine Projects. Manager, Reusable Solid Rocket Motor Project. Chief Engineer Space Shuttle Main Engine Prog.
Global Hydrology Research Office .....	Manager, Global Hydrology Research Office. Dep Dir Science & Engineering. Dir. Materials & Processes Laboratory. Manager Microgravity Projects.
Chandra X-Ray Observatory Program Office .....	Manager Microgravity Research Program Office. Manager, Observatory Projects Office. Dep Mgr, Observatory Projects Office.
Flight Projects Directorate .....	Assistant to the Director, Flight Projects. Manager, Ground Systems Department. Manager, Flight Systems Department.
Space Transportation Directorate .....	Director, Advanced Transportation Syst Office. Dep Manager Space Transportation Prog Ofc. Manager X-33 Program. Manager, Vehicles and Systems Development Department.
Technology Transfer .....	Manager, Technology Evaluation Department. Director, Technology Transfer Office. Mgr. Earth & Space Sciences Projects.
Customer and Employee Relations Directorate .....	Director, Customer and Employee Relations. Deputy Dir, Customer and Employee Relations.
Stennis Space Center .....	Director Center Operations & Support Director. Deputy Director, NASA Stennis Space Center. Dep Dir NASA Stennis Space Center. Assoc Director for Institution. Director, Propulsion Test Directorate. Deputy Director, Propulsion Test Directorate. Manager, Test Management Support. Chief Financial Officer.
Office of Space Communications .....	Director, Commercial Remote Sensing Program Office. Chief, Communications Systems Branch.
Ground Networks .....	Assistant Associate Administrators (Plans).
Communications & Data Systems .....	Dep Dir, Ground Network Division.
Office of Public Affairs .....	Senior Public Affairs Advisor.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of Safety & Mission Assurance .....  Safety & Risk Management ..... Payloads & Aeronautics ..... Engineering & Quality Management ..... Office of Aerospace Technology .....	Dep Assoc Adm for Safety & Mission Quality. Director, Programs Assurance Division. Mgr Intl Sp Stn Indep A & O Act. Technical Advisor for Sr M QA Initiatives. Dir, Human E & D of Space (HEDS) Indep Assur. Director, Safety & Risk Management Division. Dir, Enterprise Safety & Mission Assurance. Director, Quality Management Office. Dep Assoc Admin for Aeronautics Mgmt. Dir Space Transportation Division. Senior Engineer.
Resources & Management Systems ..... High Performance Aircraft ..... High Speed Research ..... National Aero-Space Plane ..... Ames Research Center .....	Director, Inter-Enterprise Operations. Director, Resources Management Office. Assistant Director for Program Evaluation. Director, Alliance Development Office. Assistant Dir for Aircraft Certification Serv. Chief Financial Officer. Dir, National Rotorcraft Technology Center. Deputy Director of Information Systems. Manager, NASA Consolidated Supercomputing Ops. Deputy Director Ames Research Center. Assistant Director for Planning. Deputy Director for Space. Chief Systems Engineering Division. Assistant Director for Information Technology. Director, Office of Safety, Environment & Mission Assurance. Assistant to the Director. Chief, Wind Tunnel Operations Division. Chief, Computational Sciences Division. Associate Director for Astrobiology & Space Programs. Chief Counsel.
Aerospace Systems .....	Associate Director for Systems Management and Planning. Director of Aviation Systems Capacity Program. Dep Dir Flight Projects Office. Chief Aeronautical T & S Division. Chief Flight Mgmt & Human Factors Division. Associate Director for Aeronautics. Deputy Director of Aeronautics. Chief, Applied Aerodynamics Division. Chief, Aviation Systems Research Technology & Simulation.
Flight Operations .....	Deputy Chf, Airborne Science & Flight Res Div.
Aerophysics .....	Chief, Flight Operations Office. Dir Software Independent Vertication Facility. Chief, Space Technology Division.
Space Research .....	Chief, NAS Systems Division. Chief, Information Sciences Division. Director of Space.
Administration .....	Chief, Life Sciences Division. Deputy Director of Center Operations (Adm). Chief, Airborne Science & Flight Res Div.
Engineering & Technical Services ..... Dryden Flight Research Center .....	Dep Director, Center Operations Directorate. Director, Research and Development Services. Asst Chief, Flight Operations Division. Director, Intercenter Aircraft Operations. Asst Dir for Program Integration. Assistant Director of Research Facilities. Associate Director for Operations. Chief Information Officer.
Flight Operations .....	Chf, Flight Operations Division.
Aerospace Projects .....	Dir Aerospace Projects Directorate. Director, Airborne Science Directorate.
Langley Research Center .....	Chief Atmospheric Sciences Division. Dir Independent Prog Assess Office. Dir of Education Programs. Assistant Director for Planning. Chief, Power & On-Board Propulsion Techn Div. Special Assistant for Outreach. Manager, Hyper-X Phase One Program. Dep Dir Indep Progr Assessment Office. Associate Director. Director. Special Assistant to the CFO

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Aeronautics .....	Chief, Aeronautics Systems Analysis Div.
Space & Atmospheric Sciences .....	Deputy Director, Airframe Systems Prog Office.
Research & Technology .....	Deputy Dir, S&A Sciences Program Group.
	Dir, Aerospace Transportation Program Office.
	Chief, Space Systems and Concepts Division.
	Director.
	Chief Structures Division.
	Chief Information & Electromagnetic Tech.
	Chf, Flight Dynamics & Controls Division.
	Chief, Fluid Mechanics Division.
	Deputy Dir, Research & Technology Group.
	Chief Aerodynamics Division.
	Director, Research & Technology Group.
	Chief, Aero & Gas Dynamics Division.
	Chief, Materials Division.
	Manager Space Technologies Thrust Office.
	Deputy Dir, Internal Ops Group (FE & O).
	Chief Aerospace Mechanical Systems Division.
	Chief Experimental Testing Technology Div.
	Special Asst, Internal Operations Group.
	Special Assistant.
	Procurement Officer.
	Chief Aerospace Mechanical Systems Division.
	Director, Internal Operations Group.
	Chief, Simulation and Research Aircraft Div.
	Director for High-Speed Res Project Office.
	Chief Engineer, High-Speed Research.
	Dep Dir Aerospace Trans Technol Office
	Dep Dir Aerospace Transportation Tech Ofc.
	Dir Aerospace Transport Technology Office.
	Dir, Ofc of Safety, E&M Assurance.
	Chief Financial Officer.
	Chief, Turbomachinery & Propulsion Syst Div.
	Chief, Materials Division.
	Chief Microgravity Division.
	Special Assistant to the Director for Policy.
	Chief Financial Officer.
	Deputy Director for Operations.
	Chief, Systems Engineering Division.
	Assistant Deputy Director for Policy.
	Chief, Ultra Efficient Engine Technology Office.
	Chf, Internal Fluid Mechanics Division.
	Chf, Aeropropulsion Analysis Office.
	Deputy Director of Aerospace Technology.
	Chief, High-Speed Systems Office.
	Chief, Subsonic Systems Office.
	Chief, Space Propulsion Technology Division.
	Chief, Structures Division.
	Chief, Space Communications Division.
	Chief, Interdisciplinary Technology Office.
	Chief, Space Experiments Division.
	Deputy Director of Space Flight Systems.
	Chief Power Systems Project Office.
	Senior Advisor for Advanced Concepts.
	Chf, Electronics & Control Systems Division.
	Director of Engineering & Technical Services.
	Chief Engineer.
	Deputy Dir of Engineering & Tech Services.
	Chief, Computer Services Division.
	Dir, Adm & Computer Services Directorate.
	Director, External Programs.
	Dir, Ofc of Sfty, Environml & Mission Assur.
	Special Asst to the Deputy Assoc Admin.
	Asst Associate Admr for Technology.
	Science Program Director.
	Director, Mission & Payloa Development Div.
	Senior Program Executive for JPL Programs.
	Dir, Advanced Technol & Mission Studies Div.
	Senior Program Executive for GSFC/APL Progs.
	Science Program Dir, Sun-Earth Connection.
	Sr Sci Prog Executive for Review & Evaluation.
	Director, Research Program Management.



## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Technology & Information Systems ..... Astrophysics .....	Sr Sci Program Executive for Information Syst. Science Program Director, Galaxy & Universe. Deputy Dir Astrophysics Division.
Office of Life & Microgravity Sciences & Applications .....	Asst Assoc Admr for Education & Outreach. Science Prog Dir, Origins & Planetary Systems. Dir, Space Processing Division.
Life & Biomedical Sciences .....	Dir, Microgravity Sciences & Applications Div. Manager, Life Sciences and Technology. Dir Life & Biomedical Science & Appls Div.
Flight Systems .....	Chief Mission Management Branch.
Office of Inspector General .....	Assistant Inspector General for Auditing. Assist Inspector General for Investigation. Manager, Advanced Technology Programs. Assistant Inspector General for Inspections, Administrative Investigations, and Assessments. Counsel to the Inspector General. Assistant Inspector General, Network and Advanced Technology Protections Office.
Office of Space Access & Technology .....	Manager Systems Integration. Manager, Communications Experiments. Director, Commercial Dev & Technol Transfer. Manager for Propulsion Technology.
Office of Earth Science .....	Special Assistant for Special Projects. Dep Assoc Admr for Mission to Planet Earth. Senior Science Advisor for Intl Programs. Director, Mission to Planet Earth. Senior Engineer, Program Integration. Dir Applications & Outreach Division. Director, Business Division.
Science .....	Director Science Division
Goddard Space Flight Center .....	Dir of University Programs. Chief, NASA Somo Mission Services Offices. Associate Director/Program Manager for Explorers. Deputy Associate Director for EOS-G Development Associate Director/Program Manager for the Hubble Space Telescope (HST). Deputy Associate Director for Hubble Space Telescope (HST) Development. Deputy Director of Applied Engineering and Technology for Planning and Development.
Human Resources .....	Director, Management System Division. Director of Human Resources.
Comptroller .....	Chief Financial Officer/Comptroller.
Management Operations .....	Dep Dir of Management Operations. Associate Director for Acquisition.
Flight Assurance .....	Director of Flight Assurance. Dep Dir of Flight Assurance.
Flight Projects .....	Deputy Director of Flight Projects. Project Mgr, OPNS & Ground Systems. Project Mgr, Earth Observing Syst AM Project. Geostationary OPL Environmental Satellite PM. Dir of Flight Projects. Tracking & Data Relay Satellite TDRS Proj Mgr. Assoc Dir for Earth Sci Data & Info System. Proj Mgr, EOS-PM Proj Flight Proj Direct. Project Mgr, Earth Sci D&I Syst Project. Dep Dir Flight Projects for Plan & Bus Mgnt. Project Manager, POES.
Applied Engineering & Technology Directorate .....	Associate Director of Flight Projects for EOS. Deputy Asso Dir of Flight Proj Cor Net & Miss Serv Proj. Asso Dir of Flight Proj for Network & Miss Serv Proj. Deputy Director of Applied Eng & Technology. Chief Information Systems Center.
Systems, Technology and Advanced Concepts .....	Dep Dir of Systems, Tech & Advanced Concepts.
Space Sciences .....	Chief, Lab for Astronomy and Solar Physics. Chief, Lab for Extraterrestrial Physics. Director of Space Sciences. Chief, Goddard Institute for Space Studies. Chief Laboratory for High Energy Astrophysics. Deputy Director of Space Sciences.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Engineering .....	Chief Engineer.
	Associate Director of Flight Projects.
	Chief, Mechanical System Center.
	Chief, Systems Engineering Division.
	Chief Technology Commercialization Office.
Earth Sciences .....	Chief Lab for Hydrospheric Processes.
	Chief, Space Data and Computing Division.
	Asst Dir of Earth Sci for Projects Eng.
	Chf, Laboratory for Atmospheres.
	Deputy Director for Earth Sciences.
	Director for Earth Sciences.
	Chief Laboratory for Terrestrial Physics.
	Deputy Assoc Dir for Earth Sci D & I Syst.
	Asst Dir of Mission to P/E Prog for Globe.
Office of Policy and Plans .....	Director of Special Studies.
	Director of Special Projects.
National Archives & Records Administration:	
Archivist of US Dep Archivist of the US/Chf of Staff .....	Deputy Archivist of the United States.
Office of Administrative Services .....	Assistant Archivist for Administrative Serv.
Office of the Federal Register .....	Director of the Federal Register.
Office of Regional Records Services .....	Asst Archivist for Regional Records Services.
Office of Human Resources and Information Services .....	Asst Archivist for Human Resources & Info Ser.
Office of Records Services—Washington, DC .....	Asst Archivist for Records Services.
Office of Presidential Libraries .....	Asst Archivist for Presidential Libraries.
National Capital Planning Commission:	
National Capital Planning Commission Staff .....	Executive Director.
	Assistant Executive Director (Management).
	Deputy Executive Director.
	Assistant Executive Director (Programs).
	General Counsel.
National Endowment for the Arts:	
National Endowment for the Arts .....	Deputy Chairman for Guidelines, Panel and Council Operations.
	Deputy Chairman for Management and Budget.
	Chief Information Officer.
National Endowment for the Humanities:	
National Endowment for the Humanities. ....	Dir, Office of Planning & Budget.
	Director, Office of Strategic Planning.
National Labor Relations Board:	
Ofc of the Board Members .....	Executive Secy.
	Deputy Executive Secretary.
	Inspector General.
Div of Enforcement Litigation .....	Deputy Assoc. Gen. Counsel Appellate Court Br.
	Director, Office of Appeals.
Div of Advice .....	Associate Gen Counsel, Div of Advice.
	Deputy Assoc Gen Counsel.
Div of Administration .....	Director of Administration.
	Deputy Director of Administration.
	Chief Information Technology Branch.
Div of Operations Management .....	Assoc General Counsel, Div of Operation—Mgmt.
	Dep Asso Gen Counsel, Div of Operations—Mgmt.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
Regional Offices .....	Regl Dir Reg 1 Boston.
	Regional Director, Reg. 2, New York.
	Regional Director, Reg. 3, Buffalo.
	Regl Dir Reg 4 Philadelphia.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	Regl Dir Reg 16 Ft Worth. Regl Dir Reg 17 Kansas City. Regl Dir Reg 18 Minneapolis. Regl Dir Reg 19 Seattle. Regional Dir, Reg. 20, San Francisco. Regional Director, Reg 21, Los Angeles. Regional Director Reg 22 Newark. Regional Director Reg 24 Hato Rey Puerto Rico. Regl Dir, Reg 25, Indianapolis. Regl Dir Reg 26 Memphis. Regl Dir Reg 27 Denver. Regl. Dir, Reg. 28 Phoenix. Regl Dir Reg 29 Brooklyn. Regl Dir Reg 30 Milwaukee. Regl. Dir., Reg 32, Oakland. Regional Director, Reg. 33 Peoria, ILL. Regl Dir Reg 31 Los Angeles. Regional Director Reg 34 Hartford.
National Science Foundation:	
Office of the Director .....	Senior Advisor.
Office of Integrative Activities .....	Senior Science Advisor. Senior Scientist.
Office of the General Counsel .....	Deputy General Counsel.
Office of Polar Programs .....	Head Polar Research Support Section.
Office of the Inspector General .....	Inspector General. Dep Inspector Gen & Senior Legal Advisor. Associate Inspector General for Efficiency. Associate Inspector General for Scientific Integrity.
National Science Board .....	Senior Policy Officer.
Directorate for Geosciences .....	Senior Science Associate for Spatial Data and Information. Sr Science Assoc for Geosciences Education.
Division of Atmospheric Sciences .....	Head, Upper Atmosphere Section.
Division of Earth Sciences .....	Head Lower Atmosphere Section. Head Major Projects Section. Head Research Grants Section.
Division of Ocean Sciences .....	Head Ocean Sciences Research Section.
Division of Engineering Education & Centers .....	Deputy Division Director (Education). Senior Staff Associate. Senior Engineering Advisor.
Division of Design, Manufacture & Industrial Innovation .....	Senior Advisor, Technology Integration. Senior Advisor.
Division of Civil and Mechanical Systems .....	Senior Advisor.
Directorate for Biological Sciences .....	Deputy Assistant Director.
Division of Environmental Biology .....	Deputy Division Director.
Directorate for Mathematical and Physical Sciences .....	Executive Officer. Special Assistant to the Assistant Director.
Division of Physics .....	Executive Officer.
Division of Astronomical Sciences .....	Executive Officer.
Division of Mathematical Sciences .....	Executive Officer.
Division of Materials Research .....	Executive Officer. Senior Staff Scientist.
Directorate for Education & Human Resources .....	Deputy Assistant Director. Dep Asst Dir for Integrative Activities.
Division of Research, Evaluation Communication .....	Senior Advisor for Research.
Directorate for Social, Behavioral and Economic Sciences .....	Executive Officer. Senior Advisor.
Division of International Programs .....	Deputy Division Director. Senior Staff Associate.
Directorate for Computer & Info Science & Engineering .....	Head, Office of Trans-Regional Affairs. Chief Science & Technology Officer. Executive Officer. Senior Scientist.
Division of Computer-Communications Research .....	Dep Division Director.
Office of Budget, Finance and Award Management .....	Director, BFZ and CFO. Deputy Chief Financial Officer Executive Officer.
Budget Division .....	Division Director.
Division of Financial Management .....	Division Director and Deputy CFO.
Division of Grants & Agreements .....	Division Director.
Division of Contracts, Policy & Oversight .....	Division Director.
Office of Information and Resource Management .....	Deputy Director, OIRM and Deputy CIO.
Division of Information Systems .....	Dep Dir, Div of Information Systems.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Division of Human Resource Management .....	Division Director. Deputy Division Director.
Division of Administrative Services .....	Division Director Deputy Division Director.
National Transportation Safety Board: Office of the Managing Director .....	Deputy Managing Director. Assoc Managing Dir Safety & Development. Assoc Managing Director for Quality Assurance.
Office of Aviation Safety .....	Director Ofc of Aviation Safety. Dep Dir, International Aviation Safety Affairs. Deputy Director, Tech and Inv Operations.
Office of Research & Engineering .....	Dir Ofc of Research and Engineering. Deputy Dir Ofc of Research and Engineering.
Office of Chief Financial Officer .....	Chief Financial Officer.
Office of Safety Recommendations and Accomplishments .....	Dir Ofc of Safety Recommendations & Accomplis.
Nuclear Regulatory Commission: Nuclear Regulatory Commission .....	Dir Division of Budget and Analysis. Chief Administrative Judge.
Atomic Safety and Licensing Brd Panel .....	Deputy Chief Administrative Judge (Executive).
Office of the Chief Information Officer .....	Dir, Applications Development Division. Dir, Information Technology Infrastructure. Director, Information Mgmt Division. Director, Planning & Resource Mgmt Division.
Office of Chief Financial Officer .....	Dir, Division of Accounting and Finance. Special Assistant for Internal Controls. Deputy Chief Financial Officer.
Office of the Inspector General .....	Asst Inspector General for Audits. Deputy Inspector General. Assistant Inspector Gen for Investigations.
Deputy GC for Licensing & Regulation .....	Deputy Assistant GC/Legislative Counsel.
Dep GC for Hearings, Enforcement & Administration .....	Deputy Assistant GC for Administration.
Assistant GC for Hearing and Enforcement .....	Dep Asst GC for Mtrls, Antitrust, & Sp. Deputy Assistant General Counsel. Deputy Assistant GC for Mtrls, Antitrust & Sp. Chief Nuclear Waste Management Branch.
Office of Commission Appellate Adjudication .....	Dir Ofc of Comm Appellate Adjudication.
Division of Operational Assessment .....	Deputy Director, Div Incident Response. Special Assistant to the Director.
Division of Safety Programs .....	Chief Reactor Analysis Branch. Chf Reliability & Risk Assessment Branch.
Office of Administration .....	Director Div of Contracts & Prop Mgmt. Director, Div of Security. Dir, Div of Administrative Services. Special Assistant.
Office of Human Resources .....	Director.
Ofc of Small and Disadv Bus Utilization/Civil Rights .....	Proj Dir Project Directorate II 1.
Office of Nuclear Reactor Regulation .....	Dir, Inspection & Support Programs. Chf, Inspection Program Branch. Chf, Special Inspections Branch.
Division of Inspection and Support Programs .....	Project Dir, Project Directorate I-1. Project Director, Project Directorate I-2. Project Director, Project Directorate I-4. Proj Dir Project Directorate II 2. Proj Dir Project Directorate II 2. Project Dir Project Directorate II 3. Deputy Dir, Div of Reactor Project I/II.
Division of Reactor Projects I/II .....	Chf, Technical Specification Branch. Proj Dir Project Directorate III 1. Proj Dir Project Directorate III 2. Proj Director Project Directorate III 3. Proj Dir, Project Directorate IV-1. Chf, Events A & G Communications Sp Insp Brch. Proj Dir, N-P Reactor, D & E Proj Directorate. Project Dir, Proj Directorate IV-2. Chief, Generic Issues & Envir Proj Branch.
Division of Reactor Projects III/IV .....	Chief, Materials & Chemical Engineering Br. Chf, Mechanical Engineering Branch. Chief Civil Eng & Geosciences Branch. Chief Electrical Engineering Branch.
Division of Engineering .....	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Division of Systems Safety & Analysis .....	Chf, Plant Systems Branch. Chf, Reactor Systems Branch. Chief, Probabilistic Safety Assessment Branch. Chief, Containment Sys & Severe Accident Branch.
Division of Reactor Controls and Human Factors .....	Chf, Human Factors Assessment Branch. Chf, Human Factors Assessment Branch. Chf, Operator Licensing Branch. Chf, Instrumentation & Control Branch. Chf, Quality Assur & Maint Branch. Project Dir Project Directorate I-3.
Division of Reactor Program Management .....	Chf, Chf, Emergency P & R Protection. Chf, Safeguards Branch. Project Dir, Standardization Proj Directorate. Proj Dir License Renewal & Environmental Rev. Special Assistant to the Director.
Office of Nuclear Material Safety and Safeguards .....	Deputy Director, Spent Fuel Project Ofc. Chief Transportation & Storage Safety.
Division of Fuel Cycle Safety & Safeguards .....	Chief, Operations Branch. Chief, Regl & Intl Safeguards Branch. Chief Special Projects. Chief, Licensing Branch.
Div of Industrial & Medical Nuclear Safety .....	Chief, Operations Branch Chief, Medical, Acod & Com Use Sfty Branch.
Division of Waste Management .....	Chf, High Level Waste & Uranium Recovery Proj. Chief, Perf Assess & Hydrology Branch. Chief, Engineering & Geosciences Branch. Deputy Dir, Prog Mgmt Policy Devel & Analysis. Chf, Low Level Waste & Decommissioning Proj.
Ofc of Nuc Regulatory Research .....	Director: Fin Mgt, Procurement & Admin Staff. Director for Inspector Special Projects.
Divison of Engineering Technology .....	Chief, Generic Safety Issues Branch. Chief, Elect, M & M Engineering Branch. Chief, Structural & Geological Eng Branch.
Division of Regulatory Applications .....	Chief, Regulation Development Branch. Chief Waste Management Branch.
Divison of Systems Technology .....	Chf, Chief Accident Evaluation Branch. Chf, Probabilistic Risk Analysis Branch. Chf, Radiation Protection & Health Effects Br. Chief, Reactor and Plant Systems Branch. Chief, Control Instr & Human Factors Branch.
Region I .....	Deputy Regional Administrator. Dir, Div of Nuclear Materials Safety. Deputy Director, Division of Reactor Projects. Director Division of Reactor Safety. Director, Division of Reactor Projects. Dep Dir, Div of Reactor Safety. Dep Dir, Div of Nuclear Materials Safety.
Region II .....	Director, Millstone Inspection Directorate. Deputy Regional Administrator Region II. Dir, Div of Nuclear Materials Safety. Deputy Director, Division of Reactor Projects. Director, Division of Reactor Projects. Director, Division of Reactor Safety. Dep Dir, Div of Reactor Safety.
Region III .....	Director, Division of Reactor Safety. Director, Division of Reactor Projects. Dep Regional Administrator Region III. Dir, Div of Nuclear Materials Safety. Deputy Director Division of Reactor Projects. Dep Dir, Div of Reactor Safety. Dep Dir, Nuclear Materials Safety.
Region IV .....	Deputy Regional Administrator Region IV. Deputy Director, Div of Reactor Projects. Director Div of Reactor Projects. Dir, Div of Nuclear Materials Safety. Dir, Division of Reactor Safety. Dep Dir, Division of Reactor Safety.
Office of Government Ethics: Office of Government Ethics .....	Deputy, Director. Deputy Dir., for Government R & S Projects. Senior Assoc Director for Agency Programs.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of Management and Budget:	
Office of the Director .....	Deputy, Associate Dir for Economic Policy.
Legislative Reference Division .....	Senior Advisor to the Dep Dir for Management. Asst Dir Legislative Reference.
	Chief, Economics, Science & Govt. Branch.
	Chief, Resources-Defense-International Branch.
	Chief, Labor, Welfare, Personnel Branch.
	Associate General Counsel for Budget.
Office of Federal Procurement Policy .....	Dep Admin for Procurement Law & Legislation.
Office of Information and Regulatory Affairs .....	Chief, Information Policy & Technology Branch.
	Chief, Human Resources and Housing Branch.
	Chief, Commerce and Lands Branch.
	Chief Statistical Policy Branch.
	Chief, Natural Resources Branch.
	Senior Advisor.
Office of Federal Financial Management .....	Chief Management Integrity Branch.
	Deputy Controller.
	Chief Federal Financial Systems Branch.
	Senior Advisor to the Director.
Budget Review Division .....	Dep Asst Dir for Budget Review & Concepts.
	Dep Chief Budget Analysis Branch.
	Chief Budget Analysis Branch.
	Asst Dir for Budget Review.
	Dep Asst Dir for Budget Analysis & Systems.
	Chief, Budget Concepts Branch.
	Chief, Budget Systems Branch.
International Affairs Division .....	Chief, State—USIA Branch.
	Chief, Economic Affairs Branch.
	Dep Assoc Dir for Internatl Affairs.
National Security Division .....	Chief, Command, Ctrl, Coms, & Intellig Branch.
	Chief, Force Structure & Investment Branch.
	Dep Assoc Dir for National Security.
	Chief Operations Sup Branch.
Associate Director for Educ, Income Maintenance & Labor .....	Chief, Labor Branch.
	Chief, Education Branch.
	Dpt Assoc Dir for Ed, Income Maint & Labor.
	Chf, Income Maintenance Branch.
Transportation, Commerce, Justice & Services Division .....	D/A for Transp Commerce, Justice & Services.
	Chief Commerce Branch.
	Chief Transport Branch.
	Chief, Justice/GSA Branch.
Housing, Treasury and Finance Division .....	Deputy Assoc Dir for Housing Treasury Finance.
	Chief, Treasury Branch.
	Senior Advisory for Cash & Credit Mgmt.
	Chief, Financial Institutions Branch.
	Chief, Housing Branch.
Assoc Dir for Natural Resources, Energy, and Science .....	Senior Advisor.
Natural Resources Division .....	Dep. Associate Dir. for Natural Resources.
	Chief, Agricultural Branch.
	Chief, Environmental Branch.
	Chief Interior Branch.
Energy and Science Division .....	Chief, Water and Power Branch.
	Chief Science and Space Programs Branch.
	Dep. Assoc. Dir for Energy & Science.
	Chief, Energy Branch.
Health Division .....	Deputy Associate Director for Health.
	Chief Health Programs & Services Branch.
	Chief Health & Financing Branch.
	Chief, Health & Human Services Branch.
VA/Personnel Division .....	Chf Veteran Affairs Branch.
	Deputy Assoc Director for VA & Personnel.
	Chief, Personnel, Portal, EXOP Branch.
Office of the Chief Financial Officer .....	Chief Financial Officer.
	Dep Chf Fin Ofc/Asst Dir for Financial Mgmt.
Office of the Inspector General .....	Deputy Inspector General.
	Asst Inspector General for Audits.
	Assistant Inspector Gen for Investigations.
	Deputy Aig for Audits.
Retirement and Insurance Service .....	Asst Dir for Retirement Programs.
	Director, Office of Actuaries.
	Asst Dir for Insurance Program.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Employment Service .....	Director, Personnel Res & Development Center. Director, Staffing Automation. Senior Advisor.
Office of Workforce Relations .....	Special Assistant to the Associate Director. Director, Office of Workforce Relations. Dir Ctr for Partnership/Labor Mgmt Relations.
Investigations Service .....	Assistant Dir for Human Resources Development.
Office of the Chief Information Officer .....	Director, Fed Investigation Systems.
Office of Contracting and Administrative Services .....	Chief Information Officer.
Office of Merit Systems Oversight and Effectiveness .....	Director of Contracting & Administrative Serv.
Office of Special Counsel:	Asst Dir for Merit Systems Oversight.
Headquarters, Office of Special Counsel .....	Assoc Special Counsel (Prosecution). Assoc Spec Counsel (Investigation). Deputy Associate Spec Counsel for Prosecution. Assoc Special Counsel for Disclosure and Complaints Examination. Director for Management. Assoc Special Counsel Planning and Oversight. Associate Special Counsel for Plan & Advice.
Railroad Retirement Board:	
Board Staff .....	Chief of Technology Service. Director of Hearings and Appeals Chief Actuary Director of Field Service. Director of Administration. Deputy General Counsel. Asst Inspector General for Investigations. Chief Financial Officer. Assistant Inspector General for Audit. Director of Taxation. General Counsel. Director of Programs. Chief Information Officer. Dir of Operations. Dir of Policy & Systems. Director of Fiscal Operations.
Securities and Exchange Commission:	
Office of the Chief Accountant .....	Dep Chf Accountant.
Office of the Executive Director .....	Associate Executive Director (Finance).
Div of Corporation Finance .....	Associate Executive Director (Administration).
Small Business Administration:	Associate Director (Operations).
Office of the Inspector General .....	Associate Director (Legal).
	Asst Inspector General for Auditing.
	Asst Inspector for Investigations.
	Deputy Inspector General.
	Assistant Inspector Gen/Inspection & Eval.
	Asst Inspection General for Magnt Legal Coussl.
Office of the General Counsel .....	Associate General Counsel for General Law.
	Assoc Gen Counsel Litigation.
	Assoc Gen Counsel for Financial Law.
Office of Equal Employment O & C Rights Compliance .....	Asst Admr for Equal Employ O & C Right Compl.
Office of Hearings and Appeals .....	Asst Administrator for Hearings and Appeals.
Office of the Chief Financial Officer .....	Deputy Chief Financial Officer.
Office of Economic Development .....	Dep to the Admin for Capital Access.
Office of Financial Assistance .....	Assoc Administrator for Financial Assist.
	Dep Assoc Admr for Financial Assistance.
	Asst Admr for Borrower and Lender Servicing.
Office of Surety Guarantees .....	Assoc Administrator for Surety Guarantees.
Office of Government C & M Enterprise Development .....	Associate Administrator for Procurement Policy and Liaison.
Office of Minority Enterprise Development .....	Assoc Admin for Minority Small Bus Cap Owners.
Office of Entrepreneurial Development .....	Deputy to the Ada for Entrepreneurial Dev.
Office of Information Resource Management .....	Chief Information Officer.
Office of Human Resources .....	Asst Administrator for Human Resources.
District Directors .....	District Director.
	District Director.
	District Director.
	District Director.
	District Director.
	District Director.
	District Director.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Social Security Administration:	
Office of the Inspector General .....	Deputy Inspector General.
	Counsel to the Inspector General.
Office of Investigations .....	Asst Inspector General for Investigations.
	Dep Asst Inspector General for Investigations.
Office of Audits .....	Asst Inspector Gen for Audits.
	Dep Asst Inspector General for Audits.
Office of Actuary .....	Chief Actuary.
	Deputy Chief Actuary (Long-Range).
	Deputy Chief Actuary (Short-Range).
Office of Human Resources .....	Dir Ofc Labor-Management Employee Relations.
Office of Finance, Assessment & Management .....	Senior Financial Executive.
Office of Financial Policy and Operations .....	Assoc Comr, Office of Fin Policy & Operations.
	Dep Assoc Comm Financial Policy & Operations.
Office of Acquisition and Grants .....	Assoc Commissioner for Acquisition & Grants.
Office of Telecommunications and Systems Operations .....	Assoc Comm for Telecommunications & Sys Oper.
	Deputy Associate Commissioner for T&SO.
	Dep Assoc Commr for T & S Ops (Telecomm).
Division of General Law .....	Associate General Counsel for General Law.
Department of State:	
Office of the Inspector General .....	Assistant Inspector General for Audits.
	Asst Inspector General for Investigations.
	Counsel to the Inspector General.
	Dep Asst Inspector General for Audits.
	Asst Insp Gen for Policy, Plng and Management.
	Dep Asst Inspector Gen for Inspections.
	Deputy Inspector General.
	Asst Inspector Gen for Security Oversight.
	Senior Inspector—Thematic Review.
Bureau of Intelligence and Research .....	Executive Director.
Bureau of Administration .....	Director, Office of Acquisitions.
Bureau of Personnel .....	Director, Ofc of Civil Service Personnel Mgmt.
	Ses Long Term Training.
Bureau of Arms Control .....	Office Director.
	Office Director.
	Office Director.
	Office Director.
	Deputy Asst. Secretary.
	Office Director.
Bureau of Nonproliferation. ....	
Department of Transportation:	
Office of Inspector General .....	Deputy Inspector General.
	Senior Counsel.
	Associate Deputy Inspector General.
	Assistant Inspector General for Rail, Transit, and Special Program Au-
	dits.
Assistant Inspector General for Auditing .....	Asst Insp General for Auditing.
Office of Finance, Economic and Information Technology .....	Depty Asst Inspector General.
Office of Aviation .....	Dep Asst Inspector General.
Office of Highways and Highway Safety .....	Deputy Assistant Inspector General for Highways & Highway Safety.
Assistant Inspector General for Investigations .....	Asst Inspector General for Investigations.
	Dep Asst Inspector General for Investigations.
Assistant Inspector General for Maritime & Departmental Programs	Deputy Asst Inspector General.
Asst Secretary for Budget & Programs .....	Deputy Chief Financial Officer.
Asst Sec for Administration .....	Asst Secy for Administration.
	Senior Procurement Executive.
Assoc Admr for Safety .....	Assoc Admr for Safety.
Office of Safety Enforcement .....	Director, Office of Safety Enforcement.
Associate Administration for Pipeline Safety .....	Assoc Admr for Pipeline Safety.
Office of Shipyard Revitalization .....	Dir Ofc of Shipyard Revitalization.
Ofc of Assoc Admr for Ship Financial A & C Preference .....	Assoc Admr for Ship fin A & C Preference.
Office of the Administrator .....	Senior Advisor.
Federal Highway Administration .....	Executive Director.
Office of Fiscal Services .....	Dir Ofc of Budget & Finance.
Office of Motor Carrier Standards .....	Director, Office of Research and Standards.
Office of Real Estate Services .....	Dir Ofc of Real Estate Services.
Motor Carrier and Highway Safety .....	Director, Office of Motor Carrier Enforcement.
Research, Development and Technology .....	Director, Office of Safety RD&T.
Associate Administrator for Safety Assurance .....	Associate Administrator for Safety Assurance.
Ofc of Defects Investigation .....	Dir-Ofc of Defects Investigation.
Ofc of Vehicle Safety Comp .....	Dir-Ofc of Vehicle Safety Compliance.
US Coast Guard .....	Deputy Assistant Commandant for Acquisition.
Office of the Chief of Staff .....	Director of Finance and Procurement.



## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Surface Transportation-Board .....	Director of Economics, Environmental A & A. Deputy Director—Legal Analysis.
Office of Proceedings .....	
Department of Treasury:	
Assistant Secretary (International Affairs) .....	Dir Ofc of Foreign Exchange Operations.
Under Secretary for Domestic Finance .....	Director, Office of Procurement.
Fiscal Assistant Secretary .....	Fiscal Assistant Secretary. Deputy Assistant Secretary for Fiscal Operations and Policy Dep Asst Secretary Accounting Operations
Financial Management Service .....	Dir, Regional Financial Center (Chicago). Director, Regl Fin Ctr (San Francisco). Director, Regl Fin Ctr (Austin). Comptroller. Director Platform Services Directorate. Assistant Commissioner, Governmentwide Accounting. Commr of Financial Management Service. Asst Commissioner, Information Resources. Assistant Commissioner, Federal Finance. Director Operations Group. Dep Com Financial Management Service. Asst Comr, Management (Chief Fin Ofcr). Director Systems 90 Implementation. Director, Systems Management Directorate. Assistant Commissioner (Agency Services). Deputy, Chief Information Officer. Chief Accounting Officer. Assistant Commissioner, Financial Operations. Assistant Commissioner Debt Management Serchs. Commissioner. Dep Commr of the Public Debt. Asst Commissioner (Savings Bond Operations). Asst Commr (Financing). Asst Commr (Administration). Executive Director. Government Securities Policy Advisor. Asst Commr/Securities & Accounting Services. Assistant Commissioner (Office of Informaiton Technology). Asst Commissioner (Public Debt Accounting). Dep Dir, Financial Crimes Enforcement Network Director Fincen. Executive Assistant Director, Fincen. Assoc Dir, Ofc of Mgmt/Chf Fin Ofcr, Fincen. Senior Advisor to the Asst Secy (Enforcement). Dir Exe Ofc for Asset Forfeiture. Special Agent in Charge (NY Field Division) Spec Agen in Charge (Washington Field Div). Assistant Director (Inspection). Dep Asst Dir (Liaison & Public Information). Dep Assoc Dir Reg Enforcement Field Operation. Deputy Asst Director (Inspection). Deputy Asst Dir (CE Field Operations)—East. Deputy Asst Dir (CE Field Operations)—West. Asst Dir (Science & Technology). Asst Dir (Field Operations). Deputy Asst Dir (Field Operations). Deputy Asst Dir (Science & Technology). Director Laboratory Services. Deputy Director. Asst Dir (Firearms Explosives & Arson). Asst Dir (Alcohol & Tobacco). Deputy Asst Director (Alcohol & Tobacco). Dep Asst Dir (Firearms Explosives Arson). Asst Dir (Liaison & Public Information). Associate Chief Counsel (Admin & Ethics). Dir, International Trade Compliance Division. Dir Ofc of Regulatory Audit. Special Agent in Charge, Miami. Director, Investigative Operations Division. Dir, Applied Technology. Special Agent in Charge—New York. Special Agent in Charge—Los Angeles. Deputy Assistant Commissioner, Internal Affairs. Regional Special Agent in Charge (SAIC).
Bureau of the Public Debt .....	
Assistant Secretary (Enforcement) .....	
Bureau of Alcohol, Tobacco and Firearms .....	
Chief Counsel .....	
US Customs Service .....	

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	Regional Special Agent in Charge (SAIC). Regional Special Agent in Charge (SAIC). Dir Customs Management Center New York. Area Dir, Newark. Dir Customs Management Center N Atlantic. Asst Commissioner, Field Operations. Dir Customs Management Center Gulf. Dir Customs Management Center Mid-America. Dir Customs Management Center—S. Texas. Dir Customs Management Center—Mid Pacific. Project Executive. Asst Commissioner, Regulations & Rulings. Dir Strategic Trade Center Chicago. Deputy Asst Commissioner (Investigations). Area Director, JFK Airport. Asst Commissioner Chief Information Officer. Dir Customs Management Center South Florida. Special Agent in Charge (New Orleans). Director, Public Affairs. Dep Dir, Ofc of Regulatory Audit. Director, Investigative Programs. Asst Commissioner, Investigations. Director Strategic Trade Center-Plantation. Dir Laboratories & Scientific Services. Project Executive. Chief Operations Officer. Special Agent in Charge—Boston. Deputy Assistant Commissioner, Field Operations. Director Budget. Exec Dir The Interdiction Committee. Assistant Commissioner, Finance. Executive Director, Mission Support Service. Project Executive. Dir Tariff Classification Appeals Division. Dir Strategic Trade Center Long Beach. Processes and Policy Executive. Director, OFC of Air Interdiction. Special Agent in Charge (Houston). Dir Customs Management Center—S California. Dir Office of Planning. Director, Strategic Trade Center Operations. Director, Budget Division. Executive Director Customs Management Center. Dir Customs Management Center South Pacific. Director, Strategic Trade Center. Project Exec (Dir Intervention Management). Associate Executive Director (West). Director, Administration Policy & Planning. Asst Commissioner, Strategic Trade. Special Agent-In-Charge (San Diego). Technology Manager. Asst Commissioner, Human Resources Mgmt. Regional Special Agent in Charge. Director, Ofc of Automated Commercial Systems. Associate Executive Director, East. Assistant Commissioner, Office of Training and Development. Director, Infrastructure Division. Director, Management Inspection. Special Agent-in-Charge—Dallas. Associate Executive Director, Central. Deputy Chief Financial Officer. Special Agent in Charge—El Paso. Special Advisor (Enforcement).
Customs Chief Counsel .....	Associate Chief Counsel (Miami). Associate Chief Counsel (Chicago). Associate Chief Counsel (New York). Associate Chief Counsel Enforcement. Assoc Chief Counsel (Trade Tariff & Leg). Associate Chief Counsel (Houston). Assoc Chief Counsel (Administration). Associate Chief Counsel (Los Angeles).
Secret Service .....	Director of the Secret Service.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	Deputy Director U.S. Secret Service. Asst Director, Investigations. Asst Dir (Protective Operations). Asst Dir (Protective Research). Assistant Director, Administration. Assistant Director Inspection. Dep Asst Dir (Protective Operations). Spec Agent in Charge—Presidential Protective. Special Agent in Charge, New York Office. Special Agent in Charge, Chicago. Special Agent in Charge, Los Angeles Office. Dep. Asst. Dir. (Protective Research). Assistant Director—Training. Asst Director—Govt Liaison and Public Aff. Spec Agent in Charge—VP Protect Div. Spec Agent in Charge—Tech Sec Div. Spec Agent in Charge—Intelligence Div. Spec Agent in Charge—Washington Field Office. Spec Agent in Charge—Philadelphia Field Office. Special Agent in Charge, Dallas Field Office. Deputy Asst Dir Investigations. DAD—Administration. Deputy Special Agent in Charge Pres Prot Div. DAD (Uniformed Forces, F & E Dev), Ofc Trng. Dep Special Agent in Charge—PPD White House. Special Agent in Charge—Houston Field Ofc. Deputy Assistant Director—Technology. Deputy Asst Director Office of Inspection. Spec Agent in Charge—Miami Field Office. Deputy Special Agent in Charge—VP Prot Div. Dep Asst Dir Protective Operations. Chf, Info Resources Management Division. Spec Agent in Charge—Atlanta Field Office. Deputy Asst Dir Protective Operations. Special Agent in Charge.
Ofc of the Inspector General .....	Dep Asst Inspector Gen for Audit (Fin Mgmt). Dep Insp Gen Investigation (DAIGI) Tid. Counsel to the Inspector General. Assistant Inspector General for Management Services. Assistant Inspector General for Audit. Dep Asst Inspect General for Audit Prog Audit. Dep Asst Inspector Gen for Investigations. Asst Inspector General for Investigations.
Office of the General Counsel .....	Chief Counsel.
Inspector General for Tax Administration .....	Regional Inspector, Southwest Reg. Regional (Inspector General for Tax Administration—SE). Assistant Inspector General for Management Services. Associate Inspector General for Audit. Associate Inspector General for Audit (Wage and Investment). Associate Inspector General for Audit (Small Business and Tax Ex-empt). Deputy Inspector General for Audit. Deputy Inspector General for Tax Administration. Associate Inspector General for Investigation (Investigative Support).
Assistant Secretary (Economic Policy) .....	Sr Economist.
Assistant Secretary (Tax Policy) .....	Dir (Economic Mod & Computer Applications).
Assistant Secretary (Management) .....	Director, Office of Procurement.
United States Mint .....	Deputy Chief Financial Officer.
	Associate Dir. Information Resources/CIO.
	Chief Technology Officer.
	Associate Director for Circulating.
	Dep Assoc Dir for Financial & Dep Chief Fin Ofc.
	Associate Director for Marketing.
	Assoc Dir For Pol & Mgmt Chf Fin Officer.
Internal Revenue Service .....	Regional Commissioner, Northeast.
	Regional Commissioner, Southeast.
	District Dir, Los Angeles.
	District Director, New Jersey.
	District Director, Illinois.
	District Dir, Manhattan.
	District Dir, Brooklyn.
	District Director, New England.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	District Director, S Texas. District Director, N Texas. District Director, Kansas-Missouri. District Director, Michigan. District Director, N California. District Director, Georgia. National Director, Tax Forms and Publications. Dir Martinsburg Computing Center. Dir, IRS Data Center Detroit. Service Center Director, Memphis. Dir Service Ctr Cincinnati. Service Center Dir, Philadelphia. Service Center Director, Andover, Mass. Srv Ctr. Dir, Brookhaven. Srv Ctr. Dir., Kansas City. Service Center Dir, Ogden. SRVC Ctr Dir, Atlanta. District Director, Connecticut-Rhode Island. District Director, N Central. District Director, Upstate NY. District Director, North-South Carolina. District Director, Indiana. District Director, Kentucky-Tennessee. District Director, Pacific-Northwest. District Director, Arkansas-Oklahoma. District Director, Gulf Coast. District Director, Ohio. District Director, Midwest. District Director, Virginia-West Virginia. District Director, Southwest. District Director, Rocky Mountain. Assistant District Director, Illinois. Assistant District Director, Manhattan. Asst District Dir, Los Angeles. Assistant District Director, N California. Asst District Director, New England. Assistant District Director, N Texas. Assistant District Director, Delaware-Maryland. Regional Dir of Appeals North Atlantic Region. Regional Director of Appeals-Western Region. Regional Inspector Western Region. Natl Dir, Equal Opportunity & Diversity. Assistant District Director, Georgia. Controller National Dir for Financial Mgmt. Director, Technical Contract Management Division. Deputy Assistant Commissioner (Procurement). Director, Submission Processing Division. National Director, Commissioner's Review Group. Assistant to the Commissioner. Director, Exempt organizations Rulings and Agreements. Commissioner, Tax Exempt & Government Entities Division. District Director, Delaware-Maryland. Assistant Commissioner (Service Center Operations). Asst Deputy Commissioner (Modernization). Dir Exempt Organizations Technical Division. D/Employee Plans Tech & Actuarial Division. District Director, South Texas. National Director for Financial Management. Director, Legislative Affairs Division. Director, Statistics of Income Division. Dep Asst Commr (Criminal Investigation). Director, Submission Processing Center, Memphis. Director, Customer Service Center—Cincinnati. Assistant Service Center Director, Fresno. Director, Customer Service Center—Brookhaven. Director, Submission Processing Center—Kansas City. Director, Customer Service Center—Ogden. Deputy Chief, Customer Service Field Operations (Atlanta). Asst District Director Buffalo. Deputy Division Commissioner, Large and Mid-size Business. Regional Director of Appeals. Regional Director of Information Systems, Mid States.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	<p>Asst Comr (Electronic Tax Administration).  National Director for Financial Analysis.  Assistant District Director—New Jersey.  Assistant District Director, Southwest.  Project Director.  Regional Chief Customer Service, Northeast.  Privacy Advocate.  Assistant Commissioner (Is National Operations).  District Director, Central-California.  Assistant Service Center Director, Austin.  Asst Service Center Director, Philadelphia.  National Director of Appeals.  Director of Investigations, Eastern Area OPS.  Dir of Investigations.  Dir of Investigations, Southern Area of OPS.  Director, Office of National Operations.  Director of Support Services, Northeast.  Director of Support Services, Midstates.  Director of Support Services, Southeast.  Natl Dir for Communication Education Quality.  Asst District Director, Kentucky-Tennessee.  Chief Compliance, Northeast.  Chief Compliance.  Dir, Customer Serv Compliance &amp; Mgmt Sys Div .  Associate Inspector General for Audit (Information System and Financial Mgmt).  District Director, Pennsylvania.  Assistant Service Center Director, Ogden.  National Dir, Customer Service Operations.  Regional Director of Information Systems—Western.  Assistant District Director, Houston.  Service Center Director, Austin.  District Director, Houston.  Dir of Investigations, Central Area of Ops.  Deputy Executive Officer for Customer Service.  Project Director.  Deputy Chief Financial Officer.  Chief Communications and Liaison.  Special Assist to Chief Mgmt &amp; Administration.  Exec Asst to the Natl Dir Ofc of Quality.  Director of Procurement.  Dean School of Information Technology.  Dean School of Professional Development.  Deputy Commissioner (Operations).  Dir Ofc of Media Relations.  Natl Director, Strategic Planning Division.  District Director, North Florida District.  Deputy National Taxpayer Advocate.  National Director, Telephone Operations.  Project Dir Disciplinary Action Review.  Natl Dir, Submission Processing Division.  Assistant District Director, S California.  Asst Commissioner (Collections).  Director, Submission Processing Center, Fresno.  Executive Ofcr for Service Center Operations.  Natl Dir Real Estate Planning &amp; Management.  Assistant District Dir, Central California.  Director, Collection Redesign.  Regional Director of Information Systems-Southeast.  Director, of Systems Life Cycle S&amp;E.  Director, Systems Support Division.  Executive Director, Modernization Design.  Assistant Commissioner (is Field Operations).  Project Director, Customer Service Site.  Director, Customer Service Center—Andover.  Natl Director Corporate Examinations.  Regional Director of Information Systems, Ne.  Assistant Director Dir, north-South Carolina.  Regional Chief Customer Service, Midstates.  Regional Chief Customer Service, Western.  Director, Chief Customer Service Western.  Director, Customer Service Center—Atlanta.</p>

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	<p>Director, Submission processing Center—Philadelphia.  National Dir, Customer Serv Planning &amp; Syst.  Director, Tennessee Computing Center.  National Director, Tax Refund Fraud.  Asst District Director, Ohio.  National Director Personnel.  District Director, S Florida.  Project Director.  Assistant Service Center Director, Cincinnati.  Director, Submission Processing Center—Brookhaven.  Assistant Commissioner (Product Assurance).  Assistant Commissioner (International).  Project Director.  Asst District Director, Rocky Mountain.  Executive for Service Center Customer Service and Support.  Asst Dist Dir, Virginia-West Virginia.  Assistant District Director—Pennsylvania.  Assistant District Director—Manhattan.  Director, Submission Processing Center—Ogden.  Assistant Director Operations (Customer Service Center—Atlanta).  Deputy National Dir of Appeals.  Regional Commissioner, Midstates.  Project Director.  Director, Program and Project Manager Division.  Deputy Chief Operations Officers.  Director, Architecture Division.  Dep Chief Info Officer (Info Resources Mgmt).  Chief Compliance, Western.  National Director of Quality.  Asst Comr (Forms &amp; Submission Process).  Director, Submission Processing Center—Austin.  Regional Director of Appeals Midstates.  National Director, Compliance Specialization.  Dean School of Taxation.  National Director Speciality Taxes.  Regional Chf Compliance, Midstates.  Customer Service Transition Executive.  Assistant Commissioner Office of Program E&amp;R Analysis.  National Dir, Electronic Program Operations.  National Director, Communications.  Director, Security Standards and Evaluation Office.  Project Director.  Director, Telecommunications and Operations Division.  Dir. Office of System Standards &amp; Evaluation.  District Director, S California.  Deputy Division Counsel and Deputy Associate Chief Counsel (Tax Exempt &amp; Government Entities).  Project Director.  Deputy Chief, Management and Finance.  Project Director.  Director, Customer Service Center, Philadelphia.  Director, Submission Processing Center—Atlanta.  Project Director.  Program Executive for Organizational Performance Management.  National Dir, Multimedia Production Division.  Deputy Chief, Customer Service Field Operations (Dallas).  Deputy Chief Information Officer (Systems).  National Dir, Collection Field Operations.  Assistant District Director—N. Florida.  Modernization Support Program Management Executive.  Director, Customer Service Center—Memphis.  Executive for Service Center Submission Processing.  Regional Commissioner, Western.  Director, Corporate Processing Division.  Director of Support Services, Western.  Director, Information Resources Management Office.  Asst to the Senior Dep Commissioner.  National Director Compliance Research.  Chief Human Resource Officer.  Director, Submission Processing Center—Cincinnati.  Deputy Division Commissioner, Tax Exempt and Government Entities.  Director, International District Operations.</p>

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	National Director for Systems & Account Stds. Deputy Asst Commissioner (International) Project Director. Director, Business Systems Requirements. Asst Commissioner (Support Services). Chief of Operations Officers. Assistant District Director, S Florida. Project Director. Project Coordinator for Criminal Investigation Division Review. Program Executive for TT&SI Asst Commr (Examination & Govntl Liaison) Assistant Service Center Director—Andover. Chief, Customer Service Field Operations. Director, Customer Service Center—Kansas City. Service Center Director, Fresno. Asst Comr (Procurement). Natl Director, Electronic Prog Enhancement. National Director for Budget. Chief Management and Administration. Electronic Tax Administration Modernization Executive. Deputy Assistant Commissioner (Program Management & Architecture). Assistant Commissioner (Systems Development). Director, Submission Processing Center—Andover. Director, Customer Service Center—Fresno. Deputy Chief, Agencywide Shared Services. Assistant District Director, Michigan. Project Director. Project Director. Asst Chief Counsel (General Litigation). Asst Chief Counsel (Criminal Tax). Asst Chief Counsel (General Legal Services.) Asst Chief Counsel (Disclosure Litigation). Assistant Chief Counsel (International). Assistant Chief Counsel (Corporate). Dep Asst Chf Coun (Income Tax & Accounting). Dep Asst Chf Coun (Passthroughs/Spec Indust). Asst Chief Counsel (Field Service). Asst Chf Coun (Passthroughs/Spec Industries). Deputy Asst Chief Counsel (Corporate). Dep Assoc Chief Counsel (Fin & Management). Dep Asst Chief Counsel (Field Service). Dep Asst Chief Coun (Financial Inst & Prod). Dep Assoc Chf Coun (Enforcement Litigation). Deputy Assoc Chief Counsel (International). Asst Chf Coun (Fin Institutions & Products). Dep Asst Chief Coun (Income Tax & Accounting). Dep Assoc Chief Counsel (EBEO). Asst Chief Counsel (Income Tax & Accounting). Special Counsel to the National Taxpayer Advocate. Assistant Chief Counsel (International)(Technical). Assoc Chief Counsel (Enforcement Litigation). Assoc Chief Coun (Emp Benefits Exempt Org). Special Counsel (Modernization & Strat Plnng). Deputy Chief Counsel (Technical). Asst Chief Counsel (EBEO). Dep Assoc Chief Counsel (Domestic)(Technical). Associate Chief Counsel (International). Assoc Chf Counsel (Finance & Management). Associate Chief Counsel/Operating Division Counsel (TEGE). Dep Assoc Chief Coun (Domestic)(Field Serv). Deputy Chief Counsel (Operations). Assoc Chief Counsel (Domestic).
Regional Counsels .....	Regional Counsel SE Region. District Counsel, New England. District Counsel, Los Angeles. District Counsel, Ohio. District Counsel, Pennsylvania. District Counsel, New Jersey. District Counsel, Illinois. District Counsel, Manhattan. District Counsel, N Texas.

## POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
	District Counsel, N California. District Counsel, S California. District Counsel, S Florida. Regional Counsel, Western. Deputy Regional Counsel, Northeast. District Counsel, Midstates. District Counsel, Northeast. Deputy Regional Counsel (Southeast). Deputy Regional Counsel, Western Region. District Counsel, Pacific Northwest. District Counsel, Delaware-Maryland. District Counsel, Brooklyn. Deputy Regional Counsel, Midstates. District Counsel, Houston. District Counsel, Rocky Mountain.
Comptroller of the Currency .....	Deputy Associate Inspector General for Investigations. Deputy Inspector General for Investigations. Counsel to the Treasury Inspector General for Tax Administration. Associate Inspector General for Investigations (Field Operations). Assistant Commissioner, Regional Operations.
Regional Operations .....	
US Agency for International Development:	
Office of the Administrator .....	Counselor to the Agency.
Office of the General Counsel .....	Deputy General Counsel. Asst General Counsel for Ethnic & Adm.
Office of the Inspector General .....	Counsel to the Inspector General. Deputy Inspector General.
Office of Security .....	Director, Office of Security.
Office of Equal Opportunity Programs .....	Dir Ofc Equal Opportunity Programs.
Bureau for Global Programs, Field Support and Research .....	Assoc Asst Admr Center for Economic Growth Senior Deputy Assistant Administrator. Dep Asst Admr Ctr for Pop, H/N BFGP, FS/Res. Associate Assistant Administrator.
Bureau for Europe and the New Independent States .....	Deputy Asst Administrator.
Bureau for Management .....	Chf Fin Ofcr, Office of Financial Management. Dir Office of Information Resource Management. Deputy Director Ofc of Procurement. Deputy Director, Office of Human Resources. Dir, Ofc of Admin Services. Deputy Director, Ofc of Procurement. Deputy Asst Admr Bureau for Management. Dep Director, Office of Financial Management.
US Arms Control and Disarmament Agency:	
Strategic and Eurasian Affairs Bureau .....	Chief, Strategic Transition Division.
Broadcasting Board of Governors:	
Bureau of Management .....	Director, Office of Personnel. Director, Office of the Comptroller. Director, Office of Technology. Dir Engineering and Technical Operations. Deputy for Engineering Resource Control. Deputy for Network Operations. Director for Spectrum Management. Senior Advisor.
International Broadcasting Bureau .....	Director, Ofc of Information Resources. Deputy General Counsel.
Office of Information Resources .....	
OFC of the Gen Counsel .....	
US International Trade Commission:	
Office of Industries .....	Dir Ofc of Industries.
Office of Investigations .....	Dir, Ofc of Investigations.
Department of Veterans Affairs:	
Office of the Secretary and Deputy .....	Director, Office of Edca.
Office of the Inspector General .....	Assistant Inspector General for Auditing. Asst Inspector General for Investigations. Dep Inspector General. Asst Inspector Gen for Dept Rev & Magnt Sup. Dep Asst Inspector General for Investigations. Counseling to the Inspector General. Asst Inspector General for Healthcare Inspect. Dep Asst Inspector General for Auditing. Deputy Assistant Inspector General for Healthcare Inspections. Deputy Assistant Inspector General for Management and Administration.
Board of Veterans Appeals .....	Vice Chairman.



POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1999—Continued

Agency and organization	Career reserved positions
Office of Finance .....	Deputy Assistant Secretary for Finance. Assoc Dep Asst Secy for Financial Operations. Director, Financial Services Center.
Office of Acquisition and Material Management .....	Dep Asst Sec for Acquisition & Material Mgmt. Assoc Dep Assistant Secy for Acquisitions. Assoc Dep Asst Secy for Prog Mgmt & Oper. Executive Director/Chief Operating Officer.
OFCC Asst Secy for Planning and Analysis .....	Chief Acturay.
Office of Human Resources Management .....	Assoc Dep Asst Secy for Human Res Management.
Office of Security and Law Enforcement .....	Assoc Dep Asst Secy for Human Res Management.
Office Asst Secretary for Information and Technology .....	Dep Asst Secy for Security & Law Enforcement. Dir, VA Automation Ctr, Austin, TX. Assoc Dep Asst Secy for Telecommunications.
Veterans Benefits Administration .....	Assoc Dep Asst Secy for Pol & Prog Assistance. Deputy Chief Financial Officer. Dep Dir Compensation & Pension Service. Chief Financial Officer.
Veterans Health Administration .....	Director, Resource Formulation Office. Dir, Office of Real Property Management. Dir VA/Dod Medical Sharing Office. Dir, Medical Care Cost Recovery Office. Dir Emergency Medical Preparedness Office. Deputy Director Emergency Medical Prep Ofc. Chief Financial Officer. Director, Western Area Office. Director, Eastern Area Office. Director, Facilities Quality Office. Dir Consulting Support Office. Director, Financial Management Office. Associate Chief Financial Officer for Compliance. Deputy Chief Financial Officer. Dir Canteen Service.
Veterans Inegrated Service Network Directors .....	

[FR Doc. 00-4690 Filed 2-29-00; 8:45 am]

BILLING CODE 6325-01-M



# Federal Register

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**Wednesday,  
March 1, 2000**

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**Part III**

## **Federal Trade Commission**

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**16 CFR 313  
Privacy of Consumer Financial  
Information; Proposed Rule**

**FEDERAL TRADE COMMISSION****16 CFR Part 313****Privacy of Consumer Financial Information****AGENCY:** Federal Trade Commission.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Federal Trade Commission (the "Commission" or "FTC") issues a Notice of Proposed Rulemaking that is required by Section 504(a) of the Gramm-Leach-Bliley Act, (the "G-L-B Act" or "Act") with respect to financial institutions and other persons under the Commission's jurisdiction, as set forth in Section 505(a)(7) of the Act. The Commission requests comment on this proposed privacy Rule. Section 504 of the Act requires the Commission and other federal agencies 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. 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 of the Act prohibits 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 not elected to opt out of the disclosure. This proposed Rule would implement the requirements outlined above.

**DATES:** Comments must be received on or before March 31, 2000.

**ADDRESSES:** Written comments should be addressed to: Secretary, Federal Trade Commission, Room H-159, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The Commission requests that commenters submit the original plus five copies, if feasible. Comments should also be submitted if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a disk label stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII format.) Alternatively, the Commission will accept comments submitted to the following E-mail address: GLBRule@ftc.gov. Those commenters submitting comments by e-mail are advised to confirm receipt by consulting the postings on the Commission's website at [www.ftc.gov](http://www.ftc.gov). Individual

members of the public filing comments need not submit multiple copies or comments in electronic form. All submissions should be captioned: "Gramm-Leach-Bliley Act Privacy Rule, 16 CFR Part 313—Comment."

Comments related to the Paperwork Reduction Act should also be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attention: Desk Officer for FTC.

**FOR FURTHER INFORMATION CONTACT:**

Kellie A. Cosgrove or Clarke Brinckerhoff, Attorneys, Division of Financial Practices, Federal Trade Commission, Washington, DC 20580, 202-326-3224.

**SUPPLEMENTARY INFORMATION:****Section A. Background**

On November 12, 1999, President Clinton signed the G-L-B Act (Public Law 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 Commission, along with the Federal banking agencies and other authorities (Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Secretary of the Treasury, and Securities and Exchange Commission (hereinafter referred to collectively as "the Agencies")), 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, Subtitle A, that govern disclosure of nonpublic personal information.

The Commission and 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. The Commission requests comment on all aspects of its proposed Rule, as well as comment on the specific provisions and issues highlighted in the Section-by-

Section Analysis of the Proposed Rule, below.

**Section B. Section-by-Section Analysis of the Proposed Rule**

The discussion that follows explains in detail each section of the Commission's proposed Rule.

*Section 313.1 Purpose and Scope*

Proposed paragraph (a) of this section identifies three purposes of the Rule. First, the Rule requires a financial institution to provide notice in specified circumstances to consumers about the institution's privacy policies and practices. Second, the Rule describes the conditions under which a financial institution may disclose nonpublic personal information about a consumer to a nonaffiliated third party. Third, the Rule provides a method for a consumer to "opt out" of the disclosure of that information to nonaffiliated third parties, subject to the exceptions in proposed §§ 313.9, 313.10, and 313.11, as discussed below.

Proposed paragraph (b) sets out the scope of the Commission's proposed Rule, and tracks the scope of enforcement set out in section 505(a)(7) of the G-L-B Act. This paragraph states that the Rule applies 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 principal type of entity subject to the Rule is a "financial institution," a term which is very broad under the Act. Section 509(3) defines the term to mean "any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956" (12 U.S.C. 1843(k)). Those "financial activities" include not only a number of traditional financial activities specified in Section 4(k) itself,<sup>1</sup> but also those activities that the Federal Reserve Board has found to be closely related to banking,<sup>2</sup> or usual

<sup>1</sup> Section 4(k)(4)(A-E) states "the following activities shall be considered to be financial in nature: (A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities. (B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing, in any State. (C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940). (D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly. (E) Underwriting, dealing in, or making a market in securities."

<sup>2</sup> Section 4(k)(4)(F). The Board's list of such activities is set forth in 12 CFR 225.28. They

in connection with the transaction of banking or other financial operations abroad.<sup>3</sup> The Commission invites comment on whether the activities as set forth in the Board regulations (many of which are listed in notes 2–3 below) may be interpreted narrowly under the language of those regulations.<sup>4</sup> Issues relating to the scope of the Act are also discussed in the Section-by-Section Analysis of the definition of the term “financial institution” in § 313.3(j).

Paragraph (b) lists some examples of “financial institutions” subject to Commission jurisdiction under the Act. The Commission is also authorized to enforce the Act against “other persons” who are not financial institutions, but receive protected information from a

include in certain circumstances: brokering or servicing loans; leasing real or personal property (or acting as agent, broker, or advisor in such leasing) without operating, maintaining or repairing the property; appraising real or personal property; check guaranty, collection agency, credit bureau, and real estate settlement services; providing financial or investment advisory activities including tax planning, tax preparation, and instruction on individual financial management; management consulting and counseling activities (including providing financial career counseling); courier services for banking instruments; printing and selling checks and related documents; community development or advisory activities; selling money orders, savings bonds, or traveler’s checks; and providing financial data processing and transmission services, facilities (including hardware, software, documentation or operating personnel), data bases, advice, or access to these by technological means.

<sup>3</sup> Section 4(k)(4)(G). The scope of the Act is not limited to activities abroad, because the text of Section 4(k)(4)(G) is “Engaging, in the United States, in any activity that (i) a bank holding company may engage in outside of the United States; and (ii) the Board has determined [by regulation in effect on November 11, 1999] to be usual in connection with the transaction of banking and financial operations abroad.” (Emphasis added.) The Board has provided a list of such activities in 12 CFR 211.5(d). They include leasing real or personal property (or acting as agent, broker, or advisor in such leasing) where the lease is functionally equivalent to an extension of credit; acting as fiduciary; providing investment, financial, or economic advisory services; and operating a travel agency in connection with financial services.

<sup>4</sup> For example, 12 CFR 225.28(b)(1) and (b)(2) includes “Extending credit and servicing loans” and “Activities related to extending credit” as activities that are closely related to banking. Subsection (b)(2) delineates activities related to extending credit: real estate and personal property appraising; check guaranty services; collection agency services; credit bureau services; and real estate settlement servicing. The Commission requests comment on whether an entity engaged in (for example) real estate settlement servicing is a “financial institution” only if it also extends credit or services loans, or whether real estate settlement servicing alone constitutes a financial activity that results in an entity that engages in that activity being classified as a “financial institution.” Similarly, 12 CFR 211.5(d)(15) includes operating a travel agency “in connection with financial services \* \* \*”. The Commission requests comment on how the quoted language limits the activity of operating a travel agency, and the extent to which travel agencies are in fact operated in connection with financial services.

financial institution and are subject to the Act’s restrictions on reuse of the information set forth in proposed § 313.12.

### Section 313.2 Rule of Construction

Proposed § 313.2 of the Rule sets out a rule of construction intended to clarify the effect of the examples used in the Rule. Given the wide variety of transactions that Title V, Subtitle A, of the G-L-B Act covers, the Commission and 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 Commission’s and Agencies’ proposals to the extent possible, the examples used by the Commission and individual 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. These examples are not intended to be exhaustive; rather they are intended to provide guidance about how the Rule would apply in specific circumstances. The Commission invites 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.

### Section 313.3 Definitions

a. *Affiliate*. The proposed Rule adopts 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 § 313.3(g)), 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, Subtitle A, of the G-L-B Act and the proposed Rule require that various notices be “clear and conspicuous.” The proposed Rule defines 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 Rule does not mandate the use of any particular technique for making the notices clear and conspicuous, but instead allows 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 Rule defines “collect” to mean obtaining any information that is organized or retrievable on a personally identifiable basis, irrespective of the source of the underlying information. Several sections of the proposed Rule (*see, e.g.*, §§ 313.6 and 313.7) 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 a financial institution obtains the information from a consumer or from some other source.

d. *Company*. The proposed Rule defines “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 Rule defines “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 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 § 313.4, below, a financial institution is required to give a “consumer” the notices required under Title V, Subtitle A, 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 §§ 313.10 and 313.11. By contrast, a financial institution must give all “customers” a notice of the institution’s privacy policy at the time of establishing a customer relationship and annually thereafter during the continuation of the customer relationship.

A person is a “consumer” under the proposed Rule if he or she obtains a financial product or service from a financial institution. The definition of “financial product or service” in proposed § 313.3(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 §§ 313.10 and 313.11, 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 credit or provides information for the purpose of determining whether he or she prequalifies for a loan, or a person provides information in connection with seeking to obtain financial advisory services. The examples also clarify the status of someone whose credit account has been sold.

f. *Consumer reporting agency.* The proposed Rule adopts 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 §§ 313.11 and 313.13.

g. *Control.* The proposed Rule defines "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 § 313.3(a) above), and would result in financial institutions being considered affiliates regardless of whether the control is by a company or individual. The Commission invites comment on whether "control" should be defined by a more flexible standard than the percentage test set forth in proposed § 313.3(g)(1).

h. *Customer.* The proposed Rule defines "customer" as any consumer who has a "customer relationship" with a particular financial institution. As is explained more fully in the discussion of proposed § 313.4 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 borrow money from a financial institution, or agrees to employ a broker to obtain (or try to obtain) a mortgage loan.

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 proposed §§ 313.10 and 313.11. 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 even if the institution is not going to share the consumer's information with nonaffiliated third parties.

i. *Customer relationship.* The proposed Rule defines "customer relationship" as a continuing relationship between a consumer and a financial institution whereby the institution provides a financial product or service to a consumer that is to be used primarily for personal, family, or household purposes. The Commission has interpreted the Act as requiring more than isolated transactions between a financial institution and a consumer to establish a customer relationship. The proposed Rule defines "customer relationship" as being of a "continuing" nature in order to encompass those business dealings that are not isolated, including those that involve a consumer becoming a client of the institution. As noted in the examples that follow the definition, these would include, for instance, cases where an institution opens a credit account for the consumer, a loan broker undertakes to assist a consumer to obtain a home mortgage, or an automobile dealer helps a consumer arrange credit to purchase a vehicle.

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 the purchase of an insurance policy would be sufficient to establish a customer relationship, whereas using an automated teller machine at a bank at which a consumer transacts no other business, cashing a check, purchasing travelers checks or money orders, or making a wire transfer would not. Similarly, simply purchasing airline tickets would not establish a customer relationship.<sup>5</sup> While a person engaging

<sup>5</sup> Thus, an institution that operated a travel agency in connection with financial services would have a customer relationship with an individual for whom it plans a trip, but not with an individual to whom it simply sells tickets or traveler's checks (even on a repeated basis). The Commission specifically requests information on (1) the extent to which travel agencies are operated in connection with financial services and (2) the nature of specific business relationships that exist between consumers and such travel agents, as well as more

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.

A consumer has a "customer relationship" with a debt collector that purchases an account from the original creditor (because he or she would have a credit account with the collector), but not with a debt collector that simply attempts to collect amounts owed to the creditor. However, the latter type of debt collector would still be generally bound by the limits on redisclosure and reuse of nonpublic personal information as set forth in proposed § 313.12.<sup>6</sup>

j. *Financial institution.* The proposed Rule adopts the definition of "financial institution" that is used in the G-L-B Act, namely, any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). The exceptions to this definition contained in the G-L-B Act also are set out in the proposed Rule. As indicated by proposed §§ 313.3(j)(2) and 313.3(j)(3)(iv), the Commission views an entity as a financial institution "the business of which is engaging in financial activities" only if it is significantly engaged in a financial activity. Thus, a retail business that issues its own credit card directly to consumers is a financial institution engaged in the extension of credit, but a retail business that merely establishes

general comments on the application of the proposed Rule to travel agents.

<sup>6</sup> This includes data obtained by the collector in collecting the debt because proposed § 313.3(o)(2)(E) specifically includes information obtained by a creditor's "agent in connection with collecting on a loan" in the definition of "personally identifiable financial information." The Commission specifically requests comment on the application of the proposed Rule to debt collectors.

layaway or deferred payment plans is not a financial institution. The Commission invites comment concerning whether “significantly engaged” should be specifically defined in the Rule and, if so, how such a definition should be drafted. The Commission also invites comment on whether an individual who otherwise meets the definition (for example the sole proprietor of a mortgage loan brokerage business) can be a financial institution.

Due to the wide range of activities that are defined as financial in nature under Section 4(k) of the Bank Holding Company Act, the definition of “financial institution” encompasses a broad spectrum of businesses. (See discussion of the scope of the Act and the Rule at § 313.1.) The Commission recognizes that the plain meaning of the Act mandates this broad scope and requests general comment on this interpretation as well as comment on the application of the Rule to what might be considered the nontraditional financial institutions included in its scope.<sup>7</sup>

Many entities that come within the broad definition of financial institution will likely not be subject to the disclosure requirements of the Rule because not all financial institutions have “consumers” or establish “customer relationships.” For example, management consulting is a “financial activity” but it is not likely that any individual obtains management consulting services for personal, family or household purposes. Likewise, courier services and data processors who perform services for a financial institution, but do not provide financial products or services to individuals, will not be required to make the disclosures mandated by the Rule because they do not have “consumers” or “customers” as defined by the Rule.<sup>8</sup> The Commission invites comment on these and other entities that may be “financial institutions” under the Act, but may not be subject to the disclosure requirements of the Rule because they

have no “consumers” or “customers” under the Rule.

Proposed § 313.3(j)(3)(iii) also incorporates the Act’s exception for institutions chartered by Congress to engage in secondary market sales and similar transactions related to consumers, as long as the institution does not sell or transfer nonpublic personal information to a third party. The Commission interprets this exception in its proposed Rule to apply even if the chartered institution sells or transfers information as permitted by the exceptions to the notice and opt out requirements in proposed §§ 313.10 and 313.11. The proposed Rule reflects this interpretation. The Commission invites comment on this interpretation and on whether those entities that receive consumers’ nonpublic personal information from such chartered institutions are nonetheless subject to the Rule’s limitations on reuse. The Commission also seeks comment on whether chartered institutions should be required to enter into a confidentiality agreement with those nonaffiliated third parties with whom they share information pursuant to §§ 313.10 and 313.11 as a condition of their exemption.

k. *Financial product or service.* The proposed Rule defines “financial product or service” as a product or service that a financial holding company could offer by engaging in an activity that is financial in nature under section 4(k) of the Bank Holding Company Act of 1956. It includes the financial institution’s evaluation of information collected in connection with an application by a consumer for a financial product or service. The proposed Rule states that the 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 in obtaining a financial product or service (by, for example, a mortgage broker or automobile dealer).

A product or service that does not result from a financial activity is not within the definition, even if the business is a financial institution; thus, a department store that issues its own credit card directly to consumers provides a financial service (credit) to consumers who utilize the card, but when it sells merchandise, it provides a nonfinancial product or service (retail sale of merchandise).

l. *Government regulator.* The proposed Rule adopts the definition of “government regulator” that includes the Commission, the Agencies, and state insurance authorities under the circumstances identified in the definition. This term is used in the exception set out in proposed § 313.11(a)(4) for disclosures to law enforcement agencies, “including government regulators.”

m. *Nonaffiliated third party.* The proposed Rule defines “nonaffiliated third party” as any person (which includes natural persons as well as business 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 definition is intended to be substantively the same as the definition used in Section 509(5) of the G-L-B Act.

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. The definition of “nonpublic personal information” also includes 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.”

The proposed Rule implements this provision of the G-L-B Act by restating, in paragraph (1) of proposed § 313.3(n), the categories of information described above. However, the proposed Rule presents two alternatives (labeled Alternative A and Alternative B) 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. The primary difference arises in the two definitions of “publicly available information.” Under Alternative A, information is “publicly available information” only if the financial

<sup>7</sup> These may include, but are not limited to: personal property appraisers; real estate appraisers; career counselors for employees in financial occupations; digital signature services; courier services; real estate settlement services; manufacturers of computer software and hardware; and travel agencies operated in connection with financial services.

<sup>8</sup> If such financial institutions receive consumers’ nonpublic personal information from nonaffiliated financial institutions pursuant to one of the exceptions set forth in §§ 313.10 and 313.11, they would be required to observe the § 313.12 limitations on reuse of that information.

institution actually obtains the information from a public source. Under Alternative B, information is “publicly available information” if it could be obtained from a public source, regardless of its actual source. The Commission invites comment on both Alternatives. The Commission also invites comment on whether a variation of Alternative A and Alternative B should be adopted that would require a financial institution to undertake reasonable procedures to establish that information is, in fact, available from public sources before the financial institution may disclose it without restriction as “publicly available information.”

The two Alternatives are substantially similar when viewed in the context of a list, but differ considerably in what information a financial institution can disclose about an individual who is not included on a list. Based on the definitions of “publicly available information” and “personally identifiable financial information” under Alternative A, any information that a financial institution obtains from an individual consumer is “nonpublic personal information” and cannot be disclosed by the financial institution without first providing notice and opt out to the consumer. Under Alternative B, however, if that same information could be obtained from public sources, the definitions dictate that the information is not “nonpublic personal information” and the financial institution may disclose it without restriction as “publicly available information.” Thus, if a consumer provided name and address as part of an application for a financial product or service, a financial institution could not, under Alternative A, disclose the consumer’s name and address without providing notice and opt out. Under Alternative B, however, if that same individual consumer’s name and address could otherwise be obtained from a public source, the financial institution could disclose it without restriction.

While an *individual* consumer’s information may be treated differently under the two Alternatives, a *list* of consumers receives virtually identical protection. Both alternatives include in the definition of “nonpublic personal information” any list, description, or other grouping of consumers that is derived using “personally identifiable financial information.” The proposed Rule makes clear that “personally identifiable financial information” includes the fact that an individual is a consumer or customer of a financial institution. Therefore, any list of a

financial institution’s customers is nonpublic personal information because it is necessarily derived from the fact of the customer relationship.<sup>9</sup> Thus, under Alternative B, even if the names and addresses of the financial institution’s customers could have been obtained from a public source (and are, therefore, publicly available), the financial institution cannot reveal them as part of a customer list because that list was derived using personally identifiable financial information (the fact of the customer relationship).<sup>10</sup>

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 Rule treats 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 Commission believes 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 Commission recognizes 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 invites comment on the proposed definition of “personally identifiable financial information.”

The proposed Rule defines “personally identifiable financial information” to include three categories of information. While the three categories are for the most part identical in both Alternatives (*see* discussion concerning differences in the third category, below), 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.”

<sup>9</sup> If the fact of the customer relationship could be obtained from the public record, under Alternative B the list is not derived from “personally identifiable financial information” and the notice and opt out requirements are not implicated (as long as the names and addresses could be obtained from the public record). Thus, under Alternative B, a list of a financial institution’s mortgage customers is not “nonpublic personal information” if all of the information on the list could be obtained from public sources.

<sup>10</sup> Under Alternative A, the names and addresses themselves are “personally identifiable financial information” if the financial institution did not actually obtain them from the public record.

The first category of information considered to be “personally identifiable financial information” is any information that a consumer provides to 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 Rule.

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. 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 this 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 financial 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 discloses those

names and addresses as part of a list of the institution's customers, then the names and addresses become nonpublic personal information.

The Commission notes 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 this proposed Rule. For instance, the Fair Credit Reporting Act imposes conditions on the sharing of application information and credit report information between affiliates and nonaffiliated third parties.<sup>11</sup> The recently proposed Department of Health and Human Services regulations<sup>12</sup> that implement the Health Insurance Portability and Accountability Act of 1996 would, if adopted in final, 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 comply with relevant laws and monitor legislative and regulatory developments that affect the disclosure of consumer information.

The Commission seeks comment on whether further definition of "personally identifiable" would be helpful.

*p. Publicly available information.* The proposed Rule contains two versions of the definition of "publicly available information." The definitions differ 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 Rule. 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 Commission invites comment 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 Rule states that information obtained over the Internet will be considered publicly available information if the information is obtainable from a site available to the general public without requiring a password or similar restriction. The Commission invites comment on what information is appropriately considered publicly available, particularly in the context of information available over the Internet.

(q) *You* includes each "financial institution" (but excludes any "other person") over which the Commission has enforcement jurisdiction pursuant to Section 505(a)(7) of the Act.

#### *§ 313.4 Initial Notice to Customers and 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. In addition, as discussed more fully in § 313.8(c) below, a revised notice must be provided to such consumers prior to disclosing nonpublic personal information to nonaffiliated third parties if a financial institution's policies or practices have changed and previous notices do not accurately describe the financial institution's policies or practices.

Paragraph (a) of proposed § 313.4 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 Commission expects that financial institutions will take appropriate

measures to adhere to their stated privacy policies.

The proposed Rule does 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 Rule does not prohibit an institution from establishing different privacy policies and practices for different categories of consumers, customers, or products, so long as each customer or consumer receive a notice that is accurate with respect to him or her.

*Notice to customers.* The proposed Rule requires that a financial institution provide a privacy notice to the consumer prior to the time that it has established 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 Rule 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 consumer to compare its privacy policies and practices with those of other financial institutions in advance of conducting transactions.

Paragraph (c) of proposed § 313.4 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 example, loans), 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

<sup>11</sup> The Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681 *et seq.*, provides no limitation at all on communication by an entity of its own "transactions or experiences" with the consumer (*e.g.*, the individual's account history). However, it strictly limits the reporting of information obtained from other sources, such as consumer applications or credit reports. An institution may normally share such data with its affiliates only if it has complied with the notice and opt-out procedures set forth in FCRA § 603(d)(2)(A)(iii), which are very similar to those set forth in Section 502(b)(1) of the Act. Sharing such data with nonaffiliates may be effectively prohibited in most cases by the FCRA, because the institution would become a consumer reporting agency subject to its restrictions on reporting of information to third parties.

<sup>12</sup> 64 FR 59918 (Nov. 3, 1999).



obligated for any fee or charge 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, loan brokerage, or tax preparation services), a customer relationship will be established when the consumer pays or agrees to pay a fee or commission for the service, and/or becomes a client of the business.

*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. An initial notice is not required, 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 §§ 313.10 and 313.11 of the proposed Rule.

*How to provide notice.* Paragraph (d) of proposed § 313.4 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 Commission invites comment on whether, when there is more than one party to an account, there are instances where all parties to the account need not receive the notice.

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 § 313.8(c), below. Rather, the Rule is 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 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 Commission invites comment on the regulatory burden of providing the initial notices and on the methods financial institutions anticipate using to provide the notices.

The Commission recognizes 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 the time the customer relationship is established. The proposed Rule provides 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 Commission invites comment on whether there are other similar situations for which an exception is necessary.

The Commission also recognizes 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 Commission requests comment on whether and how the Rule should address these situations with respect to the notices required by this Rule. The Commission also requests comment on whether there are other situations where providing notice by mail is impracticable.

*Section 313.5 Annual Notice to Customers of Privacy Policies and Practices 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 Rule implements 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 Rule states 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 Rule. These include, for instance, loans that are paid in full or charged off, or accounts 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 Rule contains an example intended to cover these situations, stating that a relationship will no longer be deemed continuing for purposes of the proposed Rule 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 Commission invites comment generally on whether the examples provided in proposed § 313.5 are adequate and on whether the proposed standard deeming an account relationship to have terminated after 12 months of no communication is appropriate. The Commission also invites comment on the regulatory burden of providing the annual notices and on the methods financial institutions anticipate using to provide the notices.

*Section 313.6 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) requires a financial institution to inform its customers about the categories of nonpublic personal information that the institution collects. The proposed Rule implements this requirement in proposed § 313.6(a)(1) and provides 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 credit report information. Financial institutions may provide more detail about the categories of information collected but are not required to do so by the proposed Rule.

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 Rule implements this requirement in proposed § 313.6(a)(2). The examples of how to comply with this rule focus on the content of the 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 credit 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 consumers about its policies and practices with respect to disclosing nonpublic personal information to nonaffiliated third parties. The Commission believes 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 Rule implements this requirement in § 313.6(a)(3). The example illustrating how a financial institution may comply with the Rule 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 only if the financial institution provides illustrative examples of the significant lines of businesses of the recipient. The Commission's intent is that any illustrations must be reasonably designed to be meaningful to consumers. Proposed § 313.6 includes examples of general types of businesses and appropriate corresponding illustrative examples for each. Other appropriate examples include an institution that referred to "retail stores" and explained that this includes grocery stores and drug stores, or to "manufacturers of consumer products" and provided meaningful examples such as pharmaceutical products and children's toys.

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 §§ 313.10 and 313.11. The proposed Rule states

that a financial institution is required only to inform customers that it makes disclosures as permitted by law to nonaffiliated third parties in addition to those described in the notice. The Commission invites 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 the 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 Commission has 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 Rule at § 313.6(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. However, 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.

Proposed § 313.6(a)(5) implements these provisions 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. However, proposed §§ 313.6(a)(3) and (a)(4) specify that no disclosure is required if a financial institution discloses nonpublic personal information to a nonaffiliated third party service provider pursuant to proposed §§ 313.10 or 313.11. 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 §§ 313.6(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.

Proposed § 313.6(a)(6) implements this requirement 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 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 Rule implements 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 is required to make 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 Commission and the Agencies to establish standards governing the administrative, technical, and physical safeguards of customer information).

The proposed Rule implements 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 Rule 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 Rule does not require a financial institution to provide technical or proprietary information about how it safeguards consumer information.

The Commission is in the process of preparing the section 501 standards, and will publish a separate notice of proposed rulemaking concerning them as soon as practicable.

*§ 313.7 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 313.7 of the proposed Rule implements these provisions. Paragraph

(a)(1) of § 313.7 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 Rule, these criteria apply to direct and indirect disclosures through an affiliate. The Commission invites 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 all parties to the account?

Paragraph (a)(2) defines "opt out" in a way that incorporates the exceptions to the right to opt out stated in proposed §§ 313.9, 313.10, and 313.11.

The proposed Rule implements 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 Commission invites 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 § 313.8, 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 some period of time necessary to implement the consumer's opt out direction.

Paragraph (b) of proposed § 313.7 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 Rule. 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 § 313.7(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 § 313.7 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 § 313.7 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.

#### *Section 313.8 Form and Method of Providing Opt Out Notice to Consumer*

Paragraph (a) of proposed § 313.8 requires that any opt out notice provided by a financial institution pursuant to proposed § 313.7 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 required if the financial institution discloses information to different types of nonaffiliated third parties, or discloses different types of information, unless 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 a subsequent opt-out notice 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, self-addressed stamped envelopes, toll-free phone numbers, 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. The Commission invites comment on whether financial institutions should be required to accept opt outs through any means the institution has already established to communicate with consumers. For example, if a financial institution has established a toll free telephone number for its customer service department, should the institution be required to accept opt outs at that number? Similarly, if a financial institution has established a Web site, should it be required to accept opt outs at that site?

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 Commission invites 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 §§ 313.4(c) and 313.8(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 Commission 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 Commission's proposed Rule requires that the disclosures stop as soon as reasonably practicable. The Commission solicits comment on whether it would be more appropriate to require a specific time to implement these opt-outs.

Paragraph (e) states that an opt out will continue until a consumer revokes it. The proposed Rule requires that such revocation be in writing, or, if the consumer has agreed, electronically.

The Commission invites 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.

#### *Section 313.9 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.<sup>13</sup> 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 § 313.4. The Commission invites comment on whether the proposed Rule appropriately implements 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 §§ 313.10 and 313.11 of the proposed Rule. The Commission invites comment on whether third party contractors should be permitted to use information received pursuant to proposed § 313.9 to improve credit scoring models or analyze marketing trends, as long as the third parties do not maintain the information in a way that would permit identification of a particular consumer.

Section 502(b)(2) of the G–L–B Act allows the Commission to impose requirements on the disclosure of information pursuant to the exception for service providers beyond those imposed in the statute. The Commission has not done so in the proposed Rule, but invites comment on whether additional requirements should be imposed, and, if so, what those requirements should address. The Commission also invites comments on any other requirements that would be appropriate to protect a consumer’s financial privacy, and on whether the Rule should provide examples of the

types of joint agreements that are covered.

#### *Section 313.10 Exceptions 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 § 313.10 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 § 313.10, and the exceptions discussed in proposed § 313.11, 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, regardless of whether the institution intends to disclose the nonpublic personal information.

#### *Section 313.11 Other Exceptions to 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 § 313.11 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 § 313.11 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 § 313.4 or the opt out notice required by § 313.7, 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 Commission intends that a “consent” that was not clearly made by a consumer (for example, one in the form of a line buried in a document or a negative option not clearly explained to the consumer) would not provide an effective exception to the opt-out right. The Commission invites comment on whether specific 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 or 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.

#### *Section 313.12 Limits on Redisclosure and Reuse of Information*

Section 313.12 of the proposed Rule 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 only to: (1) An entity to whom the original transferring institution could disclose the information pursuant to one of the exceptions in § 313.9, 313.10, or 313.11;

<sup>13</sup> Section 502(e) also sets forth some exceptions for transmitting information to third parties for servicing and processing purposes, and exempts them from the notice, as well as the opt-out, provisions of the Act. These are discussed in more detail in §§ 313.10 and 313.11. In those cases, the consumer has no disclosure or opt-out rights.

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 §§ 313.9, 313.10, or 313.11. The Commission invites comment on whether the Rule 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 §§ 313.9, 313.10, and 313.11 of the proposed Rule) describe when a financial institution may disclose nonpublic personal information without providing the consumer with 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 § 313.12 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 §§ 313.9, 313.10, or 313.11 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 Commission requests comment on whether proposed §§ 313.12(a)(2) and 313.12(b)(2) would restrict a nonaffiliated third party from using information obtained in accordance with the exceptions in §§ 313.9, 313.10, and 313.11 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 Commission invites comments on the meaning of the word "lawful" as that term is used in section 502(c). The Commission specifically solicits comment on whether it would be lawful for a nonaffiliated third party to disclose information pursuant to the exception

provided in proposed § 313.9 of the Rule. 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 Rule impose those requirements on the financial institution making the initial disclosure, the Commission invites 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.

#### *Section 313.13 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 § 313.13 applies this statutory prohibition to disclosures made directly or indirectly by a financial institution.

The Commission notes that there is no exception in Title V, Subtitle A, to the flat prohibition established by section 502(d). The Statement of Managers contained in the Conference Report to S. 900 encourages the Commission and 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 Commission and 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 Commission has 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 Commission seeks 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 Commission also seeks 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 account statements for a financial institution coupled with a request by the institution that the service provider include marketing literature with the statement about a product. In addition, the Commission invites 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 Commission also seeks 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.

#### *Section 313.14 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, Subtitle A 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, Subtitle A as to whether information is transaction or experience information under section 603 of the FCRA.

Proposed § 313.14 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.

#### *Section 313.15 Relation to State Laws*

Section 507 of the G–L–B Act states, in essence, that Subtitle A of Title V does not preempt any state law that provides greater protections than are provided by that Subtitle of the Act. Determinations of whether a State law or Subtitle A of Title V provides greater protections are to be made by the Commission 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 Commission's own motion.

Proposed § 313.15 is substantively identical to section 507, noting that the proposed Rule (as opposed to the statute) does not preempt state laws that provide greater protection for consumers than does the Rule.

*Section 313.16 Effective Date; Transition Rule*

Section 510 of the G–L–B Act states that, as a general rule, the relevant provisions of Subtitle A of Title V take effect 6 months after the date on which rules are required to be prescribed. However, section 510(1) authorizes the Commission and the Agencies to prescribe a later date in the rules enacted pursuant to section 504.

Proposed § 313.16 states, in paragraph (a), an effective date of November 13, 2000. This assumes that a final Rule will be enacted within the time frame prescribed by section 504(a)(3). The Commission intends 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 Commission invites comment on whether six months following adoption of a final Rule is sufficient to enable financial institutions to comply with the Rule.

Paragraph (b) of proposed § 313.16 provides a transition rule for consumers who were customers as of the effective date of the Rule. Since those customer relationships already will have been established as of the Rule's 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 Rule requires instead that the initial notice be provided within 30 days of the effective date. The Commission invites 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 Rule is 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 §§ 313.4 and 313.7 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.

**Section C. Invitation to Comment**

Before adopting this Rule as final, the Commission will give consideration to any written comments submitted to the Secretary of the Commission on or before March 31, 2000. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission regulations, on normal business days between the hours of 8:30 a.m. and 5 p.m. at the Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580. Comments will also be posted on the Commission website; <[www.ftc.gov](http://www.ftc.gov)>.

**Section D. Communications by Outside Parties to Commissioners or Their Advisors**

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR. § 1.26(b)(5) (1998).

**Section E. Regulatory Flexibility Act**

The Commission believes that the proposed Rule's requirements are expressly mandated by the G–L–B Act, and the Act's requirements account for most, if not all, of the economic impact of the proposed Rule. While the Commission believes that it could certify that the proposed Rule will not have a significant impact on a substantial number of small entities, the Commission has decided, nonetheless, to publish the following initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, as amended, and request public comment on the impact on small businesses of its proposed Rule implementing the G–L–B Act.

*Description of the Reasons That Action by the Agency is Being Considered*

Section 504 of the G–L–B Act requires the Commission to promulgate this Rule not later than six months after the date of enactment of the Act, or May 12, 2000.

*Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule*

To implement the disclosure requirements and restrictions on certain financial institutions' abilities to

disclose nonpublic personal information about consumers to nonaffiliated third parties. The legal basis for the proposed Rule is Section 504 of the G–L–B Act.

*Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply*

In general, the Rule will apply to any financial institution subject to the Commission's jurisdiction that shares nonpublic personal information with nonaffiliated third parties or that establishes customer relationships with consumers. The definition of "financial institution" includes any institution the business of which is engaging in a financial activity, as defined under Section 4(k) of the Bank Holding Company Act, which incorporates by reference the activities listed in 12 CFR 225.28 and 12 CFR 211.5(d). (G–L–B Act § 509(3)(A).) A precise estimate of the number of small entities that are financial institutions within the meaning of the proposed Rule is not currently feasible. In addition, of those small entities that are financial institutions, there is no way to precisely estimate the number that share consumers' nonpublic personal information with nonaffiliated third parties or that establish customer relationships with consumers. The Commission seeks any information or comment on these issues, as noted below.

*Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Will be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record*

The statute and proposed Rule do not directly impose any "reporting" or "recordkeeping" requirements on financial institutions within the meaning of the Paperwork Reduction Act, but would require that financial institutions, in specified circumstances, make certain third party disclosures to the public. These disclosures include: notice of the financial institution's privacy policy to consumers at the time of establishing a customer relationship with a consumer (Proposed Rule § 313.4); annual notice of the financial institution's privacy policy to those consumers with whom it continues to have a customer relationship (Proposed Rule § 313.5); notice to consumers, regardless of whether a customer relationship has been established, of a financial institution's privacy policy and notice and opportunity to opt-out

prior to the financial institution's sharing of a consumer's nonpublic personal information with nonaffiliated third parties (Proposed Rule § 313.8(a)); and notice to customers of any changes that the financial institution makes in its policies concerning sharing nonpublic personal information with nonaffiliated third parties (Proposed Rule § 313.8(c)). The Commission is seeking clearance from the Office of Management and Budget ("OMB") for these requirements and the Commission's Supporting Statement submitted as part of that process will be made available on the public record of this rulemaking.

Because the proposed Rule does not directly mandate "reporting" or "recordkeeping" within the meaning of the Paperwork Reduction Act, the Rule does not require professional skills for the preparation of "reports" or "records" under the Act. The disclosures and other burdens referenced above likely will require some amount of managerial and/or professional (including attorney), clerical, and in some instances, skilled technical time to develop and disseminate the required disclosures. For purposes of its Supporting Statement to OMB under the Paperwork Reduction Act, the Commission estimated that the average yearly burden over the three-year period of clearance is 4.03 million hours and \$87.3 million. The Commission, as noted below, seeks further comment on the costs and burdens of small entities in complying with the requirements of the proposed Rule.

*Identification, to the Extent Practicable, of all Relevant Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rule*

While the scope of the proposed Rule is unique, there may be some overlap in certain circumstances with other Federal laws. Because there is a relationship between the proposed requirements and the notice requirements under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. 1681–1681u, the proposed Rule requires that the financial institution's initial and annual notices shall also include any disclosure that it is required to make under the FCRA. (Rule § 313.6(a)(7).) 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 entity 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 generally requires online service operators collecting personal information from a child to obtain parental consent and post a privacy notice on the Website. As noted below, the Commission seeks comment and information on any other rules that may be duplicative, overlapping, or in conflict with this proposed rule.

*Description of any significant alternatives to the proposed Rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed Rule on small entities, including alternatives considered, such as: (1) Establishment of differing compliance or reporting requirements or timetables that take into account resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; (4) any exemption from coverage of the rule, or any part thereof, for such small entities.* In drafting the proposed Rule, the Commission has made every effort to avoid unduly burdensome requirements for financial institutions of all sizes. In a number of respects the proposed Rule is flexible and allows financial institutions to select methods of compliance that are reasonable, taking into account the financial institution's business practices and capabilities.

For example, financial institutions that are required to provide disclosures to consumers must provide the notice so that the consumer can reasonably be expected to actually receive it. (Proposed Rule § 313.4(d).) The proposed Rule allows the financial institutions to choose a delivery method that imposes the least burden on the financial institution while also complying with the statutory mandate that the consumer be provided with the appropriate disclosures. Regarding the law's clear and conspicuous requirements, the proposed Rule does not mandate the use of any particular technique for making the notices clear and conspicuous, but instead allows each financial institution the flexibility to decide for itself how best to comply with this requirement. (Proposed Rule § 313.4(b).) In addition, the proposed Rule requires that a financial institution provide the opportunity to opt-out directly to a consumer but provides alternate means of providing that notice—a small entity, or any entity, can choose a means that is reasonable taking into account its circumstances.

(Proposed Rule § 313.8(b).) No recordkeeping requirement has been included in the proposed Rule. Thus, no entity, regardless of size, is unnecessarily burdened by recordkeeping requirements.

The Commission has made every effort to minimize the burden on small entities—and all entities—and to be reasonable in its rulemaking. To that end, the Commission has clarified the breadth of the statutory term "financial institution" to include an institution significantly engaged in a financial activity. (Proposed Rule § 313.3(j).) The effect of this definition is twofold: it encompasses and subjects to its requirements those institutions that are not solely in the business of a financial activity but that are significantly engaged in such an activity as part of their business; and excludes from coverage those entities, large or small, that may engage in financial activities as some small, insignificant portion of their business.

The proposed Rule also provides for a streamlined version of the content of an institution's privacy policy for any entity that does not share nonpublic personal information with third parties. (Proposed Rule § 313.4(b).) Thus, entities of any size that do not share information are not unduly burdened. Moreover, those financial institutions, regardless of size, that engage in only one-time isolated transactions with consumers are not required to provide a privacy policy to consumers unless they intend to share the consumer's nonpublic personal information with a nonaffiliated third party. (Proposed Rule § 313.4(b).)

*Questions for Comment To Assist Regulatory Flexibility Analysis*

1. Please provide information or comment on the number and type of small entities affected by the proposed Rule. Include in your comments the number of small entities that share consumers' nonpublic personal information with nonaffiliated third parties or that establish customer relationships with consumers.

2. Please provide comment on any or all of the provisions in the proposed Rule with regard to (a) the impact of the provision(s) (including any benefits and costs), if any, the Commission should consider, as well as the costs and benefits of those alternatives, paying specific attention to the effect of the Rule on small entities in light of the above analysis. Costs to implement and comply with the Rule include expenditures of time and money for: any employee training; attorney or other



professional time; preparing relevant materials; and processing materials.

3. Please describe ways in which the Rule could be modified to reduce any costs or burdens for small entities consistent with the G–L–B Act’s mandated requirements.

4. Please provide any information quantifying the economic benefits to financial institutions of sharing consumers’ nonpublic personal information.

5. Please identify all relevant Federal, state or local rules that may duplicate, overlap or conflict with the proposed Rule. In addition, please identify any industry rules or policies that require financial institutions to implement business practices (*e.g.*, disclosure of privacy policy and right to opt-out, etc.) that would already comply with the requirements of the Commission’s proposed Rule.

#### Section F. Paperwork Reduction Act

The Commission has submitted this proposed Rule to the Office of Management and Budget for review under the Paperwork Reduction Act (“PRA”) (44 U.S.C. 3501–3517). As required by the G–L–B Act, the proposed Rule specifies disclosure requirements for financial institutions subject to the Commission’s jurisdiction that are subject to the requirements of PRA. The required disclosures include: (1) Initial notice of the financial institution’s privacy policy at the time it establishes a customer relationship with a consumer and/or prior to its sharing a consumer’s nonpublic personal information with nonaffiliated third parties; (2) notice of the consumer’s right to opt-out of information sharing with nonaffiliated third parties; (3) annual notice of the financial institution’s privacy policy to any continuing customer; and (4) notice to consumers when the financial institution changes its practices on information sharing with nonaffiliated third parties. Although the proposed Rule’s disclosure requirements are expressly required by the G–L–B Act, the Commission has adopted a performance standard to provide flexibility in implementing the requirements.

The Commission has estimated the paperwork burden of the proposed Rule for financial institutions that are subject to the Commission’s jurisdiction, based on staff’s knowledge of the financial services industry. Under Section 505(a)(7) of the G–L–B Act, the Commission has jurisdiction over an estimated 100,000 businesses that are not subject to the jurisdiction of one of the other agencies responsible for

enforcing the G–L–B Act. FTC staff considered many variables affecting the broad spectrum of covered businesses. Some covered businesses may already make the required disclosures in the ordinary course of business. Some may use highly automated means of providing the required disclosures. Others may use low-technology means. The burden estimate also acknowledges that significant start-up burden and attendant costs, such as for determining compliance obligations and developing necessary privacy policies, will be born in the first year that the Rule takes effect. The paperwork burden in subsequent years will be significantly lower. Factoring in start-up costs, the Commission has estimated that the average annual burden during the three year period for which OMB clearance is sought will be 4.03 million burden hours. The estimated annual labor cost associated with these paperwork burdens is \$87.3 million. The estimate is also based on the determination that the time required for consumers to respond affirmatively to financial institutions’ opt-out notices (be it manually or electronically) will be minimal.

The Commission invites comment that will enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;
2. Evaluate the accuracy of the Commission’s estimate of the burden of the proposed collections 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 collections 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.

#### Section G. Questions Concerning Comprehensibility of the Rule

The Commission invites 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 is not clear? If

not, which language requires clarification?

- 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? Which ones?
- What else could we do to make the Rule easier to understand?

#### Section H. Proposed Rule

##### List of Subjects in 16 CFR Part 313

Consumer protection, Credit, Data protection, Privacy, Trade practices.

Accordingly, the Commission proposes to amend 16 CFR Ch. I, Subchapter C, by adding a new Part 313 to read as follows:

#### PART 313—PRIVACY OF CONSUMER FINANCIAL INFORMATION

Sec.

- 313.1 Purpose and scope.  
 313.2 Rule of construction.  
 313.3 Definitions.  
 313.4 Initial notice to consumers of privacy policies and practices required.  
 313.5 Annual notice to customers required.  
 313.6 Information to be included in initial and annual notices of privacy policies and practices.  
 313.7 Limitation on disclosure of nonpublic personal information about consumers to nonaffiliated third parties.  
 313.8 Form and method of providing opt out notice to consumer.  
 313.9 Exception to opt out requirements for service providers and joint marketing.  
 313.10 Exceptions to notice and opt out requirements for processing and servicing transactions.  
 313.11 Other exceptions to notice and opt out requirements.  
 313.12 Limits on redisclosure and reuse of information.  
 313.13 Limits on sharing of account number information for marketing purposes.  
 313.14 Protection of Fair Credit Reporting Act.  
 313.15 Relation to state laws.  
 313.16 Effective date; transition rule.

**Authority:** 15 U.S.C. 6804(a).

##### § 313.1 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 in specified circumstances 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 §§ 313.9, 313.10, and 313.11.

(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. 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 those "financial institutions" and "other persons" over which the Federal Trade Commission ("Commission") has enforcement authority pursuant to Section 505(a)(7) of the Gramm-Leach-Bliley Act. An entity is a "financial institution" if it is engaged in a financial activity described in Section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k), which incorporates by reference activities enumerated by the Federal Reserve Board in 12 CFR 211.5(d) and 12 CFR 225.28. The "financial institutions" subject to the Commission's enforcement authority are those that are not otherwise subject to the enforcement authority of another regulator under Section 505 of the Gramm-Leach-Bliley Act. More specifically, those entities include, but are not limited to, mortgage lenders, "pay day" lenders, finance companies, mortgage brokers, account servicers, check cashers, wire transferors, travel agencies operated in connection with financial services, debt collectors, credit counselors and other financial advisors, and tax preparation firms. They are referred to in this part as "You." The "other persons" to whom this part applies are third parties that are not financial institutions, but that receive nonpublic personal information from financial institutions with whom they are not affiliated.

### § 313.2 Rule of construction.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

### § 313.3 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 of a financial service, regardless of whether you establish a customer relationship.

(iv) An individual who has a credit account with you is a consumer even if you:

(A) Hire an agent to collect on the account;

(B) Sell the rights to service the account; or

(C) Bought the account from the financial institution that originally extended credit.

(v) An individual who makes payments to you on a loan where you own the servicing rights is a consumer. An individual is not your consumer, however, solely because you service the individual's loan on behalf of a financial institution that made 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.

(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, or credit to purchase a vehicle, 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;

(G) Obtains financial, investment or economic advisory services from you for a fee;

(H) Becomes your client for the purpose of obtaining tax preparation or credit counseling services from you; or

(I) Obtains career counseling while seeking employment with a financial institution or the finance, accounting, or audit department of any company (or while employed by such a company or financial institution).

(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; purchasing a cashier's check or money order from you; cashing a check with you; or making a wire transfer through you;

(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 as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) *Example*. An entity is a financial institution if it is significantly engaged in financial activities, such as a retailer that extends credit by issuing its own credit card directly to consumers.

(3) *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 other than as permitted by §§ 313.10 and 313.11.

(iv) A business that only accepts payment by check or cash, or through credit cards issued by others, or through deferred payment or "lay-away" plans.

(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 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) *Nonaffiliated third party* means any person except:

(1) Your affiliate; or

(2) 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).

**[§ 313.3(n-o-p)] 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) A list of names and addresses of customers of an entity that is not a financial institution; or

(B) A list of names and addresses of consumers to whom you provided a nonfinancial product or service.

(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.

**[§ 313.3(n-o-p)] 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 those financial institutions over which the Commission has enforcement jurisdiction pursuant to section 505(a)(7) of the Gramm-Leach-Bliley Act.

**§ 313.4 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 §§ 313.10 and 313.11.

(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 financial information about the consumer to any nonaffiliated third party, other than as authorized by §§ 313.10 and 313.11; 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 obtain credit from you, or purchase 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, or to obtain career counseling while seeking employment with a financial institution or the finance, accounting, or audit department of any company (or while employed by such a company or financial institution);

(v) Provides any personally identifiable financial information to you in an effort to obtain a mortgage loan through you; or

(vi) Makes his or her first payment to you on a loan account for which you have obtained the servicing rights.

(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 from another financial institution and the customer of that loan does not have a choice about your purchase; 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; or

(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 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 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.

#### **§ 313.5 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 twelve 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 § 313.4(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 closed-end loan, the consumer pays the loan in full, you charge off the loan, or you sell the loan without retaining servicing rights;

(ii) 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

(iii) For other types of relationships, you have not communicated with the consumer about the relationship for a period of twelve consecutive months, other than to provide annual notices of privacy policies and practices.

#### **§ 313.6 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 §§ 313.4 and 313.5 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 §§ 313.10 and 313.11;

(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 §§ 313.10 and 313.11;

(5) If you disclose nonpublic personal information to a nonaffiliated third party under § 313.9 (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 § 313.8(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 §§ 313.10 and 313.11, you are not required to list those exceptions in the initial or annual privacy notices required by §§ 313.4 and 313.5. 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 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. Likewise, you may refer to "retail products" if you include examples such as clothing, household furnishings, and health-related items, or to "magazine subscription products" if you include such examples as health-related or investment-related publications. 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.

**§ 313.7 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 § 313.4;

(ii) You have provided to the consumer an opt out notice as required in § 313.8;

(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 §§ 313.9, 313.10 and 313.11.

(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) This section applies 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.

**§ 313.8 Form and method of providing opt out notice to consumer.**

(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 § 313.7(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 § 313.6 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 and clearly identify where to send the notice;

(B) Include a detachable form and self-addressed stamped envelope together with the opt out notice;

(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; or

(D) Designate a toll-free number that the consumer can call to opt out.

(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 § 313.4.

(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

§ 313.4, 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 § 313.4, 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 § 313.4(d) or paragraph (b) of this section, respectively.

(3) *Examples.* (i) Except as otherwise permitted by §§ 313.9, 313.10 and 313.11, 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.

**§ 313.9 Exception to opt out requirements for service providers and joint marketing.**

(a) *General rule.* The opt out requirements in §§ 313.7 and 313.8 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 § 313.4; 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 §§ 313.10 and 313.11.

(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.

**§§ 313.9 313.10 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 § 313.4(a)(2), the opt out in §§ 313.7 and 313.8, and service providers and joint marketing in § 313.9 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.

**§ 313.11 Other exceptions to notice and opt out requirements.**

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § 313.4(a)(2), the opt out in §§ 313.7 and 313.8, and service providers and joint marketing in § 313.9 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 § 313.8(d).

**§ 313.12 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 §§ 313.9, 313.10 or 313.11 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 §§ 313.9, 313.10 or 313.11 only for the purpose of that exception.

**§ 313.13 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.

**§ 313.14 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.

**§ 313.15 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 Commission on its own motion or upon the petition of any interested party, after consultation with the applicable government regulator or other authority.

**§ 313.16 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 § 313.4, to consumers who were your customers on the effective date of this part.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

[FR Doc. 00-4881 Filed 2-29-00; 8:45 am]

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# Reader Aids

## Federal Register

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### CFR PARTS AFFECTED DURING MARCH

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**REMINDERS**

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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**COMMENTS DUE NEXT WEEK****AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

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**AGRICULTURE DEPARTMENT****Forest Service**

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**ENERGY DEPARTMENT****Federal Energy Regulatory Commission**

Electric utilities (Federal Power Act), natural gas companies (Natural Gas Act), and oil pipelines:

Records preservation; comments due by 3-10-00; published 1-10-00

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollutants, hazardous; national emission standards:

Pulp and paper production; comments due by 3-10-00; published 1-25-00

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

New Hampshire; comments due by 3-9-00; published 2-8-00

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 3-6-00; published 2-4-00

Maryland; comments due by 3-6-00; published 2-3-00

South Dakota; comments due by 3-6-00; published 2-3-00

Hazardous waste:

Identification and listing— Exclusions; comments due by 3-8-00; published 1-20-00

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities: Azoxystrobin; comments due by 3-6-00; published 1-5-00

**FARM CREDIT ADMINISTRATION**

Farm credit system: Organization— Termination of FCS charter to become financial institution under another Federal or State chartering authority; exit fee calculation; comments due by 3-6-00; published 2-3-00

**FEDERAL COMMUNICATIONS COMMISSION**

Radio stations; table of assignments:

Massachusetts; comments due by 3-8-00; published 1-27-00

Nebraska; comments due by 3-6-00; published 2-1-00

New Mexico; comments due by 3-6-00; published 2-1-00

Oklahoma; comments due by 3-6-00; published 1-27-00

Texas; comments due by 3-6-00; published 1-27-00

**FEDERAL HOUSING FINANCE BOARD**

Federal home loan bank system:

Appropriate present-value factors associated with payments made to Resolution Funding Corporation; comments due by 3-6-00; published 2-4-00

Organization, functions, and authority delegations:

Finance Office; issuance of consolidated obligations on which Federal home loan banks are jointly and severally liable; comments due by 3-6-00; published 1-4-00

**GENERAL SERVICES ADMINISTRATION**

Federal Acquisition Regulations (FAR):

Government property; comments due by 3-10-00; published 1-10-00

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT****Federal Housing Enterprise Oversight Office**

Risk-based capital:

Stress test; House Price Index (HPI) use and benchmark credit loss experience determination; comments due by 3-10-00; published 10-19-99

**INTERIOR DEPARTMENT Fish and Wildlife Service**

Endangered and threatened species:

Alabama sturgeon; comments due by 3-8-00; published 2-7-00

**INTERIOR DEPARTMENT Minerals Management Service**

Royalty management:

Oil value for royalty due on Indian leases; establishment; comments due by 3-6-00; published 1-5-00

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

Acquisition regulations:

Unclassified information technology resources; security requirements; comments due by 3-6-00; published 1-5-00

Federal Acquisition Regulations (FAR):  
Government property; comments due by 3-10-00; published 1-10-00

**TRANSPORTATION DEPARTMENT**

**Coast Guard**

Bulk dangerous cargoes:  
Barges carrying liquid hazardous material; comments due by 3-7-00; published 9-9-99

Drawbridge operations:  
Massachusetts; comments due by 3-7-00; published 1-7-00

Ports and waterways safety:  
Monongahela River, PA; regulated navigation area terminated; comments due by 3-7-00; published 1-7-00

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Air traffic operating and flight rules, etc.:

Grand Canyon National Park, AZ—

Special flight rules in vicinity (SFAR No. 50-2); comments due by 3-6-00; published 2-3-00

Airline employees; occupational safety and health issues; meeting; comments due by 3-8-00; published 10-19-99

Airworthiness directives:

Agusta S.p.A.; comments due by 3-6-00; published 1-5-00

Airbus; comments due by 3-8-00; published 2-7-00

Boeing; comments due by 3-7-00; published 1-7-00

Eurocopter France; comments due by 3-10-00; published 1-10-00

Fokker; comments due by 3-6-00; published 2-4-00

General Electric Co.; comments due by 3-6-00; published 1-6-00

Class E airspace; comments due by 3-6-00; published 1-21-00

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**LIST OF PUBLIC LAWS**

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/index.html>. Some laws may not yet be available.

**H.R. 1451/P.L. 106-173**

Abraham Lincoln Bicentennial Commission Act (Feb. 25, 2000; 114 Stat. 14)

**S. 632/P.L. 106-174**

Poison Control Center Enhancement and Awareness Act (Feb. 25, 2000; 114 Stat. 18)

**Last List February 23, 2000**

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**TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 2000**


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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
March 1	March 16	March 31	April 17	May 1	May 30
March 2	March 17	April 3	April 17	May 1	May 31
March 3	March 20	April 3	April 17	May 2	June 2
March 6	March 21	April 5	April 20	May 5	June 7
March 7	March 22	April 6	April 21	May 8	June 7
March 8	March 23	April 7	April 24	May 8	June 7
March 9	March 24	April 10	April 24	May 8	June 8
March 10	March 27	April 10	April 24	May 9	June 9
March 13	March 28	April 12	April 27	May 12	June 14
March 14	March 29	April 13	April 28	May 15	June 14
March 15	March 30	April 14	May 1	May 15	June 14
March 16	March 31	April 17	May 1	May 15	June 15
March 17	April 3	April 17	May 1	May 16	June 16
March 20	April 4	April 19	May 4	May 19	June 21
March 21	April 5	April 20	May 5	May 22	June 21
March 22	April 6	April 21	May 8	May 22	June 21
March 23	April 7	April 24	May 8	May 22	June 22
March 24	April 10	April 24	May 8	May 23	June 23
March 27	April 11	April 26	May 11	May 26	June 28
March 28	April 12	April 27	May 12	May 30	June 28
March 29	April 13	April 28	May 15	May 30	June 28
March 30	April 14	May 1	May 15	May 30	June 29
March 31	April 17	May 1	May 15	May 30	June 30

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