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Contents

Federal Register

Vol. 65, No. 53

Friday, March 17, 2000

Actuaries, Joint Board for Enrollment
See Joint Board for Enrollment of Actuaries

Agricultural Marketing Service
PROPOSED RULES
Fluid milk promotion order:
Amendments, 14484–14485
Livestock Mandatory Reporting Act:
Livestock packers and products processors and importers; market reporting requirements, 14652–14691
Watermelon research and promotion plan, 14485–14486
NOTICES
Meetings:
Tobacco Inspection Services National Advisory Committee, 14521–14522

Agriculture Department
See Agricultural Marketing Service
See Farm Service Agency
See Food Safety and Inspection Service
See Forest Service
See Rural Business-Cooperative Service
See Rural Housing Service
See Rural Utilities Service
PROPOSED RULES
Import quotas and fees:
Sugar-containing products; tariff-rate quota licensing, 14478–14484
NOTICES
Emergency declarations:
Scrapie in U.S., 14521

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
CBS Corp. et al., 14616–14625

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
PROPOSED RULES
Clinical Laboratory Improvement Amendments:
Laboratories regulations—
Cytology proficiency testing; withdrawn, 14510–14513
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14573–14574

Children and Families Administration
See Refugee Resettlement Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Family Violence Prevention and Services Program, National Domestic Violence Hotline, 14574–14594

Coast Guard
RULES
Pollution:
Oil or hazardous material pollution prevention regulations for vessels; CFR correction, 14470–14471
PROPOSED RULES
Ports and waterways safety:
OPSAIL Miami 2000, Miami, FL; safety zone, 14502–14505
Skull Creek, Hilton Head, SC; safety zone, 14501–14502
Regattas and marine parades, anchorage regulations, and ports and waterways safety:
OPSAIL MAINE 2000, Portland, ME; regulated areas, 14498–14501
NOTICES
Meetings:
Chemical Transportation Advisory Committee, 14640–14641

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14533–14534

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 14532–14533

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Pakistan, 14544

Commodity Futures Trading Commission
RULES
Reporting requirements:
Large trader reports; reporting levels changes, 14452–14458

Copyright Office, Library of Congress
PROPOSED RULES
Digital Millennium Copyright Act:
Circumvention of copyright protection systems for access control technologies; exemption to prohibition, 14505–14506

Defense Department
See Navy Department

Education Department
NOTICES
Special education and rehabilitative services:
Individuals with Disabilities Education Act (IDEA)—
Correspondence; quarterly list, 14545–14549
Applications, hearings, determinations, etc.:
Bilingual education and minority languages affairs—
Field-Initiated Research Program, 14730–14749

Employment and Training Administration
NOTICES
Adjustment assistance and NAFTA transitional adjustment assistance:
Weathervane Window, Inc., et al., 14626–14629
Agency information collection activities:
Proposed collection; comment request, 14629–14630
Labor surplus areas classifications:
Annual list
Additions, 14630

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 14630–14631

Energy Department
See Federal Energy Regulatory Commission
See Southeastern Power Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Medical Applications Program, 14549–14551
Terrestrial Carbon Processes; research, 14551–14552
Natural gas exportation and importation:
Petrocom Energy Group, Ltd., et al., 14553–14554

Environmental Protection Agency
RULES
Hazardous waste:
Identification and listing—
Organobromine production wastes, 14472–14475
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 14475–14476
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio and Kentucky, 14510
Air quality implementation plans; approval and promulgation; various States:
Florida, 14506–14510
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 14558–14559
Weekly receipts, 14558
Coastal nonpoint pollution control programs; States and territories—
Rhode Island, 14543
Environmental statements; notice of intent:
Peace River Intake Facility, FL; expanded water treatment and aquifier storage/recovery facilities, 14559–14560

Export Administration Bureau
RULES
Export administration regulations:
India and Pakistan; entity list; entities removed, license policy revised, and list reformatted, 14444–14452

Farm Credit Administration
PROPOSED RULES
Farm credit system:
Disclosure to shareholders—
Annual reporting requirements, 14494–14497
Loan policies and operations—
Loans to designated parties; approval, 14491–14494

Farm Service Agency
RULES
Program regulations:
Real estate and chattel appraisals; regulatory streamlining; correction, 14432–14433
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14522–14523

Federal Aviation Administration
RULES
IFR altitudes, 14442–14444
PROPOSED RULES
Class D and Class E airspace, 14497–14498
NOTICES
Advisory circulars; availability, etc.:
Focused inspection of safety critical turbine engine parts as piece-part opportunity; continued airworthiness instructions, 14641
One-year runway incursion information and evaluation program; policy statement, 14641–14643
Passenger facility charges; applications, etc.:
Luis Munoz Marin International Airport, PR, 14643

Federal Communications Commission
RULES
Organization, functions, and authority delegations:
Headquarters; address change, 14476
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14560–14561
Common carrier services:
Wireless telecommunications services—
700 MHz guard bands; licenses auction; reserve prices or minimum opening bids, etc.; comment request, 14561–14565
Meetings:
Public Safety National Coordination Committee, 14565–14566
Meetings; Sunshine Act, 14566

Federal Deposit Insurance Corporation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14566–14568
''Engaged in the business of receiving deposits other than trust funds''; General Counsel opinion, 14568–14572

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
DTE River Rouge No. 1, LLC, et al., 14554–14556
El Segundo Power, LLC, et al., 14556–14557
Applications, hearings, determinations, etc.:
Louisiana Generating LLC, 14554

Federal Reserve System
RULES
Bank holding companies and change in bank control (Regulation Y):
Financial holding companies—
Permissible activities, 14433–14440
Securities underwriting, dealing, and market-making activities, 14440–14442
NOTICES
Banks and bank holding companies:
Change in bank control, 14573
Formations, acquisitions, and mergers, 14573

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Pecos pupfish; withdrawn, 14513–14518
NOTICES
Endangered and threatened species permit applications, 14609

Food and Drug Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants Special Studies Advisory Committee et al., 14594

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
Cured pork products compliance monitoring system; requirements elimination, 14489–14491
Other consumer protection activities, 14486–14489

Forest Service
NOTICES
Environmental statements; notice of intent:
Manti-La Sal National Forest, UT, 14523–14524
National Forest System lands:
San Francisco Peaks, AZ; withdrawal for protection of cultural, recreational, and resource values; public meeting, 14524–14525

Geological Survey
NOTICES
Meetings:
Water Information Advisory Committee, 14609

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See Refugee Resettlement Office
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
PROPOSED RULES
Clinical Laboratory Improvement Amendments:
Laboratories regulations—
Cytology proficiency testing; withdrawn, 14510–14513

Health Resources and Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14594–14595

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Community development block grant program—
Multifamily housing owners; service coordinator program, 14708–14714
Facilities to assist homeless—
Excess and surplus Federal property, 14605–14608
Housing, community development, and empowerment programs and Section 8 housing voucher assistance (SuperNOFA)
Table of contents, 14608–14609
Section 202 projects; assisted living conversion program, 14694–14705
Regulatory waiver requests; quarterly listing, 14716–14727

Immigration and Naturalization Service
RULES
Irish Peace Process Cultural and Training Program; establishment, 14774–14780
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14626

Indian Affairs Bureau
RULES
Tribal revenue allocation plans, 14461–14469

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14644–14645

International Trade Administration
NOTICES
Antidumping:
Corrosion-resistant carbon steel flat products from—
Japan, 14534–14535
Grain-oriented electrical steel from—
Italy, 14535
Grants and cooperative agreements; availability, etc.:
Market Development Cooperator Program, 14535–14542

Joint Board for Enrollment of Actuaries
NOTICES
Meetings:
Actuarial Examinations Advisory Committee, 14521

Justice Department
See Antitrust Division
See Immigration and Naturalization Service

Labor Department
See Employment and Training Administration
See Employment Standards Administration
NOTICES
Meetings:
Trade Negotiations and Trade Policy Labor Advisory Committee, 14626

Land Management Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14610–14611
Environmental statements; availability, etc.:
Bitter Creek and Mountain Plover Areas, MT, 14611
Environmental statements; notice of intent:
Manti-La Sal National Forest, UT, 14523–14524
Meetings:
Gila Box Riparian National Conservation Area Advisory Committee, 14612
Resource Advisory Councils—
Mojave-Southern Great Basin, 14611–14612

Motor vehicle use restrictions:
Arizona, 14612
Public land orders:
Arizona, 14614–14615
Realty actions; sales, leases, etc.:
Montana, 14612–14613
Nevada, 14613
Resource management plans, etc.:
Clancy-Unionville Vegetative Manipulation and Travel Management Project, MT, 14613–14614
Survey plat filings:
Minnesota, 14614

Library of Congress
See Copyright Office, Library of Congress

Minerals Management Service
RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
Portlease operations safety; update and clarification; correction, 14469–14470
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14615–14616

National Institute of Standards and Technology
NOTICES
Inventions, Government-owned; availability for licensing, 14542
Meetings:
Manufacturing Extension Partnership National Advisory Board, 14542–14543

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico reef fish, 14518–14519
Northeastern United States fisheries—
Deep-sea red crab; correction, 14519–14520
NOTICES
Environmental statements; availability, etc.:
Coastal nonpoint pollution control programs; States and territories—
Rhode Island, 14543
Meetings:
Western Pacific Fishery Management Council, 14543–14544

Navy Department
NOTICES
Meetings:
Naval Academy, Board of Visitors, 14545

Nuclear Regulatory Commission
NOTICES
Meetings:
Nuclear Waste Advisory Committee, 14634
Reactor Safeguards Advisory Committee, 14634–14635
Applications, hearings, determinations, etc.:
Florida Power Corp., 14631–14632
Northeast Nuclear Energy Co., 14632–14633
Wisconsin Electric Power Co., 14633

Oklahoma City National Memorial Trust
RULES
Oklahoma City National Memorial regulations, 14760–14761

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
Lump sum payment assumptions, 14753–14757
Valuation of benefits; use of single set of assumptions for all benefits, 14752–14753

Personnel Management Office
RULES
Excepted service, career conditional employment system, and promotion and internal placement:
Veterans Employment Opportunities Act; staffing provisions, 14431–14432
PROPOSED RULES
Excepted service:
Persons with psychiatric disabilities; appointments, 14477–14478
NOTICES
Privacy Act:
Systems of records, 14635–14636

Public Debt Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14645–14648

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See Substance Abuse and Mental Health Services Administration

Railroad Retirement Board
RULES
Railroad Retirement Act:
Disability determination, 14458–14459
Railroad Unemployment Insurance Act:
Remuneration; definition, 14459–14461
NOTICES
Supplemental annuity program; determination of quarterly rate of excise tax, 14636

Refugee Resettlement Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Torture survivors treatement and services, 14595–14603

Rural Business-Cooperative Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14522–14523

Rural Housing Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14522–14523
Grants and cooperative agreements; availability, etc.:
Rural Community Development Initiative, 14525–14532

Rural Utilities Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14522–14523

Securities and Exchange Commission
NOTICES
Decimalization implementation plan; order to submit, 14637

Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 14638–14639
Applications, hearings, determinations, etc.:
NYFIX, Inc., 14636–14637
Unique Mobility, Inc., 14637

Small Business Administration
NOTICES
Disaster loan areas:
West Virginia, 14639
License surrenders:
Astar Capital Corp., 14639
Meetings; district and regional advisory councils:
District of Columbia, 14640

Southeastern Power Administration
NOTICES
Power rate adjustments:
Jim Woodruff Project, 14557–14558

State Department
RULES
Irish Peace Process Cultural and Training Program; establishment,
Visas; nonimmigrant documentation:
Irish Peace Process Cultural and Training Program, 14768–14771
NOTICES
Meetings:
Fine Arts Committee, 14640
International Law Advisory Committee, 14640

Substance Abuse and Mental Health Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Women with alcohol, drug abuse, and mental health disorders who have histories of violence, and their children, 14603–14605

Surface Transportation Board
NOTICES
Railroad services abandonment:
Union Pacific Railroad Co., 14643–14644

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Surface Transportation Board
NOTICES
Meetings:
Minority Business Resource Center Advisory Committee, 14640

Treasury Department
See Internal Revenue Service
See Public Debt Bureau

Veterans Affairs Department
RULES
Board of Veterans Appeals:
Appeals regulations and rules of practice—Case docketing, 14471–14472
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14648–14649
Meetings:
Education Advisory Committee, 14649
Women Veterans Advisory Committee, 14649

Separate Parts In This Issue

Part II
Department of Agriculture, Agricultural Marketing Srvice, 14651–14691

Part III
Department of Housing and Urban Development, 14693–14705

Part IV
Department of Housing and Urban Development, 14707–14714

Part V
Department of Housing and Urban Development, 14715–14727

Part VI
Department of Education, 14729–14749

Part VII
Department of Labor, Pension Benefit Guarantee Corporation, 14751—14757

Part VIII
Oklahoma City National Memorial Trust, 14759–14761

Part IX
State Department, 14763–14771

Part X
Department of Justice, Immigration and Naturalization Service, 14773–14780

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
213 14431
315 14431
335 14431
Proposed Rules:
3 14477
213 14477
315 14477

7 CFR
761 14432
762 14432
Proposed Rules:
6 14478
57 14653
1160 14484
1210 14485

8 CFR
212 14774
214 14774
248 14774
278A 14774

9 CFR
Proposed Rules:
317 14486
318 (2 documents) 14486, 14489
319 (2 documents) 14489, 14489
327 14489
381 14486

12 CFR
225 (2 documents) 14433, 14440
Proposed Rules:
614 14491
620 14494

14 CFR
95 14442
Proposed Rules:
71 14497

15 CFR
744 14444

17 CFR
15 14452
16 14452
17 14452

20 CFR
220 14458
322 14459

22 CFR
41 14768
139 14764

25 CFR
290 14461

29 CFR
4022 (2 documents) 14752, 14753
4044 14752
4050 14752

30 CFR
250 14469

33 CFR
155 14470
Proposed Rules:
100 14498
110 14498
165 (3 documents) 14498, 14501, 14502

36 CFR
Ch. XV 14760

37 CFR
Proposed Rules:
201 14505

38 CFR
19 14471
20 14471

40 CFR
148 14472
261 14472
268 14472
271 14472
300 14475
302 14472
Proposed Rules:
52 (2 documents) 14506, 14510
81 14510

42 CFR
Proposed Rules:
493 (2 documents) 14510

47 CFR
1 14476

50 CFR
Proposed Rules:
17 14513
622 14518
648 14519

Rules and Regulations

Federal Register
Vol. 65, No. 53
Friday, March 17, 2000

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213, 315, and 335

RIN 3206–AI51

Excepted Service; The Career Conditional Employment System; Promotion and Internal Placement

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: Pursuant to Section 511 of the Veterans Millennium Health Care and Benefits Act, OPM is reissuing interim regulations, with amendments, to implement the staffing provisions of the Veterans Employment Opportunities Act (VEOA) of 1998. Among other things, the VEOA allows preference eligibles or veterans who have been honorably discharged from the armed forces after 3 or more years of active service to apply for vacancies under merit promotion procedures when an agency is accepting applications from outside its own workforce. Comments are invited.

DATES: Interim rules are effective March 17, 2000. Comments must be received on or before April 17, 2000.

ADDRESSES: Send or deliver written comments to: Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6500, 1900 E Street, NW, Washington, DC 20415–9000.

FOR FURTHER INFORMATION CONTACT: Mr. Raleigh M. Neville on (202) 606–0830 or FAX (202) 606–0390.

SUPPLEMENTARY INFORMATION: Under VEOA, Congress amended 5 U.S.C. 3304 to allow eligible veterans to compete for vacancies under an agency's merit promotion procedures. The act also required OPM to create an appointing authority to permit the appointment of these veterans. However, absent specific legislation or Executive order, OPM has no authority to permit the noncompetitive appointment of candidates in the competitive service. Accordingly, OPM created an excepted appointing authority under Schedule B. This allowed eligible veterans to be appointed noncompetitively into the excepted service. OPM issued interim regulations (63 FR 66705) on December 3, 1998, to implement the VEOA.

In enacting the Veterans Millennium and Health Care and Benefits Act (Pub. L. 106–117), Congress amended the VEOA to clarify that if an eligible veteran competes under the agency's merit promotion procedures and is selected, he or she will be given a career or career conditional appointment in the competitive service.

Pub. L. 106–117 also clarified that veterans who are released from their initial tours of active duty shortly before completing the 3 years required in the statute are also eligible to compete under these provisions. (In this connection, it is customary for the military to release individuals a few days before completing 3-year tours ''for the convenience of the Government.'' These individuals should normally be considered eligible.)

As a result of these amendments, agencies may no longer make any new appointments under Schedule B authority YKB/Sch B 213.3202(n). However, OPM will temporarily leave the Schedule B authority in place until further notice. Veterans who were appointed under this Schedule B authority, but who did not compete under an agency merit promotion announcement, will remain under this authority until such time as they do compete and are selected. Veterans who competed under a merit promotion announcement must be converted to a career conditional or career appointment retroactive to the date of their original appointment under the VEOA. OPM is also making a technical update in § 315.801 on when probation is required. OPM is deleting the list of persons subject to probation when appointed by special authority or by conversion (the list was not complete), and including a new subsection specifying that such persons are subject to probation unless specifically exempt in the authority itself.

Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the delay in effective date and make these regulations effective in less than 30 days. The delay in effective date is being waived because the provisions of the new law became effective upon enactment, November 30, 1999.

Regulatory Flexibility Act

I certify that these regulations will not have a significant impact on a substantial number of small entities (including small businesses, small organizational units and small governmental jurisdictions) because the regulations apply only to appointment procedures for certain employees in Federal agencies.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Parts 213, 315, and 335

Government employees, Reporting and recordkeeping requirements.

Office of Personnel Management.

Janice R. Lachance,
Director.

Accordingly, OPM is amending parts 213, 315, and 335 of Title 5, Code of Federal Regulations, as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 *et seq.*; and Pub.L. 105–339.

§ 213.3202 [Amended]

2. In § 213.3202, paragraph (n) is revised to read as follows:

* * * * *

(n) Positions when filled by preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of continuous active military service and who, in accordance with the provisions of Pub.L. 105–339, applied for these positions under merit promotion procedures when

applications were being accepted from individuals outside its own workforce. These veterans may be promoted, demoted, or reassigned, as appropriate, to other positions within the agency but would remain employed under this excepted authority as long as there is no break in service. No new appointments may be made under this authority after November 30, 1999.

PART 315—CAREER AND CAREER CONDITIONAL EMPLOYMENT

3. The authority citation for part 315 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577. 3 CFR, 1954–1958 Comp. P. 218, unless otherwise noted. §§ 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. §§ 315.602 and 315.604 also issued under 5 U.S.C. 1104. § 315.603 also issued under 5 U.S.C. 8151. § 315.605 also issued under E.O. 120034, 3 CFR, 1978 Comp. p. 111. § 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp. p. 303. § 315.607 also issued under 22 U.S.C. 2506. § 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp., p. 293. § 315.610 also issued under 5 U.S.C. 3304(d). § 315.611 also issued under Section 511, Pub. L. 106–117. § 315.710 also issued under E.O. 12596, 3 CFR, 1987, Comp., p. 229. Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp., p. 264.

§ 315.611 [Added]

4. A new section 315.611 is added to subpart F to read as follows:

Subpart F—Career or Career-Conditional Appointment Under Special Authorities

* * * * *

§ 315.611 Appointment of certain veterans who have competed under agency merit promotion announcements.

(a) *Agency authority.* An agency may appoint a preference eligible or a veteran who has substantially completed at least 3 years of continuous active military service provided

(1) The veteran was selected from among the best qualified following competition under a merit promotion announcement open to candidates outside the agency's workforce; and

(2) The veteran's most recent separation from the military was under honorable conditions.

(b) *Definitions.* ''Agency'' in this context means an executive agency as defined in 5 U.S.C. 105. The agency determines in individual cases whether a candidate was released ''shortly before'' completing the required 3 years and should therefore be eligible for appointment.

§ 315.801 [Revised]

5. In § 315.801 paragraph (a) is revised and a new paragraph (e) is added to read as follows:

Subpart H—Probation on Initial Appointment to a Competitive Position

§ 315.801 Probationary period; when required.

(a) The first year of service of an employee who is given a career or career-conditional appointment under this part is a probationary period when the employee:

(1) Was appointed from a competitive list of eligibles established under subpart C of this part;

(2) Was reinstated under subpart D of this part unless during any period of service which affords a current basis for reinstatement, the employee completed a probationary period or served with competitive status under an appointment which did not require a probationary period.

* * * * *

(e) A person who is appointed to the competitive service either by special appointing authority or by conversion under subparts F or G of this part serves a 1-year probationary period unless specifically exempt from probation by the authority itself.

PART 335—PROMOTION AND INTERNAL PLACEMENT

6. The authority citation for part 335 is revised to read as follows:

Authority: 5 U.S.C. 3301, 3302, 3330; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; 5 U.S.C. 3304 (f), and Pub.L. 106–117.

§ 335.106 [Revised]

7. Section 335.106 is revised to read as follows:

§ 335.106 Special selection procedures for certain veterans under merit promotion.

Preference eligibles or veterans who have been separated under honorable conditions from the armed forces after completing (as determined by the agency) 3 or more years of continuous active military service may compete for vacancies under merit promotion when an agency accepts applications from individuals outside its own workforce. Those veterans selected will be given career or career conditional appointments under § 315.611 of this chapter.

[FR Doc. 00–6626 Filed 3–16–00; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761 and 762

RIN 0560–AF69

Streamlining of Regulations for Real Estate and Chattel Appraisals; Correction

AGENCY: Farm Service Agency, USDA.

ACTION: Correcting amendments to final rule.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** on Wednesday, November 17, 1999, (64 FR 62566–62569). The final rule removed administrative provisions and moved the regulations regarding appraisals pertaining to the Farm Service Agency's Farm Loan Programs from Chapter XVIII to Chapter VII.

DATE: Effective on March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Chris L. Greenwalt, Senior Loan Officer, Program Development and Economic Enhancement Division, USDA/FSA/PDEED/STOP 0521, 1400 Independence Avenue, S.W., Washington DC 20250–0521, telephone (202)690–0431, facsimile (202)720–8474, e-mail: chris—greenwalt@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections removed administrative provisions and clarified the requirement that Agency real estate appraisals must comply with the guidelines and standards contained in the Uniform Standards of Professional Appraisal Practice (USPAP). In addition, the requirement that specific Agency formats be used when completing appraisals was eliminated.

Need for Correction

As published, the final rule (64 FR 62566–62569) contains several errors which may prove to be misleading if not corrected. Section 761.7 is being corrected to clarify that its general requirements apply to direct loan appraisals and all appraisal reviews. Guaranteed loan appraisals will still be governed by part 762. Section 762.127 is being amended accordingly.

Section 761.7 also needs to be corrected with regards to when an existing real estate appraisal will be used. The Agency inadvertently failed to address the situation where an appraisal is over 12 months old but has been updated by the same appraiser or

appraisal firm within the previous 12 months in accordance with USPAP. In such case, the existing updated real estate appraisal may be used to make or service a loan.

List of Subjects

7 CFR Part 761

Accounting, Accounting servicing, Loan programs—Agriculture, Real property—Appraisals, Rural Areas.

7 CFR Part 762

Agriculture, Loan programs—Agriculture.

Accordingly, 7 CFR parts 761 and 762 are corrected by making the following correcting amendments:

PART 761—GENERAL AND ADMINISTRATIVE

1. The authority citation for part 761 continues to read as follows:

Authority: 7 U.S.C. 1989.

2. Revise paragraphs (a) and (d) of § 761.7 to read as follows:

§761.7 Appraisals

(a) *General.* This section describes requirements for:

(1) real estate and chattel appraisals made in connection with the making and servicing of direct Farm Loan Program and nonprogram loans; and,

(2) appraisal reviews conducted on appraisals made in connection with the making and servicing of direct and guaranteed Farm Loan Program and nonprogram loans.

* * * * *

(d) *Use of an existing real estate appraisal.* The Agency may use an existing real estate appraisal to reach a loan making or servicing decision under either of the following conditions:

(1) The appraisal was completed within the previous 12 months and the Agency determines that:

(i) The appraisal meets the provisions of this section and the applicable Agency loan making or servicing requirements, and

(ii) Current market values have remained stable since the appraisal was completed; or

(2) The appraisal was not completed in the previous 12 months, but has been updated by the appraiser or appraisal firm that completed the appraisal, and both the update and original appraisal were completed in accordance with USPAP.

* * * * *

PART 762—GUARANTEED FARM LOANS

4. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

5. Revise paragraph (d) of § 762.127 by adding the following at the end of the introductory text:

§762.127 Appraisal requirements.

(d) * * * Agency officials may accept an appraisal that is not current if there have been no significant changes in the market or on the subject real estate and the appraisal was either completed within the past 12 months or updated by a qualified appraisal if not completed within the past 12 months.

* * * * *

Signed in Washington, D.C., on March 7, 2000.

Parks Shackelford,

Acting Administrator Farm Service Agency.

[FR Doc. 00–6429 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–05–P

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1062]

Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule with request for public comments.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its Regulation Y on an interim basis effective March 11, 2000, to include a list of the financial activities permissible for a financial holding company under the Gramm-Leach-Bliley Act. The Board also is adopting procedures a financial holding company must follow in order to engage in listed financial activities, as well as activities that are complementary to a financial activity. In addition, the Board is adopting procedures by which a financial holding company or any other interested party may make requests that the Board determine that activities not listed in the Gramm-Leach-Bliley Act are permissible for a financial holding company. The Board is promulgating this rule on an interim basis in order to make a list of permissible activities and the applicable notification procedures for engaging in those activities available to financial holding companies on the effective date of the financial holding company provisions of the Gramm-Leach-Bliley Act.

The interim rule adds five sections to Subpart I of Regulation Y. The first two sections list the financial activities in which the Gramm-Leach-Bliley Act permits a financial holding company to engage and explain that Board approval generally is not required to engage in those activities. The third section explains the post-commencement notice procedures applicable to listed activities. The fourth section establishes a procedure by which any interested party may request that the Board find an activity that is not listed in the Gramm-Leach-Bliley Act or the rule to be financial in nature or incidental to a financial activity. The fifth section establishes a procedure by which a financial holding company may seek a Board determination that a particular activity is complementary to a financial activity and receive approval to engage in that activity.

The Board solicits comments on all aspects of the interim rule and will amend the rule as appropriate in response to comments received.

DATES: This interim rule is effective on March 11, 2000. Comments must be received by May 12, 2000.

ADDRESSES: Comments should refer to docket number R–1062 and should be sent to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C., 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between the hours of 8:45 a.m. and 5:15 p.m. and, outside those hours, to the Board's security control room. Both the mail room and the security control room are accessible from the Eccles Building courtyard entrance, located on 20th Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in room MP–500 of the Martin Building between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Scott G. Alvarez, Associate General Counsel (202/452–3583) or Adrianne G. Threatt, Attorney (202/452–3554); Legal Division; Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C., 20551. For users of Telecommunications Device for the Deaf (''TDD''), contact Janice Simms at 202/452–4984.

SUPPLEMENTARY INFORMATION:

Background

The Gramm-Leach-Bliley Act (Pub. L. No. 106–102, 113 Stat. 1338 (1999)) (the ''GLB Act'') authorizes affiliations among banks, securities firms, insurance firms, and other financial companies. The GLB Act amends the Bank Holding Company Act (''BHC Act'') (12 U.S.C. 1841 *et seq.*) to allow a bank holding company or foreign bank that qualifies as a financial holding company to engage in a broad range of activities that are defined by the GLB Act to be financial in nature or incidental to a financial activity, or that the Board, in consultation with the Secretary of the Treasury, determines to be financial in nature or incidental to a financial activity. The GLB Act also allows a financial holding company to seek Board approval to engage in any activity that the Board determines both to be complementary to a financial activity and not to pose a substantial risk to the safety and soundness of depository institutions or the financial system generally. Bank holding companies that do not qualify as financial holding companies are limited to engaging in those nonbanking activities that were permissible for bank holding companies prior to the enactment of the GLB Act.

The GLB Act provides that, in most cases, a financial holding company may engage or acquire the shares of a company that is engaged in financial activities without obtaining prior approval from the Board. A financial holding company is required instead to provide a post-commencement notice to the Board within 30 days after commencing a financial activity or acquiring a company under the new section 4(k).

As noted above, the GLB Act allows the expansion by the Board in consultation with the Secretary of the Treasury of the list of financial activities that are permissible for financial holding companies. Any interested party may request that the Board determine that an activity not listed in the GLB Act is financial in nature or incidental to a financial activity. In making its determination, the Board must consult with the Secretary of the Treasury and must take into account four factors: (1) The purposes of the GLB and BHC Acts; (2) the changes or reasonably expected changes in the marketplace in which financial holding companies compete; (3) the changes or reasonably expected changes in technology for delivering financial services; and (4) whether the proposed activity is necessary or appropriate to allow a financial holding company to compete effectively with companies seeking to provide financial services in the United States, efficiently deliver financial information and services through technological means, and offer customers any available or emerging technological means for using financial services or for the document imaging of data. The Secretary of the Treasury also may at any time recommend that the Board find an activity to be financial in nature or incidental to a financial activity.

In addition to permitting a financial holding company to engage in activities that are financial in nature or incidental to a financial activity, the GLB Act provides that a financial holding company may engage in activities that the Board determines are complementary to existing financial activities and do not pose a substantial risk to the safety or soundness of depository institutions or the financial system generally. The Act requires that a financial holding company receive approval under section 4(j) of the BHC Act prior to conducting or acquiring a company engaged in an activity that the company believes to be complementary to a financial activity.

Interim Rule

In order to implement the provisions of the GLB Act governing the activities in which financial holding companies may engage, the Board is amending Regulation Y by adding sections that (1) list the activities in which a financial holding company may engage; (2) set forth the procedures for engaging in the listed activities; (3) establish procedures for requesting that an additional activity be deemed to be financial in nature or incidental to a financial activity; and (4) establish procedures by which a financial holding company may request that the Board determine that an activity is complementary to a financial activity and receive Board approval to conduct a complementary activity.

Section-by-Section Analysis

Section 225.85—Is Notice To or Approval From the Board Required Prior To Engaging in a Financial Activity?

Subsection (a)(1) provides that, in most cases, a financial holding company may, without providing prior notice to or obtaining prior approval from the Board, conduct an activity that is financial in nature or incidental to a financial activity (a ''financial activity''). A financial holding company may conduct a financial activity by engaging directly in the activity or by acquiring and retaining the shares of any company that is engaged exclusively in one or more financial activities. A financial holding company may conduct a financial activity at any location inside or outside of the United States, subject to the laws of the jurisdiction in which the activity is conducted.

Subsection (a)(2) and (3) provide that a financial holding company may control or acquire more than 5 percent of the voting shares of a company that is not engaged exclusively in financial activities that are permissible for a financial holding company. Under paragraph (2), a financial holding company may acquire control or shares of a company that, in addition to financial activities, engages in other activities permissible for the acquiring financial holding company. In this case, the financial holding company must comply with any approval, notice or other requirement that governs the other activities. Paragraph (3) would allow acquisitions of a company with some impermissible activities, in keeping with the Board's prior practice regarding bank holding company acquisitions of companies that were not engaged exclusively in activities that were permissible for bank holding companies.

The acquisition of a company with limited impermissible activities must meet three requirements. First, the acquired company must be engaged substantially in financial activities and other activities permissible for the financial holding company. A financial holding company that is uncertain about whether a proposed acquisition meets this standard should consult with the Board. Second, in the post-commencement notice provided by the financial holding company to the Board regarding the acquisition, the financial holding company must commit to terminate or divest the impermissible activities, and the company must complete the divestiture or termination within two years of the acquisition. Finally, after being acquired by a financial holding company, the company engaged in impermissible activities may not engage in or acquire a company engaged in any activity that is not permissible for the financial holding company.

Subsection (c) identifies two circumstances under which Board approval still is required to engage in financial activities. First, prior approval in accordance with section 4(j) of the BHC Act and § 225.24 of Regulation Y is required to acquire more than 5 percent of the shares or control of a savings association.[1] In addition, the

[1] The GLB Act did not change in any way the requirement that a company receive prior approval

Board may, in the exercise of its supervisory authority, require a financial holding company to provide prior notice to or obtain prior approval from the Board if circumstances warrant.

Section 225.86—What Activities Are Permissible for Financial Holding Companies?

This section consolidates in one place a description of all activities that the GLB Act defines as financial in nature. Subsection (a) states that financial holding companies may engage in any activity that the Board had found to be closely related to banking under section 4(c)(8) of the BHC Act by a regulation or order that is in effect on November 12, 1999. Subsection (a)(1) provides a cross reference to § 225.28, which contains a list of the relevant activities approved by regulation. Subsection (a)(2) lists activities that have been found by Board order in effect on November 12, 1999, to be closely related to banking but that are not otherwise included in the statutory list of permissible financial activities. For example, section 20 activities are not included in the list of activities approved by order because securities underwriting, dealing, and market making now is authorized for financial holding companies in a broader form at section 4(k)(4)(E) of the BHC Act. The Board specifically requests comment on whether there are other activities approved only by Board order that should be listed in § 225.86(a)(2), and whether the scope of any listed activity should be clarified.

All activities in which a financial holding company engages pursuant to subsection (a) must be conducted subject to the terms and conditions contained in Regulation Y and in the Board orders authorizing the activities. Bank holding companies that are not financial holding companies may continue to seek approval to engage in any activity that the Board determined by regulation or order in effect on November 12, 1999, to be closely related to banking. These bank holding companies must continue to use the prior notice and approval procedures listed at §§ 225.22 to 225.24.

Section 4(k)(4)(G) of the BHC Act defines as financial in nature any activity in which a bank holding company may engage outside the United States and that the Board has determined in regulations prescribed or interpretations issued under section (4)(c)(13) of the BHC Act that are in effect on November 11, 1999, to be usual in connection with the transaction of banking or other financial services abroad. Section 225.86(b) lists the three activities that have been found by the Board to be usual in connection with the transaction of banking or other financial operations abroad as listed in Regulation K (*see* 12 CFR 211.5(d)) that are not otherwise permissible for a bank holding company under the Board's Regulation Y or included on the statutory list of financial activities. These activities are management consulting services, operating a travel agency, and organizing, sponsoring, or managing a mutual fund.

In each case, the rule describes certain limitations that apply to the conduct of the activity. In the case of management consulting services, the services may be provided to any person on nonfinancial matters. However, the services must be advisory and not allow the financial holding company to control the person to whom the services are provided.

A financial holding company may also operate a travel agency in connection with financial services offered by the holding company or by others. Finally, a fund organized, sponsored or managed by a financial holding company may not exercise managerial control over the companies in which the fund invests and the financial holding company must reduce its ownership of the fund, if any, to less than 25 percent of the equity of the fund within one year of sponsoring the fund (or such additional period as the Board permits).

The remainder of the activities listed at § 211.5(d) have been either (1) authorized for financial holding companies in a broader form by the GLB Act (*e.g.,* underwriting, distributing, and dealing in securities and underwriting various types of insurance); or (2) authorized in the same or a broader form in Regulation Y (*e.g.,* data processing activities, real and personal property leasing, and acting as agent, broker, or adviser in leasing property). The Board notes that section 4(k)(4)(G) of the Act and this interim rule only authorize financial holding companies to engage in the activities that are listed in § 211.5(d) of Regulation K as interpreted by the Board, not in activities that the Board has approved in individual orders under section 4(c)(13).

Subsection (c) incorporates by reference the remaining activities authorized by section 4(k)(4) of the BHC Act. Those activities include activities that previously have not been permissible for bank holding companies, such as acting as principal, agent, or broker for purposes of insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, and issuing annuity products. Permissible insurance activities as principal include reinsuring insurance products. A financial holding company acting under that section may conduct insurance activities without regard to the restrictions on the insurance activities imposed on bank holding companies under section 4(c)(8).

The GLB Act also authorizes underwriting, dealing in, and making a market in securities without regard to whether such securities may be sold by a bank. This activity includes underwriting or distributing shares of open-end investment companies commonly referred to as mutual funds.

Securities underwriting activities conducted under section 4(k)(4)(E) rather than section 4(c)(8) may be conducted without regard to the 25 percent revenue limitation that is applicable to section 20 subsidiaries of bank holding companies that engage in securities underwriting and dealing under section 4(c)(8). In addition, dealing may be done without regard to the 5 percent limitation on ownership of voting securities.

In a separate proposal, the Board has determined that the operating standards applicable to section 20 companies do not apply to financial holding companies that engage in securities underwriting, dealing, and market making under section 4(k)(4)(E) of the BHC Act with two exceptions. First, intra-day extensions of credit to a securities firm from an affiliated bank or thrift or U.S. branch or agency of a foreign bank must be on market terms consistent with section 23B of the Federal Reserve Act (''FRA''). Second, the limitations of sections 23A and 23B of the FRA apply to covered transactions between a U.S. branch or agency of a foreign bank and a U.S. securities affiliate. The operating standards and revenue limit continue to apply to bank holding companies that are not financial holding companies, and to financial holding companies that continue to conduct securities activities pursuant to section 4(c)(8) of the BHC Act.

In cases where a financial holding company already has approval under section 4(c)(8) to engage in an activity now available in an expanded scope under section 4(k), the company must provide the Board with a post-commencement notice as described in § 225.87 informing the Board that the company has expanded the scope of the activity in accordance with section 4(k). Unless otherwise notified by the Board,

of the Board under section 3 of the BHC Act before acquiring shares or control of a bank.

the financial holding company may then conduct the activity subject to the limitations set forth in section 4(k)(4)(A) through (E), § 225.86 and other applicable laws governing the activity.

Any financial holding company that feels it needs specific relief from a commitment or condition to conduct an activity in accordance with section 4(k)(4) may request in writing a determination that the condition or commitment is no longer appropriate. The Board specifically seeks comment on the types of commitments and conditions the Board has imposed on financial holding companies under section 4(c)(8) that may hinder their ability to conduct expanded activities under section 4(k)(4).

The Board reminds financial holding companies that commitments and conditions that relate to activities for which the GLB Act has not provided any additional authority, such as data processing, remain in effect. Moreover, the Board notes that this action does not relieve any financial holding company of its obligation to conduct each activity in accordance with relevant state and federal law governing the activity.

Should a company that has notified the Board that the company has expanded a section 4(c)(8) activity consistent with section 4(k)(4) choose at a later date to conduct the activity under section 4(c)(8), the company should consult with Board staff to determine the conditions under which the activity should be conducted.

The GLB Act also allows a financial holding company to engage in merchant banking activities. This activity involves directly or indirectly acquiring shares, assets, or ownership interests of a company engaged in an activity that is impermissible for a financial holding company, whether or not that interest constitutes control of the company. The Board and the Secretary of the Treasury have separately proposed interim rules regarding the conduct of this activity that are separate from this rule.

The GLB Act requires the Board to define the extent to which three activities listed in section 4(k)(5) of the BHC Act are financial in nature or incidental to a financial activity. The Board expects to initiate a rulemaking to provide further guidance concerning the 4(k)(5) activities in the near future.

An activity that is not described in the list of activities and references in this section is not a financial activity unless the Board, in consultation with the Treasury, determines that the activity is financial in nature or incidental to a financial activity. The procedures for obtaining a Board determination are described in detail in the analysis of § 225.88 below. That section also contains a procedure by which a financial holding company that is uncertain about the scope of an authorized activity may request an advisory opinion from the Board.

Section 225.87—Is Notice to the Board Required After Engaging in a Financial Activity?

Section 4(k)(6)(A) of the BHC Act generally provides that a financial holding company may engage in financial activities or acquire companies engaged in financial activities pursuant to section (4)(k)(4) by providing the Board with a written notice that describes the activity commenced or the name of and activity conducted by the acquired company, as appropriate, within 30 days of commencing the activity or consummating the acquisition.

Section 225.87 implements the post-commencement notice procedure for applicable activities commenced pursuant to section 4(k)(4). As a general matter, § 225.87(a) states that financial holding companies engaging in activities and making acquisitions listed in § 225.86 need only provide a simple written notice to the appropriate Federal Reserve Bank within 30 days after commencing the activity or making the acquisition. The notice must describe the activity commenced and the subsidiaries engaged in the activity, or identify the company acquired and describe the activities such company conducts, as relevant.

Subsection (b) describes two circumstances in which no notice to the Board is required in order to engage in an activity. First, no notice to the Board is required when a financial holding company acquires shares of a company without acquiring control of the company. The second exception applies to a financial holding company that is engaged in securities activities under 4(k)(4)(E), that makes merchant banking investments under 4(k)(4)(H), or that makes insurance company investments under 4(k)(4)(I) and has provided the System with the appropriate notice regarding the relevant activity. Under those circumstances, the company need only submit a notice in connection with the acquisition of the shares of any company as part of the securities, merchant banking or insurance investment activity if the cost of the acquisition exceeds the lesser of 5 percent of the financial holding company's Tier 1 capital or $200 million.

Section 225.88—How To Request the Board To Determine That an Activity Is Financial in Nature or Incidental to a Financial Activity?

The GLB Act provides that the Board may determine that activities are financial in nature or incidental to financial activities after consulting with the Secretary of the Treasury. Subsection (a) provides that requests for a determination that a new activity is a financial activity may be made by a financial holding company or by any other interested party.

A request for a determination that an activity is financial in nature or incidental to a financial activity must identify and define the activity for which the determination is sought. The request must also provide specific information about what the activity would involve and how it would be conducted, and explain in detail why the activity should be considered financial in nature or incidental to a financial activity. Importantly, the request must provide information that is sufficient to support a Board finding that the activity is financial. The request also must provide any additional information required by the Board.

On receiving a request, the Board will provide the Secretary of the Treasury with a copy of the proposal and consult with the Secretary in accordance with section 4(k)(2) of the BHC Act. The Board also may request public comment on the proposal. The Board will endeavor to act on all requests for a determination within 60 days of completion of the consultative process and the close of the public comment period, if applicable. The Board's initial determination regarding a particular activity will clarify whether a financial holding company that subsequently seeks to engage in the activity may do so using the post-commencement notice procedure of § 225.87, or whether a different notification or approval requirement applies.

Section 225.88(e) establishes a procedure by which financial holding companies may request from the Board an advisory opinion concerning whether a specific proposed activity falls within the scope of an activity that is permissible for a financial holding company. Such requests must be in writing and must provide detailed information about the proposed activity, including an explanation that supports a finding that the activity is within the scope of a permissible activity. The Board will provide an advisory opinion to the requester within 45 days of receiving a complete written request.

Section 225.89—How To Request Approval To Engage in an Activity That Is Complementary to a Financial Activity?

The GLB Act provides that a financial holding company may engage in an activity that the Board determines to be complementary to a financial activity. The legislative history of the GLB Act suggests that complementary activities are activities that are closely associated with a financial activity or that are normally conducted with or flow from a financial activity. However, the GLB Act itself does not define what qualifies as a complementary activity. The Board therefore requests comment on the definition of the term of ''complementary activity.''

The GLB Act provides that a financial holding company must obtain prior Board approval in accordance with section 4(j) of the BHC Act to engage in or acquire a company engaged in any activity that the financial holding company believes to be complementary to a financial activity. In addition to applying the standards under section 4(j), the Board must determine that the activity is complementary to a financial activity and would not pose a substantial risk to the safety or soundness of depository institutions or the financial system generally.

Section 225.87(b) implements this requirement by requiring that a request for prior approval to engage in a complementary activity provide a detailed description of the proposed complementary activity (including the projected scope and relative size of the activity), identify the particular financial activity for which the proposed activity would be complementary, and provide a detailed explanation for why the proposed activity should be considered complementary to a financial activity. The request also must discuss the impact of the proposed activity on the safety and soundness of depository institutions controlled by the financial holding company and on the financial system generally. In addition, the request must describe the potential adverse effects that conducting the activity could raise and explain measures the financial holding company intends to take to address those concerns. Requests regarding complementary activities also must include any financial, managerial, and other information required by the Board. The Board will act on requests to engage in complementary activities within the time period described in section 4(j) of the BHC Act.

The Board invites comment on all aspects of the interim rule, and particularly on the items specifically identified in the foregoing discussion.

Section 225.24—Procedures for Other Nonbanking Proposals

The Board has deleted the existing text of subsection (a)(3), which discusses the information requirements for proposals to engage in activities that are not listed in § 225.28. The GLB Act amends section 4(c)(8) to remove the Board's authority to authorize additional nonbanking activities for bank holding companies under that section. Therefore, subsection (a)(3) is unnecessary and has been deleted.

Regulatory Flexibility Act

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a)), the Board must publish an initial regulatory flexibility analysis with this interim regulation. This rule implements the provisions of Title I of the GLB Act that allow financial holding companies to engage in a broad range of financial activities by using a streamlined notification procedure. In most cases, the company need only provide the Board a brief written notice that identifies the activity commenced and the subsidiary that conducts the activity within 30 days of commencing an activity.

In addition, the rule establishes procedures by which a party can request that the Board determine additional activities are financial in nature or incidental to a financial activity and procedures by which a financial holding company can seek approval to engage in an activity it proposes to be complementary to a financial activity. These provisions are designed to require only the information necessary for the Board to evaluate the status of a proposed activity.

The procedures described in this rule apply only to bank holding companies that voluntarily elect to be financial holding companies, and those procedures apply to all financial holding companies regardless of their size. For financial holding companies that seek to engage in activities that previously were permissible under section 4(c)(8) of the BHC Act, the procedures described in this rule represent a reduction in the amount of paperwork required to engage in such activities. In addition, the notification procedures applicable to financial holding companies and the procedures for requesting the Board to determine that an activity is complementary are specified by the GLB Act itself. The Board has attempted in this rule to implement the requirements of the statute by requiring from a financial holding company only that information that is necessary for the Board to discharge its statutory responsibility. The Board specifically requests comment on the likely burden this interim rule will impose on financial holding companies that seek to engage in financial activities or to propose that the Board authorize additional activities as permissible for a financial holding company.

Administrative Procedure Act

The Board will make this interim rule effective on March 11, 2000, without first reviewing public comments. Pursuant to 5 U.S.C. 553, the Board finds that it is impracticable to review public comments prior to the effective date of the interim rule and that there is good cause to make the rule effective on March 11, 2000. Specifically, the rule sets forth requirements relating to activities that are permissible for financial holding companies as of March 11, 2000, due to statutory changes that become effective on that date. The Board is seeking comment on the interim rule and will amend the rule as appropriate after reviewing all comments it receives.

Paperwork Reduction Act

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget.

The collection of information requirements in this proposed rulemaking are found in 12 CFR 225.87, 225.88, and 225.89. This information is required to evidence compliance with the requirements of Title I of the Gramm-Leach-Bliley Act (Pub. L. 106–103, 113 Stat. 1338 (1999)) which amends section 4 of the Bank Holding Company Act (12 U.S.C. 1843). The respondents are financial holding companies.

The notice cited in 12 CFR 225.87(a) provides that a financial holding company that commences an activity or acquires shares of a company engaged in an activity listed in § 225.86, must notify the appropriate Federal Reserve Bank in writing within 30 calendar days. See 12 CFR 225.87(a) for specific details on the content of the notice. The Federal Reserve estimates that financial holding companies will make 500 filings of this notice annually and that it would take approximately 1 hour to complete this notification. This would result in an estimated annual burden of

500 hours. Based on a rate of $20 per hour, the annual cost to the public for this information collection would be $10,000.

Financial holding companies requesting the Board's determination that an activity is financial in nature or incidental to a financial activity must provide to the Board the information described in 12 CFR 225.88(b). Financial holding companies may request an advisory opinion from the Board about whether a specific proposed activity falls within the scope of an activity listed in 12 CFR 225.86 as financial in nature or incidental to a financial activity by submitting the information described in 12 CFR 225.88(e). Financial holding companies that seek prior approval to engage in an activity that the financial holding company believes is complementary to a financial activity must provide to the Board the information identified in 12 CFR 225.89(a). The Federal Reserve estimates that only 25 financial holding companies would file the information requested in these sections annually and that it would take approximately 1 hour to complete each information collection. This would result in estimated annual burden of 25 hours. Based on a rate of $20 per hour, the annual cost to the public for this information collection would be $500.

The Board requests comment on the accuracy of these burden estimates. These notifications and requests will have no formal reporting form and may be submitted in the form of a letter. They will be assigned the agency form number FR 4012. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, these information collections unless they display currently valid OMB control numbers. The OMB control number for these information collections will be 7100–0292.

A bank holding company may request confidentiality for the information contained in these information collections pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(6)).

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the Federal Reserve's functions, including whether the information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the information collections, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology. Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, with copies of such comments to be sent to Mary M. West, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

List of Subjects in 12 CFR Part 225

Administrative practice and procedures, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Board amends 12 CFR part 225 as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831(i), 1831p–1, 1843(c)(8), 1843(k), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In § 225.24, remove paragraph (a)(3).

3. In subpart I, add §§ 225.85 through 225.89 to read as follows:

§ 225.85 Is notice to or approval from the Board required prior to engaging in a financial activity?

(a) *No prior approval required generally*—(1) *In general.* A financial holding company and any subsidiary (other than a depository institution or subsidiary of a depository institution) of the financial holding company may engage in any activity listed in § 225.86, or acquire control or shares of a company engaged exclusively in any activity listed in § 225.86, without providing prior notice to or obtaining prior approval from the Board unless required under paragraph (c) of this section.

(2) *May a financial holding company acquire a company engaged in other permissible activities?* In addition to the activities listed in § 225.86, a company acquired or to be acquired by a financial holding company under paragraph (a)(1) of this section may engage in activities otherwise permissible for a financial holding company under this part in accordance with any applicable notice, approval, or other requirement.

(3) *May a financial holding company acquire a financial company engaged in limited nonfinancial activities?* A financial holding company may control or acquire more than 5 percent of the voting shares of a company that is not engaged exclusively in activities that are financial in nature or incidental to a financial activity or otherwise permissible for a financial holding company if:

(i) Substantially all of the activities conducted by the company are financial in nature, incidental to a financial activity, or otherwise permissible for the financial holding company;

(ii) As part of the notice provided under § 225.87, the financial holding company commits to the Board to terminate or divest all activities that are not financial in nature or incidental to a financial activity or otherwise permissible for the financial holding company and the financial holding company completes that termination or divestiture within 2 years of the date the financial holding company acquires the company; and

(iii) Following the acquisition of the company by the financial holding company, the company does not engage in or acquire shares of any company engaged in any activity that is not permissible for the financial holding company.

(b) *In what locations may a financial holding company conduct financial activities?* A financial holding company may conduct any activity listed in § 225.86 at any location in the United States or at any location outside of the United States subject to the laws of the jurisdiction in which the activity is conducted.

(c) *Under what circumstances is prior notice to the Board required?* (1) *Acquisition of more than 5 percent of the shares of a savings association.* A financial holding company must obtain Board approval in accordance with section 4(j) of the Bank Holding Company Act (12 U.S.C. 1843(j)) and either § 225.23 or § 225.24, as appropriate, prior to acquiring control or more than 5 percent of the voting shares of a savings association.

(2) *Supervisory actions.* The Board may, if appropriate in supervisory cases, including under § 225.82(d) or § 225.83(d) or other relevant authority, require a financial holding company to provide prior notice to or obtain prior approval from the Board to engage in any activity or acquire shares or control of any company.

§ 225.86 What activities are permissible for financial holding companies?

The following activities are financial in nature or incidental to a financial activity:

(a) *Activities that were closely related to banking.* (1) Any activity that the Board had determined by regulation prior to November 12, 1999, to be so closely related to banking as to be a proper incident thereto, subject to the terms and conditions contained in this part, unless modified by the Board. These activities are listed in § 225.28.

(2) Any activity that the Board had determined by an order that was in effect on November 12, 1999, to be so closely related to banking as to be a proper incident thereto, subject to the terms and conditions contained in this part and those in the authorizing orders. These activities are:

(i) Providing administrative and other services to mutual funds (*see, e.g., Societe Generale*, 84 Federal Reserve Bulletin 680 (1998));

(ii) Owning shares of a securities exchange (*J.P. Morgan & Co, Inc., and UBS AG*, 86 Federal Reserve Bulletin 61 (2000));

(iii) Acting as a certification authority for digital signatures (*Bayerische Hypo- und Vereinsbank AG, et.al.*, 86 Federal Reserve Bulletin 56 (2000));

(iv) Providing employment histories to third parties for use in making credit decisions and to depository institutions and their affiliates for use in the ordinary course of business (*Norwest Corporation,* 81 Federal Reserve Bulletin 732 (1995));

(v) Check cashing and wire transmission services (*Midland Bank, PLC*, 76 Federal Reserve Bulletin 860 (1990) (check cashing); *Norwest Corporation*, 81 Federal Reserve Bulletin 1130 (1995) (money transmission));

(vi) In connection with offering banking services, providing notary public services, selling postage stamps and postage-paid envelopes, providing vehicle registration services, and selling public transportation tickets and tokens (*Popular, Inc.*, 84 Federal Reserve Bulletin 481 (1998)); and

(vii) Real estate title abstracting (*The First National Company*, 81 Federal Reserve Bulletin 805 (1995)).

(b) *Activities that are usual in connection with the transaction of banking abroad.* Any activity that the Board has determined by regulation in effect on November 11, 1999, to be usual in connection with the transaction of banking or other financial operations abroad (*see* § 211.5(d) of this chapter), subject to the terms and conditions in part 211 and Board interpretations in effect on that date regarding the scope and conduct of the activity. In addition to the activities listed in paragraphs (a) and (c) of this section, these activities are:

(1) Providing management consulting services, including to any person with respect to nonfinancial matters, so long as the management consulting services are advisory and do not allow the financial holding company to control the person to which the services are provided;

(2) Operating a travel agency in connection with financial services offered by the financial holding company or others; and

(3) Organizing, sponsoring, and managing a mutual fund, so long as:

(i) The fund does not exercise managerial control over the entities in which the fund invests; and

(ii) The financial holding company reduces its ownership in the fund, if any, to less than 25 percent of the equity of the fund within one year of sponsoring the fund or such additional period as the Board permits.

(c) *Activities permitted under section 4(k)(4) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)).* Any activity defined to be financial in nature under sections 4(k)(4)(A) through (E), (H) and (I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(A) through (E) (H) and (I)).

§ 225.87 Is notice to the Board required after engaging in a financial activity?

(a) *Post-commencement notice is generally required to engage in a financial activity.* A financial holding company that commences an activity or acquires shares of a company engaged in an activity listed in § 225.86 must notify the appropriate Federal Reserve Bank in writing within 30 calendar days after commencing the activity or consummating the acquisition. The notice must describe, as relevant:

(1) The activity commenced and the identity of each subsidiary engaged in the activity; or

(2) The identity of the company acquired and the activities conducted by the company.

(b) *Are there any cases in which notice to the Board is not required?*

(1) *Acquisitions that do not result in control of a company.* A notice under paragraph (a) of this section is not required to acquire shares of a company if, following the acquisition, the financial holding company does not control the company.

(2) *Conduct of certain investment activities.* Except as otherwise provided in this part or as determined by the Board in the exercise of its supervisory authority, no post-commencement notice is required as part of the conduct by a financial holding company or its subsidiary of:

(i) Securities underwriting, dealing, or market making activities as described in section 4(k)(4)(E) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(E));

(ii) Merchant banking activities conducted pursuant to section 4(k)(4)(H) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H)), except as provided in § 225.174(d); or

(iii) Insurance company investment activities conducted pursuant to section 4(k)(4)(I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(I)), so long as the financial holding company provides the notice described in § 225.174(d) in connection with any insurance company investment that meets the thresholds in that section.

(3) *Condition for exceptions.* The exception provided in paragraph (b)(2) of this section applies only if the financial holding company previously has provided notice to the Board under paragraph (a) of this section that the financial holding company has commenced or acquired control of a company engaged in the relevant activity for which an exception is claimed.

§ 225.88 How to request the Board to determine that an activity is financial in nature or incidental to a financial activity?

(a) *Requests regarding activities that may be financial in nature or incidental to a financial activity.* A financial holding company or other interested party may request a determination from the Board that an activity not listed in § 225.86 is financial in nature or incidental to a financial activity.

(b) *What information must the request contain?* A request submitted under this section must be in writing and must:

(1) Identify and define the activity for which the determination is sought, specifically describing what the activity would involve and how the activity would be conducted;

(2) Explain in detail why the activity should be considered financial in nature or incidental to a financial activity; and

(3) Provide information supporting the requested determination and any other information required by the Board concerning the proposed activity.

(c) *What action will the Board take after receiving a request?* (1) *Consultation with the Secretary of the Treasury.* Upon receipt of the request, the Board will provide the Secretary of the Treasury a copy of the request and consult with the Secretary in accordance with section 4(k)(2)(A) of the Bank Holding Company Act (12 U.S.C. 1843(k)(2)(A)).

(2) *Public notice.* The Board may, as appropriate and after consultation with the Secretary, publish a description of the proposal in the **Federal Register** with a request for public comment.

(d) *When will the Board act on a request?* The Board will endeavor to make a decision on any request filed under paragraph (a) of this section within 60 days following the completion of both the consultative process described in paragraph (c)(1) of this section and the public comment period, if any.

(e) *What should a financial holding company do if it has a question about the scope of a financial activity?* (1) *Written request.* A financial holding company may request an advisory opinion from the Board about whether a specific proposed activity falls within the scope of an activity listed in § 225.86 as financial in nature or incidental to a financial activity. The request must be submitted in writing and must contain:

(i) A detailed description of the particular activity in which the company proposes to engage or the product or service the company proposes to provide;

(ii) An explanation supporting an interpretation regarding the scope of the permissible financial activity; and

(iii) Any additional information requested by the Board regarding the activity.

(2) *Board response.* The Board will provide an advisory opinion within 45 days of receiving a complete written request under paragraph (b) of this section.

§ 225.89 How to request approval to engage in an activity that is complementary to a financial activity?

(a) *Prior Board approval is required.* A financial holding company that seeks to engage in or acquire a company engaged in an activity that the financial holding company believes is complementary to a financial activity must obtain prior approval from the Board in accordance with section 4(j) of the Bank Holding Company Act (12 U.S.C. 1843 (j)). The notice must be in writing and must:

(1) Identify and define the proposed complementary activity, specifically describing what the activity would involve and how the activity would be conducted;

(2) Identify the financial activity for which the proposed activity would be complementary and provide information sufficient to support a finding that the proposed activity should be considered complementary to the identified financial activity;

(3) Describe the scope and relative size of the proposed activity, as measured by the percentage of the projected financial holding company revenues expected to be derived from and assets associated with conducting the activity;

(4) Discuss the risks that conducting the activity may reasonably be expected to pose to the safety and soundness of the subsidiary depository institutions of the financial holding company and to the financial system generally;

(5) Describe the potential adverse effects, including potential conflicts of interest, decreased or unfair competition, or other risks, that conducting the activity could raise, and explain the measures the financial holding company proposes to take to address those potential effects; and

(6) Provide any information about the financial and managerial resources of the financial holding company and any other information requested by the Board.

(b) *What standards will the Board apply in evaluating the notice?* In evaluating a notice to engage in a complementary activity, the Board must consider whether:

(1) The proposed activity is complementary to a financial activity;

(2) The proposed activity would pose a substantial risk to the safety or soundness of depository institutions or the financial system generally; and

(3) The proposal meets the standards in section 4(j)(2) of the Bank Holding Company Act (12 U.S.C. 1843(j)(2)).

(c) *How and when will the Board act on a notice?* The Board will inform the financial holding company in writing of the Board's determination regarding the proposed activity within the period described in section 4(j) of the Bank Holding Company Act (12 U.S.C. 1843(j)).

By order of the Board of Governors of the Federal Reserve System, March 10, 2000.

Dated: March 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6469 Filed 3–16–00; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1063]

Bank Holding Companies and Change in Bank Control; Securities Underwriting, Dealing, and Market-Making Activities of Financial Holding Companies

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule with request for public comments.

SUMMARY: Underwriting, dealing in, and making a market in securities are financial activities permissible for financial holding companies under the Gramm-Leach-Bliley Act. Bank holding companies may currently engage in these activities only to a limited extent through so-called section 20 subsidiaries. Under the Board's current rules, section 20 subsidiaries are subject to eight operating standards imposed by the Board in order to address certain potential risks and conflicts associated with the affiliation of a bank and a securities firm.

The Board is adopting this interim rule to impose two of these operating standards on financial holding companies engaged in securities underwriting, dealing or market-making activities. Under the interim rule, intra-day extensions of credit by a bank or thrift, or U.S. branch or agency of a foreign bank, to a securities affiliate engaged in securities underwriting, dealing, or market-making must be on market terms. In addition, foreign banks that are financial holding companies or that are treated as financial holding companies will be required to comply with certain affiliate transaction restrictions with respect to lending and securities purchase transactions between a U.S. branch or agency of a foreign bank and a securities affiliate engaged in securities underwriting, dealing, or market-making.

DATES: The interim rule is effective on March 11, 2000. Comments must be received by May 12, 2000.

ADDRESSES: Comments, which should refer to docket number R–1063, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between the hours of 8:45 a.m. and 5:15 p.m. and, outside of those hours, to the Board's security control room. Both the mail room and the security control room are accessible from the Eccles Building courtyard entrance, located on 20th Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Thomas Corsi, Managing Senior Counsel, Legal Division (202) 452–3275; Michael J. Schoenfeld, Senior Supervisory Financial Analyst, Division of Banking Supervision and Regulation

(202) 452–2836; for the hearing impaired only, Telecommunications Device for the Deaf (TDD), Janice Simms (202) 872–4984.

SUPPLEMENTARY INFORMATION: The Gramm-Leach-Bliley Act differs from prior regulatory and statutory schemes in the manner that it addresses potential risks to a depository institution associated with securities and other activities conducted by affiliates. The current section 20 operating standards,[1] like the bills to repeal the Glass-Steagall Act that were considered in the late 1980s and early 1990s contain detailed restrictions on relationships and transactions between depository institutions and securities affiliates. The Gramm-Leach-Bliley Act relies instead on requirements that each depository institution affiliated with a securities firm be and remain well capitalized and well managed. The Gramm-Leach-Bliley Act also relies on functional regulation of the securities firm by the SEC, full supervision of the depository institution by the appropriate federal banking agency, and umbrella supervision of the overall organization by the Board to identify and address potential risks to the depository institution associated with the securities and other activities in the organization.

The Gramm-Leach-Bliley Act grants the Board authority to impose restrictions or requirements on relationships or transactions between a depository institution and any affiliate. The Board may impose a prudential limitation if the Board finds that the limitation is appropriate to avoid a significant risk to the safety and soundness of the depository institution or the Federal deposit insurance funds, to avoid other adverse effects or to prevent evasions of the banking laws.[2] The Board believes that most of the concerns that are raised by the affiliation of a securities firm with a financial holding company are addressed by the requirements of the Gramm-Leach-Bliley Act, other banking laws and regulations, and securities laws and regulations.

Two concerns that the Board believes are not addressed by current law or regulation relate to intra-day extensions of credit to a securities firm by an affiliated depository insitution, and to transactions between a U.S. branch or agency of a foreign bank that elects to become or be treated as a financial holding company, and an affiliated securities firm.

Intra-day extensions of credit: One operating standard applicable to section 20 subsidiaries (''operating standard 5'') requires that intra-day extensions of credit to a section 20 subsidiary by an affiliated bank or thrift, or U.S. branch or agency of a foreign bank be on market terms consistent with section 23B of the Federal Reserve Act. In considering whether to apply this limitation to financial holding companies, the Board notes that the Gramm-Leach-Bliley Act requires the Board, within the next 18 months, to address how the restrictions in section 23A apply to intra-day extensions of credit to all affiliates. Until such time as that effort is complete, however, the Board believes that operating standard 5 remains important to ensure that intra-day extensions of credit by a depository institution to an affiliated securities firm for clearing or other purposes are not subsidizing the activities of the securities firm to the detriment of the depository institution affiliate. Accordingly, the Board is applying the limitations in operating standard 5 to financial holding companies and foreign banks treated as financial holding companies to cover intra-day extensions of credit to their subsidiary securities firms from their subsidiary banks or thrifts or U.S. branches or agencies at least until such time as the analysis regarding the application of section 23A to intra-day extensions of credit is complete.

Transactions with U.S. branches and agencies of foreign banks: Another operating standard (''operating standard 8'') applicable to section 20 subsidiaries requires that a U.S. branch or agency of a foreign bank comply with sections 23A and 23B of the Federal Reserve Act[3] when extending credit to a section 20 affiliate, or when purchasing securities for which a section 20 affiliate is a principal underwriter.[4] A branch or agency also may not advertise or suggest that it is responsible for the obligations of a section 20 affiliate. Operating standard 8 permits a branch or agency of a foreign bank to engage in funding and securities purchase transactions with a section 20 affiliate subject to the same restrictions applicable to a U.S. depository institution.

The purpose of sections 23A and 23B of the Federal Reserve Act, which limit credit and other transactions between a bank and its affiliate, is to limit the possibility that the risks of activities conducted in a nonbank affiliate of a depository institution be transferred to the depository institution. The Board originally applied lending restrictions to transactions between U.S. branches and agencies of a foreign bank and a section 20 affiliate as a prudential limitation, recognizing that U.S. branches and agencies are part of the U.S. financial structure.[5] In addition, the Board adopted operating standard 8 because sections 23A and 23B apply to U.S. banks and thrifts, and the operating standard ensures competitive equity between foreign banks and U.S. banking organizations in the funding of section 20 affiliates. These are the types of concerns that section 114 of the Gramm-Leach-Bliley Act would require the Board to consider in imposing restrictions on foreign banks that become financial holding companies.

Under the Gramm-Leach-Bliley Act, foreign banks, as well as U.S. bank holding companies, that become financial holding companies will be able to engage in a broader range of securities activities than is permitted now. In view of this, the prudential and competitive equity concerns that led the Board to adopt operating standard 8 would justify applying that prudential limit in the case of a foreign bank that becomes a financial holding company. This restriction would apply only to transactions between a securities affiliate that underwrites, deals in, or makes a market in securities, and a U.S. branch or agency of a foreign bank, and not to the foreign bank itself.

Customer disclosures: The Board is not at this time imposing any customer disclosure requirements on financial holding companies with respect to the activities of a subsidiary securities firm engaged in securities underwriting, dealing, or market-making pursuant to section 4(k)(4)(E) of the BHC Act. To the extent that the securities firm makes a sale to a customer on the premises of a depository institution, or through a depository institution employee, or as a result of a referral by a depository institution, it will be required to make the disclosures contained in the Interagency Statement on Retail Sales of Nondeposit Investment Products (Interagency Statement).

Whether or not the activities of subsidiary securities firms of financial holding companies are covered by the Interagency Statement, the Board expects financial holding companies to take all necessary steps to ensure that customers are not confused about the nature of investment products they are purchasing. If the Board becomes aware

[1] 12 CFR 225.200. The operating standards would continue to apply to section 20 subsidiaries controlled by bank holding companies that do not qualify as financial holding companies.

[2] Pub. L. No. 106–102, 113 Stat. 1338, 1369–71 (1999).

[3] 12 U.S.C. 371c and 371c–1

[4] 12 CFR 225.200(b)(8).

[5] *See Canadian Imperial Bank of Commerce, et al.,* 76 Federal Reserve Bulletin 158, 163 (1990).

that customer confusion is occurring, or that action is necessary to prevent abuses, the Board may impose additional disclosure requirements on financial holding companies to address these issues.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Board must publish an initial regulatory flexibility analysis with this interim regulation. The purpose of the interim rule is to address concerns raised by the affiliation of a securities firm with a financial holding company that are not otherwise addressed by current law or regulation. The rule applies only to bank holding companies and foreign banks that voluntarily elect to become or be treated as financial holding companies under the Bank Holding Company Act as amended by the Gramm-Leach-Bliley Act, and also engage in certain securities activities. The interim rule applies to all financial holding companies regardless of size, and requires them to comply with certain restrictions that already apply to bank holding companies that control section 20 subsidiaries engaged in securities activities. The rule applies fewer restrictions to financial holding companies seeking to engage in securities activities than apply to bank holding companies that control section 20 subsidiaries and thus represents a reduction in the limitations on engaging in certain securities underwriting and dealing activities. The Board specifically seeks comment on the likely burden this interim rule will impose on small business entities and financial holding companies that seek to engage in securities activities.

Administrative Procedure Act

The Board will make this interim rule effective on March 11, 2000 without first reviewing public comments. Pursuant to 5 U.S.C. 553, the Board finds that it is impracticable to review public comments prior to the effective date of the interim rule, and that there is good cause to make the interim rule effective on March 11, 2000, due to the fact that the rule sets forth a requirement relating to activities that financial holding companies will be able to engage in on March 11, 2000, due to statutory changes that become effective on that date. The Board is seeking public comment on the interim rule and will amend the rule as appropriate after reviewing the comments.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the interim rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the interim rule.

List of Subjects in CFR 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Board amends 12 CFR part 225 as follows:

PART 225—BANK HOLDING COMPANY AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831(i), 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. Section 225.4 is amended by adding a new paragraph (g) to read as follows:

§ 225.4 Corporate practices.

* * * * *

(g) *Requirements for financial holding companies engaged in securities underwriting, dealing, or market-making activities.* (1) Any intra-day extension of credit by a bank or thrift, or U.S. branch or agency of a foreign bank to an affiliated company engaged in underwriting, dealing in, or making a market in securities pursuant to section 4(k)(4)(E) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(E)) must be on market terms consistent with section 23B of the Federal Reserve Act. (12 U.S.C. 371c–1).

(2) A foreign bank that is or is treated as a financial holding company under this part shall ensure that:

(i) Any extension of credit by any U.S. branch or agency of such foreign bank to an affiliated company engaged in underwriting, dealing in, or making a market in securities pursuant to section 4(k)(4)(E) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(E)), conforms to sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c–1) as if the branch or agency were a member bank;

(ii) Any purchase by any U.S. branch or agency of such foreign bank, as principal or fiduciary, of securities for which a securities affiliate described in paragraph (g)(2)(i) of this section is a principal underwriter conforms to sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c–1) as if the branch or agency were a member bank; and

(iii) Its U.S. branches and agencies not advertise or suggest that they are responsible for the obligations of a securities affiliate described in paragraph (g)(2)(i) of this section, consistent with section 23B(c) of the Federal Reserve Act (12 U.S.C. 371c–1(c)) as if the branches or agencies were member banks.

By order of the Board of Governors of the Federal Reserve System, March 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6502 Filed 3–16–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29950; Amdt. No. 421]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, April 20, 2000.

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

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95)

amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, D.C. on March 14, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 9091 UTC.

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 421 effective date: April 20, 2000, Final]

From—Is amended to read in part	To	MEA
&95.6001 VICTOR ROUTES—U.S.		
&95.6006 VOR FEDERAL AIRWAY 6		
Niles, IL FIX	Chett, MI FIX	*3500
*2500—MOCA		
Chett, MI FIX	Gipper, MI VORTAC	*3000
*2200—MOCA		
&95.6010 VOR FEDERAL AIRWAY 10		
Niles, IL FIX	Chett, MI FIX	*3500
*2500—MOCA		
Chett, MI FIX	Gipper, MI VORTAC	*3000
*2200—MOCA		
&95.6165 VOR FEDERAL AIRWAY 165		
Mustang, NV VORTAC	Pyram, NV FIX	*11000
*100000—MOCA		
&95.6175 VOR FEDERAL AIRWAY 175		
Worthington, MN VOR/DME	Redwood Falls, MN VORTAC	*3300
*2800—MOCA		
Park Rapids, MN VOR/DME	Bemidji, MN VORTAC	3400

[FR Doc. 00–6698 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 981019261–0020–02]

RIN 0694–AB73

Export Administration Regulations Entity List: Removal of Entities, Revision in License Policy, and Reformat of List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On November 18, 1998, the Bureau of Export Administration (BXA) published a rule in the **Federal Register** (63 FR 64322) that added certain Indian and Pakistani entities to the Entity List in the Export Administration Regulations (EAR). This rule removes 51 Indian entities and modifies one entity's listing. In addition, this rule will revise the license review policy for items classified as EAR99 (items that are subject to the EAR, but are not listed on the Commerce Control List) to Indian and Pakistani government, private and parastatal entities from a presumption of denial to a presumption of approval. Also, to correct two inadvertent errors in the publication of the Entity List, this rule: re-designates one existing Pakistani entry on the list as a government entity instead of a military facility; and re-designates one existing Indian entry on the list as a government entity instead of a private or parastatal entity, while also correcting the organization with which it was previously identified. Finally, after consultation between BXA and the Department of State, the subordinates of Indian and Pakistani organizations that are on the Entity List will be moved to appendix A and appendix B of the Entity List, respectively. BXA anticipates this change in policy will increase the number of license applications submitted to BXA.

DATES: This rule is effective March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Director, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 102(b) of the Arms Export Control Act, President Clinton reported to the Congress on May 13, 1998, with regard to India and May 30, 1998, with regard to Pakistan his determinations that those non-nuclear weapon states had each detonated a nuclear explosive device. The President directed in the determination reported to the Congress that the relevant agencies and instrumentalities of the United States take the necessary actions to implement the sanctions described in section 102(b)(2) of that Act. Consistent with the President's directive, the Bureau of Export Administration (BXA) implemented certain sanctions, as well as certain supplementary measures to enhance the sanctions on November 19, 1998 (63 FR 64322).

Based on a consensus decision by the Administration to more tightly focus the sanctions on those Indian entities which make direct and material contributions to weapons of mass destruction and missile programs and items that can contribute to such programs, BXA is removing 51 Indian entities from the Entity list, found in Supplement No. 4 to part 744 of the Export Administration Regulations (EAR), and revising the listing of one Indian entity. In addition, the license application review policy for the export or reexport of items classified as EAR99 to Indian and Pakistani government, private, and parastatal entities will be revised from a presumption of denial to a presumption of approval. The U.S. policy of denial for dual-use items controlled for nuclear proliferation (NP) and missile technology (MT) reasons to all Indian and Pakistani entities remains unchanged, however. Recent Congressional action supports these regulatory revisions. Section 9001(d) of the FY 2000 Defense Appropriations Act (the Act) includes language stating that ''it is the sense of Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that the control list requires refinement.'' The Act also states that it is the sense of Congress that ''export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.''

This rule re-designates the Pakistani entity, Gadwal Uranium Enrichment Plant, as a government entity under § 744.11(c)(1) of the EAR, instead of its initial designation of a military entity under § 744.12(c). The license review policy for this entity will remain one of denial for items controlled for NP or MT reasons, except items intended for the preservation of safety of civil aircraft, which will be reviewed on a case-by-case basis; and computers, which will be reviewed with a presumption of denial. All other items subject to the EAR to this listed entity will be reviewed with a presumption of denial, with the exception of items classified as EAR99, which will be reviewed with a presumption of approval, under the new review policy set out by this rule.

This rule re-designates the Uranium Recovery Plant, located in Cochin, India, as a government entity under § 744.11(c)(1) of the EAR, instead of its initial designation of a private/parastatal entity under § 744.11(c)(2). In addition, it revises the organization with which it is identified, as the Department of Atomic Energy (DAE), instead of Fertilizers and Chemicals Travancore (FACT), Uranium Corporation of India, Ltd. (UCIL). The license review policy for this entity will remain one of denial for items controlled for NP or MT reasons, except items intended for the preservation of safety of civil aircraft, which will be reviewed on a case-by-case basis; and computers, which will be reviewed with a presumption of denial. All other items subject to the EAR to this listed entity will be reviewed with a presumption of denial, with the exception of items classified as EAR99, which will be reviewed with a presumption of approval, under the new review policy set out by this rule.

This rule does not change the items subject to sanctions for entities remaining on the list. The Administration will continue to review both the list of sanctioned entities and the scope of licensing requirements over items, and may make additional changes.

The removal of entities from the Entity List does not relieve exporters or reexporters of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, ''you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.'' BXA strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BXA's 'Know Your Customer' Guidance and Red Flags'' when exporting or reexporting to India and Pakistan.

Entities Removed From Entity List

Ambarnath Machine Tool Prototype Factory

Ambarnath Ordnance Factory
Aruvankadu Cordite Factory
Avadi Combine Engine Plant
Avadi Heavy Vehicle Factory
Avadi Ordnance Clothing Factory
*Bharat Heavy Electrical Limited (BHEL), Hardwar and Ranipet
Bhusawal Ordnance Factory
Chandigarh Ordnance Cable Factory
Chandigarh Ordnance Parachute Factory
Combat Vehicle Research and Development Establishment (CVRDE)
Cossipore Gun and Shell Factory
Defence Bio-Engineering and Electro-Medical Laboratory (DEBEL)
Defence Food Research Laboratory (DFRL)
Defence Institute of Fire Research (DIFR)
Defence Institute of Physiology and Allied Sciences (DIPAS)
Defence Institute of Psychological Research (DIPR)
Defence Institute of Workstudy (DIWS)
Defence Research and Development Unit (DRDU)
Defence Research Laboratory (DRL)
Defence Terrain Research Laboratory (DTRL)
Dehra Dun Opto-Electronics Factory
Dehra Dun Ordnance Factory
Dehu Road Ordnance Factory
Hazratpur Ordnance Equipment Factory
Institute of Mathematical Sciences
Institute of Physics
Institute for Systems Studies and Analyses (ISSA)
Interuniversity Consortium of DAE Facilities
Jabalpur Gray Iron Foundry
Jabalpur Gun Carriage Factory
Kanpur Field Gun Factory
Kanpur Ordnance Parachute Factory
Kanpur Small Arms Factory
Katni Ordnance Factory
Khamaira Ordnance Factory
Kirkee Ammunition Factory
Medak Grey Iron Foundry
Medak Ordnance Factory
Mehta Research Institute of Maths and Math Physics
Naval Chemical and Metallurgical Laboratory (NCML)
Ordnance Factories Staff College
Ordnance Factories Training Institutes
Proof and Experimental Establishment
Saha Institute of Nuclear Physics
Scientific Analysis Group (SAG)
Shahjahanpur Ordnance Clothing Factory
Tata Institute of Fundamental Research
Tiruchchirappalli Heavy Alloy Penetrator Project
Titlagarh Ammunition Plant
Varangaon Ordnance Factory
The Variable Energy Cyclotron Centre (VECC)
*This is a revision, not a deletion. Only two cities of this entity are being removed.

Lastly, subordinate entities of listed Indian and Pakistani organizations have been moved to appendixes to Supplement No. 4 of part 744 (the Entity List). The subordinates will be listed in alphabetical order under a heading listing the organization with which they are identified.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101, August 13, 1999).

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. This rule contains and involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P; and 0694–0111, ''India Pakistan Sanctions,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P . Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 5 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

2. Section 744.11 is amended by revising the introductory text and paragraph (c) to read as follows:

§ 744.11 Restrictions on Certain Government, parastatal, and private entities in Pakistan and India.

To supplement sanctions measures against India and Pakistan, set forth in § 742.16 of the EAR, a prohibition is imposed on exports and reexports to certain government, parastatal, and private entities in India and Pakistan determined to be involved in nuclear or missile activities. With respect to subordinates of listed entities in India and Pakistan, only those specifically listed in Supplement No. 4 to part 744, Entity List, are subject to the restrictions and policies set forth in this section. The addition or deletion of entities to or from Supplement No. 4 to part 744, Entity List, does not relieve you of your obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR: ''you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.'' You are urged to use the guidance in Supplement No. 3 to part 732 of the EAR, ''BXA's ''Know Your Customer' Guidance and Red Flags'' when exporting or reexporting to India and Pakistan.

* * * * *

(c) *License review standards.* (1) *Government entities.* Applications to export or reexport items controlled for NP or MT reasons to listed government entities will be denied, except items intended for the preservation of safety of civil aircraft, which will be reviewed on a case-by-case basis; and computers, which will be reviewed with a presumption of denial. Items classified as EAR99 will be reviewed with a presumption of approval. All other items subject to the EAR to these listed entities will be reviewed with a presumption of denial.

(2) *Parastatal and private entities.* Applications to export or reexport items controlled for NP or MT reasons to certain parastatal and private entities will be denied, except items intended to ensure the safety of civil aviation and safe operation of commercial passenger aircraft, which will be reviewed on a case-by-case basis; and computers, which will be reviewed with a presumption of denial. Items classified as EAR99 will be reviewed with a presumption of approval. All other items subject to the EAR to these listed entities will be reviewed with a presumption of denial. Except for items controlled for NP or MT reasons, exports or reexports to listed parastatals and private entities with whom you have a preexisting business arrangement will be considered on a case-by-case basis, with a presumption of approval in cases where neither the arrangement nor the specific transaction involves nuclear or missile activities and the exports or reexports are pursuant to that arrangement. Because EAR99 items have a license review policy of presumption of approval, you may choose not to provide documentation of such arrangements for those items. The term ''business arrangement'' covers the full range of business agreements, including general contracts, general terms agreements (*e.g.,* agreements whereby the seller delivers products under purchase orders to be issued by the buyer), general business agreements, offset agreements, letter agreements that are stand-alone contracts, and letter agreements that are amendments to existing contracts or other agreements. The terms of the preexisting business arrangement policy may also apply to the longstanding continued supply of a particular item or items from the exporter to the entity even when there is no current agreement between the firms. BXA, in conjunction with other agencies, will determine eligibility under the preexisting business arrangement policy. In order to be eligible under the policy, you must provide documentation to establish such an arrangement. The documentation should be provided at the time you submit a license application to export or reexport items to any listed parastatal or private entity.

3. Supplement No. 4 to part 744 is amended by removing the entities for India and Pakistan and replacing them with the following list of entities for India and Pakistan, and adding Appendixes A and B to Supplement No. 4 to part 744 to read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register citation
*	* *	* *	*	*
INDIA	Aeronautical Development Agency, Ministry of Defense, Bangalore.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.]
	Aerospace Division, Hindustan Aeronautics Limited (HAL), Bangalore.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.]
	Atomic Energy Commission (AEC) located in Mumbai (formerly Bombay).	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Atomic Energy Regulatory Board (AERB), Mumbai (formerly Bombay).	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	AURO Engineering, Pondicherry	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Baroda Ammonia Plant, (collocated with the Baroda Heavy Water Production Facility), Gujarat Fertilizers, Baroda.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Bharat Dynamics Limited, Bhanur and Hyderabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Bharat Earth Movers Limited (BEML), Bangalore.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Bharat Electronics Limited (BEL), Bangalore, Ghaziabad, and Hyderabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	62 FR 26922, 5/16/97; 62 FR 51369, 10/1/97; 63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Bharat Heavy Electrical Limited (BHEL), Trichy (Tiruchirapalli), Hyderabad, and New Delhi.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Central Manufacturing Technology Institute, a.k.a. Central Machine Tool Institute, Bangalore.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Centre for Development of Advanced Computing, Department of Electronics, Pune.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Defence Research and Development Organization (DRDO) located in New Delhi and subordinate entities specifically listed in Appendix A to this supplement.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Department of Atomic Energy (DAE) located in Mumbai (formerly Bombay) and the subordinate entities specifically listed in Appendix A to this supplement.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Department of Defense Production and Supplies (DDPS) and the subordinate entities specifically listed in Appendix A to this supplement.	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Department of Space (DOS) located in Bangalore and the subordinate entities specifically listed in Appendix A to this supplement.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Electronics Corporation of India, Ltd. (ECIL), Hyderabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Engine Division, Hindustan Aeronautics Limited (HAL), Bangalore.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Ferrodie Private Limited (FPL), Thane	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Godrej & Boyce Mfg., Co., Ltd., Precision Equipment Division (PED) and Tool Room Division, Mumbai (formerly Bombay).	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Hazira Ammonia Plant, (collocated at the Hazira Heavy Water Production Facility) Krishak Bharati Cooperative, Ltd., Hazira.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Indian Institute of Science (IIS), Departments of: Aerospace Engineering and Space Technology Cell, Bangalore.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Indian Institute of Technology (IIT), Departments of: Aerospace Engineering and Space Technology Cell, Chennai (formerly Madras).	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Indian Institute of Technology (IIT), Departments of: Physics, Aerospace Engineering, and Space Technology Cell, Mumbai (formerly Bombay).	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Indian Rare Earths, Ltd., (IREL), located in Mumbai (formerly Bombay) and subordinate entities specifically listed in Appendix A to this supplement.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	62 FR 35335, 6/30/97; 63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Kirloskar Brothers, Ltd. (KB), Pune	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Larsen & Toubro, Ltd. (L&T), Hazira Works, Hazira.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Machine Tool Aids & Reconditioning (MTAR), Hyderabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Mishra Dhatu Nigam, Ltd. (MIDHANI), Hyderabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	National Aerospace Laboratory, Bangalore	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	National Trisonic Aerodynamic Facility, National Aerospace Laboratory, Bangalore.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	The Nuclear Power Corporation of India, Ltd. (NPCIL), located in Mumbai (formerly Bombay) and subordinate entities specifically listed in Appendix A to this supplement.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Nuclear Science Centre (NSC), New Delhi	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Precision Controls, Chennai (formerly Madras)	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Rama Krishna Engineering Works (REW), Chennai (formerly Madras).	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Talcher Ammonia Plant, (collocated at Talcher Heavy Water Production Facility) Fertilizer Corporation of India, Ltd., Talcher.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Thal-Vaishet Ammonia Plant, (collocated at Thal-Vaishet Heavy Water Production Facility), Rashtriya Chemicals & Fertilizers, Thal-Vaishet in Maharashtra.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Tuticorin Ammonia Plant, (collocated at Tuticorin Heavy Water Production Facility), Southern Petrochemical Industries Corporation, Tuticorin.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Uranium Corporation of India, Ltd. (UCIL), located in Jaduguda and subordinate entities specifically listed in Appendix A to this supplement.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Walchandnagar Industries, Ltd. (WIL), Nadu Desarai and Mahad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
*	* *	* *	*	*
PAKISTAN	Abdul Qader Khan Research Laboratories, a.k.a. Khan Research Laboratories (KRL), a.k.a. Engineering Research Laboratories (ERL), Kahuta.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Al Technique Corporation of Pakistan, Ltd.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Allied Trading Co.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	ANZ Importers and Exporters, Islamabad	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Armed Forces Institute of Pathology—Rawalpindi Laboratory.	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Center for Advanced Molecular Biology, Lahore.	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Combat Development Directorate (CDD)	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Defence Science and Technology Organization (DESTO) located in Rawalpindi and subordinate entities specifically listed in Appendix B to this supplement.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Engineering and Technical Services, Islamabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Engineering Research Laboratories (ERL), a.k.a. Abdul Qader Khan Research Laboratories, a.k.a. Khan Research Laboratories (KRL), Kahuta.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Gadwal Ammunition Plant	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Gadwal Uranium Enrichment Plant	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Ghulam Ishaq Khan Institute of Technology, Topai.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Golra Ultracentrifuge Plant, Golra	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Goth Macchi Nitrogen Fertilizer Plant, Sadiqabad.	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Haripur Nitrogen Fertilizer Plant, Hazara	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Havelian Explosives and Ammunition Plant	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	High Technologies, Ltd., Islamabad	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Karachi CBW Research Institute, University of Karachi's Husein Ebrahim Jamal Research Institute of Chemistry (HEJRIC).	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Karachi Naval Base and Naval Hqs. And Dockyard.	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Karachi Superphos Fertilizer Plant, Al Noor	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Khan Research Laboratories (KRL) a.k.a. Abdul Qader Khan Research Laboratories, a.k.a. Engineering Research Laboratories (ERL), Kahuta.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98; 62 FR 35334, 6/30/97 [INSERT FR CITE] 3/17/00.
	Khewra Soda Ash Plant, Soda Ash Businesses, Soda Ash Works, Khewra Distt. Jhelum, (owned by ICI Pakistan Limited).	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98; 64 FR 14606, 3/26/99
	Lahore Weapons Plant, PEC	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Lastech Associates, Islamabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Machinery Master Enterprises, Islamabad	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Maple Engineering Pvt. Ltd. Consultants, Importers and Exporters.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Mirpur Nitrogen Fertilizer Plant, Mathelo	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Modern Engineering Services, Ltd., Islamabad	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Multan Chemical Fertilizer Plant	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	National Development Centre	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	62 FR 35335, 6/30/97; 63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	National Institute of Biotechnology and Genetic Engineering, Faisalabad.	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Orient Importers and Exporters, Islamabad	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Pakistan Atomic Energy Commission (PAEC) located in Islamabad and subordinate entities specifically listed in Appendix B to this supplement.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Pakistan Institute for Nuclear Science and Technology (PINSTECH) located in Islamabad and subordinate entities specifically listed in Appendix B to this supplement.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	62 FR 35334, 6/30/97; 63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Pakistan Ordnance Factories	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	People's Steel Mills, Karachi	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Prime International	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Saniwal Ammunition Plant	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Scientific and Technical Technology, Ltd., Islamabad.	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Sihala Ultracentrifuge Plant, Sihala	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Space and Upper Atmospheric Research Commission (SUPARCO) and subordinate entities specifically listed in Appendix B to this supplement.	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Space Research Council	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Technical Services, Islamabad	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	The Tempest Trading Company, Islamabad	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Unique Technical Promoters	For all items subject to the EAR.	See § 744.11(c)(2) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.
	Wah Chemical Product Plant	For all items subject to the EAR having a classification other than EAR99.	See § 744.12(c) of this part.	63 FR 64322, 11/19/98.
	Wah Munitions Plant, a.k.a. Explosives Factory, Pakistan Ordnance Factories (POF).	For all items subject to the EAR.	See § 744.11(c)(1) of this part.	63 FR 64322, 11/19/98 [INSERT FR CITE] 3/17/00.

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Appendix A to Supplement No. 4 to Part 744 (Entity List)—Listed Subordinates of Listed Indian Organizations

The subordinates listed in this appendix are considered listed entities to the Entity List. Subordinates have the same license requirements and review policy as the organizations they are identified under. The subordinates in this appendix are listed in alphabetical order under the organization that they are identified with, which are also listed in alphabetical order.

Defence Research and Development Organization (DRDO):

Aerial Delivery Research and Development Establishment (ADRDE), Agra
Aeronautical Development Establishment (ADE), Bangalore
Armament Research and Development Establishment (ARDE), Pune
Centre for Aeronautical Systems Studies and Analysis (CASSA), Bangalore
Defence Electronics Applications Laboratory (DEAL), Dehra Dun
Defence Electronics Research Laboratory (DERL or DLRL), Hyderabad
Defence Laboratory (DL), Jodhpur
Defence Materials and Store Research and Development Establishment (DMSRDE), Kanpur
Defence Metallurgical Research Laboratory (DMRL), Hyderabad
Defence Research and Development Establishment (DRDE), Gwalior
Defence Research and Development Laboratory (DRDL), Hyderabad
Defence Science Centre (DSC), New Delhi
Electronics and Radar Development Establishment (ERDE or LRDE), Bangalore
Explosive Research and Development Laboratory (ERDL), Pune
Gas Turbine Research Establishment (GTRE), Bangalore
Institute of Armament Technology (IAT), Pune
Instruments Research and Development Establishment (IRDE), Dehra Dun
The Missile Research and Development Complex, Imarat, Hyderabad
National Test Range, Baliabad
Naval Physical and Oceanographic Laboratory (NPOL), Cochin
Naval Science and Technological Laboratory (NSTL), Vishakhapatnam
Research and Development Establishment (Engineers) (R&DE (ENGRS)), Pune
Solid State Physics Laboratory (SSPL), New Delhi
Terminal Ballistics Research Laboratory (TBRL), Chandigarh
Vehicles Research and Development Establishment, Ahmednagar

Department of Atomic Energy (DAE):

Advanced Fuel Fabrication Facility, Tarapur
Aspara Research Reactor, Trombay
The Atomic Minerals Division (AMD), Hyderabad
Baroda Heavy Water Production Facility, Baroda
Beryllium Machining Facility, Mumbai
Bhabha Atomic Research Center (BARC), Trombay/Mumbai
Board of Radiation and Isotope Technology (BRIT), Mumbai
Boron Enrichment Plant, Trombay
Central Workshops, Trombay
Centre for Advanced Technology (CAT), Indore
Centre for the Compositional Characterization of Materials, Hyderabad
Ceramic Fuels Fabrication Plant, Hyderabad
Cirus Reactor, Mumbai
Construction Services and Estate Management Group, Mumbai
Dhruva Reactor, Mumbai
Directorate of Purchase and Stores (DPS), Mumbai
Fast Breeder Test Reactor (FBTR), Kalpakkam
Fast Reactor Fuel Reprocessing Plant (FRFRP), Kalpakkam
General Services Organization, Kalpakkam
Hazira Heavy Water Production Facility, Hazira
Heavy Water Board, Mumbai
Indira Gandhi Center for Atomic Research (IGCAR), Kalpakkam
Kalpakkam Reprocessing Plant (KARP), (a.k.a. Kalpakkam Fuel Reprocessing Plant), Kalpakkam
Kamini Research Reactor, Kalpakkam
Kota Heavy Water Production Facility, Kota
Manuguru Heavy Water Production Facility, Manuguru
Nangal Heavy Water Production Facility, Nangal
New Zirconium Sponge Plant, Hyderabad
Nuclear Fuel Complex (NFC), Hyderabad
Plutonium Reprocessing Plant, Trombay
PREFRE Reprocessing Plant, Tarapur
Prototype Fast Breeder Reactor (PFBR), Kalpakkam
Purinima Facility, Trombay
Special Materials Plant, Hyderabad
Talcher Heavy Water Production Facility, Talcher
Thal-Vaishet Heavy Water Production Facility, Thal-Vaishet in Maharashtra
Trombay Reprocessing Plant, Trombay
Tuticorin Heavy Water Production Facility, Tuticorin
Uranium Conversion Plant, Trombay
Uranium Enrichment Plant, Trombay
Uranium Fuel Assembly Plant, Hyderabad
Uranium Recovery Plant, Cochin
Zirconium Fabrication Plant, Hyderabad

Department of Defense Production and Supplies (DDPS):

Ambajhari Ordnance Factory
Chanda Ammunition Loading Plant
Chanda Ordnance Factory
Dum Dum Ordance Factory
Ishapore Metal and Steel Factory
Ishapore Rifle Factory
Itarsi Ordnance Factory
Kanpur Ordnance Equipment Factory
Kanpur Ordnance Factory
Kirkee High Explosives Factory
Muradnagar Ordnance Factory
Ordnance Factory Board
Tiruchchirappalli Ordnance Factory

Department of Space (DOS):

Ammonium Perchlorate Experimental Plant, Alwaye
Indian Space Research Organization (ISRO), Bangalore
Interim Test Range (ITR), Balasore
ISRO Inertial Systems Unit (IISU), Thiruvananthapura
Liquid Propulsion Systems Centre, Bangalore
Liquid Propulsion Systems Centre, Thiruvananthapuram or Valiamala
Liquid Propulsion Test Facility, Mahendragiri
Meteorological Rocket Station, Balasore
Physical Research Laboratory (PRL), Ahmadabad
Solid Propellant Space Booster Plant (SPROB)
Space Applications Centre (SAC), Ahmadabad
Space Physics Laboratory (SPL),Thiruvananthapuram
Sriharikota Space Centre (SHAR), Andhra Pradesh
Thumba Equatorial Rocket Launching Station
Vikram Sarabhai Space Centre (VSSC), Thiruvananthapuram

Indian Rare Earths, Ltd. (IREL):

India Minerals Separation Plants, Chhatrapur, Orissa, and Chavara
The Mineral Sand Separation Complex, Chhatrapur in the Gunjan District of Orissa
Minerals Recovery Plant, Chavara
Orissa Sands Complex (OSCOM), Chhatrapur in the Gunjan District of Orissa
Rare Earth Development Laboratory, Trombay
Rare Materials Plant, Mysore
Thorium Plant, Chhatrapur
Zirconium Oxide Plant, Manavalakuruchi

The Nuclear Power Corporation of India, Ltd. (NPCIL):

Heavy Water Upgrade Plant, Kakrapar
Kaiga Atomic Power Project (KAPP), Kaiga
Kakrapar Atomic Power Station (KAPS), Kakrapar
Kundankulam Atomic Power Project, Kundankulam
Madras Atomic Power Station (MAPS), Kalpakkam
Narora Atomic Power Station (NAPS), Bullandshahr (Uttar Pradesh)
Rajasthan Atomic Power Station (RAPS) and Rajasthan Atomic Power Project, Rawatbhata
Tarapur Atomic Power Station (TAPS) and Tarapur Atomic Power Project, Tarapur

Uranium Corporation of India, Ltd. (UCIL):

Bhatin Uranium Mine and Mill, Bhatin
Jaduguda Uranium Mine and Mill, Jaduguda
Narwapahar Uranium Mine and Mill, Narwapahar
Uranium Mine and Mill, Narwapahar, Jaduguda, and Bhatin
Uranium Mine, Turamdih
Uranium Recovery Plants, Mosabini (a.k.a. Masabeni), Rakha and Surda (a.k.a. Surdat)

Appendix B to Supplement No. 4 to Part 744 (Entity List)—Listed Subordinates of Listed Pakistani Organizations

The subordinates listed in this appendix are considered listed entities to the Entity

List. Subordinates have the same license requirements and review policy as the organizations they are identified under. The subordinates in this appendix are listed in alphabetical order under the organization that they are identified with, which are also listed in alphabetical order.

Defence Science and Technology Organization (DESTO):

Chaklala Defense Science and Technology Organization
Daud Khel Chemical Plant, Lahore
Karachi CBW & BW Warfare R&D Laboratory

Pakistan Atomic Energy Commission (PAEC):

Atomic Energy Minerals Centre, Lahore
Baghalchur Uranium Mine, Baghalchur
Center for Nuclear Studies, Islamabad (also PINSTECH)
Chasma Fuel Fabrication Plant, Kundian
Chasma Nuclear Power Plant (CHASNUPP), Kundian
Computer and Development Division, KANUPP Institute of Nuclear Power Engineering (KINPOE)
Computer Training Center (also PINSTECH), Islamabad
Dera Ghazi Khan Uranium Mine, Dera Ghazi Khan
Directorate of Technical Development
Directorate of Technical Equipment
Directorate of Technical Procurement
Hard Rock Division, Penshawar
Hawkes Bay Depot
Heavy Water Production Plant, KANUPP, Karachi
Institute of Nuclear Power, Islamabad
Issa Khel/Kubul Kel Uranium Mines and Mills, Miniawali District
Karachi Nuclear Power Plant (KANUPP), Karachi
KANUPP Institute of Nuclear Power Engineering (KINPOE), Karachi
Khushab Reactor, Khushab, Punjab
Mineral Sands Program, Karachi
Multan Heavy Water Production Facility, Multan Division, Punjab
National Engineering Service of Pakistan, CHASMA Nuclear Power Plant (CHASNUPP), Kundian
Science and Engineering Services Directorate
Uranium Conversion Facility, Islamabad

Pakistan Institute for Nuclear Science and Technology (PINSTECH):

New Laboratories, Rawalpindi
Nuclear Track Detection Center
Parr-1 Research Reactor
Parr-2 Research Reactor
Pilot Reprocessing Plant, New Laboratories
Solid State Nuclear Track Detection Center

Space and Upper Atmospheric Research Commission (SUPARCO):

Aerospace Institute, Islamabad
Computer Center, Karachi
Control System Laboratories
Flight Test Range, Sonmiani Beach
Instrumentation Laboratories, Karachi
Material Research Division
Quality Control and Assurance Unit
Rocket Bodies Manufacturing Unit
Solid Composite Propellant Unit
Space and Atmospheric Research Center, Karachi
Static Test Unit, Karachi

Dated: March 14, 2000.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 00–6653 Filed 3–14–00; 3:06 pm]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 16 and 17

RIN 3038–ZA10

Changes in Reporting Levels for Large Trader Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) periodically reviews its large trader reporting rules to ensure that the Commission is receiving adequate information to carry out its market surveillance programs. Based upon the Commission's most recent review of these rules the Commission is amending, as proposed, Parts 15, 16, and 17 of its rules, 17 CFR Parts 15, 16 and 17. The final amendments to Part 15 raise the reporting levels at which futures commission merchants (FCMs), clearing members, foreign brokers,[1] and traders must file large trader reports in certain commodities to reduce the number of required reports. The Commission is also deleting, as proposed, the requirement that where an independent account controller trades for a number of commodity pools, the carrying firm must identify separately each such commodity pool. In addition, the amendments delete, as proposed, reporting Rule 17.01(c) under which a reporting firm was required to identify the number and name of other accounts that the trader controlled or owned that were not included in the special account.

The Commission is also reorganizing, as proposed, the identifying information large traders report on CFTC Form 40 ''Statement of Reporting Trader'' to obtain and present data more useful to the Commission's market surveillance activities. In addition, the Commission is deleting the requirement under Part 16, as proposed, that exchanges provide weekly option large trader data directly to the Commission. These final amendments streamline the reporting process and substantially lessen the burden on persons reporting, as well as the processing workload of the Commission, without compromising the integrity of the Commission's large trader reporting system, its market surveillance activities or its oversight responsibilities.

EFFECTIVE DATE: May 16, 2000.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, or Kimberly A. Browning, Assistant Chief Counsel, Division of Economic Analysis, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, telephone (202) 418–5600, or electronically [lreese@cftc.gov] or [kbrowning@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has re-examined its rules regarding its large trader reporting system. The Commission's large-trader reporting system is an important Commission oversight tool. These rules require FCMs to report to the Commission position information of the largest futures and options traders and require the traders themselves to provide certain identifying information. Reporting levels are set in the designated futures and option markets under the authority of sections 4i and 4c of the Act to ensure that the Commission receives adequate information to carry out its market surveillance programs. These market surveillance programs are designed to detect and to deter market congestion and price manipulation and to enforce speculative position limits. They also provide information regarding the overall hedging and speculative use of, and foreign participation in, the futures markets and other matters of public interest. Generally, the firm carrying the reportable trader's position files large trader reports.[2]

[1] FCMs, clearing members and foreign brokers are referred to herein collectively as ''firms.''

[2] Specifically, Parts 17 and 18 of the regulations require reports from firms and traders, respectively, when a trader holds a ''reportable position.'' A reportable position is any open contract position that at the close of the market on any business day equals or exceeds the quantity specified in Commission Rule 15.03 in either: (1) Any one future of any commodity on any one contract market, excluding futures contracts against which notices of delivery have been stopped by a trader or issued by the clearing organization of a contract market; or (2) Long or short put or call options that exercise into the same future of any commodity on any one contract market. 17 CFR 15.00 and Part 150. The firms which carry accounts for traders holding ''reportable positions'' are required to identify those accounts by filing a CFTC Form 102, discussed infra, and to report all reportable positions in the accounts to the Commission. The individual trader who holds or controls the reportable position, however, is required to report

II. Proposed Rulemakings

A. Parts 15 and 17 (64 FR 5200)

Based upon the Commission's re-examination of its large trader reporting system rules, the Commission published a notice of proposed rulemaking (proposed rulemaking) to amend Parts 15 and 17 of its rules. 64 FR 5200 (February 3, 1999). Specifically, the Commission proposed to raise the reporting levels in certain domestic contracts. The Commission also proposed to modify reporting levels for foreign currencies. In addition, the Commission proposed to list the reporting levels for the grains and soybeans in terms of contracts rather than bushels.

The Commission also proposed to streamline the reporting process by deleting those sections of § 17.01 requiring that ''special account'' [3] data reflected on CFTC Form 102s must include specific information on commodity pools and pool operators, as well as ''other account'' data, described infra, that § 17.01(c) required. In addition, the Commission proposed to reorganize its Form 40,[4] to present data in a more useful manner.

Two commenters, the Chicago Board of Trade (CBT) and the Chicago Mercantile Exchange (CME), responded to the notice of proposed rulemaking. Both CBT and CME objected to the majority of the proposed amendments. In summary, these two exchanges similarly opined that through implementation of the proposed amendments, the market surveillance activities of self-regulatory organizations would be compromised by ''eliminating the collection of important market data that [the exchanges rely] upon * * * as part of [their] rigorous financial and market surveillance programs.'' [5] In addition, both CBT and CME expressed the same view that the exchanges, and not the Commission, should set reporting levels. These comments are discussed in greater detail below.

B. Part 16 (61 FR 37409)

Separately, in May 1997, the Commission amended its reporting rules to require that firms file option large trader reports with the Commission on a daily basis. 62 FR 24026 (May 2, 1997). Although as part of that rulemaking, the Commission proposed deleting the requirement under Part 16 that contract markets provide weekly option large trader data directly to the Commission,[6] in issuing final rules, the Commission deferred taking that action until after all firms began to provide the required daily reports. The Commission explained that it was in the process of reengineering its market surveillance software to accommodate the receipt and processing of daily option large trade data, directly from the firms, and that collection of such information could begin only after the Commission had completed its software development and had tested the software jointly with the firms. The Commission further stated that since the process could be completed prior to the Commission's deletion of the requirement that exchanges report larger trader option information under Part 16, it ''will take no enforcement action against an exchange for not providing weekly option large trader data upon a finding that firms are providing such data for contract markets on the exchange.'' [7]

III. Final Rules

A. Reporting Levels

In the proposed rulemaking, the Commission explained that it ''periodically reviews information concerning trading volume, open interest, and the number and position sizes of individual traders relative to the reporting levels for each market to determine if coverage of open interest is adequate for effective market surveillance.'' 64 FR 5201. The Commission noted that in performing such periodic reviews, it is also ''mindful of the paperwork burden associated with these reporting requirements and reviews them with an eye to streamlining that burden to the extent compatible with its responsibilities for rigorous surveillance of the futures and option markets.'' Id. In this regard, the Commission explained that ''its most recent review of reporting levels indicated that the size of trading volume, open interest, and position of individual traders would enable the Commission to raise [certain] reporting levels''. Id.[8]

The Commission also proposed modification of the reporting levels for foreign currencies. In particular, the Commission noted that ''Commission Rule 15.03 does not distinguish among foreign currencies, setting a uniform standard for all. However, surveillance of contracts on currencies of the major economies requires fewer large trader reports than for contracts on the currencies of the emerging markets.'' Id. Accordingly, the Commission proposed to amend Rule 15.03 to classify the European currency unit (and its successor, the Euro) and the currencies of Japan, Germany, the UK, France, Italy, Canada, Australia, Switzerland, Sweden, Belgium, and the Netherlands as ''Major Foreign Currencies'' and to raise the reporting level applicable to them to 400 from the then current level of 200 contracts.

In addition, the Commission proposed to lower the reporting level for all other foreign currencies to 100 contracts in order to obtain needed information in surveilling these contracts. In addition,

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to the Commission only in response to a special call.

[3] Part 17 of the Commission's regulations requires that firms report to the Commission when an account first becomes reportable. When a trade first exceeds a reporting level, the firm labels the account a special account. The firm assigns a reporting number to the special account and reports all information to the Commission using this number. The firm must also file with the Commission Form 102. Commission Rule 17.01, 17 CFR 17.01. CFTC Form 102 identifies persons who have a financial interest in or trading control of a special account, informs the Commission of the type of account that is being reported and gives preliminary information whether positions and transactions are commercial or noncommercial in nature. The CFTC Form 102 must also be updated when information concerning financial interest in, or control of, the special account changes. 17 CFR 17.02.

[4] Under Part 18 of the Commission's regulations, traders who own or control reportable positions are required to file a CFTC Form 40 on call by the Commission or its delegee disclosing information about the ownership or control of their futures and option positions.

[5] See the CBT's letter of April 5, 1999 to the Commission (CBT letter).

[6] See, 61 FR 37409 (July 18, 1996) (Part 16 proposed rulemaking).

[7] 62 FR 24032. The Commission delegated to the Director of the Division of Economic Analysis (Division), the authority to make the required findings and determination granting this no-action relief to the exchanges. Id. For a complete discussion of the comments received in response to the Commission's Part 16 proposed rulemaking, see Id.

[8] Specifically, the Commission proposed to raise reporting levels as follows: (1) Lean Hogs from 50 to 100 contracts, (2) Rough Rice from 25 to 50 contracts, (3) Goldman Sachs Commodity Index from 25 to 100 contracts, (4) Soybean Oil from 175 to 200 contracts, (5) Soybean Meal from 175 to 200 contracts, (6) 1-Month LIBOR from 100 to 300 contracts, (7) 30-Day Fed Funds from 100 to 300 contracts, (8) 3-Month Eurodollars from 850 to 1000 contracts, (9) 3-Month Euroyen from 25 to 100 contracts, (10) 2-Year US Treasury Notes from 200 to 500 contracts, (11) 5-Year US Treasury Notes from 300 to 800 contracts, (12) 10-Year US Treasury Notes from 500 to 1000 contracts, (13) 30-Year US Treasury Bonds from 500 to 1000 contracts, (14) Municipal Bond Index from 100 to 300 contracts, (15) Dow Jones Industrial Average Index from 25 to 100 contracts, (16) NASDAQ 100 Stock Index from 25 to 100 contracts, (17) NIKKEI Stock Average from 50 to 100 contracts, (18) Russell 2000 Stock Index from 25 to 100 contracts, (19) S&P 400 Midcap Stock Index from 25 to 100 contracts, (20) S&P 500 Stock Index from 600 to 1000 contracts, (21) Crude Oil from 300 to 350 contracts, (22) Natural Gas from 100 to 175 contracts, and (23) Sugar 11 from 300 to 400 contracts.

The Commission also proposed to delete Rule 15.03's separate reference to ''GNMA,'' a contract that is now currently dormant. See, 17 CFR 5.2(a). The Commission explained that under this proposal, if trading in GNMAs were to be reactivated, the reporting level would be 25 contracts.

the Commission proposed a 100 contract reporting level for any contract having one of the other foreign currencies as a constituent part of a crossrate contract. The Commission explained that cross-rate contracts that are composed of two major currencies would also be considered to be a major currency. Finally, the Commission also proposed to list the reporting levels for the grains and soybeans in terms of contracts rather than bushels.[9] The Commission estimated that:

> [T]hese proposed amendments to adjust reporting levels will decrease the number of daily position reports (*i.e.,* CFTC Series '01 Reports and CFTC Form 102s) required to be filed by reporting firms by about 14 percent. (The number of CFTC Form 40s required to be filed by large traders will also decrease). However, the percent of total market open interest reported through the large trader system would remain at the level deemed sufficient for rigorous market surveillance based upon the Commission's administrative experience.

Id. at 5202.

Both CBT and CME strongly objected to the Commission's proposal to raise these reporting levels. Specifically, CME opined that ''given that contract markets have primary responsibility for surveiling their markets, it is they, and not the Commission, that are best equipped to determine what reporting levels are adequate for effective surveillance.''[10] Similarly, CBT recommended that ''[i]nstead of raising the reportable levels for certain contracts, we recommend that the Commission consider deferring to the reportable levels adopted by the exchanges.''[11] In addition, both exchanges viewed the information generated through the prior reporting levels as ''necessary.'' In this regard, CBT indicated that the information from large trader position reporting is ''extremely valuable'' to their financial surveillance activities. Further, CME stated that it ''does not intend to raise its reporting levels to correspond to the proposed increases. [CME believes that the Commission's projected decrease in daily position reports required to be filed by reporting firms will not occur, given that] clearing members will in fact be required to continue to report at the lower levels set by CME.''[12] Similarly, CBT remarked that it will probably retain the lower reporting levels currently set in its rules for certain commodities.

Based upon thorough and careful consideration of the comments, as well as the Commission's most recent review of reporting levels, the Commission finds it appropriate to amend the reporting levels in certain domestic contracts, as well as modify reporting levels for foreign currencies, as proposed. These changes will reduce both the Commission's cost of collecting surveillance data and the cost of data filers. The exchanges may set their own reporting levels as they deem appropriate. The Commission is also listing the reporting levels for the grains and soybeans in terms of contracts rather than bushels, as proposed.[13] The Commission is also deleting, as proposed, Rule 15.03's separate reference to ''GNMA.''

B. Final Amendments to Special Account Information (CFTC Form 102)

Previously, Commission Rule 17.01(b)(3) required that a firm identify on CFTC Form 102, each pool, the pool's account number and name, as well as the name and location of the commodity pool for which the account controller trades. In addition, Commission Rule 17.01(c) required that a trader identify on a Form 102 the names and account numbers of all other separate accounts that the reporting trader controls or in which the trader has a ten percent or greater financial interest. (''other accounts'').[14]

In proposing the amendment of § 17.01 by deleting these information requirements under 17.01(b)(3) and (c), the Commission explained that this information is no longer needed for the ''operation of the Commission's surveillance data systems or by routine report from firms.'' *Id.* Specifically, the Commission explained that ''[t]hese requirements are duplicative of more complete information on account ownership and control filed by the traders themselves on CFTC Form 40, as required by Commission Rule 18.04.'' *Id.*

Both CBT and CME strongly disfavored the Commission's proposals to delete the information requirements under 17.01(b)(3) and (c) as described above. In particular, CBT and CME similarly stated that they rely on this information to perform effective market and financial surveillance. In addition, both exchanges pointed out that while this information may be supplied in the CFTC Form 40, the Form 40, unlike CFTC Form 102, is filed only with the Commission. Therefore, in removing the information on commodity pools and pool operators from the Form 102, the exchanges must obtain this information in some other manner. In this regard, CBT recommended that if the Commission implements the proposed changes to Form 102, it concurrently adopt procedures to provide the exchanges with copies of the Form 40 on a routine basis. In addition, CBT also questioned the necessity of the proposed changes to Commission Rule 17.01(b)(3) and Form 102 given that ''the industry has been working on an electronic Form 102 to achieve the very same objective cited by the Commission of lessening the burden of reporting requirements.''[15]

After careful consideration of the comments, the Commission has determined to amend § 17.01 as proposed. The Commission continues to believe that these amendments will reduce the reporting burden on the public and the processing workload of the Commission. The Commission notes here, as it did in the proposed rulemaking, that the:

> [D]eletion of these routine requirements will not in any way affect the Commission's authority to obtain complete account information from either or both the firm and the individual trader in those individual cases where additional information is necessary to the Commission's conduct of market surveillance or to the enforcement of its rules. Nor does it affect the manner in which accounts are aggregated for calculation of compliance with speculative position limits and for other compliance purposes

64 FR 5202.

In amending § 17.01 as proposed, the Commission noted the CBT's and the CME's respective concerns over their

[9] As explained in the proposed rulemaking, ''prior to January 1998, it was industry practice to express open interest and volume data, as well as required position reports, for the grain and soybean futures contracts, in terms of thousands of bushels. Beginning in 1998, however, industry practice for the grains and soybean contracts changed to express data for these contracts in contract units, which is consistent with the data for all other futures and option contracts.'' Id. Accordingly, the Commssion proposed to conform its reporting levels to this practice.

[10] See the letter of April 14, 1999 from CME to the Commission (CME letter) at p. 2.

[11] See the CBT letter at p. 2.

[12] See the CME letter at p. 2.

[13] As the Commission explained in the proposed rulemaking, it has been its ''long-standing administrative practice to set reporting levels by commodity and not by individual contract market.'' 64 FR 5202. Consistent with this practice, although contracts on the MidAmerica Commodity Exchange are smaller in size than those traded on other exchange, the Commission is not adjusting the reporting level for MACE contracts to compensate for the smaller bushel-size of its contracts. Therefore, a MACE trader's reporting level will be set at a lower absolute number of bushels underlying a reportable position on the exchanges that trade larger-size contracts.

[14] For example, when an individual shares control of and has a financial interest in an account with one or more persons, and that individual also has his or her own account that he or she solely controls, these accounts would not be reported as a single account for special account/Form 102 reporting purposes. See, Commission Rule 17.00(b)(ii).

[15] See the CBT letter at p.3.

ability to continue to obtain the information that no longer must be reported on CFTC Form 102. Accordingly, to ensure that all the exchanges will continue to have access to this information, the Commission will provide the exchanges with copies of CFTC Form 40s upon request.

C. Changes to Statement of Reporting Trader (CFTC form 40)

The Commission received no comments on its proposals to reorganize the CFTC Form 40 to present data in a more useful manner. The Commission believes it appropriate to revise its Form 40 as proposed. Accordingly, ''Schedule 1'' has been redesigned and now clarifies information regarding the reporting trader's hedging activities. This information includes the types of futures or options contracts used to hedge, the commercial occupations or merchandising activities of traders and the futures or option markets used for hedging. In addition, the data reflected on Schedule 1 has been reorganized, as proposed, to emphasize occupations and merchandising activities of the traders rather than the markets in which they trade.[16] In addition, the Schedule 1 ''Investment Groups'' category has been divided, as proposed, into the following professionally managed funds subcategories: hedge funds, college endowments, managed accounts and commodity pools, trusts, foundations, pension funds, mutual funds and insurance companies. As the Commission explained in the proposed rulemaking, ''this reorganization [will] provide information of greater use for surveillance activities.'' Id. The revised Schedule 1 is included below.

D. Deletion of Certain Contract Market Reporting Duties Imposed Under Part 16

In March 1999, the Commission completed its market surveillance software development to accommodate the receipt and processing of daily option large trader data directly from the firms, as well as software testing jointly with the firms. Also at that time, all firms began reporting this information directly to the Commission and exchanges were told that they no longer needed to provide the data to the Commission.[17] Accordingly, the Commission is amending Part 16 of its rules by deleting, as proposed, Commission Rule 16.02, 17 CFR 16.02, under which each contract market was required to file weekly reports with the Commission containing the positions of each large trader in each option on futures contract. Similarly, the Commission is deleting, as proposed, Commission Rule 16.03, 17 CFR 16.03, under which each contract market was required to provide the Commission with account identification information regarding reportable option trader positions.

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[16] The Commission also made changes to the list of merchandising activities to reflect those of greater surveillance importance to the Commission.

[17] In this regard, in March 1999, the Acting Director of the Division, pursuant to the delegated authority described *supra*, issued letters to the exchanges informing them that the Commission will not take any enforcement action against them for not filing with the Commission the large option trader information required under Part 16 of the Commission's rules. All exchanges ceased filing this data at that time.

SCHEDULE 1: To be completed only by traders who checked "Yes" to question 3 of part B or question 4 of part C. (1) Complete each section that pertains to the types of futures/options in which you hedge or cover a risk exposure. (2) List or check your merchandising or marketing activity(ies). (3) List all futures/option markets used. (4) List all cash commodities hedged or risk exposure covered. (Use a continuation sheet, if necessary.)

FINANCIAL FUTURES/OPTIONS (e.g., Bonds, Notes, Bills, Eurodollars, Stock Indices & Foreign Currencies) (Check **each** activity that you hedge with futures/options)	List Futures or Option Markets Used. List Cash Markets Hedged or Risk Exposure Covered.	
	FUTURES/OPTION MARKETS USED	CASH MARKETS HEDGED
☐ ARBITRAGEUR, BROKER/DEALER, MARKET MAKER (A) ☐ U.S. COMMERCIAL BANK (C) ☐ CORPORATE TREASURY (T) ☐ NON-U.S. COMMERCIAL BANK (B) ☐ PENSION FUND (F) ☐ SWAPS/DERIVATIVES DEALER (S) ☐ INSURANCE COMPANY (G) ☐ MORTGAGE ORIGINATOR (M) ☐ HEDGE FUNDS (H) ☐ COLLEGE ENDOWMENT, TRUST, FOUNDATION (D) ☐ MUTUAL FUND (E) ☐ MANAGED ACCOUNTS AND COMMODITY POOLS (P) ☐ OTHER (O): Specify _____ (e.g., Central Bank, savings & loan)		

AGRICULTURAL AND NATURAL RESOURCE FUTURES/OPTIONS (Other Than Livestock/Meat) (Check **each** commercial activity that you hedge with futures/options)	List Futures or Option Markets Used. List Cash Commodities Hedged or Risk Exposure Covered.	
	FUTURES/OPTION MARKETS USED	CASH COMMODITIES HEDGED
☐ PRODUCER (P): Specify _____ (e.g., farmer, miner)		
☐ MANUFACTURER (M): Specify _____ (e.g., refiner, miller, crusher, fabricator, sawmill, coffee roaster, cocoa grinder)		
☐ DEALER/MERCHANT (D): Specify _____ (e.g., wholesaler, exporter/importer, shipper, grain elevator operator, crude oil marketer)		
☐ SWAPS/DERIVATIVES (S): Specify _____		
☐ OTHER (O): Specify _____ (e.g., end user, restaurant chain)		

LIVESTOCK/MEAT FUTURES/OPTIONS (Check **each** commercial activity that you hedge with futures/options)	List Futures or Option Markets Used. List Cash Commodities Hedged or Risk Exposure Covered.	
	FUTURES/OPTION MARKETS USED	CASH COMMODITIES HEDGED
☐ LIVESTOCK FEEDER (F): Specify _____ (e.g., cattle feeder, hog feeder, poultry feeder)		
☐ LIVESTOCK SLAUGHTERER (S): Specify_____		
☐ OTHER (O): Specify _____ (e.g., cow/calf operator, meat processor, bacon slicer, warehouseman, restaurant chain, swaps/derivatives dealer)		

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IV. Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies consider the impact of their rules on small businesses. The Commission has previously determined that large traders and FCMs are not ''small entities'' for purposes of the RFA. 47 FR 18618–18621 (April 30, 1982). The final amendments to reporting requirements fall mainly upon FCMs. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable, *i.e.,* large positions. In addition, these final amendments relieve a regulatory burden. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

Commission Rule 15.03 affects the collection requirements of Part 17 and Part 18 rules. Former Commission Rules 16.02 and 16.03 contained information collection requirements. Commission Rule 17.01 contains information collection requirements. As the Paperwork Reduction Act of 1995 (Pub. L. 104–13 (May 13, 1996)) requires, the Commission submitted a copy of these rules and the associated paperwork burden to the Office of Management and Budget (OMB) for its review (44 U.S.C. 3504(h)) and requested comments on the paperwork burden from the public. The Commission did not receive comments addressing this specific associated paperwork burden. The Commission did receive and address, however, comments concerning the information that would be collected under the proposed rules.

OMB previously approved the collection of information related to these rules as information collection (3038–0009), Large Trader Reports. The final rules the Commission adopted, which have been submitted to OMB for approval, have the following paperwork burden:

Number of respondents: 5,391.

Estimated average hours per response: .35.

Frequency of response: daily.

Number of responses per year: 70,940.

Annual reporting burden: 24,829.

This represents a reduction of 1,426 burden hours as a result of the rule changes adopted to increase the reporting levels. Persons wishing to comment on the paperwork burden contained in the final rules may contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

List of Subjects

17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

17 CFR Part 16

Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 17

Brokers, Commodity futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1994), the Commission hereby amends Parts 15, 16 and 17 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c, (a)-(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19 and 21; 5 U.S.C. 552 and 552(b).

2. § 15.03 is revised to read as follows:

§ 15.03 Reporting Levels.

(a) Definitions. For purposes of this section, the term major foreign currency means the currencies and cross-rates between the currencies of Japan, Germany, the U.K., France, Italy, Canada, Australia, Switzerland, Sweden, Belgium, the Netherlands and the Euro.

(b) The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Number of contracts
Agricultural:	
Wheat	100
Corn	150
Oats	60
Soybeans	100
Soybean Oil	200
Soybean Meal	200
Cotton	50
Frozen Concentrated Orange Juice	50
Rough Rice	50
Live Cattle	100
Feeder Cattle	50
Lean Hogs	100
Sugar No. 11	400
Sugar No. 14	100
Cocoa	100
Coffee	50
Natural Resources:	
Copper	100
Gold	200
Silver Bullion	150
Platinum	50
No. 2 Heating Oil	250
Crude Oil, Sweet	350
Unleaded Gasoline	150
Natural Gas	175

Commodity	Number of contracts
Financial:	
Municipal Bond Index	300
3-month (13–Week) U.S. Treasury Bills	150
30–Year U.S. Treasury Bonds	1,000
10–Year U.S. Treasury Notes	1,000
5–Year U.S. Treasury Notes	800
2–Year U.S. Treasury Notes	500
3–Month Eurodollar Time Deposit Rates	1,000
30–Day Fed Funds	300
1-month LIBOR Rates	300
3-month Euroyen	100
Major-Foreign Currencies	400
Other Foreign Currencies	100
U.S. Dollar Index	50
S&P 500 Stock Price Index	1,000
E-Mini S&P Stock Price Index	300
S&P 400 Midcap Stock Index	100
Dow Jones Industrial Average Index	100
New York Stock Exchange Composite Index	50
Amex Major Market Index, Maxi	100
NASDAQ 100 Stock Index	100
Russell 2000 Stock Index	100
Value Line Average Index	50
NIKKEI Stock Index	100
Goldman Sachs Commodity Index	100
All Other Commodities	25

PART 16—REPORTS BY CONTRACT MARKETS

3. The authority citation for Part 16 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6g, 6i, 7 and 12a.

4. Sections 16.02 and 16.03 are removed and reserved.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

5. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6d, 6f, 6g, 6i, 7 and 12a unless otherwise noted.

6. § 17.01 is amended by removing and reserving paragraphs (b)(3)(ii) and (c) and by revising paragraph (b)(3)(iii) to read as follows:

§ 17.01 Special account designation and identification.

* * * * *

(b) * * *

(3) * * *

(ii) [Reserved].

(iii) If fewer than ten accounts are under control of the independent advisor, for each account the account number and the name and location of each person having a ten percent or more financial interest in the account; and

(c) [Reserved].

* * * * *

Issued in Washington, D.C., this 8th day of March 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–6345 Filed 3–16–00; 8:45 am]

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RAILROAD RETIREMENT BOARD

20 CFR Part 220

RIN 3220–AB41

Determining Disability

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to increase from $500 to $700 the average monthly earnings guidelines used to determine whether work done by an individual may be considered regular employment. This change coincides with an increase in the guidelines contained in the regulations of the Social Security Administration for determining substantial gainful activity that became effective July 1, 1999.

DATES: *Effective Date:* This rule is effective March 17, 2000.

Applicability Date: This rule will be applied to all disability claims for which a final decision had not been rendered as of July 1, 1999.

ADDRESSES: Comments may be made to the Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Senior Attorney, (312) 751–4945, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Act provides for disability annuities for employees, widow(er)s, and children of deceased railroad employees who are unable to engage in any regular employment because of a permanent physical or mental impairment. Regular employment is defined by reference to the definition of substantial gainful activity under the Social Security Act. Sections 220.141 and 220.142 of the Board's regulations reflect this definition and define ''substantial gainful activity'' (SGA) as work activity that involves doing significant physical or mental activities for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized. Section 220.143 sets forth earnings levels at which the Board considers a disabled person to be engaged in SGA regardless of the severity of his or her impairment. The amount of average monthly earnings that ordinarily demonstrates SGA for people with an impairment has not been increased since January 1, 1990. Consequently, with respect to months after June 1999 the Board raises from $500 to $700 the average monthly earnings guidelines used to determine whether work done by a person with a disability is substantial gainful activity. The Board has determined that an increase in the amount of earnings that constitutes SGA

provides an updated indicator of when earnings demonstrate the ability to engage in SGA and is a significant improvement to the existing incentives to encourage individuals with disabilities to attempt to work. This increase also conforms to changes in the regulations of the Social Security Administration which became effective July 1, 1999 (64 FR 18566, April 15, 1999; a correction appears at 64 FR 22903, April 28, 1999).

The Board published this rule as an interim final rule on November 18, 1999 (64 FR 62976) and invited comments by July 18, 2000. No comments were received. Accordingly, the interim final rule is adopted as a final rule without change.

Dated: March 8, 2000.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 00–6594 Filed 3–16–00; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 322

RIN 3220–AB38

Remuneration

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations defining remuneration and how that term is applied to claims for benefits under the Railroad Unemployment Insurance Act (RUIA) to reflect changes in that statute and to reflect administrative rulings not readily available to the public.

EFFECTIVE DATE: This rule will be effective April 17, 2000.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Senior Attorney, Railroad Retirement Board, (312) 751–4945, FAX (312) 751–7102, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: As administrator of the RUIA, the Railroad Retirement Board pays benefits to qualified railroad employees for their days of unemployment or days of sickness, as defined in section 1(k) of the Act. Benefits are not payable for any day if ''remuneration'', as defined in section 1(j) of the RUIA, is payable or accrues to the employee for such day. Part 322 defines the term ''remuneration'' and explains how the term is applied to claims for benefits, but it has not been revised in recent years to reflect statutory changes and agency practice and procedure.

Section 322.1 which currently recites applicable statutory provisions, is revised to provide a plain language introduction that explains the purpose of part 322.

The general definition of ''remuneration'' set forth in § 322.2 is revised by expanding the definition to cover two statutory exceptions to the definition, subsidiary remuneration and supplemental unemployment or sickness benefits.

Section 322.3(b) is amended by explaining that although ''remuneration'' does not accrue for days that are termed ''layover'' days, such days are not compensable ''days of unemployment''. Also, a new paragraph (d) is added to explain the rules that would apply to a fully employed employee who has additional days off from work by reason of a compressed or flexible work schedule.

Paragraph (a) of § 322.4 is revised by indicating that the Board will seek information from the employee's base year employer on whether remuneration is payable for days claimed.

Section 322.5 is amended to remove a reference to an obsolete regulation.

Paragraph (a) of § 322.6 is revised by indicating that payments made to an employee with respect to personal injury are considered remuneration unless allocated to other ''damages''.

Section 322.7 is revised to conform with the practices of the railroad industry that coordination and dismissal allowances, separation, and severance payments are remuneration, even when paid other than through a collective bargaining agreement, and even when paid as the result of an involuntary dismissal or separation.

Section 322.8 is amended to update the amount of earnings by a local lodge official that may be regarded as subsidiary remuneration. This amendment is necessary because of a statutory change that increased to $15 per day the amount of an employee's earnings that comes within the definition of subsidiary remuneration.

Finally, a new § 322.9 is added to explain the term ''subsidiary remuneration''. Such remuneration does not prevent payment of benefits, except as explained in § 322.9.

The Board published this rule as a proposed rule on November 16, 1999 (64 FR 62135), and invited comments by January 18, 2000. No comments were received.

The Board, with the concurrence of OMB, has determined that this is not a significant regulatory action for purposes of Executive Order No. 12866. Therefore no regulatory impact analysis is required. The information collection requirements contained in this rule have been approved by the Office of Management and Budget under control numbers 3220–0049 and 3220-0022.

List of Subjects in 20 CFR Part 322

Railroad employees, Railroad unemployment benefits, Reporting and record keeping requirements.

For the reasons set out in the preamble, the Railroad Retirement Board amends title 20, chapter II, part 322 of the Code of Federal Regulations as follows:

PART 322—REMUNERATION

1. The authority citation for part 322 is revised to read as follows:

Authority: 45 U.S.C. 362(l).

2. Section 322.1 is revised to read as follows:

§ 322.1 Introduction.

The Railroad Unemployment Insurance Act provides benefits for a qualified employee's days of unemployment or days of sickness, as defined in section 1(k) of the Act. Under that section, no day can be a day of unemployment or a day of sickness for any employee if ''remuneration'' is payable or accrues to the employee for such day. In computing the amount of benefits payable to an employee for days of unemployment or days of sickness in any registration period, or in determining whether the employee has satisfied the waiting period requirement, the Board will not count any day with respect to which remuneration is payable or accrues to the employee. Section 322.2 defines the term ''remuneration'' and explains what types of payments to employees constitute remuneration.

3. Section 322.2 is revised to read as follows:

§ 322.2 General definition of remuneration.

(a) *Remuneration.* (1) Remuneration includes pay for services for hire, pay for time lost as defined in § 322.6, and other earned income payable or accruing with respect to any day. Income is ''earned'' if it is payable or accrues in consideration of services and if such services were in turn rendered in consideration of the income payable or accruing.

(2) Remuneration includes income in the form of a commodity, service, or privilege if, before the performance of the service for which it is payment, the

parties have agreed upon the value of such commodity, service, or privilege, and that such part of the amount agreed upon to be paid may be paid in the form of such commodity, service, or privilege.

(3) Remuneration for a working day that includes a part of two consecutive calendar days is deemed to have been earned on the first of such two days.

(b) *Subsidiary remuneration.* For the purpose of this part, remuneration does not include subsidiary remuneration, as defined in § 322.9. Subsidiary remuneration for any day does not prevent such day from being a day of unemployment or a day of sickness, except as explained in § 322.9.

(c) *Supplemental unemployment or sickness benefits.* The term remuneration does not include money payments received by an employee pursuant to any nongovernmental plan for unemployment or sickness insurance, as defined in part 323 of this chapter. Employer payments of sick pay to an employee are remuneration, except when payment is made pursuant to a nongovernmental plan for sickness insurance.

4. In § 322.3, revise paragraph (b), and add a new paragraph (d) to read as follows:

§ 322.3 Determining the days with respect to which remuneration is payable or accrues.

* * * * *

(b) *Layover days.* Remuneration shall not be regarded as payable or accruing to an employee with respect to his or her ''layover'' days between regular assignments in train and engine service solely because they are termed ''layover'' days. But no such ''layover'' day may be considered as a day of unemployment or sickness. See § 332.6 of this chapter.

* * * * *

(d) *Equivalent of full-time work.* An employee who works fewer than five days each week under a compressed work schedule that provides the equivalent of full-time employment does not earn remuneration with respect to his or her additional rest days resulting from such work schedule, but such employee will not be considered to be available for work on such rest days. See § 327.10(d) of this chapter.

5. In § 322.4, revise paragraph (a) to read as follows:

§ 322.4 Consideration of evidence.

(a) *Initial proof.* A claimant's certification that he or she did not work on any day claimed and did not receive income such as vacation pay or pay for time lost for any such day shall constitute sufficient evidence for an initial finding that no remuneration is payable or has accrued to him or her with respect to such day, unless a base year employer reports that he or she worked on days claimed or received payments that constitute remuneration as defined in this part, or unless there is other conflicting evidence.

* * * * *

§ 322.5 [Amended]

6. Amend § 322.5(c)(2) by removing ''in accordance with § 222.3(h) of this chapter''.

7. In § 322.6, revise paragraph (a) to read as follows:

§ 322.6 Pay for time lost.

(a) *Definition.* The term ''pay for time lost'' means any payment made to an employee with respect to an identifiable period of time during which the employee was absent from the active service of the person or company making the payment, including absence on account of personal injury. The entire amount paid to an employee who was absent on account of personal injury is pay for time lost if such amount includes pay for time lost, unless at the time of payment the parties, by agreement, specify a different amount as the amount of the pay for time lost and the period of time covered by such pay. The amount allocated to time lost is remuneration for every day in the period of time lost. The amount of a payment for personal injury that is apportioned to factors other than time lost is, nevertheless, a portion of ''damages'' for the purposes of part 341 of this chapter.

* * * * *

8. Revise § 322.7 to read as follows:

§ 322.7 Dismissal, coordination, and separation allowances.

(a) *Coordination or dismissal allowance.* Coordination or dismissal allowances are payments made to an employee who has been furloughed for a specified period of time during which he or she continues in an employment relationship and remains subject to call. Such pay is remuneration with respect to each day in the month or other period for which it is payable. The employer shall be held liable to the Board for any benefits paid to the employee and found recoverable under section 2(f) of the Railroad Unemployment Insurance Act by reason of the payment of any such allowances or other pay for the same days for which the Board paid benefits.

(b) *Separation allowance.* A separation allowance or severance payment made to an employee who voluntarily or involuntarily terminates his or her employment relationship is not remuneration with respect to any day after the employment relationship is severed. An employee who is paid a separation allowance, whether in a lump sum or in installments, is disqualified by section 4(a–1)(iii) of the Railroad Unemployment Insurance Act from receiving unemployment or sickness benefits for the period of time approximating the length of time it would have taken the employee to earn, at his or her ''straight'' time rate of pay, the amount of the separation allowance if he or she had continued working in the job from which he or she separated.

§ 322.8 [Amended]

9. In § 322.8(e) remove the phrase ''three dollars'' and add in its place ''$15''.

10. Add new § 322.9 to read as follows:

§ 322.9 Subsidiary remuneration.

(a) *Definition.*The term ''subsidiary remuneration'' means remuneration not in excess of an average of $15 per day for the period with respect to which it is payable or accrues, if

(1) The work from which the remuneration derives requires substantially less than full time as determined by generally prevailing standards; and

(2) The work is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

(b) *Exception.*If a claimant's remuneration is ''compensation'' as defined in part 302 of this chapter, such remuneration is not subsidiary unless the claimant had base year compensation from a different position or occupation of not less than two and one-half times the monthly compensation base for months in the base year in which he or she received the remuneration. Compensation in excess of an average of $15 per day is remuneration for the days for which it is payable or accrues.

(c) *Period for which remuneration is payable or accrues.* The ''period'' of time used in determining whether remuneration averages more than $15 per day depends on the terms and conditions of the employment and the rate of payment for the work. If the claimant is paid a monthly salary, the ''month'' is the period with respect to which the pay must average not more than $15 per day. The average is the monthly salary divided by 30. If the claimant is paid a weekly salary, the amount of the salary is divided by

seven. If the claimant is paid by the hour or the day, the ''period'' is the day. Where payment is made by the hour or the day, the pay is not added up and then averaged out over the week or the month. For example, earnings of $20 on one day and $10 on another day do not average out to $15 per day so as to permit both days to be considered as days of unemployment or days of sickness.

(d) *Substantially less than full time.* The phrase ''substantially less than full time'' means employment of not more than four hours per day.

(e) *Compatibility with full time employment.* Work is considered to be susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another position or occupation if it is a form of secondary employment that a claimant has done or could do at his or her own convenience while performing the duties of his or her railroad job.

(f) *Determinations.* The Board shall make a determination whether remuneration is subsidiary by applying the standards in this section to the facts of each case. Earnings that average more than $15 per day are not subsidiary remuneration under any circumstances. Also, earnings of any amount that are included in a claimant's qualifying base year compensation are not subsidiary remuneration. Even if earnings do not exceed an average of $15 per day, they may still not be subsidiary remuneration if the claimant worked more than four hours per day or if the work had to be performed at such times and under such circumstances as to be inconsistent with the holding of normal full-time work in his or her regular railroad work. If the evidence does not establish that the earnings are subsidiary remuneration, the question whether they are remuneration for particular days will then be considered.

(g) *Examples.* The following examples illustrate this section.

(1) A claimant receives a salary of $350 per month for serving as secretary-treasurer of the local lodge of his union. He performs a variety of duties at his own convenience while holding down a full-time railroad job in his craft. The average payment per day is not more than $15 and is, therefore, subsidiary remuneration.

(2) A claimant worked three hours per day, at $5 per hour, in the family insurance business. He was marked up for work as an extra board trainman and worked whenever he was called. When called, he skipped work in the family insurance business. His insurance earnings of $15 per day were subsidiary remuneration.

(3) While unemployed from her railroad job, a claimant took a job as a school bus driver. She worked from 7 a.m. to 9 a.m., and 2:30 p.m. to 5:30 p.m. Her regular railroad job was a daytime job from 8 a.m. to 4:30 p.m. Her pay as a school bus driver was not subsidiary remuneration because the job was not compatible with the holding of full time work in her regular railroad occupation.

Dated: March 8, 2000.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 00–6593 Filed 3–16–00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 290

RIN 1076–AD74

Tribal Revenue Allocation Plans

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is establishing regulations to implement Section 11(b)(3) of the Indian Gaming Regulatory Act (IGRA). This rule establishes procedures for the submission, review, and approval of tribal revenue allocation plans for the distribution of net gaming revenues from tribal gaming activities.

EFFECTIVE DATE: These regulations take effect on April 17, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy Pierskalla, Management Analyst, Office of Indian Gaming Management, at 202–219–4066.

SUPPLEMENTARY INFORMATION: The IGRA, 25 U.S.C. § 2701 *et seq.*, was signed into law on October 17, 1988. Pursuant to Section 11(b)(3)(B), 25 U.S.C. 2710(b)(3)(B), of IGRA, the Secretary of the Interior (Secretary) is charged with the review and approval of tribal revenue allocation plans relating to the distribution of net gaming revenues from a tribal gaming activity. These regulations establish a method for the submission, review and approval of tribal revenue allocation plans.

The IGRA provides that net gaming revenues from class II and class III gaming may be distributed in the form of per capita payments to members of the Indian tribe provided the Indian tribe has prepared a Tribal Revenue Allocation Plan which is approved by the Secretary. On December 21, 1992, the Assistant Secretary—Indian Affairs (AS–IA) issued Guidelines to Govern the Review and Approval of Tribal Revenue Allocation Plans. As outlined in IGRA, the Guidelines require that the Indian tribe must dedicate a significant share (or portion) of net gaming revenues for economic development and governmental purposes, that the interests of minors and other legally incompetent persons entitled to receive per capita payments must be protected and preserved, and that per capita payments are subject to Federal income taxes. The AS–IA does not mandate the distribution of net gaming revenues to individual tribal members. However, it is essential that Indian tribes choosing to make per capita payments comply with the requirements of IGRA. The proposed rule was published on June 7, 1996 (61 FR 29044). A notice to extend the comment period was published on March 7, 1997 (62 FR 5588). Comments received during the comment period ending August 6, 1996, and March 24, 1997, were considered in the drafting of this final rule.

Review of Public Comments

Fifty-three comments were submitted in response to the June 7, 1996, **Federal Register** publication of the proposed rule, 25 CFR 290, and the March 7, 1997, **Federal Register** publication to extend the comment period.

Section 290.1 Purpose

No comments were received on this section.

Section 290.2 Definitions—Governing Document

One comment recommended adding a definition for the term ''governing document.''

Response: This comment was not adopted. Some tribes do not have constitutions or other written governing documents. Some tribes which do have written governing documents have also developed substantial bodies of tribal law interpreting those documents. Accordingly, we have substituted the phrase ''applicable tribal law'' as a more inclusive term than the phrase ''governing document'' in the definition of ''Member of an Indian tribe'' and elsewhere. It was unnecessary, therefore, to define the term ''governing document.''

Section 290.2 Definitions—Legal Incompetent

One comment suggested that the definition of the term ''legal

incompetent'' include individuals declared by tribal or BIA Social Services to be in need of ''supervised accounts'' based on documented conditions such as incarceration, physical conditions, and mental/emotional conditions.

Response: This comment was not adopted but the definition is amended to add ''or as established by the tribe'' following tribal justice systems, to allow the tribe to determine whether an individual is in need of a supervised account.

Another comment suggested that ''legal incompetent'' be defined as an individual beneficiary eligible to participate in a per capita benefit program.

Response: This comment was not adopted. We believe it is inconsistent with IGRA. The IGRA refers to payments from net gaming revenues as per capita payments, 25 U.S.C. § 2710(b)(3), not payments ''in a per capita benefit program.''

Section 290.2 Definitions—Member of an Indian Tribe

One comment supported the proposed definition.

One comment objected to the use of ''consistently maintained'' because the usage was subject to Federal review of who is an Indian.

Another comment suggested that this definition was not sufficient since it may include individuals who are not enrolled in the tribe.

Several comments stated that the definition needs to be changed because it is too broad, invites argument, conflict, and potential litigation because it will entangle BIA in membership determinations.

Response: BIA agrees with the comments that membership determinations are internal tribal matters that should be decided by the tribe. Under § 290.23, if there are disputes arising from tribal determinations of who is a member eligible to receive per capita payments from net gaming revenues, such disputes should be resolved in tribal forums. The revision is based on a presumption that there will always be requirements for membership, whether in a constitution, ordinance, resolution, court decision, custom and tradition or some combination thereof. Together, to whatever degree they exist for a particular tribe, these sources of law will form the ''applicable tribal law'' for that tribe. The revision breaks the definition into two paragraphs based upon whether a particular tribe maintains a tribal roll. Paragraph (1), in effect, requires that a person be listed on the tribal rolls if rolls are kept, and paragraph (2) requires that the person be recognized as a member by the tribal governing body if rolls are not kept. Recognition by the governing body becomes the proof of membership in the absence of rolls.

Section 290.2 Definitions—Per Capita

Several comments recommended that the definition of the term ''per capita'' include or be distinguished from other payments made to individuals under special tribal programs from net gaming revenues.

Response: This recommendation was adopted and the definition is amended to clarify other payments set aside by the tribe for special purposes or programs.

Another comment suggested that the term ''per capita'' be defined as a benefit paid or to be paid in the future to all members of the tribe.

Response: This comment was not adopted because IGRA refers to payments from net gaming revenues as per capita payments, 25 U.S.C. 2710(b)(3), and not as ''per capita benefits.'' The definition of the term is modified to ''Per Capita Payment'' for clarification purposes, and amended to reflect that the term ''payment'' includes money or other thing of value.

Section 290.3 Information Collection

This section is added as a requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The information collection requirements contained in 290.12, 290.17, 290.24 and 290.26 have been approved by the OMB and assigned clearance number 1076–0152, expiration date March 31, 2000.

Section 290.4 What is a Tribal Revenue Allocation Plan?

No comments were received on this section.

Section 290.5 Who Approves Tribal Revenue Allocation Plans?

Section 290.5, formerly § 290.3, is renumbered and amended to clarify who will review and approve tribal revenue allocation plans.

One comment recommended that Indian tribes should not be required to seek Federal approval for the allocation of tribal dollars because such approval is insulting, paternalistic and diminishes tribal sovereignty.

Another comment requested that small one time payments, i.e. $100–$500, be excluded from the submission, review and approval of a tribal revenue allocation plan.

Response: These comments were not adopted. Congress has mandated that tribes submit and receive approval of tribal revenue allocation plans from the Secretary, 25 U.S.C. 2710(b)(3)(B). Regulations promulgated by BIA must comply with the requirements in IGRA.

Another comment suggested that the rule permit Indian tribes who are not subject to IGRA to adopt tribal revenue allocation plans subject to review and approval by the Secretary, and regardless of IGRA requirements, permit Indian tribes with gaming revenues to adopt a tribal revenue allocation plan in accordance with any applicable regulation, subject to the review and approval of the Secretary.

Response: This comment was not adopted. Unless specifically exempted from IGRA by Congress, any tribe is subject to IGRA, 25 U.S.C. 2703(5), 2710(b)(1) if it is:

(1) Recognized by the Secretary as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(2) Recognized as possessing powers of self-government.

Section 290.6 Who Must Submit a Tribal Revenue Allocation Plan?

This section, formerly § 290.5 was renumbered due to the addition of § 290.3.

No comments were received on this section.

Section 290.7 Must An Indian Tribe Have a Tribal Revenue Allocation Plan If It Is Not Making Per Capita Payments?

This section, formerly § 290.6 was renumbered due to the addition of § 290.3.

No comments were received on this section.

Section 290.8 Do Indian Tribes Have to Make Per Capita Payments From Net Gaming Revenues to Tribal Members?

This section, formerly § 290.7 was renumbered due to the addition of § 290.3.

No comments were received on this section.

Section 290.9 How May an Indian Tribe Use Net Gaming Revenues If It Does Not Have an Approved Tribal Revenue Allocation Plan?

This section formerly § 290.8 was renumbered due to the addition of § 290.3.

No comments were received on this section.

Section 290.10 Is an Indian Tribe in Violation of IGRA If It Makes Per Capita Payments to Members From Net Gaming Revenues Without an Approved Tribal Revenue Allocation Plan?

Section 290.10 combines former §§ 290.9 and 290.24 to address the consequences of making per capita payments without an approved tribal revenue allocation plan.

One comment requested that the rule identify the ramifications for non-compliance and the procedures that the Department of Justice (DOJ) would use to enforce the rule.

Response: This comment was not adopted because enforcement procedures have not been discussed with DOJ, 25 U.S.C. 2716(c). The DOJ and the National Indian Gaming Commission (NIGC) pursuant to 25 U.S.C. 2713 (b)(1), 25 U.S.C. 2710 (d)(1)(A)(ii), and 25 U.S.C. 2710 (b)(3)(A)–(D), have authority to enforce the per capita requirements of IGRA.

290.11 May an Indian Tribe Distribute Per Capita Payments From Net Gaming Revenues Derived from Either Class II or Class III Gaming Without a Tribal Revenue Allocation Plan?

This section, formerly § 290.10, was renumbered due to the addition of § 290.3.

No comments were received on this section.

Section 290.12 What Information Must the Tribal Revenue Allocation Plan Contain?

This section, formerly § 290.11, was renumbered due to the addition of § 290.3.

One comment questioned the need for this section, but after review agreed that the section merely stated what must be in the plan and that other sections discussed the topics in more detail. Paragraph (a) requires that tribes prepare a tribal revenue allocation plan that includes a percentage breakdown of the uses to which net gaming revenues will be allocated. The percentage breakdown must total 100 percent.

One comment requested clarification that only a percentage breakdown of uses is required and not actual budget figures.

Response: This comment was not adopted because that requirement is already specified in paragraph (a).

Paragraph (b) The revenue allocation plan must meet the following criteria:

No comments were received on this paragraph.

Paragraph (b)(1) formerly 290.11 paragraph (b)(1) is removed.

Eight comments were received objecting to the limitation of 50 percent of the net gaming revenues be used for per capita payments and recommended reconsideration or elimination of the section.

Response: This recommendation was adopted. Each tribal revenue allocation plan will be reviewed by the appropriate Bureau official (ABO) on a case-by-case basis to ensure compliance with IGRA and 25 CFR part 290.

Paragraph (b)(1) is revised due to the deletion of § 290.11 (b)(1) of the proposed rule.

One comment suggested that this section, in addition to funding tribal government operations or programs and promoting tribal economic development, mandates that the tribe must also provide for the general welfare of the Indian tribe and its members; to donate to charitable organizations or to help fund operations of local government agencies.

Another comment recommended that the term ''significant'' be defined.

Response: These comments have been adopted in part to require the tribe to reserve an adequate portion of net gaming revenues for one or more of the purposes set forth in the IGRA, 25 U.S.C. 2710 (b)(2)(B).

Paragraph (b)(2) formerly paragraph § 290.11 (b)(3) is revised due to the deletion of § 290.11(b)(1) of the proposed rule.

One comment suggested that this section was open ended and needed to outline specific requirements the Secretary must review as required by IGRA.

This comment was adopted to require detailed information to allow the ABO to determine compliance with this section and IGRA.

Paragraph (b)(3) combines former §§ 290.11(b)(4) and 290.15 because they refer to the disbursement of minors' and legal incompetents' per capita payments to the parents or legal guardians of such minors or legal incompetents.

Several comments questioned why a minor's or legal incompetent's shares must be made available to his/her parent or legal guardian and whether the parents or legal guardians should be accountable for the funds they receive.

Response: This comment was not adopted because the IGRA requires the per capita payments to be disbursed to the parents or legal guardians of such minors or legal incompetents in such amounts as necessary for the health, education, or welfare, of the minor or other legally incompetent. It is up to the tribe to establish a method for the accountability of the funds.

One comment suggested that the rule address the following: (1) A tribe disperses funds to a parent or legal guardian and the parent or legal guardian fails to use the funds for the minor or legal incompetent. Has the tribe met its obligation to protect and preserve the shares allocated to minors and legal incompetents? (2) Precautions that a tribe may take to protect and preserve the shares allocated to minors and legal incompetents? (3) Circumstances under which a tribe should refuse to disperse funds to the parent or legal guardian of a minor or legal incompetent?

One comment recommended that §§ 290.11(b)(4) and 290.15 be cross referenced because they appear to require a separate plan for the disbursement of minors' and legal incompetents' per capita payments to the parents or legal guardians of such minors or legal incompetents.

One comment suggested this section was open ended and needed more specific information as to whether guidance is directed to the field or the public.

Response: These comments were adopted and the new revised paragraph (b)(3) includes these requirements.

Paragraph (b)(4) formerly § 290.11 (b)(5) is renumbered due to the deletion of paragraph (b)(1).

No comments were received on this paragraph.

Paragraph (b)(5) formerly § 290.11 (b)(6) is renumbered due to the deletion of paragraph (b)(1).

One comment asked whether existing tribal systems fulfill the requirement for a forum or process for the resolution of discrepancy in expenditure of net gaming revenues or disputes regarding per capita payments.

Response: This comment was not adopted but is amended to read: ''and must utilize or establish a tribal court system, forum or administrative process for resolution of disputes'' following eligibility requirements.

Section 290.13 Under What Conditions May an Indian Tribe Distribute Per Capita Payments?

This section, formerly 290.12, was renumbered due to the addition of § 290.3.

No comments were received on this section.

Section 290.14 Who Can Share in a Per Capita Payment?

Section 290.14 combines former §§ 290.13 and 290.14.

One comment recommended these sections be combined for clarification.

Response: This comment was adopted, §§ 290.13 and 290.14 are combined because they both refer to the per capita distribution of payments.

Section 290.15 Must the Indian Tribe Establish Trust Accounts With Financial Institutions for Minors and Legal Incompetents?

Section 290.15 formerly § 290.16 is renumbered, the former § 290.15 and § 290.11(b)(3) are combined under § 290.12(b)(4).

One comment suggested the inclusion of the following language: ''Congress has not mandated any one way for you to protect and preserve the interests of minors and legal incompetents, as long as you do not distribute benefits currently to the parents or legal guardian in such a way that the parents or legal guardian may use the benefits for their own purposes unrelated to the minor's or legal incompetent's health, education, or welfare needs. You have the flexibility to consider all relevant factors, including desired income tax and other consequences for the minors and legal incompetents, in deciding how best to structure your benefit programs, subject to the requirement that the Secretary must review and approve your revenue allocation plan.''

Response: This comment was not adopted. The IGRA authorizes ''per capita payments'' from net gaming revenues, 25 U.S.C. 2710(b)(3), not ''benefits.'' This section has been amended to clarify that the tribe may establish trust accounts with financial institutions but should explore investment options to structure the accounts to the benefit of their members.

Section 290.16 Can the Per Capita Payments of Minors and Legal Incompetents be Deposited into Accounts Held by BIA or OTFM?

Section 290.16 formerly § 290.17 is renumbered, because former §§ 290.15 and 290.11(b)(3) are combined under § 290.12(b)(4).

One comment indicated that this section is detrimental to the health and well being of Indians requiring supervised accounts.

Another comment concerned the placement of gaming revenues into Proceeds of Labor accounts.

Another comment recommended rewording of the section because trust funds are now administered by the Office of Trust Funds Management (OTFM).

Response: Only the last comment has been adopted. This section has been amended to clarify that the Secretary will not accept any deposits of payments or funds derived from net gaming revenues to any account held by BIA or OTFM. It has long been BIA policy to place only funds derived from trust assets into Individual Indian Money accounts, Indian Moneys Proceeds of Labor Escrow accounts or special deposit funds accounts held by BIA. Gaming revenues are not funds derived from trust assets or trust resources but are tribal funds under the control of the tribe. In addition, the Internal Revenue Service (IRS) regulations, 26 CFR part 31, require that Indian tribes, not BIA or OTFM, withhold taxes for all recipients.

Section 290.17 What Documents Must the Indian Tribe Include With the Tribal Revenue Allocation Plan?

Section 290.17 formerly § 290.18 is renumbered, because former §§ 290.15 and 290.11 (b)(3) are combined under § 290.12 (b)(4).

No comments were received on this section.

Section 290.18 Where Should the Indian Tribe Submit the Tribal Revenue Allocation Plan?

Section 290.18 formerly § 290.19 is renumbered, because former §§ 290.15 and 290.11 (b)(3) are combined under § 290.12 (b)(4).

One comment suggested a deadline for review by the Superintendent be included in the rule.

Response: This comment was not adopted. The Superintendent's limited role in the process is confined to a determination that the plan was adopted in accordance with applicable tribal law. There is no need for a time deadline for forwarding the plan to the ABO.

Section 290.19 How Long Will the ABO Take to Review and Approve the Tribal Revenue Allocation Plan?

Section 290.19 formerly §§ 290.20 and 290.21 are combined.

One comment recommended these sections be combined to identify the action and the time limit necessary for review and approval of the plan by the ABO.

Response: This comment has been adopted and is amended to read: ''How long will the ABO take to review and approve the tribal revenue allocation plan.''

Four comments questioned what would happen after the 90-day period if no action is taken by the ABO and what recourse a tribe would have if the tribal revenue allocation plan is rejected by the ABO.

Response: In response to these comments, a new paragraph (c) is added to read: ''If the ABO fails to take action within the 60 days you may appeal the failure of the ABO to act on your request in accordance with the regulations at 25 CFR part 2. A tribal revenue allocation plan is not effective without the express written approval of the ABO.'' The changes to this section clarify that the ABO should act on the tribal revenue allocation plan within 60 days of its submission to the ABO. These changes clarify that a failure to act within this time period can be appealed under 25 CFR part 2 and that the tribal revenue allocation plan is not effective until it has the express written approval of the ABO. The reference in the proposed rule to the tribe's governing document is omitted in the final rule in order to provide adequate time for review by the ABO, to prevent a tribe's shortened review time limits from bumping the review of another tribe's plan and because IGRA specifically requires approval of the plan by the Secretary. The time deadline has been shortened to 60 days to assure prompt consideration of the plan.

Section 290.20 When Will the ABO Disapprove a Tribal Revenue Allocation Plan?

Section 290.20 formerly § 290.22 is renumbered.

No comments were received on this section.

Section 290.21 May an Indian Tribe Appeal the ABO's Decision?

Section 290.21 formerly § 290.23 is renumbered.

One comment suggested 43 CFR part 4 be included in the appeal process.

Response: No action was taken on this comment. The process set forth in 25 CFR part 2, Appeals from Administrative Action provides the mechanism for appeal to the Interior Board of Indian Appeals, the same as 43 CFR part 4.

Section 290.22 How Does the Indian Tribe and its Members Ensure Compliance With its Tribal Revenue Allocation Plan?

Section 290.22 formerly § 290.25 is renumbered.

One comment requested clarification whether existing tribal systems fulfill the requirement for a forum or process for the resolution of discrepancy in expenditures of net gaming revenues.

Response: This comment was not adopted but is amended to include a tribal court system, forum or administrative process in the tribal revenue allocation plan for reviewing expenditures of net gaming revenues and explain how you will correct deficiencies.

Section 290.23 How Does the Indian Tribe Resolve Disputes Arising From Per Capita Payments to Individual Members or Identified Groups of Members?

Section 290.23 formerly § 290.26 is renumbered.

One comment asked whether existing tribal systems fulfill the requirement for a forum or process for the resolution of disputes regarding per capita payments.

Response: This comment was not adopted but is amended to include a tribal court system, forum or administrative process to resolve disputes arising from per capita distributions.

Section 290.24 Do Revisions/ Amendments to a Tribal Revenue Allocation Plan Require Approval?

Section 290.24 formerly § 290.27 is renumbered.

No comments were received on this section.

Section 290.25 What is the Liability of the United States Under This Part?

Section 290.25 formerly § 290.28 is renumbered.

No comments were received on this section.

Section 290.26 Are Previously Approved Tribal Revenue Allocation Plans, Revisions or Amendments Subject to Review in Accordance With 25 CFR Part 290.

A new section 290.26 is added in response to the comments requesting clarification as to whether or not the submission of a revision or amendment to the tribal revenue allocation plan would necessitate the review of the entire tribal revenue allocation plan or just that portion being revised or amended.

Executive Order 12866

OMB has determined that this rule is significant. OMB's guidance on E.O. 12866 requires that a cost-benefit analysis be done for significant rules and that it contain three elements. These elements are a statement of record, an examination of alternative approaches, and an analysis of costs and benefits.

Because of the nature of IGRA and this rule, the usual economic analysis required by E.O. 12866 is neither appropriate nor needed. The intent of E.O. 12866 is to provide decision makers with appropriate information to determine that a regulatory action imposing costs and yielding benefits, or otherwise having the effects sought by authorizing legislation, is both needed and is economically justified. Whereas many regulatory actions intervene in the economic system by prohibiting or requiring certain actions, IGRA and this rule do neither. Instead, they allow tribes to voluntarily allocate gaming revenues, including per capita payments to tribal members.

This rule does nothing to either increase or decrease the revenues from gaming operations. It allows tribes to reallocate those revenues if they choose to do so. Tribes wishing to allocate gaming revenues as allowed by IGRA will incur only the minimal administrative cost of preparing and implementing the Allocation Plan required by the rule and IGRA. The Secretary of the Interior and Federal employees to whom the Secretary's authorities under IGRA are or will be delegated may also incur minimal administrative cost in implementing the rule.

The actual allocations from tribes to individual members do not result in costs or benefits as they are defined for purposes of the economic analysis required by E.O. 12866. These allocations are transfer payments rather than expenditures. Transfer payments, in themselves, do not cause the sort of resource allocations that give rise to costs and benefits. In this regard, per capita allocations of gaming revenues are similar to Social Security payments to individuals.

These regulations establish a method for the submission, review and approval of tribal revenue allocation plans in a timely manner. The tribal revenue allocation plans provide for the distribution of tribal gaming revenue for tribal use and allow for per capita payments to tribal members for private use. The IGRA, Section 2710 (b)(2)(B) requires that net gaming revenues from any tribal gaming are not to be used for purposes other than, (i) to fund tribal government operations or programs, (ii) to provide for the general welfare of the Indian tribe and its members; (iii) to promote tribal economic development; (iv) to donate to charitable organizations; or (v) to help fund operations of local government agencies. Section 2710 (b)(3) of IGRA further provides that net revenues may be used to make per capita payments to members of the Indian tribe only if, (a) the Indian tribe has prepared a plan to allocate revenues for purposes to fund tribal government operations or programs; to provide for the general welfare of the Indian tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies, (b) the plan is approved by the Secretary as adequate, particularly for the purpose to fund tribal government operations and programs and to promote tribal economic development, (c) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and (d) the per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.

The anticipated expenses or costs to the public or to the tribes who submit tribal revenue allocation plans will be minimal. The plans will provide for the distribution of net revenues from any tribal gaming for tribal use and per capita payments to tribal members for private use.

In accordance with IGRA, each tribe must submit a tribal revenue allocation plan if it intends to make per capita payments to members of the Indian tribe. The regulations will establish a method for the submission, review and approval of a tribal revenue allocation plan. If a tribe distributes per capita payments from net gaming revenues without an approved tribal revenue allocation plan, the DOJ or the NIGC may enforce the per capita requirements of IGRA.

On December 21, 1992, the AS-IA issued Guidelines to Govern the Review and Approval of Tribal Revenue Allocation Plans. As outlined in IGRA, the Guidelines require that the Indian tribe must dedicate a significant share (or portion) of net gaming revenues for economic development and governmental purposes, that the interests of minors and other legally incompetent persons entitled to receive per capita payments are protected and preserved, and that per capita payments are subject to Federal income taxes. The AS-IA does not mandate the distribution of net gaming revenues to individual tribal members. However, it is essential that Indian tribes choosing to make per capita payments comply with the requirements of IGRA.

The anticipated expenses or costs to the public or to the tribes who submit tribal revenue allocation plans will be minimal. The rule will not result in an annual gross effect on the economy of $100 million or more, and therefore is not an economically significant regulatory action. The rule will allow any Indian tribe that is conducting gaming to prepare a tribal revenue allocation plan for the purpose of

making per capita payments to tribal members from net gaming revenues. A tribal revenue allocation plan will not affect the total amount of net gaming revenue available to a particular tribe. Without the rule, tribes must use net gaming revenues in accordance with Section 2710 (b)(2)(B), solely for tribal group purposes. With the rule, tribes may distribute a portion of the net gaming revenue to tribal members in per capita payments, which can be spent for private purposes. The net revenue is determined by the success of the tribe's gaming operation. Only a portion of the net gaming revenues may be used to make per capita payments to tribal members. Without a tribal revenue allocation plan, a tribe cannot make per capita payments to members of the tribe but must continue to spend all net gaming revenues for the benefit of the tribe.

Currently, there are approximately 225 Indian tribes engaged in class II (bingo) and class III (casino) gaming. Although IGRA mandates how net gaming revenues are to be used by tribes, it does not require tribes to provide to anyone the amounts of net gaming revenues earned or distributed. The tribal revenue allocation plan will require that tribes provide the Secretary a percentage breakdown of the uses to which net gaming revenues are allocated. The total percentage must equal 100 percent. To some Indian tribes who were previously unsuccessful in attracting businesses to their remote lands, gaming revenues now serve as the primary economic development tool available. Gaming revenues have enabled tribes to meet and supplement Federal funding to meet the needs of their members, by providing funds for housing assistance, education assistance, medical assistance, etc.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Indian tribes are not considered to be small entities for purposes of this Act.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. Without this rule only the tribe may spend net gaming revenues in accordance with 25 U.S.C. § 2710(b)(2)(B) of IGRA. With this rule a method for the submission, review and approval of a tribal revenue allocation plan is established to allow a tribe to distribute per capita payments to its members from net gaming revenues.

This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability to U.S.-based enterprises to compete with foreign-based enterprises. The rule will provide a method for the submission, review and approval of tribal revenue allocation plans to allow a tribe to distribute per capita payments to its members from some of its net gaming revenues in accordance with IGRA.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal government or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) is not required because only Indian tribes that conduct gaming activities and choose to distribute per capita payments from net gaming revenues to its members are required to submit tribal revenue allocation plans for review and approval in accordance with IGRA. Indian tribes that conduct gaming activities and who choose not to distribute per capita payments from net gaming revenues to its members are not required to submit a tribal revenue allocation plan to utilize net gaming revenues.

As an alternative to the establishment of regulations, the AS-IA issued Guidelines on December 21, 1992, to govern the review and approval of Tribal Revenue Allocation Plans. As outlined in IGRA, the guidelines require that the Indian tribe must dedicate a significant share (or portion) of net gaming revenues for economic development and governmental purposes, that the interests of minors and other legally incompetent persons entitled to receive per capita payments must be protected and preserved, and that per capita payments are subject to Federal income taxes. The AS-IA does not mandate the distribution of net gaming revenues to individual tribal members. However, it is essential that Indian tribes choosing to make per capita payments comply with the requirements of IGRA.

Takings (E.O. 12630)

The Department has determined that this rule does not have significant ''takings'' implications. The rule does not pertain to ''taking'' of private property interests, nor does it impact private property.

Federalism (E.O. 12612)

The Department has determined that this rule does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of States.

Civil Justice Reform (E.O. 12988)

The Department has certified to OMB that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order (E.O.) 12988.

National Environmental Policy Act of 1969 (NEPA) Statement

The Department has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to NEPA.

Paperwork Reduction Act

The Office of Management and Budget has reviewed and approved the information collections contained in this rule and assigned them approval number 1076–0152. The proposed rule was published on June 7, 1996, 61 FR 29044, and solicited comments on the information collection. The OMB expressed a concern related to the proposed rule §§ 290.11 (b)(3) and (b)(4) [renumbered §§ 290.12 (b)(2) and (b)(3)] indicating that these sections were open ended and needed more specific information. In particular, (3) OMB indicated the rule should outline specific requirements the Secretary must review as required by IGRA and (4) OMB questioned whether guidance is submitted to field personnel and/or public.

Response: Section 290.11(b)(3) is renumbered as § 290.12(b)(2) and is amended to read: ''It must contain detailed information to allow the ABO to determine that it complies with this section and IGRA particularly regarding funding for tribal governmental operations or programs and for promoting tribal economic development.'' Section 290.11(b)(4) is renumbered § 290.12(b)(3) and amended to state that because IGRA requires the per capita payments to be disbursed to

the parents or legal guardians of such minors or legal incompetents in such amounts as necessary for the health, education, or welfare, of the minor or other legally incompetent, it is up to the tribe to establish a method for the accountability of the funds.

These concerns have been addressed in the rule and are reflected in the Paperwork Reduction Act submission.

Another comment questioned the accuracy of the Department's estimate of the burden of the proposed collection of information. No action was taken on this comment. The comment did not address why the cost or hour burden is questioned. Consultation from tribal representatives was obtained to determine the estimated burden of the collection of information.

Sections 290.12, 290.17, 290.24 and 290.26 have been amended and contain information collection requirements.

BIA invites the public to comment on the accuracy of the burden estimate and to provide suggestions for reducing the burden. Please submit your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior, OMB Control Number 1076–0152, Washington, DC, 20503, and to the Director, Office of Indian Gaming Management, Bureau of Indian Affairs, 1849 C Street NW, MS 2070-MIB, Washington, DC 20240.

BIA needs this information to ensure that Tribal Revenue Allocation Plans include assurances that certain statutory requirements are met, a breakdown of the specific uses to which net gaming revenues will be allocated, eligibility requirements for participation, tax liability notification and the assurance of the protection and preservation of the per capita shares of minors and legal incompetents. BIA will use this information to ensure that net gaming revenues are used: (1) to fund tribal government operations and programs; (2) to provide for the general welfare of the Indian tribe and its members; (3) to promote tribal economic development; (4) to donate to charitable organizations; and (5) to fund operations of local government agencies. The likely respondents to this collection are Indian tribes, bands or groups. The estimated annual number of respondents is 50 with collections obtained periodically. The total burden for this collection of information is estimated to average 75–100 hours per response, for 5,000 total hours per year, including the time for reviewing instructions, searching existing data resources, gathering and maintaining the data needed, and completing and reviewing the submission. Responses to the collection of information are mandatory in order to receive benefits.

The Paperwork Reduction Act of 1995 requires us to tell you that a Federal Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Drafting Information

The primary author of this document is Nancy Pierskalla, Management Analyst, Office of Indian Gaming Management, Bureau of Indian Affairs, Department of the Interior.

List of Subjects in 25 CFR Part 290

Gambling, Grant programs—business, Grant programs—Indians, Indians—business and finance, Indians—gaming.

For the reasons given in the preamble, part 290 is added to Chapter I of Title 25 of the Code of Federal Regulations as set forth below.

PART 290—TRIBAL REVENUE ALLOCATION PLANS

Sec.

290.1 Purpose.
290.2 Definitions.
290.3 Information collection.
290.4 What is a tribal revenue allocation plan?
290.5 Who approves tribal revenue allocation plans?
290.6 Who must submit a tribal revenue allocation plan?
290.7 Must an Indian tribe have a tribal revenue allocation plan if it is not making per capita payments?
290.8 Do Indian tribes have to make per capita payments from net gaming revenues to tribal members?
290.9 How may an Indian tribe use net gaming revenues if it does not have an approved tribal revenue allocation plan?
290.10 Is an Indian tribe in violation of IGRA if it makes per capita payments to its members from net gaming revenues without an approved tribal revenue allocation plan?
290.11 May an Indian tribe distribute per capita payments from net gaming revenues derived from either Class II or Class III gaming without a tribal revenue allocation plan?
290.12 What information must the tribal revenue allocation plan contain?
290.13 Under what conditions may an Indian tribe distribute per capita payments?
290.14 Who can share in a per capita payment?
290.15 Must the Indian tribe establish trust accounts with financial institutions for minors and legal incompetents?
290.16 Can the per capita payments of minors and legal incompetents be deposited into accounts held by BIA or OTFM?
290.17 What documents must the Indian tribe include with the tribal revenue allocation plan?
290.18 Where should the Indian tribe submit the tribal revenue allocation plan?
290.19 How long will the ABO take to review and approve the tribal revenue allocation plan?
290.20 When will the ABO disapprove a tribal revenue allocation plan?
290.21 May an Indian tribe appeal the ABO's decision?
290.22 How does the Indian tribe and its members ensure compliance with its tribal revenue allocation plan?
290.23 How does the Indian tribe resolve disputes arising from per capita payments to individual members or identified groups of members?
290.24 Do revisions/amendments to a tribal revenue allocation plan require approval?
290.25 What is the liability of the United States under this part?
290.26 Are previously approved tribal revenue allocation plans, revisions or amendments subject to review in accordance with 25 CFR part 290?

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, and 2710.

§ 290.1 Purpose.

This part contains procedures for submitting, reviewing, and approving tribal revenue allocation plans for distributing net gaming revenues from tribal gaming activities. It applies to review of tribal revenue allocation plans adopted under IGRA.

§ 290.2 Definitions.

Appropriate Bureau official (ABO) means the Bureau official with delegated authority to approve tribal revenue allocation plans.

IGRA means the Indian Gaming Regulatory Act of 1988 (Public Law 100–497) 102 Stat. 2467 dated October 17, 1988, (Codified at 25 U.S.C. 2701–2721(1988)) and any amendments.

Indian Tribe means any Indian tribe, band, nation, or other organized group or community of Indians that the Secretary recognizes as:

(1) Eligible for the speci al programs and services provided by the United States to Indians because of their status as Indians; and

(2) Having powers of self-government.

Legal incompetent means an individual who is eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction, including tribal justice systems or as established by the tribe.

Member of an Indian tribe means an individual who meets the requirements established by applicable tribal law for enrollment in the tribe and—

(1) Is listed on the tribal rolls of that tribe if such rolls are kept or

(2) Is recognized as a member by the tribal governing body if tribal rolls are not kept.

Minor means an individual who is eligible to participate in a per capita payment and who has not reached the age of 18 years.

Per capita payment means the distribution of money or other thing of value to all members of the tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity. This definition does not apply to payments which have been set aside by the tribe for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs.

Resolution means the formal document in which the tribal governing body expresses its legislative will in accordance with applicable tribal law.

Secretary means the Secretary of the Interior or his/her authorized representative.

Superintendent means the official or other designated representative of the BIA in charge of the field office which has immediate administrative responsibility for the affairs of the tribe for which a tribal revenue allocation plan is prepared.

Tribal governing body means the governing body of an Indian tribe recognized by the Secretary.

Tribal revenue allocation plan or *allocation plan* means the document submitted by an Indian tribe that provides for distributing net gaming revenues.

You or your means the Indian tribe.

§ 290.3 Information collection.

The information collection requirements contained in §§ 290.12, 290.17, 290.24 and 290.26 have been approved by the OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), and assigned clearance number 1076–0152.

§ 290.4 What is a tribal revenue allocation plan?

It is the document you must submit that describes how you will allocate net gaming revenues.

§ 290.5 Who approves tribal revenue allocation plans?

The ABO will review and approve tribal revenue allocation plans for compliance with IGRA.

§ 290.6 Who must submit a tribal revenue allocation plan?

Any Indian tribe that intends to make a per capita payment from net gaming revenues must submit one.

§ 290.7 Must an Indian tribe have a tribal revenue allocation plan if it is not making per capita payments?

No, if you do not make per capita payments, you do not need to submit a tribal revenue allocation plan.

§ 290.8 Do Indian tribes have to make per capita payments from net gaming revenues to tribal members?

No. You do not have to make per capita payments.

§ 290.9 How may an Indian tribe use net gaming revenues if it does not have an approved tribal revenue allocation plan?

Without an approved tribal revenue allocation plan, you may use net gaming revenues to fund tribal government operations or programs; to provide for the general welfare of your tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies.

§ 290.10 Is an Indian tribe in violation of IGRA if it makes per capita payments to its members from net gaming revenues without an approved tribal revenue allocation plan?

Yes, you are in violation of IGRA if you make per capita payments to your tribal members from net gaming revenues without an approved tribal revenue allocation plan. If you refuse to comply, the DOJ or NIGC may enforce the per capita requirements of IGRA.

§ 290.11 May an Indian tribe distribute per capita payments from net gaming revenues derived from either Class II or Class III gaming without a tribal revenue allocation plan?

No, IGRA requires that you have an approved tribal revenue allocation plan.

§ 290.12 What information must the tribal revenue allocation plan contain?

(a) You must prepare a tribal revenue allocation plan that includes a percentage breakdown of the uses for which you will allocate net gaming revenues. The percentage breakdown must total 100 percent.

(b) The tribal revenue allocation plan must meet the following criteria:

(1) It must reserve an adequate portion of net gaming revenues from the tribal gaming activity for one or more of the following purposes:

(i) To fund tribal government operations or programs;

(ii) To provide for the general welfare of the tribe or its members;

(iii) To promote tribal economic development;

(iv) To donate to charitable organizations; or

(v) To help fund operations of local government.

(2) It must contain detailed information to allow the ABO to determine that it complies with this section and IGRA particularly regarding funding for tribal governmental operations or programs and for promoting tribal economic development.

(3) It must protect and preserve the interests of minors and other legally incompetent persons who are entitled to receive per capita payments by:

(i) Ensuring that tribes make per capita payments for eligible minors or incompetents to the parents or legal guardians of these minors or incompetents at times and in such amounts as necessary for the health, education, or welfare of the minor or incompetent;

(ii) Establishing criteria for withdrawal of the funds, acceptable proof and/or receipts for accountability of the expenditure of the funds and the circumstances for denial of the withdrawal of the minors' and legal incompetents' per capita payments by the parent or legal guardian; and

(iii) Establishing a process, system, or forum for dispute resolution.

(4) It must describe how you will notify members of the tax liability for per capita payments and how you will withhold taxes for all recipients in accordance with IRS regulations in 26 CFR part 31.

(5) It must authorize the distribution of per capita payments to members according to specific eligibility requirements and must utilize or establish a tribal court system, forum or administrative process for resolution of disputes concerning the allocation of net gaming revenues and the distribution of per capita payments.

§ 290.13 Under what conditions may an Indian tribe distribute per capita payments?

You may make per capita payments only after the ABO approves your tribal revenue allocation plan.

§ 290.14 Who can share in a per capita payment?

(a) You must establish your own criteria for determining whether all members or identified groups of members are eligible for per capita payments.

(b) If the tribal revenue allocation plan calls for distributing per capita payments to an identified group of members rather than to all members,

you must justify limiting this payment to the identified group of members. You must make sure that:

(1) The distinction between members eligible to receive payments and members ineligible to receive payments is reasonable and not arbitrary;

(2) The distinction does not discriminate or otherwise violate the Indian Civil Rights Act; and

(3) The justification complies with applicable tribal law.

§ 290.15 Must the Indian tribe establish trust accounts with financial institutions for minors and legal incompetents?

No. The tribe may establish trust accounts with financial institutions but should explore investment options to structure the accounts to the benefit of their members while ensuring compliance with IGRA and this part.

§ 290.16 Can the per capita payments of minors and legal incompetents be deposited into accounts held by BIA or OTFM?

No. The Secretary will not accept any deposits of payments or funds derived from net gaming revenues to any account held by BIA or OTFM.

§ 290.17 What documents must the Indian tribe include with the tribal revenue allocation plan?

You must include:

(a) A written request for approval of the tribal revenue allocation plan; and

(b) A tribal resolution or other document, including the date and place of adoption and the result of any vote taken, that certifies you have adopted the tribal revenue allocation plan in accordance with applicable tribal law.

§ 290.18 Where should the Indian tribe submit the tribal revenue allocation plan?

You must submit your tribal revenue allocation plan to your respective Superintendent. The Superintendent will review the tribal revenue allocation plan to make sure it has been properly adopted in accordance with applicable tribal law. The Superintendent will then transmit the tribal revenue allocation plan promptly to the ABO.

§ 290.19 How long will the ABO take to review and approve the tribal revenue allocation plan?

The ABO must review and act on your tribal revenue allocation plan within 60 days of receiving it. A tribal revenue allocation plan is not effective without the ABO's written approval.

(a) If the tribal revenue allocation plan conforms with this part and the IGRA, the ABO must approve it.

(b) If the tribal revenue allocation plan does not conform with this part and the IGRA, the ABO will send you a written notice that:

(1) Explains why the plan doesn't conform to this part of the IGRA; and

(2) Tells you how to bring the plan into conformance.

(c) If the ABO doesn't act within 60 days, you can appeal the inaction under 25 CFR part 2. A tribal revenue allocation plan is not effective without the express written approval of the ABO.

§ 290.20 When will the ABO disapprove a tribal revenue allocation plan?

The ABO will not approve any tribal revenue allocation plan for distribution of net gaming revenues from a tribal gaming activity if:

(a) The tribal revenue allocation plan is inadequate, particularly with respect to the requirements in § 290.12 and IGRA, and you fail to bring it into compliance;

(b) The tribal revenue allocation plan is not adopted in accordance with applicable tribal law;

(c) The tribal revenue allocation plan does not include a reasonable justification for limiting per capita payments to certain groups of members; or

(d) The tribal revenue allocation plan violates the Indian Civil Rights Act of 1968, any other provision of Federal law, or the United States' trust obligations.

§ 290.21 May an Indian tribe appeal the ABO's decision?

Yes, you may appeal the ABO's decision in accordance with the regulations at 25 CFR part 2.

§ 290.22 How does the Indian tribe ensure compliance with its tribal revenue allocation plan?

You must utilize or establish a tribal court system, forum or administrative process in the tribal revenue allocation plan for reviewing expenditures of net gaming revenues and explain how you will correct deficiencies.

§ 290.23 How does the Indian tribe resolve disputes arising from per capita payments to individual members or identified groups of members?

You must utilize or establish a tribal court system, forum or administrative process for resolving disputes arising from the allocation of net gaming revenue and the distribution of per capita payments.

§ 290.24 Do revisions/amendments to a tribal revenue allocation plan require approval?

Yes, revisions/amendments to a tribal revenue allocation plan must be submitted to the ABO for approval to ensure that they comply with § 290.12 and IGRA.

§ 290.25 What is the liability of the United States under this part?

The United States is not liable for the manner in which a tribe distributes funds from net gaming revenues.

§ 290.26 Are previously approved tribal revenue allocation plans, revisions, or amendments subject to review in accordance with this part?

No. This part applies only to tribal revenue allocation plans, revisions, or amendments submitted for approval after April 17, 2000.

(a) If the ABO approved your tribal revenue allocation plan, revisions, or amendments before April 17, 2000, you need not resubmit it for approval.

(b) If you are amending or revising a previously approved allocation plan, you must submit the amended or revised plan to the ABO for review and approval under this part.

Dated: October 29, 1999.

Kevin Gover

Assistant Secretary—Indian Affairs.

[FR Doc. 00–6603 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC32

Postlease Operations Safety

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Corrections to final regulations.

SUMMARY: This document contains corrections to the final rule titled ''Postlease Operations Safety'' that was published Tuesday, December 28, 1999 (64 FR 72756). We are correcting minor errors in four documents incorporated by reference and separating two document entries that were printed as one entry.

EFFECTIVE DATE: January 27, 2000.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray, (703) 787–1600.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections supersede 30 CFR 250, subpart A, General, regulations on the effective date and affect all operators and lessees on the Outer Continental Shelf.

The published final regulations contained a complete listing of all of the

documents MMS has incorporated by reference in the 30 CFR part 250 regulations. The rulemaking also included revisions and reaffirmations of several documents. The table of documents incorporated by reference in § 250.198(e) of the published final rule contained some minor errors and typographical mistakes which we are correcting.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on December 28, 1999, of the final regulations, which were the subject of FR Doc. 99–31869, is corrected as follows:

§ 250.198 [Corrected]

On page 72790, in the table in § 250.198(e), in column two for the three entries for API MPMS, Chapter 2, Section 2A; API MPMS, Chapter 3, Section 1A; and API MPMS, Chapter 3, Section 1B, the citation ''§ 250.1202(1)(4)'' is corrected to read ''§ 250.1202(l)(4)''. On pages 72790 and 72791, in the table in § 250.198(e), the entries for four documents are corrected, and the two entries that were printed as one entry should be reprinted, to read as follows:

§ 250.198 Documents incorporated by reference.

* * * * *

(e) * * *

Title of document	Incorporated by reference at
* * * * * *	
API MPMS, Chapter 2, Section 2B, Calibration § 250.1202(1)(4) Calibration of Upright Cylindrical Tanks Using the Optical Reference Line Method, First Edition, March 1989, reaffirmed May 1996, API Stock No. H30023; also available as ANSI/ASTM D 4738–88.	250.1202(1)(4).
* * * * * *	
API MPMS, Chapter 11.1, Volume Correction Factors, Volume 1, Table 5A—Generalized Crude Oils and JP-4, Correction of Observed API Gravity to API Gravity at 60°F, and Table 6A—Generalized Crude Oils and JP–4, Correction of Volume to 60°F, against API Gravity 60°F, First Edition, August 1980, reaffirmed March 1997, API Stock No. H27000; also available as ANSI/ASTM D 1250.	§ 250.1202(a)(3), (g)(3) and (1)(4).
* * * * * *	
API MPMS, Chapter 11.2.2, Addendum to 250.1202(a)(3). Correlation of Vapor Pressure Correction for Natural Gas Liquids, First Edition, December 1984, reaffirmed March 1997, API Stock No. H27308; also available as GPA TP–15.	§ 250.1202(a)(3).
* * * * * *	
API MPMS, Chapter 14, Section 3, Part 2, Specification and Installation Requirements, Third Edition, February 1991, reaffirmed May 1996, API Stock No. H30351; also available as ANSI/API 2530, 1991.	§ 250.1203(b)(2).
* * * * * *	
API MPMS, Chapter 14, Section 5, Calculation of Gross Heating Value, Relative Density, and Compressibility Factor for Natural Gas Mixtures from Compositional Analysis, Revised 1996; order from Gas Processors Association, 6526 East 60th Street, Tulsa, Oklahoma 74145..	§ 250.1203(b)(2).
* * * * * *	
API MPMS, Chapter 14, Section 6, Continuous Density Measurement, Second Edition, April 1991, reaffirmed May 1998, API Stock No. H30346.	§ 250.1203(b)(2).
* * * * * *	

Dated: March 2, 2000.

E. P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 00–6663 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

Oil or Hazardous Material Pollution Prevention Regulations for Vessels

CFR Correction

In Title 33 of the Code of Federal Regulations, parts 125 to 199, revised as of July 1, 1999, part 155 is corrected by reinstating §§155.235 and 155.240 to read as follows:

§ 155.235 Emergency towing capability for oil tankers.

An emergency towing arrangement shall be fitted at both ends on board all oil tankers of not less than 20,000 deadweight tons (dwt), constructed on or after September 30, 1997. For oil tankers constructed before September 30, 1997, such an arrangement shall be fitted at the first scheduled dry-docking, but not later than January 1, 1999. The design and construction of the towing arrangement shall be in accordance with IMO resolution MSC.35(63).

[CGD 95–028, 62 FR 51194, Sept. 30, 1997]

§ 155.240 Damage stability information for oil tankers and offshore oil barges.

(a) Owners or operators of oil tankers and offshore oil barges shall ensure that their vessels have prearranged, prompt access to computerized, shore-based damage stability and residual structural strength calculation programs.

(b) Vessel baseline strength and stability characteristics must be pre-entered into such programs and be consistent with the vessel's existing configuration.

(c) Access to the shore-based calculation program must be available 24 hours a day.

(d) At a minimum, the program must facilitate calculation of the following:

(1) Residual hull girder strength based on the reported extent of damage.

(2) Residual stability when the vessel's compartments are breached.

(3) The most favorable off-loading, ballasting, or cargo transfer sequences to improve residual stability, reduce hull girder stresses, and reduce ground-force reaction.

(4) The bending and shear stresses caused by pinnacle loads from grounding or stranding.

[CGD 90–068, 58 FR 67996, Dec. 22, 1993, as amended by USCG–1998–3799, 63 FR 35531, June 30, 1998]

[FR Doc. 00–55505 Filed X–XX–00, 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 19 and 20

RIN 2900–AJ72

Appeals Regulations and Rules of Practice—Case Docketing

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Board of Veterans' Appeals (Board) adjudicates appeals from decisions on claims for veterans' benefits filed with the Department of Veterans Affairs (VA). This document updates the Board's procedures to reflect changes made by section 1003 of the Veterans Programs Enhancement Act of 1998 and to reflect the change in the name of the United States Court of Veterans Appeals to the United States Court of Appeals for Veterans Claims.

DATES:

Effective Date: March 17, 2000.

Applicability Date: November 10, 1998, except for §§ 20.609(i), 20.714(a)(5), 20.717(b), and 20.900(d) which are applicable March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202–565–5978.

SUPPLEMENTARY INFORMATION: Initial decisions on claims for veterans' benefits are made at VA field offices throughout the nation. Claimants may appeal those decisions to the Board. Section 1003 of the Veterans Programs Enhancement Act of 1998, Public Law 105–368, 112 Stat. 3315, 3363–64 (1998), amended 38 U.S.C. 7107 to make these changes in procedures for processing cases before the Board:

(1) Serious illness and severe financial hardship are now included in the statutory grounds for advancing a case on the Board's docket. 38 U.S.C. 7107(a)(2).

(2) A new provision permits postponement of consideration of a case in order to afford an appellant a hearing. 38 U.S.C. 7107(a)(3).

(3) The order in which the Board conducts field hearings in areas served by VA regional offices has been changed from the order in which requests for hearings in each area are received to the docket order of the cases that are scheduled for hearings within the same area. 38 U.S.C. 7107(d)(2).

(4) The statutory grounds in 38 U.S.C. 7107(d)(3) for advancing a hearing within an area served by a regional office now conform to the grounds in 38 U.S.C. 7107(a)(2) for advancing a case on the Board's docket.

This document amends 38 CFR 19.75, 20.704, and 20.900 to conform to these statutory changes.

Section 511 of the same public law, 112 Stat. at 3341, changed the name of the United States Court of Veterans Appeals to the United States Court of Appeals for Veterans Claims. Amendments to 38 CFR 20.609, 20.714, 20.717, and 20.900 change references to the Court to reflect its new name.

VA finds under 5 U.S.C. 553(b)(3)(B) that notice and public procedure are impracticable, unnecessary, and contrary to public interest inasmuch as these amendments merely reflect statutory changes.

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

There is no Catalog of Federal Domestic Assistance number for this final rule.

List of Subjects

38 CFR Part 19

Administrative practice and procedure; Claims; Veterans; Authority delegations (government agencies).

38 CFR Part 20

Administrative practice and procedure; Claims; Lawyers; Legal services; Veterans; Authority delegations (government agencies).

Approved: March 10, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR parts 19 and 20 are amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 19.75 is revised to read as follows:

§ 19.75 Field hearing docket.

Hearings on appeal held at Department of Veterans Affairs field facilities will be scheduled for each area served by a regional office in accordance with the place of each case on the Board's docket, established under § 20.900 of this chapter, relative to other cases for which hearings are scheduled to be held within that area. Such scheduling is subject to § 20.704(f) of this chapter pertaining to advancement of a case on the hearing docket.

(Authority: 38 U.S.C. 7107)

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

4. Section 20.704 is amended by revising the second sentence of paragraph (a); and revising paragraph (f) to read as follows:

§ 20.704 Rule 704. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals at Department of Veterans Affairs field facilities.

(a) *General.* * * * Subject to paragraph (f) of this section, the hearings will be scheduled in the order specified in § 19.75 of this chapter.

* * *

* * * * *

(f) *Advancement of the case on the hearing docket.* A hearing may be scheduled at a time earlier than would be provided for under § 19.75 of this chapter upon written motion of the appellant or the representative. The same grounds for granting relief, motion filing procedures, and designation of authority to rule on the motion specified in Rule 900(c) (§ 20.900(c) of this part) for advancing a case on the Board's docket shall apply.

(Authority: 38 U.S.C. 7107)

(Approved by the Office of Management and Budget under control number 2900–0085)

5. In § 20.900, paragraphs (b) and (c) are revised; and paragraph (e) is added, to read as follows:

§ 20.900 Rule 900. Order of consideration of appeals.

* * * * *

(b) *Appeals considered in docket order.* Except as otherwise provided in this Rule, appeals are considered in the order in which they are entered on the docket.

(c) *Advancement on the docket.* A case may be advanced on the docket on the motion of the Chairman, the Vice Chairman, a party to the case before the Board, or such party's representative. Such a motion may be granted only if the case involves interpretation of law of general application affecting other claims, if the appellant is seriously ill or is under severe financial hardship, or if other sufficient cause is shown. ''Other sufficient cause'' shall include, but is not limited to, administrative error resulting in a significant delay in docketing the case. Such motions must be in writing and must identify the specific reason(s) why advancement on the docket is sought, the name of the veteran, the name of the appellant if other than the veteran (*e.g.,* a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), and the applicable Department of Veterans Affairs file number. The motion must be filed with: Director, Administrative Service (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. Where a motion is received prior to the assignment of the case to an individual member or panel of members, the ruling on the motion will be by the Vice Chairman, who may delegate such authority to a Deputy Vice Chairman. If a motion to advance a case on the docket is denied, the appellant and his or her representative will be immediately notified. If the motion to advance a case on the docket is granted, that fact will be noted in the Board's decision when rendered.

* * * * *

(e) *Postponement to provide hearing.* Any other provision of this Rule notwithstanding, a case may be postponed for later consideration and determination if such postponement is necessary to afford the appellant a hearing.

(Authority: 38 U.S.C. 7107, Pub. Law No. 103–446, § 302)

§ 20.609 [Amended]

6. In § 20.609, paragraph (i) is amended by removing ''the Court of Veterans Appeals'' from the next to the last sentence and adding, in its place, ''the United States Court of Appeals for Veterans Claims''.

§§ 20.714, 207.17, and 20.900 [Amended]

7. Sections 20.714(a)(5), 20.717(b), and 20.900(d) are amended by removing ''the United States Court of Veterans Appeals'' wherever it appears and, in each such section, adding in its place ''the United States Court of Appeals for Veterans Claims''.

[FR Doc. 00–6613 Filed 3–16–00; 8:45 am]

BILLING CODE 83201–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148, 261, 268, 271, and 302

[FRL–6560–4]

RIN 2050–AD59

Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing the vacature of regulatory provisions governing the identification of certain wastes as listed hazardous wastes. EPA is amending its regulations to conform with an order issued by the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir.) in *Great Lakes Chemical Corporation* v. *EPA* (No. 98–1312), that vacated Agency regulations listing certain organobromine wastes as hazardous wastes under the Resource Conservation and Recovery Act (RCRA).

EPA also is modifying the land disposal restrictions treatment standards in 40 CFR part 268 by deleting these wastes and the associated treatment standards. In addition, EPA is vacating the Reportable Quantity (RQ) requirements for these notifications. Under the court's order, and as amended in today's rule, the vacated federal hazardous waste listings and regulatory requirements based on those listings are to be treated as though they were never in effect. State regulations, which may be more stringent than federal rules, were not necessarily affected by the court's ruling.

EFFECTIVE DATE: This rule will be effective on March 17, 2000.

ADDRESSES: EPA does not seek comment on this document. EPA will keep the official record for this action in paper form. The official record of this action is identified by Docket Number F–98–OBLF–FFFFF. The public may view supporting materials in the RCRA Information Center (RIC), located at EPA, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, we recommend that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

Supporting materials are available for viewing in the RCRA Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters, US EPA Ariel Rios (5101), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of the rule, contact William (Rick) Brandes of the Office of Solid Waste (5304W), U.S. Environmental Protection Agency, US EPA Ariel Rios, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. [E-mail address and telephone numbers: *Brandes.william@epa.gov*, (703) 308–8871.]

SUPPLEMENTARY INFORMATION: . The court order vacating the listing determination will be added to Docket Number F–98–OBLF–FFFFF, the public docket for the rule that listed the organobromine wastes as hazardous. The rule, ''Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities,'' was issued in the **Federal Register** at 63 FR 24596 (May 4, 1998). EPA will keep the official record for this action in paper form. The official record is the paper record maintained at the address in the **ADDRESSES** section.

Contents of This Final Rule

I. Background
II. Amended Regulations
III. State Authority

IV. Good Cause Exemption from Notice-and-Comment Rulemaking Procedures
V. Administrative Assessments

I. Background

On May 4, 1998, EPA published in the **Federal Register** (63 FR 24596) a final rule listing as hazardous wastes under RCRA two wastes generated by the organobromine production industry. The rule added 2,4,6-tribromophenol to the list of commercial chemical products that are hazardous wastes only when they are discarded. This list is found at 40 CFR 261.33 and is divided into acutely hazardous wastes (''P-wastes'') and other toxic wastes (U-wastes''). 2,4,6-tribromophenol was designated waste code U408. Sweepings, off-specification product, and spent filter media from the production of 2,4,6-tribromophenol were added to the list of hazardous wastes from specific sources and designated as waste code K140. As part of the listing determination, and in accordance with Agency regulations, EPA also listed in Appendix VII of 40 CFR part 261 the hazardous constituents in the wastes upon which the listings were based.

The May 4, 1998 final rule also designated the two organobromine wastes as hazardous substances under the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601, and added them to the hazardous substance list at 40 CFR 302.4 with adjusted reportable quantities (RQs) of 100 pounds. EPA also promulgated land disposal restriction (LDR) regulations for the organobromine wastes. EPA amended its requirements for approval of state hazardous waste programs by adding the organobromine listings and LDR regulations to Tables 1 and 2 of 40 CFR 271.1. These tables list the regulations that establish the requirements and prohibitions applicable to state hazardous waste programs.

On April 9, 1999, the D.C. Circuit in *Great Lakes Chemical Corporation* v. *EPA*, ordered that the organobromine listing determinations be vacated. Accordingly, EPA is removing from the Code of Federal Regulations (CFR) the listings vacated by the court and all references to those listings. Today's document notifies the public that EPA is deleting from the lists of hazardous waste found in 40 CFR part 261, subpart D two wastes previously designated as hazardous waste codes K140 and U408. The first waste, previously designated as K140, is sweepings, off-speculation product and spent filter media from the production of 2,4,6-tribromophenol. The second waste, previously designated as U408, is 2,4,6-tribromophenol (commercial chemical product). EPA also is deleting 2,4,6-tribromophenol from the list of hazardous constituents in Appendix VIII of 40 CFR part 261. In addition, EPA is modifying the land disposal restrictions treatment standards in 40 CFR part 268 by deleting these wastes and the associated treatment standards. EPA also is vacating the Reportable Quantity (RQ) requirements for these notifications.

The effect of vacating the hazardous waste listing determination for these wastes is to clarify that these two wastestreams are not subject to the hazardous waste management and treatment standards under RCRA, as well as not subject to emergency notification requirements for releases of hazardous substances to the environment.

II. Amended Regulations

In 40 CFR 261.32, the following K-waste listing is deleted: K140—Floor sweepings, off-specification product and spent filter media from the production of 2,4,6-tribromophenol.

In the table in 40 CFR 261.33(f) the following U-waste listing is deleted:

Hazardous waste number	Chemical abstracts number	Substance
U408	118–79–6	2,4,6-Tribromophenol.

EPA also is deleting 2,4,6-tribromophenol from the hazardous constituent list in Appendix VII of 40 CFR Part 261. The Agency is deleting any mention of the vacated hazardous waste codes in Appendix VIII.

While the regulations for waste management at 40 CFR parts 262 through 266 are not affected by the court's action with regard to the vacature of the hazardous waste listing determinations for K140 and U408, it is clear that the regulations are not applicable to the vacated hazardous waste listings (unless those wastes exhibit a hazardous waste characteristic described in 40 CFR part 261, subpart C). However, to the extent that the wastes described in the vacated listings were included in federal permits before the ruling, appropriate action may need to be taken by permittees and permitting authorities to amend the permits. Any need to revise state permits will depend on state law. Since state law may be more stringent than federal law, there may be circumstances in which a facility managing organobromine wastes may be required to retain the state permits.

The land disposal restriction (LDR) regulations for hazardous wastes are amended to remove K140 and U408. Specifically, the Agency is amending 40 CFR 268.33 to remove LDR requirements for K140 and U408 and amending the table in 40 CFR 268.40 to remove the entries for K140 and U408. In addition, 2,4,6-tribromophenol is removed from the Universal Treatment Standards table in 40 CFR 268.48.

Today's final rule also removes the vacated K140 and U408 wastes from CERCLA designation as hazardous substances. Accordingly, these wastes are removed from the list of CERCLA hazardous substances at 40 CFR 302.4.

III. State Authority

The tables in 40 CFR 271.1 are amended to reflect the issuance of this document so that states will understand they are not required by the federal Resource Conservation and Recovery Act to adopt the hazardous waste listings for K140 and U408. Since today's rule does not establish any new regulations, no additional requirements or obligations are imposed on the states by its promulgation. RCRA section 3009 provides that states may not issue regulations less stringent than those authorized under subtitle C or RCRA. However, section 3009 of RCRA also provides that states may impose more stringent requirements than those regulations promulgated by EPA under subtitle C. Thus, regulations vacated by the court in *Great Lakes Chemical Corporation* v. *EPA* may be permissible under state law.

IV. Good Cause Exemption from Notice-and-Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule (5 U.S.C. 553(b)). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and comment are unnecessary (5 U.S.C. 553(b)(3)(B)).

EPA has determined that providing prior notice and opportunity for comment on the regulations amending the RCRA hazardous waste management requirements to comply with the court decision vacating the hazardous waste listing determinations for waste codes K140 and U408, is not necessary. The regulations are no longer legally in effect by order of the federal court of appeals. Thus, amending the hazardous waste regulations has no legal impact and only states the current legal status of the rules.

For the same reasons stated above, EPA believes there is good cause for making the amending regulations immediately effective. (See 5 U.S.C. 553(d))

V. Administrative Assessments

Under Executive Order 12866 (58 FR 51735, October 4, 1993), today's action has no regulatory impact because it merely reflects the current legal status of the regulations. This ''regulatory action'' does not impose annual costs of $100 million or more and is not a subject to review by the Office of Management and Budget. Because this action only amends the CFR to comply with the current legal status of the rules, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). This action will not significantly or uniquely affect small governments, as specified in section 203 of UMRA, or communities of tribal governments, as specified in Executive Order 13084 (63 FR 27655, May 10, 1998). For the same reason, this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

This rule does not involve technical standards; thus, the requirements of section 12(c) 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.*).

Today's final rule will have no effect upon minority and/or low-income populations. The amending regulations promulgated today reflect current law and are meant only to amend the Code of Federal Regulations to comply with the current legal status of the rules. Therefore, today's rule is not subject to Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.''

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 17, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 148

Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 261

Environmental protection, Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 268

Environmental protection, Hazardous materials, Waste management, Reporting and recordkeeping requirements, Land disposal restrictions, Treatment standards.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: March 8, 2000.

Timothy R. Fields, Jr.,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set forth in the preamble, title 40, chapter 1 of the Code of Federal Regulations is proposed to be amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Sec. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

§ 148.18 [Amended]

2. Section 148.18 is amended by removing and reserving paragraph (f).

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

§ 261.32 [Amended]

4. Section 261.32 is amended in the table under ''Organic Chemicals'' by removing the entry for K140.

§ 261.33 [Amended]

5. Section 261.33(f) is amended in the table by removing in its entirety the entry for U408 (2,4,6-Tribromophenol).

Appendix VII to Part 261 [Amended]

6. Appendix VII to Part 261 is amended by removing the entire entry for EPA hazardous waste number K140.

Appendix VIII to Part 261 [Amended]

7. Appendix VIII to Part 261 is amended by removing the entire entry for 2,4,6-Tribromophenol.

PART 268—LAND DISPOSAL RESTRICTIONS

8. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart C—Prohibitions on Land Disposal

§ 268.33 [Amended]

9. Section 268.33 is removed and reserved.

Subpart D—Treatment Standards

§ 268.40 [Amended]

10. In § 268.40, the table is amended by removing the entire entries for K140 and U408.

§ 268.48 [Amended]

11. In § 268.48, the table is amended by removing the entire entry for 2,4,6-Tribromophenol.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

12. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

13. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication in the **Federal Register**, and by adding the following entries to Table 2 in chronological order by date of publication in the **Federal Register** to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	*	*	*
March 17, 2000	Vacated Organobromine wastes	[*insert FEDERAL REGISTER page numbers.*].	November 4, 1998.
*	*	*	*

TABLE 2.—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
*	*	*	*
November 4, 1998	Prohibition on land disposal of organobromine waste (Vacated wastes).	3004(g)(4)(c) and 3004(m)	3/17/00. [insert FR page numbers.].
*	*	*	*
November 4, 1998	Prohibition on land disposal of radioactive waste mixed with the newly listed and identified wastes, including soil and debris (Vacated organobromine wastes).	3004(m) and 3004(g)(4)(c)	3/17/00. [insert FR page numbers.].
*	*	*	*

* * * * *

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

14. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

§ 302.4 [Amended]

15. Section 302.4 is amended by removing the entries in Table 302.4, in their entirety, for ''2,4,6-Tribromophenol,'' and for ''K140 Floor sweepings, off-specification product and spent filter media from the production of 2,4,6-tribromophenol.''

Appendix A to § 302.4 [Amended]

16. Appendix A to § 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances is amended by removing the entire entry for CAS Registry Number 118796.

[FR Doc. 00–6393 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6561–9]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Sand Springs Petrochemical Complex Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Sand Springs Petrochemical

Complex Superfund Site in Oklahoma from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Oklahoma, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Oklahoma have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Shawn Ghose, M.S., P.E. at (214) 665–6782, Remedial Project Manager, (6SF–AP), Superfund Division, U.S. EPA—Region 6, 1445 Ross Avenue, Dallas, TX 75202. Information on the site is available at the local information repository located at: Page Memorial Library, 6 East Broadway, Sand Springs, Oklahoma 74063. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The Region 6 Public Docket is located at EPA Region 6 Library (6MD–II), 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424 or 665–6427.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is Sand Springs Petrochemical Complex located at Sand Springs, Oklahoma. A Notice of Intent to Delete for this site was published August 2, 1999 (64 FR 41875). The closing date for comments on the Notice of Intent to Delete was extended to October 25, 1999. EPA received no comments and, therefore, no Responsiveness Summary was prepared.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Gregg A. Cooke,

Regional Administrator, Region VI.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site Sand Springs Petrochemical Complex, Sand Springs, Oklahoma.

[FR Doc. 00–6712 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[DA 00–447]

Change of Address

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to reflect the change of address of the Commission's headquarters to the Portals II Building.

DATES: Effective March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Laurence Schecker, Office of General Counsel, (202) 418–1720.

SUPPLEMENTARY INFORMATION: This order adopted February 29, 2000 amends 47 CFR 1.13(a)(1), to reflect the change of address of the Commission's headquarters to the Portals II Building, 445 12th Street, SW, Washington, DC 20554. The Commission's rules are amended as set forth:

List of Subjects in 47 CFR Part 1

Practice and procedure.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Change

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r) and 309.

2. In 47 CFR 1.13(a)(1) remove the words ''Room 614, 1919 M Street NW'' and add, in their place, the words ''Room 8–A741, 445 12th Street, SW.''

[FR Doc. 00–6461 Filed 3–16–00; 8:45 am]

BILLING CODE 6712–01–U

Proposed Rules

Federal Register
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Friday, March 17, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 3, 213, and 315

RIN 3206–AI94

Appointments of Persons With Psychiatric Disabilities

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to create a new Governmentwide excepted appointing authority, with noncompetitive conversion to the competitive service authorized by Executive Order 13124, for persons with psychiatric disabilities. The proposed regulations also abolish two excepted service appointing authorities that relate to persons with psychiatric disabilities, and make technical corrections to reflect the proposed changes.

DATES: Written comments will be considered if received on or before May 16, 2000.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6500, 1900 E Street, NW., Washington, DC 20415–9000.

FOR FURTHER INFORMATION CONTACT: John Riedel-Alvarez or Paul Robinson on (202) 606–1059, TTY (202) 606–0023, or FAX (202) 606–0927.

SUPPLEMENTARY INFORMATION: On March 13, 1998, the President addressed the underemployment of people with disabilities by signing Executive Order 13078 establishing the Presidential Task Force on Employment of Adults with Disabilities. The Task Force's mission is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate as close as possible to that of the general adult population.

The Task Force issued their first report, ''Recharting the Course,'' on November 15, 1998. The report recommended that OPM explore paralleling the excepted service ''hiring standards'' of adults with psychiatric disabilities with the excepted service ''hiring standards'' of individuals with mental retardation and severe physical disabilities. After reviewing, we agree that the ''hiring standards'' for employing individuals with severe physical disabilities, mental retardation, and psychiatric disabilities should be the same.

The first step is amending the Civil Service Rules to broaden the category of people who may noncompetitively convert from the excepted service to the competitive service. Currently under the Governmentwide Schedule A excepted service authorities 5 CFR 213.3102(t) and (u), employees with mental retardation and severe physical disabilities are able to acquire competitive status after two years of satisfactory service. Executive Order 13124, signed June 4, 1999, now permits adults with psychiatric disabilities the same opportunity for noncompetitive conversion. In order for agencies to appoint adults with psychiatric disabilities, we are proposing the following.

Creating a New Governmentwide Schedule A Excepted Appointing Authority

By way of background, OPM has authority to except some positions from competitive examining procedures under Schedules A and B when it is determined that examining is impracticable for those positions, or that open competition cannot take place. Excepted authorities listed in 5 CFR part 213 under Schedules A and B (§ 213.3102 or 3202) may be used by any agency covered under title 5 appointing procedures to appoint individuals based on the criteria outlined in the authority. Agencies may also obtain specific Schedule A and B authorities for their own use. To do so, the agency must demonstrate to OPM that the competitive examining process cannot be used for the position(s) the agency wishes to place in Schedule A or B.

Employment of individuals under Schedules A and B follows the guidelines in 5 CFR part 302. Those appointed under Schedule A do not have to meet OPM qualification standards; agencies may develop their own standards. Those appointed under Schedule B must meet OPM qualification standards for the positions in question.

Currently, there are two Governmentwide excepted appointing authorities for specific categories of individuals with psychiatric disabilities. Schedule A excepted appointing authority 213.3102(h) is used to appoint former patients of Federal mental institutions who are partially recovered. Appointments are made to positions at Federal mental institutions only, because the persons still need the support and structure that the institutions provide.

Schedule B excepted appointing authority 213.3202(k) is used to update the job skills of individuals whose psychiatric disabilities are severe enough to cause significant disruption to their employment. The appointments help establish a successful performance record to counteract employer prejudice.

In order to parallel employment opportunities for all individuals with psychiatric disabilities with those appointed under 5 CFR 213.3102(t) and (u) (the appointing authorities for those with severe physical disabilities and mental retardation), Executive Order 13124 was signed June 4, 1999. The Executive Order amended the Civil Service Rules to permit noncompetitive conversion of persons with psychiatric disabilities in the excepted service to the competitive service.

After evaluating the two current excepted appointing authorities for persons with psychiatric disabilities, we felt they were not defined broadly enough to encompass all persons with psychiatric disabilities. Therefore, we are proposing a new Governmentwide Schedule A excepted appointing authority 213.3102(gg). The authority would permit a person with a psychiatric disability who either served under a competitive service temporary appointment, or is certified by a State vocational rehabilitation office or the U.S. Department of Veterans Affairs, to be appointed for any job for which they qualify and meet suitability requirements. After two years of satisfactory job performance under the (gg) authority, agencies may noncompetitively convert them to the competitive service.

Because the new Governmentwide authority is broad enough to encompass those individuals who may currently qualify for appointments under 5 CFR 213.3102(h) and 213.3202(k), we propose abolishing these two appointing authorities. Individuals currently appointed to these authorities would be given new appointments under 213.3102(gg). Current service under 5 CFR 213.3102(h) and 213.3202(k) would count toward the two-year service requirement of the new (gg) authority. Individuals would be eligible for noncompetitive conversion after serving two years total under the old (h) and (k) authorities and the new (gg) authority combined. Agencies may not require individuals to serve under a competitive temporary appointment, or begin new two-year service periods under the (gg) authority, if individuals are currently serving under the (h) and (k) authorities and are moved to the new authority.

Amending Civil Service Rule III

To reflect the Executive Order permitting noncompetitive conversion of adults with psychiatric disabilities, we are amending § 3.1 to add these employees to the list of individuals who may noncompetitively acquire status.

Amend Part 315

We propose amending § 315.709 to reflect the addition of those with psychiatric disabilities to the list of employees who may be noncompetitively converted to the competitive service.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures for certain employees in Federal agencies.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Parts 3, 213, and 315

Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is proposing to amend parts 3, 213, and 315 of title 5, Code of Federal Regulations, as follows:

PART 3—NONCOMPETITIVE ACQUISITION OF STATUS (RULE III)

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

Authority: 5 U.S.C. 3301, 3302.

2. In § 3.1, paragraph (b)(3) is added to read as follows:

§ 3.1 Classes of persons who may noncompetitively acquire status.

* * * * *

(b) * * *

(3) An employee with a psychiatric disability who completes at least 2 years of satisfactory service in a position excepted from the competitive service.

PART 213—EXCEPTED SERVICE

3. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 195401958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 *et seq.*; and Pub. L. 105–339.

4. In § 213.3102, paragraph (h) is removed and reserved.

5. In § 213.3102, paragraph (gg) is added to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(gg) Positions when filled by persons with psychiatric disabilities who:

(1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or

(2) Are certified by a State vocational rehabilitation counselor, or a U.S. Department of Veterans Affairs Veterans Benefits Administration or Veterans Health Administration psychologist, vocational rehabilitation counselor, or psychiatrist, as likely to succeed in the performance of the duties of the position. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 as amended by Executive Order 13124.

* * * * *

6. In § 213.3202, paragraph (k) is removed and reserved.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

7. The authority citation for part 315 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218, unless otherwise noted.

Secs. 315.601 and 315.609 also issued under 5 U.S.C. 3651 and 3652.

Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104.

Sec. 315.603 also issued under 5 U.S.C. 3151.

Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp., p. 111.

Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp., p. 303.

Sec. 315.607 also issued under 22 U.S.C. 2506.

Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp., p. 293.

Sec. 315.610 also issued under 5 U.S.C. 3304(d).

Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1987 Comp., p. 229.

Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp., p. 264.

8. Section 315.709 is amended by revising the section heading, the introductory text of paragraphs (a), (a)(1), and (b)(2) to read as follows:

§ 315.709 Employees who are mentally retarded, severely physically handicapped, or have psychiatric disabilities serving under Schedule A appointments.

(a) *Coverage.* Employees appointed under §§ 213.3102(t), (u), and (gg) of this chapter may have their appointments converted to career or career-conditional appointments when they:

(1) Complete 2 or more years of satisfactory service, without a break of more than 30 days, under nontemporary Schedule A appointments.

* * * * *

(b) * * *

(2) A career employee if he or she has completed 3 years of substantially continuous service in nontemporary appointments under §§ 213.3102(t), (u), or (gg) of this chapter, or has otherwise completed the service requirement for career tenure, or is excepted from it by § 315.201(c).

* * * * *

[FR Doc. 00–6625 Filed 3–16–00; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

RIN 0551–AA59

Licensing for Certain Sugar-Containing Products Under Tariff-Rate Quota

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule provides for licensing of imports of sugar-containing products which enter under the tariff-rate quota (TRQ) provided for in Additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: Comments should be received on or before April 17, 2000 to be assured of consideration.

ADDRESSES: Comments should be mailed or delivered to Diana Wanamaker, Import Policies and Programs Division, Foreign Agricultural Service, 1400 Independence Avenue SW, STOP 1021, U.S. Department of Agriculture, Washington, DC 20250–1021. Comments received may be inspected between 10 a.m. and 4 p.m. at room 5541–S, 1400 Independence Avenue SW, Washington, DC 20250–1021.

FOR FURTHER INFORMATION CONTACT: Diana Wanamaker at the address above, or telephone at 202–720–2916, or e-mail at Wanamaker@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been classified as ''not significant.'' In conformity with this designation, except for requirements under the Paperwork Reduction Act of 1995, the rule has not been reviewed by the Office of Management (OMB). The provisions of this proposed rule would not: (1) Result in an annual effect on the economy of $100 million or more; (2) 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; or (3) regulate issues of human health, human safety, or the environment.

Furthermore, the proposed rule would not: (1) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (2) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or (3) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This proposed rule will not have a significant economic impact on a substantial number of small entities. Participation in the programs is voluntary. Direct and indirect costs are likely to be very small as a percentage of revenue and in terms of absolute costs. The minimal regulatory requirements impact large and small businesses equally, and the licensing program should improve small businesses' cash flow and liquidity.

Paperwork Reduction Act

The paperwork and record keeping requirements must be approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. A Paperwork Reduction Act submission has been prepared for the proposed rule and copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568 or e-mail at Chisley@fas.usda.gov.

The information collection is necessary to enable FAS to implement and administer the licensing system that will be established by the proposed rule. The proposed rule will require eligible applicants for historical or nonhistorical licenses to submit a letter of application to the Department for each TRQ year that a license is being requested. All applicants shall provide the standard business information set forth in § 6.53 (e.g., address, fax number). For applicants for historical licenses, § 6.53(c)(8) also requires that: (1) Importers of sugar-containing products entered in retail size containers, submit either U.S. Customs Service Forms 7501 to document entries during the representative period, or submit a summary listing of such import entries; and (2) buyers of imports in bulk form which were packaged or processed in the United States by or for the account of an applicant, submit supporting documentation (e.g., purchase orders) that provides a record of the quantities of bulk imports that were entered during the representative period for processing or packaging in the United States. In addition, all applicants for historical licenses shall submit a notarized certification statement that the information submitted is true and accurate.

The estimated public reporting burden for the information collection for the three years period for which OMB approval is being requested is indicated in following table:

ESTIMATED ANNUAL REPORTING BURDEN

	Year 1	Year 2	Year 3	3 year average
Number of respondents	20	20	20	20
Responses per respondent	1	1	1	1
Total annual burden in hours	91.25	5.00	5.00	33.75

The estimated burden hours in the first TRQ year is higher than in the second and third TRQ years because the supporting documentation required to establish eligibility for a historical license will be compiled and submitted in that TRQ year. Once eligibility for a historical license is established, applicants will be required only to submit the standard business information and certification statement.

During the first TRQ year, it is estimated that: (1) Five applicants will apply for a historical license to import from Canada, and 10 applicant will apply for a historical license to import from other countries, and the information collection will take an estimated 6 hours per applicant (total 90 hours); (2) five applicants will apply for a nonhistorical license and the information collection will take an estimated 15 minutes per applicant (total 1.25 hours). During the second and third TRQ years, it is estimated that 20 applicants will apply for either renewal of a historical licenses or issuance of a nonhistorical license. The information collection will take an estimated 15 minutes per applicant (total 5 hours).

The total average hourly burden for the three TRQ years will be 33.75 hours. The total estimated average cost associated with the information collection, based on costs of preparing similar information collections, for the three TRQ years will be $1,012.50.

The Department requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collection of information to those who are to respond, including through use of appropriate automated, electronic, mechanical or other technological collection techniques or other form of information technology. Comments on the information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503. Attention: Desk Officer for USDA/FAS. Comments on the issues covered by the Paperwork Reduction Act should be submitted no later than 60 days from the date of publication to be assured of consideration.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988. The provisions of this proposed rule would not have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provision or which otherwise impede their full implementation. The proposed rule would not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

National Environmental Policy Act

The Secretary of Agriculture has determined that this action will not have a significant affect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this proposed rule.

Executive Orders 12372 and 12875, and the Unfunded Mandates Reform Act (Pub. L. 104–4)

These Executive Orders and Public Law 104–4 require intergovernmental review of programs. This proposed rule does not impose an unfunded mandate or any other requirement on state, local or tribal governments. Further, the program is national in scope and involves a power delegated to the United States by the Constitution to regulate international trade. Accordingly, these programs are not subject to the provisions of Executive Order 12372, Executive Order 12875, or the Unfunded Mandates Reform Act.

Executive Order 12612

Executive Order 12612 requires implications of ''federalism'' be considered in the development of regulations. The Secretary of Agriculture certifies that this proposed rule has been reviewed in light of Executive Order 12612 and that it is consistent with the principles, criteria and requirements stated in sections 2 through 5 of this Executive Order. The Secretary of Agriculture further certifies that this proposed rule would impose no additional cost or burden on the states, nor affect the state's abilities to discharge traditional State governmental functions.

Executive Order 12606

Executive Order 12606 requires that government action include consideration of maintaining stability and strengthening the family. The Secretary of Agriculture has determined, under the principles and criteria established in Executive Order 12606, that this proposed rule will have no effect on the family.

Executive Order 12630

This Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This proposed rule would not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

Background

Previous Quotas

Presidential Proclamation 5294 of June 28, 1985 imposed absolute quotas on imports of certain sugar-containing products pursuant to the provisions of section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Action was taken to restrict imports which were entering the United States in circumvention of the absolute quota on imports of raw sugar and were entering under such conditions and in such quantities as to cause or threaten to cause material interference with the price support program for sugar beets and sugar cane. Presidential Proclamation 5340 of May 17, 1985, modified these section 22 quotas to limit their scope to imports containing over 10 percent by dry weight of sugar, and to exclude ''articles not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to the retail consumers in the identical form and package in which imported.''

Uruguay Round Commitment on TRQs

On April 15, 1994, the President entered into trade agreements resulting from the Uruguay Round of multilateral trade negotiations (''Uruguay Round Agreements''). As part of those agreements, countries agreed that all systems of absolute quotas for all agricultural products would be eliminated and converted to TRQs, including imports of certain sugar-containing products containing over 10 percent dry weight of sugar. In section 101(a) of the Uruguay Round Agreements Act (the URAA) (Pub. L. 103–65; 108 Stat. 4809), Congress approved the Uruguay Round Agreements, including the General Agreement on Tariffs and Trade 1994. Presidential Proclamation 6763 of December 23, 1994, implemented the Uruguay Round Agreements (URAA). The Proclamation terminated section 22 quotas; proclaimed TRQs for such articles; and modified the HTS accordingly. Under the HTS, Additional U.S. Note 3 to chapter 17 defines the term sugar-containing products containing over 10 percent by dry weight of sugar. Additional U.S. Note 8 to chapter 17 provides that the aggregate quantity of articles described in Additional U.S. Note 3 which are entered under 10 specific HTS numbers are subject to a TRQ which limits imports entered from October 1 through September 30 to 64,709 metric tons. Imports from Mexico are not permitted entry under this TRQ.

Bilateral Agreement

Subsequent to the Uruguay Round, the United States and Canada entered into a bilateral agreement (September 4, 1997). As a result of that agreement, the United States Trade Representative announced on September 16, 1998, (effective October 1, 1998) an allocation of 59,250 metric tons to Canada for certain sugar-containing products entered under the TRQ set forth in U.S. Additional Note 8 of chapter 17 of the HTS. This allocation was based on Canada's historical exports to the United States. In addition, an allocation to other countries (excluding Canada) of 5,459 metric tons became effective on October 1, 1998.

The United States and Canada also signed a Record of Understanding Regarding Areas of Agricultural Trade (December 4, 1998) which requires export permits issued by the Canadian Government to accompany imports of articles containing more than 10 percent by dry weight of sugar as a condition of entry under this TRQ, effective February 4, 2000. On June 11, 1999, the Canadian Government issued the Notice to Exporters No. 117 pursuant to the Export and Import Permits Act which governs the issuance of export permits for each shipment of sugar-containing products covered by the U.S. TRQ. For each of three years beginning in 1999/2000, six percent of each licensee's bulk shipment allocation will be converted to

a retail packaged allocation or moved to a retail packaged allocation pool. This proposed rule is intended to establish a U.S. import licensing system to ensure that the opportunity to fill this TRQ continues to be based on customer requirements.

Implementation of TRQs

Section 404(a) of the URAA, 19 U.S.C. 3601(a), directs the President to take such action as may be necessary in implementing Uruguay Round TRQs (set forth in Schedule XX—United States of America, annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994) to ensure that imports of agricultural products do not disrupt the orderly marketing of commodities in the United States.

Presidential Proclamation 6763 delegated authority under the statutes cited in the proclamation, including section 404(a), to the Secretary of Agriculture, the Secretary of the Treasury, and the United States Trade Representative, as necessary to perform functions assigned to them to implement the proclamation.

Presidential Proclamation 7235 of October 7, 1999, delegated authority under section 404(a) to administer the TRQs relating to agricultural products to the United States Trade Representative and delegated authority to the Secretary of Agriculture to issue licenses governing the importation of such products under the applicable TRQs. The Secretary of Agriculture exercises such licensing authority in consultation with the United States Trade Representative.

Proposed Rule

This proposed rule specifies which sugar-containing products may be entered only by or for the account of a person to whom a license has been issued. Licenses issued pursuant to the provisions of this subpart will permit a license holder to import quantities of the subject articles into the United States at the applicable TRQ rate of duty. Imports may enter without an import license (with certain exceptions) at the applicable high-tier rate of duty.

License Eligibility—Eligibility for either a historical or nonhistorical license requires that a person have a business office in the United States, be doing business in the United States, and have an agent for service of process. Eligibility for a historical license also requires that an applicant, during the representative base period, must have imported sugar-containing products under the TRQ and have been either: (1) An importer of sugar-containing products in retail size packages; or (2) a buyer of sugar-containing products entered in bulk form for processing or packaging in the United States by, or for, the account of such person.

License Applications—The annual period begins on May 1 of each TRQ year. Applicants will be requested to submit applications by August 30 in order for licenses to be issued by October 1. An application for a nonhistorical license must provide the standard business information required in § 6.53(b). An application for a historical license must provide the standard business information required in § 6.53(c), and the supporting documentation and certification statement required in § 6.53(c)(8) with respect to transactions during the representative base period. In subsequent TRQ years, historical licenses may be renewed for the same quantity from the same country without re-submission of supporting documentation. An applicant issued a historical license is not eligible for a nonhistorical license.

License Issuance—Of the total TRQ quantity of 64,709 metric tons, 59,250 metric tons will be issued for licenses to import from Canada and 5,459 metric tons will be issued to import from other countries. All licenses will specify a quantity and the country of origin. Historical license quantities will be based on an applicant's supporting documentation submitted under § 6.53(c)(8). Nonhistorical license quantities will be based on the TRQ quantities not allocated to historical licenses and the number of applicants for nonhistorical licenses. Once licenses are issued, licensees will be responsible for maintaining records on license usage.

The Secretary of Agriculture has determined that this subpart will, to the fullest extent practicable, result in fair and equitable allocation of the right to import articles subject to such TRQ. The subpart will also maximize utilization of the TRQ for such articles, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned.

The Department invites comments on all aspects of the proposed rule including the: eligibility and performance requirements for historical licenses; representative historical period; percentage of the total TRQ that should be set aside for new entrants to establish themselves in the sugar-containing products business; minimum license sizes for nonhistorical licenses for imports in bulk and retail size packages; costs and unintended market consequences of the licensing requirement to importers, buyers and consumers; and less restrictive alternatives to licensing that would address concerns that Canada's export permit system does not alter trade flows (e.g., continuing not to require the submission to the U.S. Customs Service of export permits from the Government of Canada).

List of Subjects in 7 CFR Part 6

Agricultural commodities, Agricultural trade, Exports, Imports, Sugar.

Accordingly, the regulations at 7 CFR part 6 are proposed to be amended by adding a new subpart, Licensing for Certain Sugar-Containing Products Under Tariff-Rate Quota, to read as follows:

Subpart —Licensing for Certain Sugar-Containing Products Under Tariff-Rate Quota

Sec.
6.50 Definitions.
6.51 Requirements for a license.
6.52 Eligibility for a license.
6.53 Application for a license.
6.54 Allocation of licenses.
6.55 Surrender and reallocation.
6.56 License use and license expiration.
6.57 Debarment and suspension.
6.58 Globalization or suspension of licenses.
6.59 License fee.

Subpart —Licensing for Certain Sugar-Containing Products Under Tariff-Rate Quota

Authority: Proc. 7235 of October 7, 1999, 64 FR 55609; Additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule of the United States and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701); Pub. L. 103–465, secs. 103, 104, 108 Stat. 4819 (19 U.S.C. 3513, 3601).

§ 6.50 Definitions.

As used in this subpart, the following terms mean:

Agent for service of process. A person upon whom legal papers can be served.

Article or sugar-containing article. Any sugar-containing products described in Additional U.S. Note 3 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) and listed in Additional U.S. Note 8 to chapter 17 of the HTS.

Commercial entry. Any entry except those made by or for the account of the United States Government or for a foreign government, for the personal use of the importer or for sampling, taking orders, research, or the testing of equipment.

Country. Country of origin as determined in accordance with Customs rules and regulations (19 CFR chapter I).

Department. The United States Department of Agriculture.

Licensee. A person to whom a license has been issued under this subpart.

Licensing authority. The person designated by the Director of the Import Policies and Programs Division (or its successor organization) of the Foreign Agricultural Service to administer the licensing program.

Other countries. Countries other than Canada.

Person. An individual, firm, corporation, partnership, association, trust, estate or other legal entity.

Representative base period. October 1, 1996 through September 30, 1999, inclusive.

Tariff-rate quota quantity or TRQ quantity. The aggregate quantity of sugar-containing products provided for in Additional U.S. Note 8 of chapter 17 of the HTS.

TRQ year. The 12-month period beginning on October 1 of any year through September 30 of the following year, inclusive.

United States. The Customs Territory of the United States, which is limited to the 50 states, the District of Columbia, and Puerto Rico.

§ 6.51 Requirement for a license.

(a) *General rule.* Except as provided in paragraph (b) of this section, a person who seeks to enter into the Customs Territory of the United States sugar-containing products subject to the TRQ established by Additional U.S. Note 8 to chapter 17 of the HTS shall obtain a license in TRQ year 2001 and subsequent TRQ years in accordance with this subpart. Such license shall be presented to the U.S. Customs Service at the time and place of importation of such sugar containing products.

(b) *Exceptions.* Licenses are not required if:

(1) The article is imported by or for the account of any agency of the U.S. Government;

(2) The article is imported for the personal use of the importer, provided that the net weight does not exceed five kilograms in any one shipment;

(3) The article imported will not enter the commerce of the United States and is imported as a sample for taking orders, for exhibition, for display or sampling at a trade fair, for research, for testing of equipment; or for use by embassies of foreign governments. Written approval of the Licensing Authority shall be obtained prior to entry, and the importer of record (or a broker or agent acting on its behalf) shall provide to the Licensing Authority, prior to the release of such articles, the appropriate Customs documentation identifying the article, quantity to be imported, its location, intended use, an entry number and the importer of record. The Licensing Authority may also require as a condition of import that the article be destroyed or re-exported after such use; or

(4) Such person importing the article pays the applicable high-tier rate of duty.

§ 6.52 Eligibility for a license.

(a) *Eligibility to apply for a nonhistorical license.* A person may apply for a license for each TRQ year provided such person has:

(1) A business office, and is doing business, in the United States, and

(2) An agent in the United States for service of process.

(b) *Eligibility to apply for a historical license.* In addition to meeting the requirements of paragraph (a) of this section, a person may apply for a historical license provided such person was either:

(1) A buyer of sugar-containing products that were imported in bulk form during the representative base period under the TRQ set forth in Additional U.S. Note 8 to chapter 17 of the HTS and were processed or packaged in the United States by, or for the account of such person; or

(2) An importer of record of imports of retail size packaged sugar-containing products entered during the representative base period under the TRQ set forth in Additional U.S. Note 8 to chapter 17 of the HTS.

(3) Eligibility for a historical license for imports from Canada and/or from other countries requires that the criteria of paragraphs (b)(1) or (2) of this section be met for Canada and/or other countries, respectively.

(c) *Exceptions.* (1) Any licensee that fails in a TRQ year to enter at least 95 percent of the amount permitted under a license, shall not be eligible to receive a license for the next TRQ year. For purposes of this paragraph, the amount permitted entry under a license will exclude any license amount surrendered pursuant to § 6.55(a), but will include an additional amount received pursuant to § 6.55(c). Failure to meet the 95 percent license utilization requirement for a historical license will result in cancellation of that license and the transfer of that license amount to nonhistorical licenses.

(2) Paragraph (c)(1) of this section will not apply where the licensee demonstrates to the satisfaction of the Licensing Authority that the failure resulted from breach by a carrier of its contract of carriage, breach by a supplier of its contract to supply the articles, act of God, or force majeure.

§ 6.53 Application for a license.

(a) A person seeking a license shall apply in writing to the Licensing Authority. An application for a license should be submitted between May 1 and August 30 in order for the Licensing Authority to issue licenses by October 1. However, applications may be submitted at any time during the TRQ year, and licenses may be issued based on TRQ quantities remaining unallocated.

(b) *Nonhistorical license.* A person meeting the eligibility requirements of § 6.52(a) may apply for a nonhistorical license. The letter of application shall state the:

(1) Name of the applicant and the firm;

(2) Address of the firm;

(3) Name of agent for service of process;

(4) Telephone and fax numbers for the firm;

(5) IRS number under which the applicant is conducting business;

(6) Whether a license is being requested for entry of product only for Canada, other countries, or both; and

(7) License quantity being requested.

(c) *Historical license.* A person meeting the eligibility requirements of § 6.52(a) and (b) may apply for a historical license. The letter of application shall state the:

(1) Name of the applicant;

(2) Address of the applicant;

(3) Name of agent for service of process;

(4) Telephone and fax numbers for the applicant;

(5) IRS number under which the applicant is conducting business;

(6) Whether a license is being requested for entry of product only from Canada, other countries, or both;

(7) License quantity being requested; and

(8) For a first time historical license, provide the information in paragraphs (c)(8)(i) and (ii) of this section. For renewal of a historical license share in subsequent TRQ years, submission of information in paragraph (c)(8)(i) is not required. The information to be provided is:

(i) The total quantity of imports from Canada and from other countries for each of the TRQ years in the representative base period (October 1, 1996 through September 30, 1999) that was imported in bulk form and packaged or processed in the United States by or for the account of the applicant, or imported in retail size packages by, or for, the account of the

applicant. Where the applicant seeks to establish eligibility on the basis of imports of sugar-containing products entered in retail size containers, the application shall include either Customs Form 7501 to document entries from Canada and from other countries during the representative base period, or include a summary listing of import entry numbers, the quantity entered under the entry number, and date of entry for imports during the representative base period. Where the applicant seeks to establish eligibility on the basis of imports of sugar-containing products entered in bulk form, the application shall include supporting documentation that provides a record of those quantities imported in bulk form from Canada and from other countries to be packaged or processed in the United States by or for the account of the applicant.

(ii) The applicant shall submit a notarized certification statement that the applicant, or a duly authorized agent, was engaged in importing, processing, or packaging sugar-containing products imported under the TRQ set forth in Additional U.S. Note 8 to chapter 17 of the HTS during the representative base period; the applicant meets the eligibility requirements in § 6.52; and that the reported quantities of imports of sugar-containing products entered during the representative base period for which the applicant was the importer, packer, or processor is true and accurate.

§ 6.54 Allocation of licenses.

(a) *Historical licenses.* Allocation of historical licenses will be based on documentation submitted under § 6.53(c)(8). For each applicant, a renewable historical share for Canada, other countries, or both will be calculated on the basis that applicant's imports of sugar-containing products entered under Additional U.S. Note 8 to chapter 17 during the representative base period for which the applicant was either a buyer of sugar-containing products imported in bulk form which were processed or packaged in the United States by, or for the account of such person; or an importer of record of entries of sugar-containing products entered in retail size packages. Once a renewable historical share is determined, a person may apply for and be issued a historical license for the same quantity from the same supplying country in subsequent TRQ years. If an applicant requests, and is issued, a historical license in any TRQ year which exceeds that person's renewable historical share, that additional amount does not become part of the renewable historical share. Any supplementary quantities added to a historical license in any TRQ year will depend on TRQ quantities available. A person issued a historical license will not be issued a nonhistorical license.

(b) *Nonhistorical licenses.* Allocation of nonhistorical license quantities will be based on the quantities remaining after TRQ quantities have been allocated to historical licenses, license quantities requested in the applications, and the number of applicants.

(c) Of the total TRQ quantity of 64,709 metric tons, import licenses for 59,250 metric tons shall be allocated to Canada, and import licenses for 5,459 metric tons shall be allocated to other countries.

(d) Any TRQ amount not allocated by October 1 may be allocated by the Licensing Authority in any manner deemed equitable.

§ 6.55 Surrender and reallocation.

(a) If a licensee determines that it will not enter the entire amount of an article permitted under its license, such licensee should surrender its licensee right to enter the amount that it does not intend to enter. Surrender shall be made to the Licensing Authority in writing not later than July 1. Any surrender shall be final and shall be only for that TRQ year. The amount of the license not surrendered shall be subject to the license utilization requirement of § 6.52(c)(1).

(b) For each TRQ year, the Licensing Authority will, to the extent practicable, reallocate any amounts surrendered.

(c) Any person who has been issued a license for a TRQ year may apply to receive an additional license, or an addition to an existing license for a portion of the amount being reallocated. The Licensing Authority will issue a notice to licensees after July 1 advising licensees of the application period. Any new license issued shall be subject to the license utilization requirement of § 6.52(c)(1). For existing licenses, the combined total of a license amount plus any addition to that license shall be subject to the license utilization requirement of § 6.52(c)(1).

§ 6.56 License use and license expiration.

(a) All articles entered under a license shall meet country of origin requirements.

(b) An article entered or withdrawn from warehouse for consumption under a license must be entered in the name of the licensee as the importer of record by the licensee or its agent.

(c) Nothing in this subpart shall prevent the use of immediate delivery in accordance with the provisions of U.S. Customs Service regulations relating to tariff-rate quotas.

(d) A licensee shall not obtain or use a license for speculation, brokering, or offering for sale, or permit any other person to use the license for profit.

(e) A licensee shall not transfer a license to another person.

(f) If a licensee sells, transfers, or conveys its business involving sugar-containing products covered by this subpart, the license will expire.

§ 6.57 Debarment and suspension.

The Government-wide Debarment and Suspension (Nonprocurement) regulations and Government Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017—Subparts A through E, apply to this subpart.

§ 6.58 Globalization or suspension of licenses.

(a) If the Licensing Authority determines that entries of sugar-containing products are likely to fall short of a country's allocated quantity, the Licensing Authority may permit, with the approval of the Office of the United States Trade Representative, the applicable licensees to enter the remaining balance of their license from any country during the remainder of the TRQ year. Requests for consideration of such adjustments shall be submitted to the Licensing Authority no later than July 1 of any TRQ year.

(b) If the Licensing Authority determines that entries of sugar-containing products under all import licenses have been less than 85 percent of the aggregate TRQ quantity, due to the failure of the licensees to make good faith efforts to procure substantially the full quantity of articles covered by their licenses, the Licensing Authority may suspend the import licensing system with the approval of the Office of the United States Trade Representative.

(c) If the Licensing Authority determines that for overriding economic reasons the licensing system should be suspended during any TRQ year, the Licensing Authority may temporarily suspend the import licensing system with the approval of the Office of the United States Trade Representative.

§ 6.59 License fee.

(a) A fee shall be assessed each TRQ year for each historical license and nonhistorical license issued to defray the Department's costs of administering the licensing system. To the extent practicable, the fee will be announced by the Licensing Authority in a notice published in the **Federal Register** no later than May 1 of the year preceding TRQ year for which the fee is assessed.

(b) The license fee for each license issued is due and payable in full by mail, postmarked no later than 60 days after issuance of a license for which the fee is assessed. Fee payments shall be made by certified check or money order payable to the Treasurer of the United States.

(c) If the license fee is not paid by the final payment date, a hold will be placed on the use of the license and no further articles will be permitted entry under that license until the fee has been paid. The Licensing Authority shall send a warning letter by certified mail, return receipt requested, advising the licensee that if payment is not mailed within 21 days from the date of the letter, that the license will be permanently revoked.

Signed at Washington, D.C. on March 9, 2000.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service.

[FR Doc. 00–6403 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1160

[DA–00–07]

Fluid Milk Promotion Order; Invitation To Submit Comments on Proposed Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document invites written comments on proposals to amend the Fluid Milk Promotion Order. The proposed amendments, requested by the National Fluid Milk Processor Promotion Board (Board), which administers the order, would modify the membership status of Board members. The proposed amendments would allow a fluid milk processor to be represented by up to 3 members on the 20-member Board and allow a Board member whose fluid milk processor company affiliation has changed to serve for a period of up to 6 months or until a successor is appointed, whichever is sooner. The Board states that the proposed amendments are necessary to ensure Board continuity and full representation and allow it to operate in an efficient and effective manner.

DATES: Comments are due no later than April 17, 2000.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Programs, Promotion and Research Branch, 1400 Independence Avenue, SW, Stop 0233, Room 2958, South Building, Washington, DC 20250–0233. Advance, unofficial copies of such comments may be faxed to (202) 720–0285. Comments should reference the title of the action and docket number and will be made available for public inspection in Room 2958 South Building during regular business hours.

FOR FURTHER INFORMATION CONTACT: David Jamison, Chief, USDA/AMS/Dairy Programs, Promotion and Research Branch, 1400 Independence Avenue, Room 2958, South Building, Washington, DC 20250–0233, (202) 720–6909, David.Jamison2@usda.gov.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Small businesses in the fluid milk processing industry have been defined by the Small Business Administration as those processors employing more than 500 employees. For purposes of determining a processor's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. There are approximately 275 fluid milk processors subject to the provisions of the Fluid Milk Promotion Order. Most of these processors are considered small entities.

The Fluid Milk Promotion Order (7 CFR Part 1160) is authorized under the Fluid Milk Promotion Act of 1990 (Act) (7 U.S.C. 6401 *et seq.*). The Order provides for a 20-member Board with 15 members representing geographic regions and five at-large members which include at least three fluid milk processors and at least one member from the general public. To the extent practicable, members representing geographic regions should represent processing operations of differing sizes.

The National Fluid Milk Processor Promotion Board has proposed amendments to the membership provisions of the Order. The proposed amendments would allow up to three representatives of a fluid milk processor to serve on the 20-person Board. Currently, the Order states that a fluid milk processor shall be represented on the Board by no more than two members. The Board indicates that this proposal is due to changes in the industry which have resulted in the formation of larger regional and national companies.

The proposed amendments also would allow a Board member whose fluid milk processor company affiliation changes to serve on the Board for a period of up to six months or until a successor is appointed, whichever is sooner, provided that the eligibility requirements of the Order are still met. Under current Order provisions, a Board member whose company affiliation changes may continue to serve on the Board for a period of up to 60 days or until a successor is appointed, whichever is sooner, provided that such member continues to meet the Order's eligibility standards. The Board states that the proposed amendment would more accurately reflect the time needed to fill a Board vacancy.

The Board believes that the proposed amendments would ensure Board continuity and full representation and allow it to operate in an effective and efficient manner.

The proposed amendments to the Order should not add any burden to regulated parties because they relate to provisions concerning Board membership. Additionally, the proposed changes would not impose additional reporting or collecting requirements. No relevant Federal rules have been identified that duplicate, overlap, or conflict with this rule.

Accordingly, pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12866 and the Paperwork Reduction Act

The Department is issuing this proposed rule in conformance with Executive Order 12866.

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, this proposed rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Fluid Milk Promotion Act of 1990, as amended, authorizes the Fluid Milk Promotion Order. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1999K of the Act, any person subject to a Fluid Milk Promotion Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law and request a modification of the Order or to be exempted from the Order. A person

subject to an order is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), the forms and reporting and recordkeeping requirements that are included in the Fluid Milk Promotion Order have been approved by the Office of Management and Budget (OMB) and were assigned OMB No. 0581–0093, except for Board members' nominee information sheets that were assigned OMB No. 0505–0001.

Statement of Consideration

The proposed rule would amend certain provisions of the Fluid Milk Promotion Order. The proposed amendments would modify the membership provisions of the Order. One proposal would allow up to three representatives of a fluid milk processor to serve on the 20-member Board. Currently, the Order states that a fluid milk processor shall be represented by no more than two representatives on the Board. The Board indicated that this proposal is due to consolidations in the industry which have resulted in the formation of larger regional and national companies. Additionally, the Board asserts that the proposed amendment would provide the Secretary greater flexibility in those situations that warrant additional representation for a fluid milk processor.

The proposed amendments also would allow a Board member who changes fluid milk processor company affiliation to serve on the Board for a period of up to six months or until a successor is appointed, whichever is sooner, provided that the eligibility requirements of the Order are still met. Under current Order provisions, a Board member whose company affiliation changes may continue to serve on the Board for a period of up to 60 days or until a successor is appointed, whichever is sooner, provided that such member continues to meet the Order's eligibility standards. The Board states that the proposed amendment would more accurately reflect the time needed to fill a Board vacancy.

The Board believes that the proposed amendments would ensure Board continuity and full representation and allow it to operate in an effective and efficient manner.

Interested parties are invited to comment on this proposed rule. A 30-day comment period is provided. This period is deemed appropriate so as to implement the proposed changes, if adopted, as soon as possible, in order to avoid unnecessary vacancies on the Board.

List of Subjects 7 CFR Part 1160

Fluid milk products, Milk, Promotion.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1160 is amended as follows:

PART 1160—FLUID MILK PROMOTION PROGRAM

1. The authority citation for 7 CFR part 1160 continues to read as follows:

Authority: 7 U.S.C. 6401–6417.

2. Section 1160.200 is amended by revising paragraph (a) to read as follows:

§ 1160.200 Establishment and membership.

(a) There is hereby established a National Fluid Milk Processor Board of 20 members, 15 of whom shall represent geographic regions and five of whom shall be at-large members of the Board. To the extent practicable, members representing geographic regions shall represent fluid milk processing operations of differing sizes. No fluid milk processor shall be represented on the Board by more than three members. The at-large members shall include at least three fluid milk processors and at least one member from the general public. Except for the member or members from the general public, nominees appointed to the Board must be active owners or employees of a fluid milk processor. The failure of such a member to own or work for a fluid milk processor or its successor fluid milk processor shall disqualify that member for membership on the Board except that such member shall continue to serve on the Board for a period of up to six months following the disqualification or until appointment of a successor Board member to such position, whichever is sooner, provided that such person continues to meet the criteria for serving on the Board as a processor representative.

* * * * *

Dated: March 14, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00–6675 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[Docket No. FV–00–1210–610 REVIEW]

Watermelon Research and Promotion Plan; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; notice of review and request for comments.

SUMMARY: This action announces the Agricultural Marketing Service (AMS) review of the Watermelon Research and Promotion Plan, under the criteria contained in sec. 610 of the Regulatory Flexibility Act (RFA).

DATES: Written comments on this document must be received by May 16, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice of review to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: malinda.farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this notice may be found at: www.ams.usda.gov/fv/rpdocketlist.htm.

FOR FURTHER INFORMATION CONTACT: Karen T. Comfort, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535–S, Washington, D.C. 20250–0244; telephone (888) 720–9917; Fax (202) 205–2800; or E-mail: Karen.Comfort@usda.gov.

SUPPLEMENTARY INFORMATION: The Watermelon Research and Promotion Plan (7 CFR Part 1210), regulates the development and financing (through assessments on watermelons produced in or imported into the United States) of effective, continuous, and coordinated programs of research, development, advertising, and promotion designed to strengthen, maintain, and expand domestic and foreign markets for watermelons. The Watermelon Research and Promotion Plan (Plan) is authorized under the Watermelon Research and

Promotion Act, as amended by the Watermelon Research and Promotion Improvement of 1993 (7 U.S.C. 4901–4916), hereinafter referred to as the Act.

Background

On February 18, 1999, AMS published in the **Federal Register** (63 FR 8014) its plan to review certain regulations, including the Plan, under the criteria contained in sec. 610 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612). Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which, although they may not meet the threshold requirement under sec. 610 of the RFA, merit review. The February 18 notice stated that AMS would list the regulations to be reviewed in AMS' regulatory agenda which is published in the **Federal Register** as part of the Unified Agenda. However, after further consideration, AMS has decided to announce the reviews in the **Federal Register** separate from the Unified Agenda. Accordingly, this notice and request for comments is made for the review of the Plan.

The purpose of the review will be to determine whether the Plan should be continued without change, amended, or rescinded (consistent with the objectives of the Act) to minimize the impacts on small entities. In conducting this review, AMS will consider the following factors: (1) The continued need for the Plan; (2) the nature of complaints or comments received from the public concerning the Plan; (3) the complexity of the Plan; (4) the extent to which the Plan overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the Plan has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the Plan.

Written comments, views, opinions, and other information regarding the Plan's impact on small businesses are invited.

Dated: March 10, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–6428 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317, 318, 319, 381

[Docket No. 97–036A]

Other Consumer Protection (OCP) Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food Safety and Inspection Service (FSIS) is publishing this advance notice of proposed rulemaking to request comments on the need and desirability of revising its approach to verifying that meat and poultry products are not misbranded, economically adulterated, or otherwise unacceptable for reasons that do not necessarily raise food safety concerns. FSIS will refer to these program activities as ''other consumer protection'' (OCP) activities. This notice defines and describes FSIS' OCP activities and discusses the Agency's need for revised regulations and verification and enforcement procedures.

DATES: Comments must be received on or before June 15, 2000.

ADDRESSES: Submit one original and two copies of written comments to FSIS Docket Clerk, DOCKET #97–036A, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250–3700. FSIS has made a technical paper available in the FSIS Docket Room and on the FSIS homepage (www.fsis.usda.gov).

FOR FURTHER INFORMATION CONTACT: Daniel Engeljohn, Director, Regulations Development and Analysis Division, Food Safety and Inspection Service, Washington, DC 20250–3700, at (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Definition of Other Consumer Protections (OCP)

As defined in the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), meat and poultry products are economically adulterated if any valuable constituent has been omitted or abstracted; any substance has been substituted; if damage or inferiority has been concealed in any manner; or if any substance has been added so as to increase its bulk or weight, or to reduce its quality or strength, or to make it appear better or of greater value than it is. Also, as defined in these Acts, meat and poultry products are misbranded if the labeling is false or misleading, or if the product purports to be a food for which there is a regulatory standard of identity, but the product fails to comply with that standard.

FSIS conducts a range of activities to ensure that meat and poultry products are not economically adulterated, misbranded, or otherwise unacceptable for reasons that do not necessarily raise food safety considerations. Some OCP activities are based on specific regulatory requirements. These are the food labeling requirements (Parts 317 and 381, Subpart N); definitions and standards of identify and composition (Parts 319 and 381, Subpart P); and the definitions of nonconformance and the finished product standards found in section 381.76. Other OCP activities are tied to specific regulations but are designed to verify that establishments are not producing economically adulterated or misbranded product as defined by the acts.

FSIS activities directed at preventing misbranded product from reaching the consumer include label review activities, formulation verification checks, net weight checks, and laboratory food chemistry analyses. (Note: The presence of illegal drug residues is considered a food safety issue.) FSIS activities that are designed to ensure that products have not been economically adulterated by the addition or undeclared substitution of lower valued ingredients include weighing poultry carcasses to verify that water retention limits are not exceeded during immersion chilling.

FSIS recognizes that its program activities do not fit cleanly into one of two well-defined categories, OCP and food safety. For example, while most consumers would view an unidentified ingredient as a misbranding issue, those with allergy concerns would view the same unidentified ingredient as a serious food safety concern. Similarly, many FSIS activities are related to enforcement of statutory provisions declaring that product is adulterated if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food. This provision speaks to both food safety and OCP concerns. FSIS conducts many activities to identify and prevent from entering commerce product that is unwholesome or unfit for human food but does not present a food safety concern. Examples of FSIS activities of this type include determining conformance with carcass Acceptable Quality Levels (AQL's)(e.g.,

checking the number of hairs remaining on the hide) and conducting boneless manufacturing meat reinspection tasks.

In this ANPR, FSIS has defined OCP activities to include verification and enforcement activities that are directed to achieving objectives that do not necessarily, or primarily, involve food safety. Issues related to humane and religious exempt slaughter are not clearly OCP matters and, therefore are not addressed in this ANPR. Also, FSIS will address all issues related to egg products in future proposed rulemaking. In an effort to provide the public with more information about the Agency's current OCP activities and to illustrate the need for change, FSIS has made a technical paper available in the FSIS Docket Room (See ADDRESSES) and the FSIS homepage (www.fsis.usda.gov).

Need for Change

FSIS intends to propose change to its approach to OCP activities for three reasons. First, the Agency needs to clarify the respective roles and responsibilities of FSIS and industry. Second, the Agency needs to use the resources allocated to OCP activities more efficiently. Third, the Agency needs to be more accountable to the public on how it allocates its OCP resources and on the results that are being achieved.

The first reason for changing the Agency's approach to OCP activities is to clarify roles and responsibilities. As FSIS described in the preamble to its Pathogen Reduction; Hazard Analysis and Critical Control Point (PR/HACCP) final rule (61 FR 38806, 7/26/96), the responsibilities of FSIS and industry have become blurred. In part, this blurring has developed because some establishments rely on inspection program personnel to find deficiencies. It is more appropriate that inspected establishments take responsibility for meeting the regulatory requirements, and that FSIS personnel verify that establishments do so.

Responsibilities have also been blurred because of the excessive reliance of the FSIS inspection program on the detection and correction of problems after the fact, rather than on assurance that problems will be prevented systematically and by design in the first place.

The second reason for changing its approach to OCP activities is the need for FSIS to manage and allocate its resources more effectively and efficiently. In most cases, inspection program personnel routinely perform OCP verification activities at the same frequency in all plants. FSIS is considering that a more suitable use of inspection resources would be to base the rate of these verification checks on the compliance history of a particular establishment.

Finally, FSIS intends to change its approach to OCP activities to improve program accountability. By ''improving accountability,'' FSIS seeks to improve its measure of establishments'' compliance and its ability to inform the public about the industry's overall compliance with OCP requirements. Accountability also implies having more consistent and effective methods for making resource allocation decisions and explaining those decisions to all interested parties.

FSIS intends to develop an approach to OCP that measures compliance, targets the Agency's inspection resources, and provides program accountability.

Possible Approaches

FSIS is not contemplating a reduction in the level of attention that it pays to misbranding, economic adulteration, or wholesomeness issues. FSIS remains committed to protecting consumers from economic adulteration and improperly labeled products.

In preparing this ANPR, FSIS began with the premise that consumer protection concerns other than food safety are important to consumers, and that the public expects the Agency to provide a broad range of consumer protections that involve more than ensuring food safety.

This section outlines the changes that FSIS is evaluating and that will most likely be needed for FSIS to continue to protect consumers from economic adulteration, misbranding, and unwholesome products while enhancing food safety. These changes will likely occur in the four following areas:

1. Revision of FSIS regulations and guidance.
2. Inspected establishments taking more responsibility for producing products that comply with all OCP requirements.
3. Changes to FSIS verification activities.
4. Changes in approach to enforcement.

1. Revisions to FSIS Regulations

The change in approach to OCP activities will require that the Agency reform its regulations. Certain current regulations charge FSIS with responsibilities that more appropriately belong to the industry. For example, at the time when FSIS established the compliance monitoring system for cured pork products (9 CFR 381.19) the Agency's approach was to assume responsibility for ensuring establishments' compliance. Therefore, the system effectively became a government run quality control system. The regulations implementing the system go so far as to provide an exemption for establishments that take responsibility and institute their own quality control procedures. (Note: Published elsewhere in this issue of the **Federal Register**, FSIS is proposing to withdraw the regulations that prescribe the compliance monitoring system for cured pork products.)

FSIS will also carefully evaluate its prior label approval program and consider streamlining its label approval programs. The Agency also intends to consider what use, if any, it should continue to make of the Standards and Labeling Policy Book.

The Agency also intends to consider its role in ensuring the soundness and wholesomeness of raw products. As noted earlier, none of the product quality criteria for meat carcasses or raw meat products are published as regulations. The Agency requests comments on whether FSIS' regulations should contain quality criteria and if so, what the criteria should be.

The Agency has already initiated a review of the standards of identity and composition for meat products and poultry products. The Agency published an ANPR on September 9, 1996 (61 FR 47453). While that ANPR focused on the continuing need for the standards of identity and composition, it noted that, in light of budget constraints and the need to address higher priority food safety concerns, the Agency was examining whether any of its approaches to regulating meat products and poultry products for economic adulteration and mislabeling should be changed.

The Agency recognizes that some of its regulations are overly prescriptive in telling industry how it must comply with certain standards. For example, the Mechanically Separated (Species)(MS(S)) regulations (9 CFR 319.5) specify how many samples an establishment needs to analyze to ensure compliance. The Agency intends to institute rulemaking to revise these regulations. FSIS has tentatively concluded that the purposes for which it adopted these regulations can be achieved by the standards of composition that are already included in the regulations. The Agency also has proposed the removal of regulations that require Partial Quality Control (PQC) programs for specific production activities, such as the production of MS(s).

2. Changes to FSIS Verification Activities

FSIS is responsible for verifying that industry is complying with regulatory requirements. A verification activity can have a narrow establishment-by-establishment focus or an industry-wide scope. FSIS believes that it can operate more efficiently and effectively by making greater use of surveys.

A verification survey can involve either collecting product samples that are sent to laboratories for analysis or conducting in-plant activities such as formulation checks. Collecting product labels that are sent to a central location for review is another type of verification survey. The survey approach to verification allows the Agency to: (1) draw conclusions about overall industry compliance, (2) inform the public, i.e., improve ''accountability,'' and (3) use such industry-wide findings as inputs to subsequent resource allocation decisions.

Surveys are not, however, sufficient to verify compliance at individual establishments. The Agency intends to use surveys and other information resources to target establishments where overall compliance with OCP requirements is not satisfactory. In these establishments, FSIS could focus verification activities on specific products and specific requirements.

FSIS' approach to OCP verification has historically been to select a task or sampling frequency for a specific regulatory requirement, e.g., once per week or once per shift, and then apply that fixed frequency to all establishments where the requirement applies. To improve the effectiveness of verifying establishments' compliance with OCP requirements, FSIS needs to conduct inspection procedures and collect samples at the point in the production and distribution process where doing so is most efficient, and where taking these actions makes the most sense.

The concepts of measuring the level of compliance, or evaluating whether a particular level of compliance is acceptable or unacceptable, have not been adequately incorporated into FSIS regulatory design initiatives. FSIS must devise a more comprehensive and methodical approach to verification that would involve the sequential steps of: (1) Measuring compliance; (2) evaluating the level of compliance to determine causes of noncompliance, and whether there are feasible interventions that might be effective in improving compliance; (3) implementing interventions; and, (4) reassessing the overall level of compliance.

For example, FSIS has considered using a ''building-block'' approach to net weight compliance that has been advanced by the Codex Alimentarius Commission. This approach is modeled on a statistical limits of variance technique developed by Switzerland for application to imported, prepackaged foods. Inspection program personnel would make limited inspections for net weight compliance at retail. If the sampling technique indicates a compliance problem, additional inspection of the same product would be made at retail and, if necessary earlier in the marketing chain, such as the processing plant. If the problem continues following notification of the producers, a more precise enforcement test would be applied. This approach should lead to a more efficient and effective verification system.

Another potential innovation for verification would involve the development of an annual OCP verification plan. Annual plans would describe and assess findings from the previous year, consider the applicability of findings from ongoing research projects, and define areas of emphasis for the current year. FSIS is developing a list of factors to be considered in setting OCP priorities. These factors would include findings from consumer research and findings from analysis of consumer and industry complaints.

FSIS also believes it is practical to solicit and use input from its inspection program personnel in setting its OCP priorities.

Additionally, FSIS could use consumer research to help set its priorities for verifying the industry's OCP compliance. FSIS could use existing consumer research such as surveys compiled by trade organizations or develop its own consumer surveys to determine whether consumers are concerned about any particular OCP issues. Based on the findings, FSIS could use this information to focus its OCP verification activities. This approach would be responsive to consumer concerns.

The above examples are intended to illustrate the kinds of approaches that the Agency is considering for OCP verification. Whatever final decisions it makes, the Agency's verification activities must:

- Yield data that will allow the Agency to draw accurate conclusions about establishments' compliance.
- Permit the Agency to allocate inspection and laboratory resources to product categories that have been shown to present compliance problems, while requiring inspected establishments to maintain satisfactory control of their production processes and products.
- Provide appropriate bases for enforcement actions against establishments or companies producing and shipping economically adulterated or misbranded products.
- Accommodate any changes to the system of product standards of identity that the Agency may adopt.

3. Changes in Enforcement Approach

FSIS also needs to change its enforcement approach to repeated noncompliance with OCP requirements. FSIS will evaluate each OCP noncompliance in terms of an establishment's overall compliance record to determine whether the establishment has an effective system in place to ensure compliance with all OCP requirements and standards. For example, the Agency will not view added water noncompliance as independent from species substitution noncompliance or independent from noncompliance with fat and protein requirements.

FSIS is examining how best to communicate to establishments its findings of noncompliance and FSIS' conclusions regarding the adequacy of the establishment's control system. The role of FSIS is to verify compliance and take enforcement actions when the overall level of OCP noncompliance reaches a level that indicates that an establishment is not controlling its OCP processes effectively.

Issues for Public Comment

FSIS is soliciting comments on all aspects of its OCP activities. FSIS requests comments from all interested parties, including individuals, consumer groups, inspected establishments and industry groups, academia, importers and exporters, State and local governments, and the international community. The following questions are provided to facilitate public comment on this ANPR.

1. What level of resources should FSIS allocate to OCP program activities? What criteria should FSIS consider in allocating its resources between food safety and OCP issues?

2. What role, if any, should the Agency have in examining raw product for quality defects?

3. What priorities should FSIS give to misbranding concerns? For example, should the presence of excess sodium take priority over a misleading picture on a label?

4. Should FSIS continue testing products to determine compliance with

requirements related to fat content or water retention, or whether the product is fresh or frozen? If so, how should FSIS prioritize the sampling of products?

5. Should FSIS consider which OCP issues concern consumers? If so, how could FSIS determine this? For example, are there existing data FSIS can use or should FSIS conduct its own consumer surveys? To what extent should FSIS use information about consumers' concerns to prioritize the verification of the industry compliance with the OCP requirements?

6. How should FSIS weigh the severity of noncompliance that leads to public health concerns versus noncompliances related to OCP concerns? What sanctions or penalties are appropriate for economic adulteration? How should FSIS deal with establishments that demonstrate no deliberate intent to cheat the public but experience intermittent problems of noncompliance that result in misbranding or economic adulteration?

7. What enforcement strategy is appropriate for addressing noncompliance with OCP requirements? What portion of the Agency's enforcement resources should be allocated to OCP concerns? What levels of noncompliance with OCP requirements warrant the use of severe sanctions, such as withholding the marks of inspection?

8. The Agency believes that inspected establishments need to have systems, i.e., quality control systems, managerial systems, or administrative systems, that ensure compliance with OCP requirements. Should FSIS consider promulgating a general process control regulation, or are there alternatives to such a regulation that would still enable the Agency to effectively and efficiently verify that an establishment's control systems for OCP requirements are satisfactory?

Executive Order 12866 and Regulatory Flexibility Act

This advance notice of proposed rulemaking has been reviewed under Executive Order 12866. This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

FSIS is seeking the data necessary to assess how the regulatory changes discussed in this document might affect various sectors of the meat and poultry industries. Therefore, the Agency invites comment on potential effects, including economic costs or benefits.

Departmental Regulation 4300–4, ''Civil Rights Impact Analysis''

Pursuant to Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS will conduct a civil rights impact analysis on any proposed rule that results from this ANPR. To improve the Agency's analysis, FSIS is seeking the data necessary to assess how the resulting regulatory changes discussed in this document might affect minorities, women, and persons with disabilities.

ANPR's generally are designed to provide information and receive public comments on substantive issues that may lead to new or revised agency regulations or instructions. Public involvement in all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are made aware of this ANPR and are informed about the mechanism for providing their comments, 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 with a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

FSIS will use a variety of methods to reach consumers and those individuals who work directly with consumers—information multipliers—to publicize the issues identified in this OCP ANPR. FSIS will send electronic messages to electronic discussion lists that reach thousands of educators, health professionals, media, industry representatives, and consumers. FSIS will use Department mailing lists for minority media and constituent groups to send information releases that can be published in local newspapers. In addition, FSIS intends to translate briefing materials and consumer information into Spanish in order to encourage publication in non-English media that directly reach consumers.

FSIS expects to arrange for one or more public meetings to be held in large urban areas with diverse populations in order to encourage public participation by individuals not typically represented by consumer-organizations or who do not have access to electronic communication, including fax machines, internet-accessible equipment, televisions, radios, or non-English printed materials.

FSIS does not expect that this ANPR or resulting rulemaking will have an adverse effect on its own employees since the ratio of tasks performed on OCP activities will be shifted more in favor of tasks performed on food safety activities.

Done at Washington, D.C., March 13, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–6642 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318, 319, and 327

[Docket No. 97–012P]

Elimination of Requirements for the Compliance Monitoring System for Cured Pork Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the meat inspection regulations by removing the regulations that prescribe the Agency's compliance monitoring system for cured pork products. Removing these regulations will not affect the regulatory requirements that industry is responsible for meeting. The proposal will remove requirements that specify the frequency with which FSIS samples these products and the enforcement actions that the Agency will take in response to specific laboratory findings from analysis of product samples. FSIS is proposing to remove these prescriptive controls on itself because the Agency intends to institute a new approach to sampling and testing meat and poultry products to verify that the products meet regulatory requirements

for consumer protections other than food safety (i.e., misbranding and economic adulteration). If the Agency takes this action, it will be able to reallocate some of its in-plant and laboratory resources to give greater emphasis to food safety concerns.

DATES: Comments must be received on or before May 16, 2000.

ADDRESSES: Submit one original and two copies of written comments to Docket Clerk, DOCKET #97–012P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102 Cotton Annex Building, 300 Twelfth Street, SW., Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Daniel Engeljohn, PhD., Director, Regulations Development and Analysis Division, Food Safety and Inspection Service, Washington, DC 20250–3700, (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

FSIS' mission is to ensure that meat, poultry, and processed egg products are safe, wholesome, and properly marked, labeled, and packaged. FSIS has carried out its food safety responsibilities primarily by managing an inspection program within meat and poultry slaughter and processing establishments. This program has relied heavily on FSIS inspection personnel to detect and correct establishments' noncompliance.

FSIS is in the process of reforming its regulatory and administrative approach to achieving its mission. The Agency's ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' final rule (61 FR 38806, 7/26/96) announced and provided the framework for modernization of FSIS' inspection system, particularly with respect to its food safety goals. This rule established requirements applicable to all meat and poultry establishments that were designed to reduce the occurrence and numbers of pathogenic microorganisms on meat and poultry products. As part of FSIS' modernization of its food safety strategy, the Agency stresses the need to clarify and strengthen the responsibilities of establishments in meeting the requirements of FSIS' regulations, plus the concomitant responsibility of the Agency to hold establishments accountable for meeting those requirements.

As FSIS shifts its emphasis from telling the regulated industry how to comply with regulatory requirements to oversight of industry-developed HACCP systems and other related process control procedures, the Agency must reevaluate its regulatory approach to consumer protection issues other than food safety. In an advanced notice of proposed rulemaking (ANPR) published elsewhere in this issue of the **Federal Register**, FSIS is presenting its plans for a new approach to verifying compliance with these other consumer protection requirements. FSIS is referring to these verification activities as its other consumer protection (OCP) activities. Among these activities are the Agency's efforts to ensure that products that are subject to food standards comply with those standards.

Cured pork products, such as hams, shoulders, picnics, and butts, must comply with food standards that specify a minimum percentage of meat protein after all fat has been removed from the product. These food standards are referred to as ''minimum meat Protein Fat Free (PFF) percentage requirements'' or simply as ''PFF requirements.'' The PFF requirements that establishments must meet are codified at 9 CFR 319.104 and 319.105. In 9 CFR 318.19 and 327.23, FSIS has established a monitoring system that details the sampling frequencies and enforcement procedures FSIS uses to ensure that domestic and imported cured products meet the PFF requirements.

FSIS' compliance procedures for cured pork products are not consistent with the Agency's planned approach to economic sampling. The Agency plans to consider economic risk factors, such as an establishment's compliance history, and apparent consumer protection needs in determining which products to sample and test. The PFF system generates from 6,000 to 7,000 samples annually and thus represents an impediment to efficient and effective resource allocation. This number of samples did not stand out in the mid-l980's when FSIS was analyzing approximately 100,000 food chemistry samples annually. Today, with overall food chemistry samples in the 15,000 to 25,000 range, the Agency cannot afford to devote such a large portion of its overall food chemistry activity to one issue.

The existing compliance procedures for cured pork products have contributed to confusion concerning the respective roles and responsibilities of FSIS and industry. Industry has responsibility for complying with regulatory requirements. FSIS has responsibility for verifying compliance with regulatory requirements and taking enforcement actions when it finds noncompliance. The ANPR makes clear that this basic division of responsibilities applies to other consumer protection activities in the same way that it applies to food safety. However, when FSIS established the PFF compliance monitoring system, the Agency's approach was to assume responsibility for ensuring compliance. The system has thus effectively been a government run quality control system. The regulations implementing the system go so far as to provide an exemption for establishments that take responsibility and institute their own quality control procedures. The centrally directed PFF sampling system has been applied to only those establishments that have not implemented their own control systems.

The compliance procedures for cured pork products are an anomaly within the regulatory framework for enforcing food standards. FSIS is responsible for verifying compliance with 60 different food standards. The PFF requirements for cured pork products is the only standard of identity or composition where regulations direct FSIS sampling frequencies in response to specific laboratory findings. For other products, e.g., cooked sausage, FSIS directives state that Agency sampling frequencies are to be based on cumulative laboratory results. In still other cases, such as enforcement of the 30 percent fat limit for ground beef, there are no written instructions concerning Agency responses to findings that product exceeds the limit.

Because the compliance procedures for cured pork products in §§ 318.19 and 327.23 are not consistent with the Agency's planned approach to economic sampling, require too great an expenditure of Agency resources, and are not consistent with what the Agency considers to be the appropriate division of responsibilities between itself and industry, FSIS is proposing to remove these compliance procedures from its regulations. However, as noted above, eliminating the PFF compliance monitoring system would not affect the PFF content performance standards that establishments are required to meet.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. When the rule is adopted (1) all State and local laws and regulations that are inconsistent with this rule would be preempted; (2) no retroactive effect would be given to this rule; and (3) administrative proceeding would not be required before parties may file suit in court challenging this rule.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The Administrator has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. However, this proposed rule is part of FSIS' new approach to OCP as discussed in the ANPR published elsewhere in this issue of the **Federal Register**. Because the Office of Management and Budget designated the OCP ANPR as significant, FSIS submitted this rule to OMB for review.

Establishments producing cured pork products must comply with the food standards that specify a minimum percentage of meat protein after all fat has been removed from the product (9 CFR 319.104 and 319.105). This proposed rule only removes the requirements that specify the frequency at which FSIS samples such products.

This regulatory action would enable FSIS to better allocate its resources to address matters involving food safety. Because some establishments depend on FSIS' testing as a substitute for their own quality control responsibilities, such establishments may bear higher costs. Conversely, FSIS' new approach to economic sampling will focus enforcement actions on establishments that violate the requirements of the regulations. Sample collection will be less random and arbitrary. Therefore, some sample collection activities would be reduced in some establishments.

Additional Public Notification

FSIS has considered the potential civil rights impact of this public meeting on minorities, women, and persons with disabilities. FSIS anticipates that this proposed rule will not have a negative or disportionate impact on minorities, women, or persons with disabilities. Proposed rules generally are designed to provide information and receive public comments on substantive issues that may lead to new or revised agency regulations or instructions. Public involvement in all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are made aware of this proposed rule and are informed about the mechanism for providing their comments, 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 with a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Paperwork Requirements

There are no paperwork or recordkeeping requirements associated with this proposed rule.

List of Subjects

9 CFR Part 318

Compliance.

9 CFR Part 319

Standards.

For the reasons set forth in the preamble, FSIS proposes to amend 9 CFR Parts 318, 319, and 327, as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Part 318 would continue to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53

PART 318—[REMOVED]

2. Part 318 would be amended by removing section 318.19.

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY AND STANDARDS OF IDENTITY OR COMPOSITION

3. The authority citation for Part 319 would continue to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53

§ 319.104 [Amended]

4. Section 319.104 would be amended by revising footnote 1 of paragraph (a), by removing the phrase at the end of the sentence, ''and compliance shall be determined under § 318.19 of this subchapter for domestic cured pork products and § 327.23 of this subchapter for imported pork product.'', by removing paragraph (c), and by redesignating paragraph (d) as paragraph (c).

§ 319.105 [Amended]

5. Section 319.105 would be amended by revising footnote 1 of paragraph (a), by removing the phrase at the end of the sentence, ''and compliance shall be determined under section 318.19 of this subchapter.'', by removing paragraph (c), and by re-designating paragraph (d) as paragraph (c).

PART 327—IMPORTED PRODUCTS

6. The authority citation for part 327 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53

§ 327.23 [Removed]

7. Part 327 would be amended by removing section 327.23.

Done at Washington, D.C. on: March 13, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–6641 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–DM–P

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB98

Loan Policies and Operations; Loans to Designated Parties

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), through the FCA Board, issues a proposed rule amending its regulations on the approval of loans to designated parties (Farm Credit System (System) ''insiders'' and those FCA and Farm Credit System Insurance Corporation (FCSIC) employees who may legally borrow from the System). The purpose of our proposal is to provide greater flexibility for banks and associations to approve loans to designated parties. The proposed rule also makes technical changes to conform to the Farm Credit Act of 1971, as amended. The existing regulations require a funding bank to approve all loans that it and its associations make to designated parties. The proposed amendment would give an association the option to let its own board of directors (or a committee of the board),

or in some situations its own management, approve these loans. This amendment would benefit banks and associations because it provides clear guidelines and streamlined procedures for approving loans to designated parties.

DATES: Please send your comments to us by April 17, 2000.

ADDRESSES: You may send comments by electronic mail to ''reg-com@fca.gov'' or through the Pending Regulations section of our Web site at ''www.fca.gov.'' You may also send comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by fax to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Eric Howard, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Jennifer Cohn, Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our proposed amendment are to:

- Provide greater flexibility for banks and associations to approve loans to designated parties (System ''insiders'' and those FCA and FCSIC employees who may legally borrow from the System);
- Keep adequate controls on loans that banks and associations make to designated parties; and
- Make our regulations easier to understand and use.

II. Background

A. Withdrawn Direct Final Rule

Sections 614.4450, 614.4460, and 614.4470 of our regulations require a funding bank to approve all loans that it and its associations make to designated parties. On August 9, 1999, we published a direct final rule with opportunity to comment.[1] This direct final rule would have, in relevant part, repealed two of these regulations and amended the third. The revision would have allowed a bank or association to make a loan to a designated party with the approval of its own board of directors. Under direct final rulemaking, a rule becomes effective without further proceedings unless we receive significant adverse comment.

One association provided a significant adverse comment on the revision. Four other associations also provided comments on the revision. Because of these comments, we withdrew the portion of the direct final rule on loans to designated parties on October 14, 1999.[2]

B. Comments on Direct Final Rule

All five commenters objected to our direct final rule's requirement that the board of directors of a bank or association must approve all loans made to designated parties. Four commenters stated that we should allow an association board of directors to delegate approval of loans to designated parties to management, with post review by the board. One commenter stated that we should allow an association board of directors to delegate approval of loans under a certain dollar amount to association staff, with post review by management. The commenter further suggested that management preapprove loans over that dollar amount.

The commenters provided five main reasons for their concern. Their comments and our responses are as follows:

First Comment: Directors do not have the expertise to make credit decisions; this is a task that professional lending staff should perform.

Response: We believe directors, who are elected by their shareholders to represent them in conducting the business of their banks and associations, are qualified to make decisions on loans to designated parties. We remind directors that, as we explain in our publication entitled *The Director's Role: Farm Credit System Institutions,*[3] they are ultimately responsible for all decisions their banks and associations make. In making these decisions, directors may want to consult with the professional lending staff at their banks and associations, as well as with other credit experts.

Second Comment: Directors may be biased in reviewing and analyzing audit results if they have made the credit decisions.

Response: Part 612 of our regulations requires directors to remain impartial in carrying out their duties. We expect that directors will review and analyze audit results on their credit decisions in an unbiased manner.

Third Comment: It may be difficult for the lending staff to remain independent and responsible to the board if they disagree with the board's credit decision.

Response: Boards of directors have the ultimate responsibility for conducting the affairs of the banks and associations they are elected to serve. Boards hire management and staff to conduct day-to-day operations. Management and boards must work together as teams to ensure that banks and associations meet the needs of their borrowers and satisfy safety and soundness concerns.

Fourth Comment: Directors may find it difficult to ''pass judgment'' on other directors.

Response: We agree that some directors may find it difficult to make decisions on the loans of other directors. We believe, however, that management may find it even more difficult to make such decisions. Because directors are ultimately responsible for the affairs of their bank or association, we believe it is more appropriate for them to consider and act on the credit requests of other directors. If directors feel unable to make an unbiased decision in a particular situation, they always have the choice of recusing themselves from that particular decision.

Fifth Comment: Directors do not want other directors to have access to their financial information.

Response: Section 612.2140(b) of our regulations prohibits directors from divulging or making use of any information they learn as directors. In addition, § 612.2135(b) requires directors to ''exercise diligence and good judgment in carrying out their duties.'' We believe, therefore, that our regulations sufficiently address the misuse of financial information.

III. The Proposed Regulation

When we withdrew the portion of the direct final rule on loans to designated parties, we said that we would continue with this rulemaking at a later date. We now propose an amended rule governing loans to designated parties. In developing this proposed rule, we considered carefully all the comments that we received.

Our proposed regulation would provide greater flexibility for you[4] to approve loans to designated parties, while keeping adequate controls on

[1] *See* 64 FR 43046.

[1] *See* 64 FR 55621.

[3] Farm Credit Administration, *The Director's Role: Farm Credit System Institutions* (Aug. 1997).

[4] As part of our objective to use plain language in our regulations, we use the word ''you'' to refer to banks and associations in this preamble and the proposed regulation.

these loans. The proposed regulation would continue to allow you to make loans to designated parties with bank approval, but it would also let an association's board of directors, and in some situations its own management, approve such loans. Because we are proposing the regulation in plain language, we believe it will be easier to understand and carry out.

The proposal would delete all references to district boards because the Agricultural Credit Technical Corrections Act of 1988 [5] abolished these boards. The proposal would also repeal § 614.4450, which provides ''the authority for loan approval is vested in the Farm Credit banks and associations.'' More specific regulations providing for System lending authorities make this provision unnecessary.[6]

A. Section 614.4450—Definitions Used in the Proposed Regulation

We provide definitions of three key terms used in the proposed regulation. As part of our goal to use plain language in our regulations, we use the word ''you'' in the text of the proposed rule. Accordingly, we define ''you'' as a bank or association.

We define the term ''designated parties'' by providing a list of these parties. We updated this list from the existing §§ 614.4460 and 614.4470. The list includes bank and association ''insiders'' as well as certain employees of FCA and FCSIC.[7]

We define the term ''loan'' broadly. ''Loan'' means:

- The total of all loans and undisbursed commitments from you to a designated party; plus
- The total of all loans and undisbursed commitments from you to any other borrower if the designated party has a significant interest in the loan, proceeds or collateral.

B. Section 614.4460—Policy for Approval of Loans to Designated Parties

The proposed rule would require you to adopt a policy addressing the approval of loans to designated parties. Your policy must describe the procedures, as set forth in the proposed rule, you will follow in making these loans.

Depending on the size of the loan, you may choose any one of three procedures for making loans to designated parties. The first procedure allows your board of directors (or a committee of your board) to approve loans that you make to designated parties. The second procedure permits the existing practice of allowing the funding bank to approve a loan made by an association. Finally, the third procedure permits your board of directors to delegate approval of loans of $25,000 or less to designated parties to your management. Your board of directors must post review all loans to designated parties that management approves.

We continue to believe that management should not approve loans over $25,000 to designated parties. Because of their size, these loans have greater risk potential for banks and associations. Requiring board or funding bank preapproval of these credit decisions will help ensure the approval decision is independent, objective, and free from any real or perceived conflicts of interest. The commenters contended that association boards may be uncomfortable with their own members approving loans to designated parties. If this is the case, association boards have the option of continuing to have decisions on loans to designated parties made by their funding banks.

Because loans of $25,000 or less are relatively smaller, they create less potential risk for the banks and associations that make them. We believe our proposal will help to reduce the administrative burden of making loans of $25,000 or less to designated parties.[8]

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, we propose to amend part 614 of chapter VI, title 12 of the Code of Federal Regulations to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

2. Revise subpart M to read as follows:

Subpart M—Approval of Loans to Designated Parties

Sec.
614.4450 What definitions are used in this subpart?
614.4460 What approval policy must you adopt to make loans to designated parties?

Subpart M—Approval of Loans to Designated Parties

§ 614.4450 What definitions are used in this subpart?

(a) *You* means a Farm Credit bank or association.

(b) *Designated parties* means:

(1) Farm Credit Administration employees allowed to borrow from you under 5 CFR 4101.104;

(2) Farm Credit System Insurance Corporation employees allowed to borrow from you under 5 CFR 4001.104;

(3) Your directors and employees;

(4) Directors and employees of another bank or association under a joint management agreement with you;

(5) Directors and employees of your funding bank if you are an association;

(6) Cooperatives and other legal entities if any of their directors, officers, partners, or employees are also members of your board of directors; and

(7) Other borrowers if any of the parties identified in this paragraph are:

(i) Recipients of the loan proceeds;

(ii) Stockholders or other equity owners of the borrowers who have significant interests in the loan funds or collateral; or

(iii) Endorsers, guarantors or comakers on the credit.

(c) *Loan or loans* means:

(1) The total of all loans and undisbursed commitments from you to a designated party; plus

(2) The total of all loans and undisbursed commitments from you to any other borrower if the designated party is:

(i) A recipient of the loan proceeds;

(ii) A stockholder or other equity owner of the borrower who has significant interests in the loan funds or collateral; or

[5] Pub. L. No. 100–399, 102 Stat. 1003 (Aug. 17, 1988).

[6] *See* 12 CFR part 614, Subpart A—Lending Authorities.

[7] Our proposed regulation refers explicitly to the Supplemental Standards of Ethical Conduct regulations that we and FCSIC enacted in 1995. These regulations, at 5 CFR parts 4101 and 4001, respectively, specifically prohibit most FCA and FCSIC employees from borrowing from you. For example, FCA and FCSIC Board members, examiners, procurement personnel, and all employees over a certain civil service grade level cannot legally borrow from you.

[8] This proposed $25,000 threshold is consistent with the ''insider lending'' regulations of the Office of the Comptroller of the Currency and the Federal Reserve System. *See* 12 CFR Parts 31 and 215, respectively.

(iii) An endorser, guarantor or comaker on the credit.

§ 614.4460 What approval policy must you adopt to make loans to designated parties?

You must adopt an approval policy to make loans to designated parties. Your policy must set forth the procedures you will follow in approving loans to designated parties. Depending on the size of the loan, you may choose from any of the following approval procedures:

(a) If you are a bank or association, your board of directors (or a committee of your board) may approve loans to designated parties;

(b) If you are an association, your funding bank may approve loans to designated parties; or

(c) If you are a bank or association, your board of directors may delegate to your management approval for loans of $25,000 or less to designated parties, with post review by your board of directors.

Dated: March 13, 2000.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 00–6568 Filed 3–16–00; 8:45 am]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 620

RIN 3052–AB94

Disclosure to Shareholders; Annual Report

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: Our regulations require Farm Credit Banks (FCBs) and agricultural credit banks (collectively referred to as banks) that present their financial statements on a combined basis to distribute their annual reports to the shareholders of their related associations. We propose to revise this requirement to provide that a bank generally need not distribute its annual report to the shareholders of any related association that discloses, in a separate section of its annual report, specified information about its financial and supervisory relationship with the bank. The proposed amendment would, however, require any bank that experiences a ''significant event'' to distribute its annual report to the shareholders of its related associations. We also propose to amend our regulation to provide that shareholders of Farm Credit System (System) institutions may obtain copies of an institution's financial reports by electronic mail or on its Web site, as well as by traditional mail or telephone. This revision would benefit banks, associations and their shareholders because it would allow them to share necessary information at a reduced cost.

DATES: Please send your comments to us by April 17, 2000.

ADDRESSES: You may send comments by electronic mail to ''reg-com@fca.gov'' or through the Pending Regulations section of our Web site at ''www.fca.gov.'' You may also send comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by fax to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Robert E. Donnelly, Senior Accountant, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4450, TDD (703) 883–4444;

or

Jennifer A. Cohn, Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our proposed amendment are to:

- Allow banks (and indirectly their related associations and their shareholders) to save significant printing and mailing costs by relaxing the requirement that they must routinely distribute their annual reports to the shareholders of their related associations; and
- Ensure that association shareholders continue to receive the information they need about how their associations' relationships with related banks affect their own investments in the associations.

II. Background

A. Reducing Regulatory Burden

On August 18, 1998, we published a notice in the **Federal Register** that invited commenters to identify existing regulations and policies that impose unnecessary burdens on the System. *See* 63 FR 44176 (Aug. 18, 1998).[1] We specifically requested commenters to focus on those regulations and policies that are ineffective, duplicate other requirements, or impose burdens that are greater than the benefits received. We took this action as part of our continuing effort to improve the regulatory environment so the System can better serve farmers and ranchers.

Among the comment letters we received, two asked us to repeal the requirement imposed by § 620.4(b)(1). This regulation requires any bank that presents its financial statements on a combined basis with its related associations to distribute its annual report to the shareholders of the related associations. One comment letter was from the Farm Credit System Accounting Standards Work Group (ASWG), on behalf of banks that present their financial statements on a combined basis. The other comment letter was from the Farm Credit Bank of Texas (which also has a representative on the ASWG). Both commenters contended the requirement that banks distribute their annual report to an association's shareholders is of minimal benefit to those shareholders. The commenters pointed out that we already require associations to include in their own annual reports information about their financial and supervisory relationships with their related banks. The commenters stated that because of the high costs of printing and mailing annual reports to the associations' shareholders (costs that are reflected in the costs of funds of the associations and interest rates to their shareholders), the regulation imposes an undue burden. We considered these comments in drafting this proposed rule.

B. Policy Background of This Rule

We first required banks to distribute their annual reports to their related associations' shareholders in March 1986. At that time, our regulations required banks to supervise closely the activities of their related associations. In addition, many associations were experiencing severe financial difficulties and were relying heavily on their related banks for financial assistance. During the mid-1980s, banks were also experiencing their own financial difficulties. These financial difficulties were caused both by rapid changes in interest rates that hindered the banks' debt funding strategies and by the financial stress from the banks providing financial assistance to their related associations.

In part because banks and associations were so interdependent, in the mid-1980s we issued a regulation requiring banks to distribute their annual reports to shareholders of related associations. In this way, the

[1] On November 18, 1998, we extended the comment period to January 19, 1999. *See* 63 FR 64013 (Nov. 18, 1998).

associations' shareholders had access to full information about how the financial condition of the related banks affected their own investments in their associations. In addition, we issued a regulation requiring banks to present their financial statements on a combined basis with their related associations.[2]

Through the intervening years, with the objective of making associations more accountable for their actions, we have changed or removed many of the regulatory provisions that caused associations to be financially dependent on their banks. For instance, we adopted regulations that have caused associations to strengthen their capital positions. In addition, we are using our enforcement authorities effectively to cause associations to operate in a more safe and sound manner. Because of these and other factors, all associations have improved their financial strength to a point that they are able to operate in a more independent manner.

In 1997, recognizing that circumstances had changed and that GAAP may no longer require certain banks to present their financial statements on a combined basis, we amended our regulations to allow banks to present their financial statements on any basis that conforms to GAAP.[3] At the same time, we amended the annual report distribution requirement to allow any bank that presents its financial statements on a bank-only basis (*e.g.*, CoBank, ACB (CoBank)) not to distribute its annual reports to the shareholders of its related associations on a routine basis. We now require banks that prepare their financial statements on a bank-only basis to provide annual reports to their related associations' shareholders only when the banks are affected by a ''significant event.''[4] We have ensured, however, that shareholders continue to receive information about the financial and supervisory relationship between their associations and the related bank. In another regulation, we require all associations to disclose in their annual reports information about these relationships.[5] We believe this set of regulations strikes the proper balance between a bank's desire to minimize costs and shareholders' needs to receive information about how the bank's condition affects the operations and financial condition of their associations.

III. Analysis of Regulation Amendments by Section

This revision would make several changes based on our plain language initiatives. In addition, it would allow shareholders to obtain copies of an institution's financial reports by electronic mail or on its Web site, as well as by mail or telephone.

Finally, the revision would provide that a bank generally need not distribute its annual report to the shareholders of any related association that discloses, in a separate section of its annual report, specified information about its financial and supervisory relationship with the bank. The regulation would, however, require any bank that experiences a ''significant event'' to distribute its annual report to the shareholders of its related associations. We believe our proposed revision would provide the regulatory relief the commenters requested. As discussed above in section II.B., we have allowed CoBank not to distribute its annual reports to the shareholders of related associations since 1996. We believe this arrangement has been beneficial for the affected shareholders and associations as well as CoBank. This revision would extend similar relief to the FCBs.[6]

A. Section 620.2(h)

Existing § 620.2(h) requires institutions, in relevant part, to provide telephone numbers and addresses where shareholders may get copies of certain financial reports the institutions are required to make available. We propose to amend this rule to provide that institutions must also provide electronic mail and Web site addresses, if available. For institutions and shareholders that have this capability, we believe this extra method of receiving and responding to requests for financial reports would be cost-effective and convenient.

We also propose to reorganize this section using plain language. Other than the change discussed in the previous paragraph, we do not propose to change the meaning of the section.

B. Section 620.4(b)

Existing § 620.4(b)(2) generally allows banks that present their financial statements on a bank-only basis not to distribute their annual reports to the shareholders of their related associations. These banks must distribute the reports to shareholders of related associations only when the banks experience a ''significant event'' that has a ''material effect'' on the associations, as those terms are defined in § 620.1 of our regulations. Currently, CoBank is the only bank that presents its financial statements on a bank-only basis. CoBank, therefore, is the only bank that we have not generally required to distribute its annual report to the shareholders of its related associations.[7]

Our amended regulation would treat all banks (including CoBank) in a similar way with respect to the distribution of annual reports. Banks generally would not need to distribute their annual reports to the shareholders of any associations that disclosed, in a separate section of their own annual reports, specified information about their financial and supervisory relationship with their banks.[8] Any bank that experienced a ''significant event'' that has a ''material effect'' on the associations, however, would have to distribute its annual report to the shareholders of its related associations. The information included in this separate section is information that other existing regulations already require associations to disclose in their annual reports.[9] Our amendment would merely provide that if an association presented this information in a separate section of its annual report, its related bank would not be required to distribute its own annual report to the association's shareholders.[10]

The separate section, which could incorporate by reference information from other sections of the annual report, would have to include:

[2] Based on the facts and circumstances that existed in the 1980s, this requirement conformed at that time with generally accepted accounting principles (GAAP).

[3] *See* § 620.2(g), which reads: ''Each Farm Credit institution shall present its reports in accordance with generally accepted accounting principles and in a manner that provides the most meaningful disclosure to shareholders.''

[4] In addition, § 620.2(h)(3) requires all System institutions to make their reports available free of charge upon request.

[5] *See* § 620.5.

[6] In late 1999, the ASWG, on behalf of the FCBs, requested that we relieve the FCBs from having to distribute their annual reports to shareholders of related associations until any change to the regulation becomes effective. In January 2000, we provided a letter to the ASWG stating that, subject to the same conditions we are proposing in this regulatory amendment, we would take no action against any FCB that did not distribute its annual report as required by § 620.4(b)(1). Unless we tell the FCBs otherwise, our letter remains in effect until this rulemaking becomes effective.

[7] Based on facts and circumstances to date, GAAP has required the banks (other than CoBank) to present their financial statements on a combined basis with their related associations. As a result, these banks have been subject to the requirements of existing § 620.4(b)(1), which requires them to distribute their annual reports to the shareholders of related associations on a routine basis.

[8] Although this amended rule would permit banks not to distribute their annual reports on a routine basis, GAAP may continue to require them to present their financial statements on a combined basis depending on the facts and circumstances.

[9] *See* §§ 620.2(h), 620.5.

[10] This rule would not prohibit any bank from distributing its annual reports to the shareholders of related associations if it wished to do so.

1. The statement required by § 620.2(h)(2), telling shareholders:

• That their investment in the association may be materially affected by the financial condition and results of operations of the related bank;

• That (if not otherwise provided) a copy of the bank's financial reports to shareholders will be made available free of charge upon request; and

• The telephone numbers and addresses (including, if available, electronic mail and Web site addresses) where shareholders may obtain copies of the related bank's financial reports.

2. If applicable, the following information required by § 620.5:

• The association's obligation to borrow only from the bank unless the bank gives approval to the association to borrow elsewhere;

• The major terms of any capital preservation, loss sharing, or financial assistance agreements between the association and the bank;

• Any bank bylaw provisions authorizing the bank to access the capital of the association;

• The extent to which the bank has assumed the association's exposure to interest rate risk; and

• Any other material operational and financial conditions that may contribute to an interdependent relationship between the association and the bank.

If associations chose to present this information in a separate section of their annual reports, we believe shareholders would be able to review the information they need about how their associations' relationships with their related banks affect their own investments more easily. With this information, we believe shareholders would be able to decide whether they should ask for a copy of the bank's annual report. If a particular association chose not to present this information in a separate section, its related bank would continue to be required to distribute its annual report to the shareholders of that association.

We considered an alternative to our bank distribution proposal that would require the association, rather than its bank, to distribute the bank's annual report. Currently, associations reimburse their banks either directly or indirectly for the cost of preparing and distributing the banks' annual reports to the shareholders of associations. Allowing the banks to require their associations to distribute the banks' annual reports would provide added flexibility to the distribution process. We believe this added flexibility could lead to cost savings that would benefit not only the banks and their related associations, but also association shareholders. We note that regardless of whether a bank or an association makes this distribution, the cost to the association should remain more or less the same. We ask commenters to consider whether this alternative is more appropriate.

Since 1996 we have permitted CoBank (because it presents its financial statements on a bank-only basis) not to distribute its annual reports to the shareholders of its related associations even if the associations have not presented the specified information in a separate section. We believe, however, that presenting this information in a separate section would impose minimal, if any, burden on CoBank's four related associations. In addition, we believe it is important to treat all System banks and associations in a consistent manner. Therefore, this rule would apply to CoBank as well as to the FCBs.

List of Subjects in 12 CFR Part 620

Accounting, Agriculture, Banks, Banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, we propose to amend part 620 of chapter VI, title 12 of the Code of Federal Regulations to read as follows:

PART 620—DISCLOSURE TO SHAREHOLDERS

1. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11); secs. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

Subpart A—General

2. Revise § 620.2(h)(1) and (2) to read as follows:

§ 620.2 Preparing and filing the reports.

* * * * *

(h)(1) Each annual report or notice must state, in a prominent location within the report or notice:

(i) That the institution's quarterly reports are available free of charge on request;

(ii) The approximate dates the quarterly reports will be available; and

(iii) The telephone numbers and addresses (including, if available, electronic mail and Web site addresses) where shareholders may obtain a copy of the reports.

(2) Each association must state, in a prominent location within each report:

(i) That the shareholders' investment in the association may be materially affected by the financial condition and results of operations of the related bank;

(ii) That (if not otherwise provided) a copy of the bank's financial reports to shareholders will be made available free of charge on request; and

(iii) The telephone numbers and addresses (including, if available, electronic mail and Web site addresses) where shareholders may obtain copies of the related bank's financial reports.

* * * * *

Subpart B—Annual Report to Shareholders

3. Revise § 620.4(b) to read as follows:

§ 620.4 Preparing and distributing the annual report.

* * * * *

(b)(1) Except as required by paragraph (b)(2) of this section, a bank need not distribute its annual report to the shareholders of any related association that discloses, in a separate section of its annual report, its financial and supervisory relationship with the bank. This separate section may incorporate by reference information from other sections of the annual report. At a minimum, the separate section must include the statement required by § 620.2(h)(2) and the following information required by § 620.5, if applicable:

(i) The association's obligation to borrow only from the bank unless the bank gives approval to the association to borrow elsewhere;

(ii) The major terms of any capital preservation, loss sharing, or financial assistance agreements between the association and the bank;

(iii) Any bank bylaw provisions authorizing the bank to access the capital of the association;

(iv) The extent to which the bank has assumed the association's exposure to interest rate risk; and

(v) Any other material operational and financial conditions that may contribute to an interdependent relationship between the association and the bank.

(2) A bank must distribute its annual report within the period required by paragraph (a) of this section to:

(i) The shareholders of any related association that does not make the disclosure described in paragraph (b)(1) of this section; or

(ii) The shareholders of all related associations if the bank experiences a significant event that has a material effect on those associations.

(3) Any bank that is required by paragraph (b)(2) of this section to distribute its annual report must coordinate its distribution with its related associations.

* * * * *

Dated: March 13, 2000.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 00–6569 Filed 3–16–00; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2000–ANE–91]

Proposed Establishment of Class D and Class E Airspace; Oxford, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes the establishment of Class D and Class E airspace areas at Oxford, CT (KOXC) to accommodate a new Air Traffic Control Tower at Waterbury-Oxford Airport, Oxford, Connecticut.

DATES: Comments for inclusion in the Rules Docket must be received on or before May 16, 2000.

ADDRESSES: Send comments on the proposal to: Manager, Airspace Branch, ANE–520, Federal Aviation Administration, Docket No. 2000–ANE–91, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7520; fax (781) 238–7596. Comments may also be sent electronically via the internet to the following address: ''9-ane-airspace@faa.gov''

The official docket file may be examined in the Office of the Regional Counsel, New England Region, ANE–7, Room 401, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7050; fax (781–238–7055.

An informal docket may also be examined during normal business hours in the Air Traffic Division, Room 408, by contacting the Manager, Airspace Branch at the first address listed above.

FOR FURTHER INFORMATION CONTACT: David T. Bayley, Air Traffic Division, Airspace Branch, ANE–520.7, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7586; fax (781) 238–7596.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–ANE–91.'' The postcard will be date stamped and returned to the commenter.

Availability of NRPM's

Any person may obtain a copy of this NRPM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANE–520, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299. Communications must identify the docket number of this NRPM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2a, which describes the application procedure.

The Proposal

The State of Connecticut has notified the FAA that it has approved plans for the construction of a permanent Air Traffic Control Tower (ATCT) at Waterbury-Oxford Airport (KOXC), Oxford, Connecticut. Construction of the new ATCT should be complete in May 2000, and the State has applied to have the ATCT operated under the FAA Contract Tower Program. Accordingly, the State has requested that the FAA establish a Class D airspace area in vicinity of the Waterbury-Oxford Airport commensurate with the commissioning of the new ATCT. Air traffic at the Waterbury-Oxford Airport has grown over the past year and presently includes both high-speed jets and slower speed reciprocating powered light aircraft and rotorcraft.

The FAA establishes Class D airspace where necessary to provide a safe environment for aircraft transiting between the enroute and terminal airspace structures. This is particularly true when aircraft with greatly different performance characteristics operate at the same airport. Class D airspace areas encompass that airspace in the vicinity of an airport from the surface upward to a specified altitude in which pilots of aircraft must establish and maintain two-way radio communications with the ATCT at that airport. This proposal would create a Class D airspace area in the vicinity of the Waterbury-Oxford Airport extending upward from the surface to 3,200 feet MSL within a 5-mile radius of the airport.

In addition, the FAA finds that Class E airspace area, extending from the surface as an extension of the Class D airspace area, is necessary in order to provide sufficient controlled airspace to accommodate those aircraft arriving at the airport using a standard instrument approach procedure (SIAP). The Waterbury Oxford Airport has a SIAP that requires the establishment of a Class E surface airspace area extending to northwest of the airport along the TBY NDB 353° bearing to a point 7.6 miles from the airport. These proposals will provide for the safe and efficient use of the navigable airspace in the vicinity of the Waterbury-Oxford Airport, and promote safe flight operations under both Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) by aircraft transiting to and from enroute airspace structure.

Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9G, and Class E airspace designations for airspace designated as extensions of a Class D airspace area are published in paragraph 6004 of FAA Order 7500.9G. FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in this Order.

Agency Findings

This rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state

authorities prior to publication of this rule.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) Is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) Does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by references, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 10–6(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9563, 3 CFR, 1959–1963 Comp., p. 389.

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANE CT D Oxford, CT [New]

Waterbury-Oxford Airport, CT
(Lat. 41°28′46″N, long. 73°08′07″W

That airspace extending upward from the surface to and including 3,200 feet MSL within a 5-mile radius of Waterbury-Oxford Airport. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as Extensions to Class D Airspace Areas.

* * * * *

ANE CT E4 Oxford, CT [New]

Waterbury-Oxford Airport, CT
(Lat. 41°28′46″N, long. 73°08′07″W

That airspace extending upward from the surface within 3.6 miles on each side of the RBY NDB 353° bearing extending from a 5-mile radius of Waterbury-Oxford Airport to 7.6 miles northwest of the TBY NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Burlington, MA, on March 3, 2000.

William C. Yuknewicz,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 00–6553 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100, 110, and 165

[CGD01–99–194]

RIN 2115–AA 97, AA 98, AE 46

Temporary Regulations: Opsail Maine 2000, Portland, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a regulated area, safety zone and anchorage grounds during OPSAIL MAINE 2000 events to be held between July 28 and 31, 2000 in the port of Portland, Maine. These regulations are necessary to promote the safe navigation of vessels, and the safety of life and property during the heavy volume of vessel traffic expected during this event.

DATES: Comments and related material must reach the Coast Guard on or before May 16, 2000.

ADDRESSES: Comments should be mailed to: Commanding Officer, U.S. Coast Guard Marine Safety Office, 103 Commercial St. Portland, Maine 04101–4726. The Response and Planning Department, Coast Guard Marine Safety Office maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Coast Guard Marine Safety Office between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant R. Timme, Chief of Response and Planning, Marine Safety Office, Portland at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting comments and related material. Each person submitting comments should include his/her name and address, identify the docket number for this rulemaking [CGD1–99–194–195–196], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8¼ by 11 inches, suitable for copying. Persons requesting acknowledgment of receipt of comments should include a stamped, self-addressed postcard or envelope. All comments and material received during the comment period will be considered by the Coast Guard and may change this proposed regulation.

Public Hearing

The Coast Guard does not plan to hold a public hearing. Persons may request a public meeting by writing to Commander, First Coast Guard District (m) via Marine Safety Office Portland, at the address listed under **ADDRESSES.** The request should include reasons why a public hearing would be beneficial. If the Coast Guard determines that oral presentations would aid this rulemaking, a hearing will be held at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

OPSAIL Maine 2000, Inc. is sponsoring the OPSAIL Maine 2000 Parade of Tall ships as well as a fireworks display. These events are scheduled to take place between July 28th and 30th 2000 in the Port of Portland and surrounding waters. The Coast Guard anticipates up to 1,000 spectator craft for these events. The proposed rulemaking will provide specific guidance on temporary anchorage regulations, vessel movement controls, and safety zones that will be in effect at various times in those waters during the period July 28–30, 2000. The Coast Guard may establish additional regulated areas, anchorage grounds and safety zones once confirmation of the exact number of participating vessels becomes available.

Discussion of Proposed Rule

OPSAIL MAINE 2000, Inc is sponsoring OPSAIL MAINE 2000. This event will consist of a parade of sailing

vessels from Portland Head Light past a reviewing stand located at Anchorage B. This parade will continue to Portland Main where the vessels will turn west-southwest and go to berth throughout the Port of Portland.

The Coast Guard estimates up to 1,000 spectator craft will attend the events. The proposed regulations create temporary anchorage regulations, vessel movement controls, and safety zones. The regulations will be in effect at various times in Portland Harbor between July 28–30, 2000. The vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life. This proposed rulemaking is necessary to ensure the safety of life on the navigable waters of the United States.

Regulated Areas

The Coast Guard proposes to establish a regulated area in Portland Harbor that will be in effect on July 28, 2000. This proposed regulated area is needed to protect the maritime public and participating vessels from possible hazards to navigation associated with a parade of tall ships transiting the waters of Portland outer harbor in close proximity; and a large number of Tall Ships and spectator craft anchored in close proximity throughout the duration of these events. This regulated area includes vessel anchoring and operating restrictions.

This Regulated Area covers the waters of Portland Harbor Outer Harbor, Main Harbor and vicinity. It includes the following temporary anchorages established under 33 CFR § 110.T133 created under this rule: Anchorage B, Anchorage C, Anchorage D offshore of South Portland, and Anchorage E off the southeast shore of Cushing Island. Following the tall ship parade, Portland Harbor will reopen in sequence with the movement and mooring of the final flotilla of tall ships. After the final flotilla of tall ships has passed Anchorage B, vessel operators anchored in the anchorage areas may depart for locations outside Portland Harbor. This proposed regulated area is effective from 11 a.m. until 4 p.m. on July 28, 2000.

Anchorage Regulations

The Coast Guard also proposes to establish temporary Anchorage Regulations for participating OPSAIL MAINE 2000 ships and spectator craft. The Anchorage regulations in 33 CFR § 110.132 will be temporarily suspended by this regulation and new Anchorage Grounds and regulations will be temporarily established. The proposed anchorage regulations temporarily establish Anchorage grounds for spectator vessel use only. They restrict all other vessels from using these anchorage grounds during a portion of the OPSAIL MAINE 2000 event. Anchorage B will contain the official reviewing vessel. Anchorage C is designated for small vessel temporary anchorages. Additionally, Spectator Anchorage D is designated offshore of South Portland in the Outer Harbor, and Spectator Anchorage E is designated on the southeast shore of Cushing Island. These are needed to provide viewing areas for spectator vessels while maintaining a clear parade route for the participating OPSAIL MAINE 2000 vessels and to protect boaters and spectator vessels from the hazards associated with a parade of tall ships transiting in close proximity in the waters of Portland Harbor. These proposed regulations are effective from 11 a.m. until 4 p.m. on July 28, 2000.

Safety Zones

The Coast Guard proposes to establish a safety zone in Portland Harbor for a fireworks display, that will be in effect on July 28, 2000. In the case of inclement weather, the fireworks display will be held on either July 29, or July 30, 2000 and the safety zone would be in effect on those dates. The proposed safety zone is needed to protect the maritime public from possible hazards associated with the launching of fireworks in Portland Harbor. The safety zone covers a 1500 foot radius around a barge located in Anchorage A for the fireworks display. This proposed regulation is in effect from 9 p.m. until 11 p.m. on July 28–30, 2000.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Due to the short duration of these marine events and fireworks events and the advance notice provided to the maritime community, the Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Because it expects the impact of this rule to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Assistance For Small Entities

In accordance with Sec. 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise

have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under Figure 2–1, paragraph 34 (f), (g) and (h), of Commandant Instruction M16475.1C, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

33 CFR Part 110

Anchorage Grounds

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 100, 110, and 165 as follows:

PART 100—[AMENDED]

1. The authority for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add Temporary § 100.CGD1–194 to read as follows:

§ 100.CGD1–194 Regulated Area, Main Harbor, Portland, Maine.

(a) Regulated Area: A regulated area is established in the waters of Portland Harbor, Outer Harbor, Main Harbor and vicinity within the following boundaries: east of the Casco Bay Bridge in the Fore River; east of the line drawn from Fish Point at 43°39′59″ N–70°14′17″W to Back Cove Approach Buoy No 3 (LLNR 7845) at 43°40′17'' N–70°14′05″ W ; south of the line thence drawn to Back Cove Approach Buoy No 4 (LLNR 7850) at 43°40′21″ N–70°13′42″ W; south-southwest of the line thence drawn to Back Cove Approach Buoy No 2 (LLNR 7850) at 43°40′10″ N–70°13′22″ W; south-southwest of the line thence drawn to Casco Bay Channel Buoy No 2 (LLNR 7235) at 43°39′50″ N–70°12′52″ W; south-southwest of the line thence drawn to House Island Buoy No 1 (LLNR 7220) at 43°39′22″ N–70°12′20″ W; west of the line thence drawn to the northernmost point of Cushing Island at 43°38′49″ N–70° 12′11″ W; west of the line from the easternmost point of Cushing Island at 43°38′43″ N–70°11′25″ W to Ram Island Ledge Light (LLNR 7575) at 43°37′54″ N–70°11′12″ W; north of the line thence drawn to Portland Head Light (LLNR 7565) at 43°37′24″ N–70°12′30″ W; thence along the shore of South Portland back to the Casco Bay Bridge.

(b) *Effective dates:* This regulation is effective from 11 a.m. until 4 p.m. on July 28, 2000.

(c) *Special Local Regulation:*

(1) No vessel except OPSAIL MAINE 2000 participating vessels and their assisting tugs, spectator vessels, and those vessels exempt from the regulations in this section, may enter or navigate within the Regulated Area, unless specifically authorized by the Coast Guard Captain of the Port, Portland, Maine or his on-scene representative.

(2) Commercial vessels which need to transit the Regulated Area, and are not going to a spectator vessel anchorage, must obtain permission from the Coast Guard Captain of the Port, Portland, Maine or his on-scene representative, prior to entering the Regulated Area.

(3) Spectator vessels within the Regulated Area shall remain in designated anchorages during the effective period unless specifically authorized by the Coast Guard Captain of the Port, Portland, or his on-scene representative.

(4) Spectator vessels transiting the Regulated Area must do so at a no wake speed, or at speeds not to exceed 5 knots, whichever is less.

(5) Not withstanding paragraph (c)(1) of this section, no vessel other than OPSAIL MAINE 2000, their assisting tugs, and enforcement vessels, may enter or navigate within the boundaries of the main shipping channel within the Regulated Area unless they are specifically authorized to do so by the Coast Guard Captain of the Port, Portland, Maine or his on-scene representative. Authorization may be obtained by contacting Coast Guard Group Portland on channel 16 VHF–FM. Any vessel authorized to enter the Regulated Area during the Parade of Tall Ships must not, under any circumstances, cross through the parade, or maneuver alongside within 100 yards of any OPSAIL MAINE 2000 vessel.

(6) No vessel is permitted to anchor in the main shipping channel at any time. Vessels which need to anchor to maintain position will only do so in designated temporary anchorage areas.

(7) All persons and vessels shall comply with the instructions of on-scene Coast Guard patrol personnel. On-scene patrol personnel include commissioned, Warrant and Petty Officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local law enforcement vessels.

PART 110—[AMENDED]

3. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471; 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g)

4. From July 28 through July 30, 2000 § 110.132 is suspended and new § 100.T136 is added as follows:

§ 110.T136 Portland Harbor, ME.

(a) The anchorages. All anchorages in this paragraph are effective as specified. Vessel operators using the anchorages in this paragraph must comply with the general operational requirements specified in paragraph (c) of this section. All coordinates are NAD 1983.

(1) *Anchorage B.*

(i) That area bound by the following points; 43°39′35″ N–70°13′30″ W (Fort Gorges Island Ledge Buoy 4, LLNR 7685); 43°39′50″ N–70°12′55″ W; 43°39′26″ N–70°12′27″ W; 43°39′08″ N–70°12′58″ W (NAD 1983).

(ii) Anchorage B is intended for general purposes, but especially for use by oil tankers and other large deep-draft ships entering harbor at night and intending to proceed to the dock allotted at daylight the following morning or as soon as practicable. This area is also to be used for quarantine anchorage. Vessels must be so anchored in this area as to leave at all times an open usable channel at least 100 feet wide for passage of ferry and other boats between Portland and islands in Luckse Sound and Hussey Sound. Any vessels anchored in this area shall be ready to move on short notice when ordered to

do so by the Captain of the Port, or on scene Coast Guard patrol personnel.

(2) *Anchorage C.*

(i) That area bounded by the following points: the eastern most point on House Island 43°39′16″ N–70°12′24″ W, to the point on Cushing Island at 43°38′49″ N–70°12′11″ W; thence along the western shore of Cushing Island to its southernmost point at 43°38′03″ N–70°12′24″ W; to Maine Approach Lighted Bell Buoy ''12'', (LLNR 7580) at 43°38′00″ N–70°12′30″ W; to Fort Scammel Point Light 2 (LLNR 7605) at 43°38′54″ N–70°12′54″ W; thence along the south-eastern shoreline to the beginning. (All positions NAD 1983.)

(ii) This anchorage is intended for use by small vessels and for temporary anchorages.

(3) *Spectator Anchorage D.*

(i) That area bound by the following points: Spring Point Ledge Light (LLNR 7610) at 43°39′06″ N–70°13′30″ W (NAD 1983); to Portland Head Light, (LLNR 7565) 43°37′24″ N–70°12′30″ W (NAD 1983); thence along the shoreline of South Portland to the point of beginning. (All positions NAD 1983.)

(ii) This anchorage is intended for use by small vessels and for temporary anchorages.

(4) *Spectator Anchorage E.*

(i) That area bounded by the following points: the eastern most point of Cushing Island at 43°38′43″ N–70°14′17″ W; to Ram Island Ledge Light (LLNR 7575) at 43°37′24″ N–70°12′30″ W; to the floating aids to navigation Maine Approach Lighted Bell Buoy ''12'' (LLNR 7580) at 43°37′24″ N–70°12′30″ W; to the southern most point of Cushing Island; thence along the south-eastern shore to the point of beginning. (All positions NAD 1983.)

(ii) This anchorage is intended for use by small vessels and for temporary anchorages.

(b) *Effective dates:* This section is effective from 11 a.m. until 4 p.m. on July 28, 2000.

(c) *Regulations.* Vessel operators using any of the anchorages established in this section shall:

(i) Ensure their vessels remain safely in position under all prevailing conditions.

(ii) Comply as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local law enforcement vessels.

(iii) Vacate anchorages after termination of the effective period for those areas.

(iii) Not leave vessels unattended in any anchorage or spectator area at any time.

(iv) Not tie off to any buoy.

(v) Not maneuver between anchored vessels.

(vii) Not nest or tie off to other vessels in that anchorage or spectator area.

PART 165—[AMENDED]

5. The authority citation for part 165.11 continues to read:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(G), 6.04–1, 6.04–6, and 160.5.

6. Add new § 165.CGD1–195 to read as follows:

§ 165.CGD1–195 Safety Zone: OPSAIL Maine 2000 Fireworks Display, Portland Harbor, Portland, ME.

(a) *Location.* The following area is a safety zone: All waters in a radius of 1500 feet around a pyrotechnics barge located at approximate position 43°40′07″ N–70°13′45″ W (NAD 1983).

(b) *Effective dates.* This regulation is effective from 9 p.m. until 11 p.m. on July 28, 29 and 30, 2000.

(c) *Regulations.*

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

(2) Vessel operators must maneuver as directed by on-scene Coast Guard patrol personnel. On scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or law enforcement vessels.

Dated: February 29, 2000.

G. N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District, Boston, Massachusetts.

[FR Doc. 00–6686 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–00–012]

RIN 2115–AE446

Special Local Regulations: Skull Creek, Hilton Head, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to adopt temporary Special Local Regulations for the Skull Creek July 4th celebration Fireworks Display, Skull Creek, Hilton Head, SC. The event will be held from 9 p.m. to 10 p.m. Eastern Daylight Time (EDT) on July 4, 2000 in Skull Creek, Hilton Head, SC. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments and related material must reach the Coast Guard on or before May 16, 2000.

ADDRESSES: Comments should be mailed to Commanding Officer, U.S. Coast Guard, Marine Safety Office, 196 Tradd Street, Charleston, SC 29401. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Porter at (843) 681–2772 x100.

SUPPLEMENTARY INFORMATION:

Background and Purpose

These proposed regulations are required to provide for the safety of life on navigable waters because of the inherent danger of fireworks during the Skull Creek July 4th celebration, Skull Creek, Hilton Head GA.

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice [CGD07–00–012] and the specific section of this proposal to which their comments apply and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8″ X 11″ unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander Coast Guard Group Miami at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a

time and place announced by a notice in the **Federal Register**.

Regulatory Evaluation

This proposal is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The regulated area will only be in effect for 2 hours on one day.

Small Entities

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

The Coast Guard 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 as the regulations will only be in effect for 2 hours in a limited area near Hilton Head, South Carolina.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

This proposal calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

We have analyzed this proposal under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This proposal will not impose an unfunded mandate.

Taking of Private Property

This proposal will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposal meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposal under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this proposal and has determined pursuant to Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, that this proposal is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46, and 33 CFR 100.35.

2. Add temporary § 100.35T–07–012 to read as follows:

§ 100.35T–07–012 Skull Creek July 4th Celebration, Skull Creek, Hilton Head SC.

(a) *Regulated Area:* A regulated area is established for the waters in Skull Creek, Hilton Head, SC, encompassing an area within a 500 foot radius from position 32°13.95′N, 080°45.1′W. All coordinates referenced use Datum: NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commanding Officer, Group Charleston, SC.

(c) *Special Local Regulations:* Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Patrol Commander. Spectator craft are required to remain in a spectator area to be established by the event sponsor The Club Group, LTD.

(d) *Dates:* These regulations become effective at 8:30 p.m. and terminate at 10:30 p.m. EDT on July 4, 2000.

Dated: March 3, 2000.

Thad. W. Allen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 00–6687 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP MIAMI 00–015]

RIN 2115–AA97

Safety Zone: OpSail Miami 2000, Port of Miami

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: The Coast Guard proposes to establish temporary regulations in the Port of Miami for OpSail Miami 2000 activities. This action is necessary to provide for the safety of life and property on navigable waters during OpSail Miami 2000. This action will

restrict vessel traffic in portions of the Port of Miami.

DATES: Comments and related material must reach the Coast Guard on or before May 1, 2000.

ADDRESSES: You may mail comments and related material to the Port Management and Response Department, Coast Guard Marine Safety Office, P.O. Box 01–6940, Miami, Florida 33101–6940, or deliver them during regular office hours, Monday through Friday, to Room 201, Coast Guard Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, Florida 33197. Coast Guard Marine Safety Office Miami maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 201, Coast Guard Marine Safety Office Miami, between 8 a.m., E.S.T. and 3 p.m., E.S.T. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Joseph Boudrow, Port Management and Response Department, Coast Guard Marine Safety Office Miami, (305) 535–8705.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 17, 1999, the Coast Guard published an advanced notice of proposed rulemaking; request for comments (ANPRM) entitled OPSAIL 2000, Port of Miami in the **Federal Register** (64 FR 70650). The Coast Guard received no letters commenting on the anticipated rulemaking. No public hearing was requested and none was held.

Request for Comments

We encourage interested persons to participate in this rulemaking by submitting comments and related material. Your comments should include your name and address, identify the docket number for this rulemaking (COTP Miami 00–015) and the specific section of this proposal to which each comment applies and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8-½ by 11 inches, suitable for copying and electronic filing. If you want to know if your comment is received, enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period and may change this proposal in view of the comments. The comment period for this regulation is 45 days. This time period is adequate to allow local input because we previously published an ANPRM, no comments were received, the event is highly publicized, and the shortened comment period will allow the full 30-day publication requirement prior to the final rule becoming effective. Copies of this proposal will also be placed in the local notice to mariners.

Public Meeting

The Coast Guard plans no public meeting. You may request a public meeting by writing to the Port Management and Response Department of Coast Guard Marine Safety Office Miami at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If we determine that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The proposed temporary regulations are for OpSail Miami 2000 events scheduled to be held in portions of the Port of Miami over the period of June 6–10, 2000. This rule is proposed to provide for the safety of life and property on navigable waters during OpSail Miami 2000 events.

Discussion of Proposed Rule

OpSail Miami 2000, Inc., is sponsoring OpSail Miami 2000 activities which consist of the arrival, display, and departure parade of numerous large U. S. and foreign flagged sail vessels. One or more fireworks displays may be conducted during the period of sail vessel visit. Currently, approximately 20 Class A (175 feet or larger in length) and 20 smaller Class B (100 feet up to 175 feet) and C (up to 100 feet) sail vessels have confirmed that they will participate in OpSail Miami 2000. Event sponsors anticipate as many as 100 sail vessels may ultimately be involved.

Participant sail vessels will begin arriving in the Port of Miami on June 6, 2000 and will moor alongside Dodge Island within the Port of Miami. These vessels will be open to the public during certain hours between June 7 and June 9, 2000. On June 10, 2000, these vessels will make their departure from the Port of Miami in a parade commencing approximately 12 noon EST and ending approximately 2 p.m. EST. Participant sail vessels will proceed from their moorings to the turning basin at the west end of the Main Channel. From the turning basin, they will proceed in 300 to 500 yard intervals in an ocean bound direction along the Main Channel, thence along Government Cut, thence along Bar Cut, thence along Outer Bar Cut, to the vicinity of Miami Lighted Bouy M (Light List Number (LLNR) 10455–895), located at 25 degrees, 46.0 minutes North latitude, 080 degrees, 05.0 minutes West longitude. The area of Miami Lighted Buoy M is the termination area for the parade.

Vessels subject to local pilotage rules shall have a Biscayne Bay pilot embarked for the outbound parade from moorings. Pilots are expected to disembark from their assigned sail vessels in the area of Miami Lighted Buoy M. Once out of the parade, the majority of sail vessels are expected to turn north and skirt the south Florida Atlantic Coast en route to their next port of call.

Waterborne spectator areas have been designated by the event sponsor to be on either side of Bar Cut and Outer Cut in the open ocean. These areas will be delineated by lines of marker floats placed by the sponsor. The marker floats will be round balls, orange in color, and spaced approximately 200 yards apart. They will be placed 100 yards out from the aids to navigation that mark each side of the channel. Spectator craft will be expected to remain behind the marker float lines for the duration of the parade.

Because of the number of the sail vessels, fireworks displays, and the large number of spectator watercraft expected during the parade, the Coast Guard proposes temporary regulations for the creation of a temporary safety zone and vessel movement controls in portions of the Port of Miami and its channels affected by this event. The regulations will be in effect at various times in portion of the Port of Miami during the period of June 6, 2000 through June 10, 2000. The vessel congestion due to the large number of participant and spectator vessels poses a significant threat to the safety of life and property. The Coast Guard has determined this proposed rulemaking is necessary to ensure the safety of life and property on the navigable waters of the United States within portions of the Port of Miami affected by this event.

Regulated Area

The Coast Guard proposes to establish a temporary safety zone for the Parade of Sail on June 10, 2000. The proposed safety zone shall include all waters in the Port of Miami within the turning basin at the west end of Main Channel bounded by the bridges connecting Dodge Island and Watson Island to the mainland, respectively, the Main Channel, Lummus Island Cut east of a

line drawn northward from the west end of Fisher Island, Government Cut, Bar Cut, and Outer Bar Cut. This safety zone also includes all the waters 500 yards on either side of Bar Cut and Outer Bar Cut seaward of the jetties to Miami Lighted Buoy M (LLNR 10455–895). Entry into the safety zone by non-participating vessels will be prohibited. The Coast Guard expects many spectator craft for this millennium event. These craft will be allowed to view the Parade of Sail vessels from viewing areas on either side of Bar Cut and Outer Bar Cut. These areas will delineated by marker floats placed by the sponsor of the event.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this proposed rulemaking to be so minimal that a full Regulatory Evaluation under 10e of the regulatory policies and procedures of DOT is unnecessary. Although the proposed rule prohibits all non-parade related traffic in the area of the temporary safety zone on Saturday, June 10, 2000, the effect of this regulation will not be significant for the following reasons: the regulation will be in effect for less than 6 hours; the maritime community will receive extensive advance notices through Local Notices to Mariners, facsimile, and marine information broadcasts, maritime association meetings, and Miami area newspapers; and specific viewing areas will be marked for spectator vessels. Mariners and commercial vessels can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule has a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit those portions of the Port of Miami during the six hour periods of safety zone enforcement. These regulations would not have a significant economic impact on a substantial number of small entities for the following reasons. Although these regulations would apply to a substantial portion of the Port of Miami, the periods of the regulatory enforcement will be of short duration. Before the effective periods, the Coast Guard will make notifications to the public via mailings, facsimiles, the Local Notice to Mariners, and use of the sponsor Internet site. In addition, OpSail Miami 2000, Inc., the sponsoring organization, is planning to publish information of the event in local newspapers, pamphlets, and television and radio broadcasts. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit comments (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we will assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Joe Boudrow, Coast Guard Marine Safety Office Miami at (305) 535–8705.

Collection of Information

The Coast Guard anticipates that this rulemaking will not require any new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose no unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this action and have initially determined under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, that this proposed rule will be categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES.** By controlling vessel traffic during the event, this proposed rule is intended to minimize environmental impacts of increased vessel traffic during the parade of sail.

List of Subjects in 33 CFR Part 165

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

Proposed Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165, as follows:

PART 165—[AMENDED]

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

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

2. A temporary § 165.T 07–015 is added to read as follows:

§ 165.T07–015 Safety Zone; Miami, Florida

(a) *Regulated area.* A temporary safety zone is established for Opsail Miami 2000 events, including a parade of sail vessels to include all waters in the Port of Miami within the turning basin at the west end of Main Channel bounded by the bridges connecting Dodge and Watson Islands with the mainland, Main Channel, Lummus Island Cut east of a line extending northward from the west end of Fisher Island, Government Cut, Bar Cut, and Outer Bar Cut. This safety zone also includes all the waters 500 yards on either side of Bar Cut and Outer Bar Cut seaward of the jetties to Miami Lighted Buoy M (LLNR 10455–895).

(b) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited to all non-parade related vessels without the prior permission of the U.S. Coast Guard Captain of the Port.

(c) *Enforcement Period.* This section becomes effective at 8 a.m., EST and terminates at approximately 4 p.m., EST on June 10, 2000.

Dated: March 3, 2000.

L.J. Bowling,

Captain, U. S. Coast Guard, Captain of the Port, Miami Zone.

[FR Doc. 00–6685 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–15–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 99–7B]

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of deadline for reply comment period; notice of public hearings; and deadline for post-hearing comments.

SUMMARY: The Copyright Office of the Library of Congress announces public hearings on the possible exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works. The Office also announces the extension of the deadline for the submission of reply comments and announces the deadlines for submission of post-hearing comments. The hearings and comments relate to a rulemaking proceeding conducted in accordance with 17 U.S.C. 1201(a)(1), which was added by the Digital Millennium Copyright Act, and which will determine whether there are ''classes of works'' as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses if they are prohibited from circumventing such technological measures.

DATES: The deadline for reply comments is extended to 5:00 p.m. E.S.T. on Friday, March 31, 2000. Public hearings will be held in Washington, DC on May 2–4, 2000 and in Stanford, CA, on May 18—19, 2000. Requests to testify must be received in the Office of the General Counsel of the Copyright Office by 5:00 p.m. E.S.T. on April 14, 2000. Post-hearing written submissions must be received no later than 5:00 p.m. E.S.T. on June 23, 2000. See **SUPPLEMENTARY INFORMATION** for additional information and other requirements.

ADDRESSES: The first round of public hearings will be held at the Library of Congress in Room LA–202 of the John Adams Building, 110 Second Street, S.E., Washington, DC. The second round of public hearings will be held at Stanford University in Room 290, Stanford Law School, Crown Quadrangle, Stanford, CA. See **SUPPLEMENTARY INFORMATION** for additional address information and other requirements.

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Senior Attorney, Office of the General Counsel, or Charlotte Douglass, Principal Legal Advisor, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380; fax: (202) 707–8366. E-mail inquiries regarding the hearings may be sent to rkas@loc.gov.

SUPPLEMENTARY INFORMATION: On November 24, 1999, the Copyright Office published a Notice of Inquiry seeking comments in connection with a rulemaking pursuant to 17 U.S.C. 1201(a)(1), which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumventing a technological measure that controls access to a copyrighted work. 64 FR 66139 (November 24, 1999). For a more complete statement of the background and purpose of the rulemaking, please see the Notice of Inquiry which is also available on the Copyright Office's website at: http://www.loc.gov/copyright/1201/anticirc.html.

Subsection 1201(a)(1)(A) provides, inter alia, that ''No person shall circumvent a technological measure that effectively controls access to a work protected under this title.'' Subparagraph (B) limits this prohibition. It provides that the prohibition against circumvention of technological measures ''shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title'' as determined in this rulemaking. This prohibition on circumvention becomes effective on October 28, 2000, two years after the date of enactment.

During the 2-year period between the enactment and effective date of the provision, the Librarian of Congress must make the determination as to classes of works exempted from the prohibition. This determination will be made upon the recommendation of the Register of Copyrights in a rulemaking proceeding. The determination thus made will remain in effect during the succeeding three years.

In response to the Notice of Inquiry, the Office received 235 written comments that conformed to the requirements set forth in the Notice of Inquiry, as modified. The comments have been posted on the Office's website; see http://lcweb.loc.gov/copyright/1201/comments.

The Copyright Office has received a request from Time-Warner Inc. to extend the deadline for submission of reply comments. Given the unexpectedly high volume of initial comments submitted and in order to accommodate the needs of all interested parties, the Copyright Office is extending the deadline for submissions of reply comments. Reply comments must be received in the Office of the General Counsel no later than 5:00 p.m. E.S.T. on March 31, 2000. For addresses and acceptable formats for reply comments, please see the section below entitled ''Format and submission of reply comments and post-hearing comments.''

The purpose of reply comments is to respond to points made in initial comments submitted in this proceeding,

and not to raise new issues for the first time.

Public hearings: The Office will be conducting public hearings in Washington, DC on Tuesday, May 2, 2000, Wednesday, May 3, 2000, and Thursday, May 4, 2000 from 9:30 a.m. to 6:00 p.m. Public hearings will also be held in Stanford, CA on Thursday, May 18, 2000 and Friday, May 19, 2000 from 9:30 a.m. to 6:00 p.m. Interested parties are invited to submit requests to testify at one of these hearings.

Requirements for persons desiring to testify: A request to testify must be submitted to the Copyright Office. All requests to testify must include:

- The name of the person desiring to testify;
- The organization or organizations represented by that person, if any;
- Contact information (address, telephone, and e-mail);
- The location and date of the hearing at which the requestor wishes to testify; and
- A one page summary of the intended testimony.

This request may be sent by mail, by fax, or by hand-delivery. Requests by telephone or electronic mail will not be accepted. The Copyright Office will notify all persons wishing to testify of the date and expected time of their appearance, and the maximum time allowed for their testimony.

Addresses for requests to testify: If delivered by mail: requests to testify should be addressed to Robert Kasunic, Senior Attorney, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024.

If sent by fax: requests to testify should be addressed to Robert Kasunic at (202) 707–8366.

If delivered by hand: requests to testify should be delivered to Robert Kasunic, the Office of the General Counsel, Copyright Office, Library of Congress, LM–403, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington DC.

All requests to testify must be received by 5:00 E.S.T. on April 14, 2000.

Time limits on testimony at public hearings: There will be time limits on the testimony allowed for speakers. In the initial comment period, the Office received 235 written comments. Given the time constraints, only a fraction of that number could possibly testify at the hearings. The time limits will depend on the number of persons wishing to testify. Approximately one week prior to the hearings, the Office will notify all persons submitting requests to testify of the precise time limits that will be imposed on oral testimony. Due to the time constraints, the Copyright Office encourages parties with similar interests to select a single spokesperson to testify.

Post-hearing comments: At the conclusion of the public hearings, the Copyright Office will accept post-hearing written comments that relate specifically to matters addressed at the hearings or identified in the reply comments. This post-hearing comment period is not intended to be an opportunity for interested parties to reiterate points they have already made or to raise new issues. Post-hearing comments must be received in the Office of the General Counsel no later than 5:00 p.m. E.S.T. on June 23, 2000.

Format and submission of reply comments and post-hearing comments: The Copyright Office prefers to receive reply and post-hearing comments submitted in electronic format (by attachment to electronic mail or by delivery of 3.5-inch diskettes). While the Office prefers electronic submissions, reply and post-hearing comments in paper format will also be accepted. The applicable requirements for each form of submission are specified below:

1. *If by electronic mail:* Send to ''1201@loc.gov'' a message containing the name of the person making the submission, his or her title and organization (if the submission is on behalf of an organization), mailing address, telephone number, fax number (if any), and e-mail address. The subject heading of the message should also identify the document clearly as a reply or post-hearing comment. The document itself must be sent as a MIME attachment, and must be in a single file in either: (1) Adobe Portable Document File (PDF) format (preferred); (2) Microsoft Word Version 7.0 or earlier; (3) WordPerfect 7 or earlier; (4) ASCII text file format; or (5) Rich Text File (RTF) format. At a minimum, the comment must contain the name of the person submitting the comment.

2. *If by regular mail or hand delivery:* Send, to the appropriate address listed above, two copies of the comment, each on a 3.5-inch write-protected diskette, labeled with the name of the person making the submission and, if applicable, his or her title and organization. The document must be clearly identified as a reply or post-hearing comment. Either the document itself or a cover letter must also include the name of the person making the submission, his or her title and organization (if the submission is on behalf of an organization), mailing address, telephone number, fax number (if any), and e-mail address (if any). The document itself must be in a single file in either (1) Adobe Portable Document File (PDF) format (preferred); (2) Microsoft Word Version 7.0 or earlier; (3) WordPerfect Version 7 or earlier; (4) ASCII text file format; or (5) Rich Text File (RTF) format. At a minimum, the comment must contain the name of the person submitting the comment.

3. *If in print only:* Anyone who is unable to submit a comment in electronic form should submit an original and fifteen paper copies by hand or by mail to the appropriate address listed above. The reply or post-hearing comment should contain the name of the person making the submission, his or her title and organization (if the submission is on behalf of an organization), mailing address, telephone number, fax number (if any), and e-mail address (if any). At a minimum, the comment must contain the name of the person making the submission.

Dated: March 14, 2000.

David O. Carson,

General Counsel.

[FR Doc. 00–6711 Filed 3–16–00; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–83–1–200009; FRL–6561–4]

Approval and Promulgation of Implementation Plans; Florida: Approval of Revisions to the Florida State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Florida State Implementation Plan (SIP) submitted on December 10, 1999, by the State of Florida through the Florida Department of Environmental Protection (FDEP). This submittal consists of revisions to the ozone air quality maintenance plans for the Jacksonville (Duval County) and Southeast Florida (Broward, Dade, and Palm Beach Counties) areas to remove the emission reduction credits attributable to the Motor Vehicle Inspection Program (MVIP) from the future year emission projections contained in those plans. Florida submitted technical amendments to this revision on January 18, 2000. For the Jacksonville and Southeast Florida areas, this revision updates the control strategy by removing emissions credit

for the MVIP, and as such, transportation conformity must be redetermined by the Metropolitan Planning Organizations (MPOs) within 18 months of the final approval of this action.

DATES: Comments on EPA's proposed action must be received by April 17, 2000.

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

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street S.W., Atlanta, Georgia 30303–3104.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

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

SUPPLEMENTARY INFORMATION: The following sections: Background, Analysis of the State's Submittal, and Final Action, provide additional information concerning the revisions to the ozone air quality maintenance plans for the Jacksonville and Southeast Florida areas to remove the emission reduction credits attributable to the MVIP from the future year emission projections contained in those plans.

I. Background

Upon enactment of the Clean Air Act Amendments of 1990, the Jacksonville and Southeast Florida areas were classified as nonattainment for the one-hour ozone national ambient air quality standard (NAAQS). On November 16, 1992, the State of Florida submitted comprehensive inventories for volatile organic compound (VOC), oxides of nitrogen (NO_X), and carbon monoxide emissions from the Jacksonville and Southeast Florida areas. The inventories include biogenic, area, stationary, and mobile source emissions using 1990 as the base year for calculations to demonstrate NAAQS attainment and maintenance. The 1990 inventory is considered representative of attainment conditions because the one-hour ozone NAAQS was not violated during 1990. By 1993, both areas were able to demonstrate attainment of the one-hour ozone NAAQS and were able to show compliance with other requirements of the Clean Air Act as amended in 1990 (CAA) for redesignation.

On June 23, 1993, the State of Florida through the FDEP requested that the Jacksonville area be redesignated from a transitional ozone nonattainment area to attainment and on November 8, 1993, the State of Florida requested that the Southeast Florida area be redesignated from moderate ozone nonattainment to attainment. Approval of the ozone maintenance plans into the SIP, in conjunction with EPA's redesignation of the two areas to attainment with respect to the 1-hour ozone NAAQS, became effective March 6, 1995, for the Jacksonville area and March 25, 1995, for the Southeast Florida area (40 CFR 81.310).

The ozone maintenance plans for the two areas, developed pursuant to section 175A of the CAA and approved in the SIP, accounted for the MVIP in the mobile source emissions projections. The MVIP began April 1, 1991, in Duval, Palm Beach and Dade Counties and May 1, 1991, in Broward County. Currently, the MVIP is a centralized basic inspection and maintenance program. The program utilizes an idle emissions test to monitor vehicles' emission compliance.

II. Analysis of State's Submittal

On December 10, 1999, FDEP submitted a revision to the SIP for the ozone air quality maintenance plans for the Jacksonville and Southeast Florida areas to remove the emission reduction credits attributable to the MVIP from the future year emission projections contained in those plans. Specifically this action involves a recalculation of the motor vehicle emissions budgets (budgets) for the areas, eliminating the credit for the MVIP. In this submittal, the State originally used the MOBILE 5b model to project mobile source emissions for 2005. The mobile source budgets in the maintenance plan were calculated using the MOBILE 5a model, however the same version of the model must be used for comparisons of mobile source emissions. Subsequently, on January 18, 2000, the State submitted technical amendments to the mobile source emission projection calculations. The State recalculated the 2005 mobile source emissions using the MOBILE 5a model. The change in emissions using the MOBILE 5a versus MOBILE 5b models for 2005 was negligible.

The Transportation Conformity regulations, promulgated on November 24, 1993, established the criteria and procedures for determining conformity of transportation activities to the SIP. Under these provisions and Title I of the CAA, states may revise their emissions budgets at any time through the standard SIP revision process, provided that the revised emissions budgets will not adversely affect attainment and maintenance of the ozone NAAQS for any milestone year in the required time frame. The conformity rule provides states with the option to revise the emissions budgets to reallocate emissions among sources or between pollutants and their precursors so long as this budget maintains total emissions for the area below the attainment inventory levels.

In addition, the SIP revision must not have an adverse impact on maintenance of the NAAQS for any criteria pollutant. Guidance on this issue is contained in a memorandum dated September 17, 1993, from Michael Shapiro, Acting Assistant Administrator for Air and Radiation entitled, ''State Implementation Plan Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide National Ambient Air Quality Standards on or after November 15, 1992.'' This memo states:

> As a general policy, a State may not relax the adopted and implemented SIP upon the area's redesignation to attainment. States should continue to implement existing control strategies in order to maintain the standard. However, section 175A recognizes that States may be able to move SIP measures to the contingency plan upon redesignation if the State can adequately demonstrate that such action will not interfere with maintenance of the standard.

In this revision, Florida demonstrates that the area can maintain the one-hour ozone NAAQS without the implementation of the MVIP. The EPA has reviewed the State's emissions inventory and modeling analyses and finds that they meet applicable guidance and requirements. Therefore, the State has made the necessary demonstration that the MVIP is not necessary to maintain the one-hour ozone NAAQS and that attainment of the NAAQS for any other pollutant will not be affected by removing the MVIP from the SIP. In accordance with EPA's November 15, 1992, policy, the State must include the MVIP as a contingency measure in the maintenance plan for the redesignated area, which it has done.

Tables 1 through Table 5, presented after the text in this subsection, list the revised budgets and the emissions for point, area, biogenic, on-road mobile and non-road mobile sources. The motor vehicle emission budgets are derived as a percentage of the 1990 on road emissions inventories. Upon final EPA approval, these budgets are to be used by the local metropolitan planning organizations and transportation authorities to assure that transportation

plans, programs, and projects are consistent with, and conform to, the long-term maintenance of the NAAQS in the Jacksonville and Southeast Florida areas. Emissions inventories and budgets for the Jacksonville area (Duval County) are listed in Table 1. For the Southeast Florida area (Broward, Dade, and Palm Beach), the emissions inventories and budgets are based on the three-county totals which are listed in Table 5. However, in practice, the conformity test can be made for each county on the basis of its county-specific portion of the budget. For the purposes of conformity, allocation of the emissions inventories and budgets for Broward, Dade, and Palm Beach Counties are listed in Table 2 through Table 4, respectively.

DUVAL COUNTY.—EMISSIONS INVENTORY SUMMARY

[Tons per day]

Category	VOC		NO_X	
	1990	2005	1990	2005
Point	15.60	21.16	101.16	98.40
Area	51.25	39.24	8.37	14.67
On-Road Mobile	82.49	44.30	61.40	52.10
Non-Road Mobile	24.63	29.41	21.07	23.74
Biogenic	126.70	126.70	0.30	0.30
Total	300.67	260.81	192.30	189.21
Motor Vehicle Emission Budget	n/a	44.30	n/a	52.10

BROWARD COUNTY.—EMISSIONS INVENTORY SUMMARY

[Tons per day]

Category	VOC		NO_X	
	1990	2005	1990	2005
Point	15.20	14.16	109.20	85.16
Area	55.60	35.03	6.90	8.21
On-Road Mobile	109.80	55.60	80.20	65.20
Non-Road Mobile	37.80	47.95	28.40	36.98
Biogenic	174.50	174.50	1.80	1.80
Total	392.90	327.24	226.50	197.35
Motor Vehicle Emission Budget	n/a	104.35	n/a	76.19

DADE COUNTY.—EMISSIONS INVENTORY SUMMARY

[Tons per day]

Category	VOC		NO_X	
	1990	2005	1990	2005
Point	11.46	8.59	41.30	32.00
Area	161.00	107.18	12.52	15.30
On-Road Mobile	156.60	87.30	117.70	100.80
Non-Road Mobile	65.11	77.86	36.30	56.52
Biogenic	211.30	211.30	3.00	3.00
Total	605.47	492.23	210.82	207.62
Motor Vehicle Emission Budget	n/a	148.77	n/a	111.82

PALM BEACH COUNTY.—EMISSIONS INVENTORY SUMMARY

[Tons per day]

Category	VOC		NO_X	
	1990	2005	1990	2005
Point	1.26	1.51	37.78	34.54
Area	84.06	78.29	4.19	5.03
On-Road Mobile	70.20	46.40	56.58	55.60
Non-Road Mobile	26.05	32.54	18.27	25.35
Biogenic	399.60	399.60	2.40	2.40
Total	581.17	558.34	119.22	122.92
Motor Vehicle Emission Budget	n/a	66.69	n/a	56.58

TOTAL 3—COUNTY (BROWARD, DADE, AND PALM BEACH COUNTIES) EMISSIONS INVENTORY SUMMARY

[Tons per day]

Category	VOC		NO^x	
	1990	2005	1990	2005
Point	27.92	24.26	188.28	151.70
Area	300.66	220.50	23.61	28.54
On-Road Mobile	336.60	189.30	254.48	221.60
Non-Road Mobile	128.96	158.35	82.97	118.85
Biogenic	785.40	785.40	7.20	7.20
Total	1,579.54	1,377.81	556.54	527.89
Motor Vehicle Emission Budget	n/a	319.81	n/a	244.59

Table 6 provides a comparison of the motor vehicle emissions budgets for VOC and NO_X for the Jacksonville and Southeast Florida areas with and without the emissions credits attributed to MVIP.

JACKSONVILLE AND SOUTHEAST FLORIDA AREAS—MOTOR VEHICLE EMISSIONS BUDGET

[Tons per day]

Area	2005			
	With MVIP credits		Without MVIP credits	
	VOC	NO_X	VOC	NO_X
Jacksonville	48.30	59.10	44.30	52.10
Broward County	104.35	76.19	104.35	76.19
Dade County	148.77	111.82	148.77	111.82
Palm Beach County	66.69	53.75	66.69	56.58
Southeast Florida	319.81	241.76	319.81	244.59

In summary, the budgets remain the same as the previous budgets allocated for Dade and Broward Counties. For Palm Beach County, the budget allocation for VOC is the same as the previous budget. In this submittal, the State of Florida increased the Palm Beach County motor vehicles emissions budget for NO_X from 53.75 tpd to 56.58 tpd, which is 100 percent of the 1990 on-road emissions inventory allocated for Palm Beach County. The State is allowed to allocate up to 100 percent of the 1990 on-road emissions inventory for use as the motor vehicle emissions budget. The Duval County air quality maintenance plan did not explicitly set forth conformity budgets for VOC or NO_X. For this SIP revision, the State is requesting that the conformity budgets for Duval County be set at 44.30 tpd for VOC and 52.10 for NO_X, effective upon final approval of this revision. These levels are less than the 1990 on-road emissions inventory levels of 82.49 tpd for VOC and 61.40 tpd for NO_X.

Although the motor vehicle emission budgets do not change for all of the counties, the MPOs for all four counties must redetermine conformity within 18 months of the effective date for this SIP revision. This is required because the existing conformity determinations considered emission reduction credits from the MVIP control strategy.

Proposed Action

The EPA proposes to approve the aforementioned changes to the SIP.

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 proposes to approve 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 proposes to approve 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.*).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: March 7, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–6566 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH132–1; KY116–1;KY84–1; FRL–6562–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio and Kentucky; Reopening of the Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the public comment period.

SUMMARY: EPA is reopening the public comment period for a proposed rule published on January 24, 2000 (65 FR 3630). In the January 24, 2000 proposed rule, EPA proposed to determine that the Cincinnati-Hamilton moderate ozone nonattainment area (Cincinnati-Hamilton area) has attained the public health based 1-hour ozone National Ambient Air Quality Standard (NAAQS). EPA proposed to determine that certain attainment demonstration requirements, along with certain other related requirements, of part D of Title 1 of the Clean Air Act (CAA) are not applicable to the Cincinnati-Hamilton area. The EPA proposed to approve the State of Ohio Environmental Protection Agency's and the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet's requests to redesignate the Cincinnati-Hamilton ozone nonattainment area to attainment of the 1-hour ozone NAAQS. EPA re-proposed to approve an exemption from the nitrogen oxides (NO_X) requirements as provided for in section 182(f) of the CAA for the Kentucky portion of the Cincinnati-Hamilton area. EPA solicited public comment on the Ohio and Kentucky requests and on EPA's proposed actions. At the request of the Ohio Chapter of the Sierra Club, EPA is reopening the comment period through March 24, 2000. All comments received before March 24, 2000, including those received between the close of the comment period on February 23, 2000 and the publication of this proposed rule, will be entered into the public record and considered by EPA before taking final action on the proposed rule.

DATES: Comments must be received on or before March 24, 2000.

ADDRESSES: Written comments should be addressed to:

J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Kay Prince, Chief, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT:

William Jones, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6058, (jones.william@EPA.gov).

Karla L. McCorkle, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303, 404–562–9043, (mccorkle.karla@epa.gov).

Dated: March 10, 2000.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 00–6713 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Centers for Disease Control and Prevention

42 CFR Part 493

[HCFA–2233–N]

RIN 0938–AH35

CLIA Program; Cytology Proficiency Testing

AGENCY: Health Care Financing Administration (HCFA), Centers for Disease Control and Prevention (CDC), HHS.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document announces the withdrawal of a proposed rule on cytology proficiency testing that was published in the **Federal Register** November 30, 1995 (60 FR 61509). We published the proposed rule to comply with a court order that we revise the regulations to require that cytology proficiency testing (PT) be conducted, ''to the extent practicable, under normal working conditions,'' which the court interpreted to be at a pace corresponding to the maximum workload rate for individuals examining cytology slides. After the proposed rule was published, the appeals court overturned the lower court's ruling and remanded the regulation to us for completion of rulemaking or to provide our rationale for the original position we took with respect to cytology proficiency testing. This document withdraws the proposed rule and also contains a supplementary statement of rationale, in accordance with the appeals court ruling.

DATES: The proposed rule is withdrawn as of April 17, 2000.

FOR FURTHER INFORMATION CONTACT: Rhonda S. Whalen (770) 488–8155.

SUPPLEMENTARY INFORMATION:

I. Background

On February 28, 1992, we published a final rule with comment period in the **Federal Register** (57 FR 7002) to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). One provision of CLIA, section 353(f)(4)(B)(i) of the Public Health Service Act (PHS Act), required the Department to establish a limit on the maximum number of cytology slides that an individual could examine daily, in order to ensure that he or she has sufficient time to adequately examine each slide. CLIA also required

the Department to establish standards for the conduct of cytology proficiency testing (PT), with such testing ''to take place, to the extent practicable, under normal working conditions'' (section 353(f)(4)(B)(iv) of the PHS Act).

The February 28, 1992 final rule, at 42 CFR 493.1257(b)(1) and (b)(3)(i), established a maximum daily workload limit for personnel examining cytology slides in a normal work day. Under the regulations, cytology personnel may examine no more than 100 slides in any 24 hour period, and must have at least 8 hours to complete the examination of 100 slides, which results in an average of 12.5 slides per hour. This limit was established in order to ensure that an individual has sufficient time to adequately examine each slide.

CLIA also required the Department to develop a program for testing the proficiency of individuals who perform cytology examinations. The statute states that proficiency testing is to take place, to the extent practicable, under normal working conditions (section 353(f)(4)(B)(iv) of the PHS Act). The February 28, 1992 final rule, at § 493.855(b), provides that an individual must complete a 10-slide proficiency test in 2 hours and, if necessary, a 20-slide test in 4 hours. We established a lower slide examination rate for PT because a test contains a higher number of abnormal slides than a cytologist would encounter in a normal work day. We believe that a test that uses a higher number of abnormal slides more accurately assesses the skills of the cytologist.

II. Court Challenge

The Consumer Federation of America and Public Citizen challenged the regulations in the United States District Court for the District of Columbia, arguing that the PT rate of five slides per hour did not conform to normal working conditions, since it is substantially less than the 12.5 slides per hour maximum permissible workload. The district court agreed, invalidated that portion of the regulations, and ordered us to publish new proposed regulations, within 90 days of the order, that would modify the rate of cytology proficiency testing to ensure that individuals would be tested, to the extent practicable, under normal working conditions, which the district court interpreted to be at a pace corresponding to the maximum workload rate for individuals examining cytology slides. The district court order also provided that the February 28, 1992 final cytology proficiency testing regulations would remain in effect pending the issuance of a revised final rule. *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services,* 906 F.Supp. 657, 668 (D.D.C. 1995).

In compliance with the district court's order, we published a proposed rule in the **Federal Register** on November 30, 1995 (60 FR 61509). The rule proposed to modify the timeframe for completing a cytology proficiency test to equal the maximum workload rate of 12.5 slides per hour. However, in the preamble, we restated our belief that the timeframe in the original rule met the statutory requirement, and indicated the Department was appealing the district court's ruling, and seeking reinstatement of the February 28, 1992 cytology PT regulations.

In a decision dated May 21, 1996, the United States Court of Appeals for the District of Columbia Circuit reversed the district court's ruling and sent back the regulation for us to either offer an adequate explanation for the original cytology PT rule or to complete the rulemaking (*Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services,* 83 F.3d 1497, 1506–07 (D.C. Cir. 1996). We continue to believe that our regulations are appropriate, and we are supplying a supplementary statement that further explains the rationale behind our policy. Our supplementary statement of rationale follows in section IV. of this notice.

III. Withdrawal of Proposed Rule

For the reasons discussed above, we are withdrawing the November 30, 1995 proposed rule. We believe that the February 28, 1992 final rule appropriately fulfills the statutory requirement that cytology proficiency testing be conducted, to the extent practicable, under normal working conditions.

IV. Supplementary Statement of Rationale

In compliance with the court's ruling, we received a memorandum from the Centers for Disease Control and Prevention (CDC) that sets forth the rationale for Cytology Proficiency Testing. This memorandum is part of the rulemaking record and appears as an addendum to this document.

Authority: Section 353 of the Public Health Act (42 U.S.C. 263a).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 29, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: March 2, 1999.

Jeffrey P. Koplan,

Director, Centers for Disease Control and Prevention.

Dated: May 14, 1999.

Donna E. Shalala,

Secretary.

Note: This document was received at the Office of the Federal Register on March 13, 2000.

Addendum—Supplementary Statement of Rationale for Cytology Proficiency Testing

MEMORANDUM

September 1, 1998

TO: Sue Brown, Director, Division of Regulations and Issuances.

FROM: Carlyn Collins, M.D., M.P.H., Director, Division of Laboratory Systems.

SUBJECT: HSQ–176–FC; Supplement to Rulemaking Record Re: Cytology Proficiency Testing.

This memorandum supplements the rulemaking record for HSQ–176–FC (57 FR 7002), which was published to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA). This memorandum is intended to provide further explanation for the timeframe established in that section of the CLIA final rule pertaining to completion of cytology proficiency tests (42 CFR 493.855). It is submitted to fulfill the order of the United States Court of Appeals for the District of Columbia Circuit in *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services*, 83 F.3d 1497 (D.C. Cir. 1996).

A. Background

On February 28, 1992, the Department of Health and Human Services published a final rule with comment period in the **Federal Register** (57 FR 7002) to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578, codified at 42 U.S.C. 263a). One provision of CLIA, 42 U.S.C. 263a(f)(4)(B)(i), required the Department to establish a limit on the maximum number of cytology slides that a cytologist could examine daily, in order to assure that the cytologist had sufficient time to adequately examine each slide. CLIA also required the Department to establish standards for the conduct of cytology proficiency testing (PT), with such testing ''to take place, to the extent practicable, under normal working conditions.'' 42 U.S.C. 263a(f)(4)(B)(iv).

The February 28, 1992 final rule established a maximum daily work rate of no more than 100 slides in a 24 hour period, which, assuming an eight hour workday, averaged 12.5 slides per hour. 42 CFR 493.1257(b). The cytology PT requirement published in the final rule allows up to two hours for an individual to complete a 10-slide PT test, and up to four hours to complete a 20-slide PT test challenge. 42 CFR 493.855(b).

The Consumer Federation of America and Public Citizen challenged the regulations in the United States District Court for the District of Columbia, arguing that the PT testing rate of five slides/hour did not conform to ''normal working conditions,'' since it is substantially less than the 12.5 slides/hour maximum permissible workload. The district court agreed, invalidated that portion of the regulations, and ordered the Department to publish new proposed regulations, within 90 days of the order, that would modify the rate of cytology proficiency testing to ensure that individuals would be tested ''to the extent practicable, under normal working conditions,'' which the district court interpreted to be at a pace corresponding to the maximum workload rate for individuals examining cytology slides. (The district court order provided that the February 28, 1992 final cytology proficiency testing regulations would remain in effect pending the issuance of a revised final rule.) *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services*, 906 F.Supp. 657, 668–669 (D.D.C. 1995).

In compliance with the district court's order, on November 30, 1995, the Department published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (60 FR 61509). The NPRM proposed to modify the timeframe for completing a cytology proficiency test to equal the maximum workload rate of 12.5 slides per hour. However, in the belief that the timeframe in the original rule met the statutory requirement, the Department appealed the district court's ruling, seeking reinstatement of the February 28, 1992 cytology PT regulations.

In its May 21, 1996 decision, the United States Court of Appeals for the District of Columbia Circuit reversed the district court's ruling and remanded the regulation to the agency to proffer an adequate explanation for the original cytology PT rule or to complete the rulemaking. *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services*, 83 F.3d 1497, 1506–07 (D.C. Cir. 1996).

Under the analysis of *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984), the court of appeals noted that ''[i]n reviewing an agency's construction of a statute, we first ask whether Congress has spoken unambiguously to the precise issue at hand. If it has, we give effect to Congress' intent. If not, we consider the agency's action under 'Step Two' of *Chevron*, and defer to the agency's interpretation if it represents a 'permissible construction' of the statute.'' 83 F.3d at 1503.

The court of appeals found that the challenge to the Secretary's interpretation could not be resolved under the first prong of the *Chevron* analysis. By inserting the words ''to the extent practicable,'' to precede the language the proficiency testing is to take place ''under normal working conditions'' (42 U.S.C. 263a(f)(4)(B)(iv)), the agency's interpretation did not require a precise replication of the workplace environment. In addition, Congress did not define with any precision when the Secretary could ''deviate from workplace conditions in the interests of practicality.'' 83 F.3d at 1505. Because Congress did not address these issues, the court turned to the second prong of *Chevron* and inquired whether the agency's interpretation was reasonable.

However, the court further stated that it was ''at a loss to understand how HHS's proficiency testing regulations reflect a reasonable interpretation of the relevant CLIA provision'' (83 F.3d at 1506), by noting that the Department's explanation of the cytology PT rate in the preamble to the final rule published on February 28, 1992 (57 FR at 7041) ''is simply too terse to support the agency's decision to use a [proficiency] testing rate which is less than half the maximum work rate, in the face of statutory language directing it to test under normal working conditions to the extent practicable.'' 83 F.3d at 1506.

While indicating some interest in the Department's further explanation proffered during the course of the litigation (which corresponds with the statement in the next section of this memorandum), the court held that this explanation constituted a ''post hoc'' rationalization, since this rationale was not proffered as part of the administrative record during the rulemaking process that resulted in the February 28, 1992 final rule. As such, the court noted that it was prohibited from considering it in its review of the legal basis for the final rule.

In its ruling, the court remanded to the Department to either provide an adequate explanation on the record of why the proficiency testing protocol represents a permissible interpretation of the pertinent CLIA provision or to continue the rulemaking process commenced with the issuance of the NPRM on November 30, 1995.

After further consideration of this issue, CDC believes that the final rule of February 28, 1992 appropriately fulfills the statutory requirement that cytology proficiency testing be conducted ''to the extent practicable, under normal working conditions.'' We understand that a notice withdrawing the proposed rulemaking of November 30, 1995 will be published in the **Federal Register**. Furthermore, through this memorandum CDC ''provide[s] an adequate explanation on the record of why the proficiency testing protocol represents a permissible interpretation'' of the CLIA statute, as required by the court.

B. Supplemental Statement of Rationale for Timeframe in Cytology Proficiency Testing Final Rule Published February 28, 1992

As required by CLIA, the final rule established a maximum workload limit for personnel examining cytology slides. Under the regulations, cytologists may examine no more than 100 slides in any 24 hour period, and must have at least 8 hours to complete the examination of 100 slides. 42 CFR 493.1257(b)(1), (b)(3)(i). This limit was established in order to assure that individuals who perform cytology testing have sufficient time to adequately examine each slide.

CLIA also requires the Department to develop a program for testing the proficiency of individuals who perform cytology slide examinations. The statute states that proficiency testing is ''to take place, to the extent practicable, under normal working conditions.'' 42 U.S.C. 263a(f)(4)(B)(iv). The February 28, 1992 final rule implementing the testing program (42 CFR 493.855(b)) provides that cytology personnel will be required to complete a 10-slide proficiency test in two hours and, if necessary, a 20-slide test in four hours.

The regulation proposed in the original NPRM of May 21, 1990 (55 FR 20896, 20928) did not include time limits for cytology proficiency testing. In developing the final rule, we reviewed the PT program that had been in operation in Maryland since 1990. This program had been submitted by the Maryland Department of Health and Mental Hygiene as a model for revising the cytology PT program proposed in the NPRM. As noted in the preamble to the final rule published on February 28, 1992 (57 FR at 7041), we adopted the same time limits used in the Maryland program. ''These time limits,'' we explained, ''were established to provide for equitable testing on a national scale and to allow individuals sufficient time to complete the test at their normal pace without unduly restricting or extending the time for the examination.'' We concluded that the time limits in the Maryland program, which require cytologists to review 5 slides per hour, satisfied CLIA's requirement that PT take place, ''to the extent practicable, under normal working conditions.''

We reached this conclusion even though a cytologist who reviews the maximum number of slides allowed per day will screen, on average, approximately 12.5 slides per hour.

1. First, and most importantly, we acknowledge, consistent with CLIA, that it is not ''practicable'' to precisely duplicate a typical working day when designing a supervised, time-limited proficiency testing program. Approximately 95% of the usual mix of cytology slides from patients are normal. Creating a proficiency test with this ratio of normal to abnormal slides, however, would not accurately assess the skills of the cytologist because it would not test the cytologist's knowledge of the full range of possible abnormalities. Consequently, under 42 CFR 493.945, the 10-slide set for a PT exam must have at least 30%, and may have up to 60% abnormal slides. In setting the 5-slide-per-hour rate, we took into account that the evaluation of abnormalities generally requires more time, whether it occurs during a normal working day or during proficiency testing. Indeed, some slides in the test may require extensive evaluation and considerable time. Therefore, an absolute comparison of normal workday rates with proficiency testing rates is inappropriate. Since the proportion of complex, abnormal slides will be much greater during proficiency testing than during a normal workday, it is not practicable to demand that cytologists examine proficiency testing slides at the maximum rate that they are permitted to work during a normal day. A slower-than-average work rate during proficiency testing is appropriate because examining abnormal slides generally takes more time than examining normal slides.

2. Second, we did not assume that ''under normal working conditions'' cytologists will

examine 100 slides each day. When setting this limit, we explicitly stated that it ''represents an absolute maximum number of slides and is not to be employed as a performance target for each individual.'' 42 CFR 493.1257(b)(1). Similarly, when designing the proficiency testing program, we recognized that due to varying skill levels, and other factors, some cytologists will work at a much slower pace than others. Since the proficiency program is designed to allow all individuals to work at their normal speed, the rate for proficiency testing was set below the maximum rate at which cytologists may work under the regulations.

3. Third, we also decided that the slide-per-hour rate should be lower during proficiency testing than during normal workdays because the staining characteristics of the proficiency test slides may be different from those prepared in the test subject's laboratory, forms for recording results will be unfamiliar, and the test will create some anxiety for the cytologist. To account for these factors, we determined that extra time should be allowed.

In light of the experience of the Maryland program, and the factors mentioned above, we determined that the 2 and 4 hour time limits for proficiency testing are appropriate because they take into account the differences between examination of slides during normal workdays and during a proficiency test.

Given the proficiency testing situation described above, CDC reaffirms that the timeframe established in the February 28, 1992 final rule for completion of cytology proficiency tests is, ''to the extent practicable,'' comparable to normal working conditions, and fulfills the Congressional intent to test adequately the abilities of cytologists to determine test results accurately.

Carlyn L. Collins.

[FR Doc. 00–6580 Filed 3–16–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE56

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule To List the Pecos Pupfish (*Cyprinodon pecosensis*) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the Fish and Wildlife Service (Service), withdraw the proposal to list the Pecos pupfish (*Cyprinodon pecosensis*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). The Pecos pupfish is native to the Pecos River and its tributaries, and nearby lakes, sinkholes, and saline springs in New Mexico and Texas. The species now occurs in some reaches of the Pecos River in New Mexico, on lands administered by us, the New Mexico Division of State Parks (NMDSP), and the Bureau of Land Management (BLM); and on private lands in Texas. This withdrawal is based on actions taken by us and other Federal and State resource and management agencies to remove immediate threats to the species and also on commitments by us and those agencies to actively protect and enhance existing populations and habitats and to repatriate the species to appropriate habitats within its native range. In cooperation with the New Mexico Department of Game and Fish (NMDGF), New Mexico Department of Agriculture, NMDSP, Texas Parks and Wildlife Department (TPWD), and BLM, we have executed a Conservation Agreement that addresses the threats to the survival of the species. These protections will sufficiently assure the viability of the Pecos pupfish within its historical range.

ADDRESSES: The complete file for this notice is available for public inspection, by appointment, during normal business hours at our New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico 87113.

FOR FURTHER INFORMATION CONTACT: Joy Nicholopoulos, Field Supervisor, New Mexico Ecological Services Field Office, at the above address (505–346–2525).

SUPPLEMENTARY INFORMATION:

Background

The Pecos pupfish, described by Echelle and Echelle (1978), is a member of the family Cyprinodontidae. The taxonomic status of the Pecos pupfish had been uncertain for more than 30 years because of a previous description of a pupfish (*Cyprinodon bovinus*) from the Pecos River (Baird and Girard 1853). Type specimens from the Pecos River in the original series were lost or in poor condition but were assumed to be the same as the Pecos pupfish until an extant population of *C. bovinus* was found at Leon Springs, Texas, and confirmed as different from the form in the Pecos River proper (Echelle and Miller 1974).

The Pecos pupfish is a small, deep-bodied (2.8 to 4.6 centimeters (cm) (1.1 to 1.8 inches (in) average length) gray-to-brown fish. Male dorsal (back) and anal fins are black almost to the margin with no yellow on the dorsal, anal, or caudal (tail) fins. The lateral (side) bars on the female are typically broken into blotches ventrolaterally (along the sides near the bottom). The abdomen is generally without scales, except for a few scales in front of the pelvic fins and a patch just behind the gill membrane isthmus (a narrow strip of tissue). There are 20 to 21 gill rakers and usually 3 or 4 preorbital (behind the eye socket) pores on each side of the head (Echelle and Echelle 1978).

The Pecos pupfish is native to the Pecos River and its tributaries, and nearby lakes, sinkholes, and saline springs in New Mexico and Texas. The historical range of the species included the Pecos River from Bitter Lake National Wildlife Refuge and Bottomless Lakes State Park near Roswell, Chaves County, New Mexico, downstream approximately 650 kilometers (km) (404 miles (mi)) to the mouth of Independence Creek, southeast of Sheffield, Pecos County, Texas (Wilde and Echelle 1992). The species was also found in gypsum sinkholes and saline springs at Bitter Lake National Wildlife Refuge; sinkholes and springs at Bottomless Lakes State Park (Brooks and Woods 1988); and in Salt Creek, Reeves County, Texas.

In Texas, genetically pure populations of the Pecos pupfish are now thought to occur only in the upper reaches of Salt Creek, Culberson and Reeves Counties, Texas (G. Garrett, TPWD, pers. comm. 1998). In New Mexico, the species still occurs in the Pecos River from north of Malaga upstream to Bitter Lake National Wildlife Refuge. The species is also found at Bottomless Lakes State Park and the BLM's Overflow Wetlands Wildlife Habitat Area/Area of Critical Environmental Concern. This range reduction represents a loss of more than two-thirds of the species' former range (Echelle and Connor 1989; Echelle *et al.* 1997; Hoagstrom and Brooks 1998).

Since the Pecos pupfish was proposed for listing on January 30, 1998 (63 FR 4608), the most significant threats to its continued existence have been ameliorated. The main threats to the Pecos pupfish were habitat loss caused by damming and dewatering of the Pecos River, excessive pumping of groundwater, and, since the early 1980s, hybridization with the sheepshead minnow (*Cyprinodon variegatus*). Genetically pure populations have been made more secure—a fish barrier constructed at the Bitter Lake National Wildlife Refuge has protected the population that exists there; a fish barrier constructed at Dexter National Fish Hatchery and Technical Center has created a managed wetland for establishing a refugial population; and the BLM has placed the population on the BLM's Overflow Wetlands Area of

Critical Environmental Concern under active protection through BLM's Resource Management Plan. Through this plan, the BLM has prohibited surface occupancy in future oil and gas leases within a buffer zone of the Area, restricted future oil and gas surface occupancy in other areas, excluded rights-of-way in certain portions of the Area, limited use of off-highway vehicles, and retired a grazing lease. These actions, which are discussed in the Conservation Agreement, have already been implemented. Habitat for the populations at Bottomless Lakes State Park and Bitter Lake National Wildlife Refuge is being renovated. Moreover, the States of Texas and New Mexico have begun managing the introduction of the nonnative sheepshead minnow, which has hybridized and displaced the Pecos pupfish in much of the historical pupfish habitat. Both States have approved modification of existing fishing regulations to ban the use of sheepshead minnow as a bait fish in the Pecos River.

In addition to these already implemented actions, the Conservation Agreement includes commitments for long-term protective and enhancement actions for the species. For instance, various agencies in both New Mexico and Texas have committed to—(1) removing nonnative predators from sinkholes with a pupfish population, (2) replacing sheepshead minnow x Pecos pupfish hybrids with pure pupfish whenever feasible, (3) identifying additional habitats under State control for expansion of populations of Pecos pupfish, and (4) working with willing private landowners to identify potential repatriation sites on private lands. A more complete discussion is found below.

Summary of Comments and Recommendations

We proposed the Pecos pupfish for listing as an endangered species on January 30, 1998 (63 FR 4608). We published notices inviting public comment in seven newspapers of general circulation in the area of the Pecos River valley in both New Mexico and Texas—the Albuquerque Journal, the Fort Stockton Pioneer, the Pecos Enterprise, the Roswell Daily Record, the Carlsbad Current Argus, the Midland Reporter-Telegram, and the Odessa American. We also published notices of a public hearing in these same newspapers. We held the hearing on the proposal in Carlsbad, New Mexico on April 9, 1998.

During this extended public comment period (January 30 to November 20, 1998), we contacted State and Federal land and resource management agencies in New Mexico and Texas to determine if adequate protections could be implemented through a Conservation Agreement. We made the Conservation Agreement developed by these agencies available for public review through a notice of availability in the **Federal Register** (63 FR 71424) on December 28, 1998. The comment period was reopened and extended to January 27, 1999, in order to receive additional comments on the proposal and on the draft Conservation Agreement. We sent approximately 200 copies of the draft Conservation Agreement to agencies and individuals on the mailing list maintained by our New Mexico Ecological Services Field Office. The mailing included a request to the interested entities for review and comments. Finally, we reopened the comment period from February 24, 1999, to March 26, 1999 (64 FR 9119).

In accordance with our peer review policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we drafted the Conservation Agreement with the expert input of researchers who have spent decades investigating the Pecos pupfish and its habitats in Texas and New Mexico. In addition to the input received during the development of the document, we also sought peer review during periods of public comment. We presented the draft conservation agreement to the Rio Grande Fishes Recovery Team for review at the annual meeting of the team in November 1998. During the reopened public comment period, we provided the draft document for peer review to Recovery Team members in addition to other experts on the species at the University of Texas Pan-American, the University of New Mexico, Oklahoma State University, Arizona State University, and the University of Michigan. We did not receive any comments from the peer review of the draft Conservation Agreement.

We received 15 comments on the proposal to list the Pecos pupfish. We received one letter of support from a scientist working on the species. Three commenters—the NMDGF; the New Mexico Energy, Minerals & Natural Resources Department; and the Texas Commissioner to the Pecos River Compact— recommended the use of alternative methods, such as a Conservation Agreement, to protect the species. One Federal agency provided comments concerning editorial corrections to the proposal but with no position regarding the listing of the species. Ten comment letters opposed the listing.

We received a total of 11 comments on the draft Conservation Agreement: from 1 municipality, 2 private organizations, 1 county agency, 1 water power and control district, and 6 State agencies.

Below we address issues raised concerning the proposal, followed by the issues and our responses to the comments on the Conservation Agreement. We grouped comments of a similar nature into general issues delineated below for purposes of response.

Comments and Responses on the Proposed Rule

Issue 1: The Service should attempt proactive management to address the threats to the pupfish posed by the sheepshead minnow. Given that the primary threat to the Pecos pupfish is introgressive hybridization with the sheepshead minnow and that hybrids are common in the Pecos River, the prudent course at this point seem to be the establishment of secure off-channel refugia until the hybrid swarm can be eliminated, if that is possible.

Our Response: We concur that management of the sheepshead minnow to reduce or remove the threat of hybrids replacing pure Pecos pupfish in this ecosystem is important for conservation of the pupfish. Under the Conservation Agreement, fish barriers have been installed to protect off-channel refugia for remaining populations of pure Pecos pupfish. In addition, the States of Texas and New Mexico have approved regulations banning the use of sheepshead minnows as bait.

Issue 2: The Service should propose critical habitat.

Our Response: When we list a species as threatened or endangered, the Act requires that the listing rule specify, ''to the maximum extent prudent and determinable,'' the species' critical habitat. However, this issue is now irrelevant because we are not listing the Pecos pupfish.

Comments and Responses on the Conservation Agreement

Based on the comments received during the first public comment period, particularly from the NMDGF, the TPWD, and the Texas Commissioner to the Pecos River Compact, we initiated efforts in February 1998 to develop an agreement among the management entities to address the identified threats to the Pecos pupfish. The Conservation Agreement that resulted from the meetings set forth the commitments of

State and Federal agencies to control nonnative competing species and to protect and manage the Pecos pupfish and its habitat to ensure its survival and promote its conservation.

Significant threats to the species include problems associated with small, isolated populations and the potential for hybridization with the sheepshead minnow. The signatory agencies to the Conservation Agreement made commitments to protect known extant populations of pure Pecos pupfish, to expand the distribution of the species within its native range by establishing new populations, and to prohibit the use of sheepshead minnow through revision of baitfish regulations in New Mexico and Texas. As discussed above, several of the provisions of the Conservation Agreement have been implemented.

Below is a description of comments received on the Conservation Agreement provided for public review on December 28, 1998. Some commenters raised issues on the proposal to list the Pecos pupfish in their comments on the Conservation Agreement. For the issues concerning the data upon which the biological status of the Pecos pupfish was determined, please refer to the above discussion of comments.

Issue 3: What set of circumstances would create a situation where reintroduction of the Pecos pupfish into the mainstream of the Pecos would be appropriate? To what extent would the signatories attempt to modify the environment of the mainstream of the Pecos River in order to create circumstances appropriate for reintroduction?

Our Response: The primary factor to be addressed in any consideration of repatriation of the Pecos pupfish to its historical habitat in the mainstream of the Pecos River is the presence or absence, or relative dominance within the fish community, of the sheepshead minnow. Should a significant fishkill occur naturally, such as that observed in 1985–86 in the Pecos River in Texas as a result of an algal bloom, sheepshead minnow and other nonnatives may be removed or significantly reduced. At that time, the Conservation Agreement participants would determine whether the biological conditions support the repatriation of the Pecos pupfish to the river. The signatory agencies may undertake other efforts, quite likely on a much more localized level, to eradicate the sheepshead minnow if the conditions are favorable.

We and other species experts recognize that major efforts to repatriate the pupfish to large reaches of its historical habitat in the Pecos River will not likely occur either in the near future or without significant events, either natural or induced, affecting the existing fish community. However, we believe that the potential for restoration of the species to its historical habitat should be included in any plan or agreement for its conservation. It should be noted that one of the major purposes of this Conservation Agreement is to protect and enhance habitat conditions to facilitate population expansion.

Issue 4: Several commenters requested the clarification of goals and objectives of the Conservation Agreement, particularly with respect to those objectives considered essential to the continued conservation of the Pecos pupfish and, thus, the removal of the need to protect the species by listing it under the Act.

Our Response: We modified the Conservation Agreement to include quantifiable and time-certain standards by which the agreement and its applicability to the conservation of the Pecos pupfish will be measured. However, the Conservation Agreement partners have already implemented a number of protective measures (see Background section of this rule) that, combined with measures to be implemented in the future as part of the Conservation Agreement, have reduced the threats so that the species is no longer in danger of extinction, nor likely to become so, in the foreseeable future throughout all or a significant portion of its range.

Issue 5: Some commenters objected to section V.F.8 of the draft Conservation Agreement, in which the agencies participating in the Conservation Agreement agreed to support the listing of the Pecos pupfish should the measures and actions be found insufficient to remove the threats to the species.

Our Response: We amended this section by removing the sentence regarding the support of listing by the Conservation Agreement entities should we determine that listing the species is necessary.

Issue 6: One commenter requested that we extend the time for the decision on the proposal to list by six months, in part, to better assess or gather additional biological information. The commenter felt that the biological information was not adequate to proceed with the withdrawal of the proposed rule.

Our Response: In accordance with section 4(b)(6) of the Act and the implementing regulations at 50 CFR 424.17, within one year of the publication of a proposed listing action, we generally must publish a final determination or a notice withdrawing the proposed action if we find that the available evidence does not justify the action. When there is ''substantial disagreement among scientists knowledgeable about the species concerned regarding the sufficiency or accuracy of the available data relevant to the determination concerned,'' the Act and regulations allow for a 6-month extension of a proposed listing action.

We cannot use an extension to obtain more information or to provide more time before making a decision. We can only use this provision if there is a legitimate disagreement among scientific experts and a definitive resolution is expected that will clarify the subject of the disagreement. We do not agree with the assessment of the adequacy of the biological information presented by the commenter. We consulted experts on the Pecos pupfish (see the discussion in the paragraph on peer review, above), including scientists who performed the original research and reported the results that formed the basis of the commenter's review. No disagreement exits among these species experts concerning the status and distribution of the species to support the 6-month delay.

Issue 7: Four commenters raised concerns regarding the proposed actions of the BLM within the Conservation Agreement, including changes in grazing leases. We requested that the BLM respond to those comments. Their response is summarized as follows:

The BLM's Roswell Field Office is responsible for managing all uses of about 602,973 hectares (1,490,000 acres) where both the surface and subsurface estates are in Federal ownership. The land use plan governing management of these public lands addressed all proposed actions included in the Conservation Agreement and was, after public review and comment, signed by the Bureau's State Director on October 10, 1998. In addition, the Roswell Field Office prepared the Overflow Wetlands Habitat Management Plan and Environmental Assessment for the Overflow Wetlands Wildlife Habitat Area in 1992. The adjustment of grazing leases for Allotments 65060, 65062, and 65069, and the cancellation of the grazing lease on Allotment 65041 were presented during the development of the Roswell Resource Management Plan, as were the oil and gas lease stipulations, mineral entry closure, and rights-of-way exclusion. Socio-economic impacts of implementing the Plan were analyzed in Chapter 4 of the Proposed Plan and Final Environmental Impact Statement.

The BLM disclosed the adjustment of grazing leases for the above allotments

in the Plan to inform the public of this possible action. The types of adjustments were listed as changes in stocking rate and seasons of use, but a reduction in the number of livestock was not listed in the Resource Management Plan. Reductions could occur based on range monitoring studies for the entire allotment and not necessarily for the Pecos pupfish Conservation Agreement. The specific adjustments, if necessary, would be made by the BLM at the grazing lease/permit level with an accompanying environmental analysis, not at the Conservation Agreement level. Therefore, no specific adjustments are presented in the Conservation Agreement.

The grazing lease for Allotment 65041 was canceled. In 1991, the BLM acquired the private lands within this allotment from a willing seller (who also held the grazing lease) for the protection of the Overflow Wetlands Wildlife Habitat Area, which is now designated an Area of Critical Environmental Concern. Allotment 65041 is no longer an active grazing allotment.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and the regulations (50 CFR part 424) that implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. We must consider the five factors described in section 4(a)(1) of the Act when determining whether to list a species. These factors and their application to our decision to withdraw the proposal to list the Pecos pupfish are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historical habitat of the Pecos pupfish in New Mexico has been drastically altered or destroyed by human uses of the Pecos River and activities in its watershed. These alterations include conversion of flowing waters into slack waters by impoundment; alteration of flow regimes (including conversion of perennial flow to intermittent or no flow, and the reduction, elimination, or modification of natural flooding patterns); alteration of silt and bed loads; loss of marshes and backwaters; increases or decreases in water temperatures; and alteration of stream channel characteristics from well-defined, surface-level, heavily vegetated channels with a diversity of substrates and habitats to deeply cut, unstable arroyos with little riparian vegetation, uniform substrate, and little habitat diversity.

Causes of such alterations include water diversion, damming, channelization, channel down-cutting, excessive groundwater pumping with resultant lowering of water tables, destruction of riparian vegetation, and other watershed disturbances. These changes in habitat conditions, along with displacement of the species by hybrids, threatened the survival of the Pecos pupfish throughout its entire range (Wilde and Echelle 1992; Echelle *et al.* 1997).

Low-velocity floodplain habitats adjacent to the main channel of the Pecos River provide refugia for the small Pecos pupfish from high flows in the main channel. These habitats are also characterized by higher levels of productivity and more stable food sources for the omnivorous pupfish. However, channelization and stream incision of the Pecos River, exacerbated by encroachment and channel armoring by salt cedar, have eliminated extensive floodplain habitat along the Pecos River. Wetlands and marshes adjacent to the river, once regularly flooded by peak river flows, are now dry or are only sporadically wetted. Base flows were also reduced by dam construction and reservoir operation, greatly reducing the number and extent of these habitats linked to the main river channel.

Pecos pupfish living in sinkholes and springs are threatened by groundwater depletion. In southeastern New Mexico, groundwater is the primary water source for a variety of uses, including drinking water and irrigation. This dependence on groundwater has lowered the water tables, resulting in a decline in water levels in sinkholes and springs where Pecos pupfish live. When the water table was higher, water flowed between sinkholes but because the water table has been lowered, these sinkholes are no longer interconnected (Lee Marlatt, Service, Bitter Lake National Wildlife Refuge, pers. comm. 1987). Because they are isolated from the river that is inhabited by sheepshead minnow, sinkhole populations of Pecos pupfish are more protected from the threat of hybridization than are river populations. Therefore, the loss of these populations would seriously affect the survival of the species.

The Conservation Agreement executed by the State and Federal agencies specifically addresses the protection of all known off-channel, pure populations of Pecos pupfish. As discussed in the Background section of this rule, a number of protective actions have already been implemented. Further, both State and Federal land management entities will ensure that the management of the species is incorporated into resource management plans. Additionally, each has committed to identifying additional habitats under its control for expansion of populations of Pecos pupfish. Resource management agencies in both New Mexico and Texas are committed to working with willing private landowners to identify potential repatriation sites on private lands and establish populations of the species on those lands.

In summary, while the Pecos pupfish has been eliminated from a significant portion of its historical range, we believe that the measures provided in the Conservation Agreement have significantly reduced threats to the species and will ensure its continued existence.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* We are unaware of threats to the species from these factors. Anglers may occasionally collect Pecos pupfish as bait and scientists may collect specimens for scientific study, but these uses probably have a negligible effect on total population numbers.

C. *Disease or predation.* We are unaware of threats to the species from disease. Sinkholes that support introduced game fish have lower numbers of pupfish than sinkholes without game fish (Echelle and Echelle 1978). As the Pecos pupfish population is impacted by habitat loss and degradation and refugia become scarce, predation could become a more important threat. However, the measures through the Conservation Agreement to remove nonnative predators from sinkholes will reduce this threat.

D. *The inadequacy of existing regulatory mechanisms.* New Mexico State law provides limited protection for the Pecos pupfish. The State of New Mexico lists the Pecos pupfish as a threatened species. Threatened species, as defined by the State of New Mexico, are those species ''* * * whose prospects of survival or recruitment within the State are likely to be in jeopardy within the foreseeable future.'' This designation provides the protection of the New Mexico Wildlife Conservation Act (sections 17–2–37 through 17–2–46) and prohibits taking of such species except under the issuance of a scientific collecting permit. The State also has a limited ability to protect the habitat of the species through the Habitat Protection Act (sections 17–6–1 through 17–6–11) and through water quality statutes and regulations. The species' habitat is also somewhat protected through a provision of the Habitat Protection Act (section 17–4–14) that

makes it illegal to de-water areas used by game fish.

The State of Texas listed the Pecos pupfish as threatened by on March 1, 1987. The State prohibits taking, possessing, and transporting State-listed species or goods made from such species (Texas Parks and Wildlife Code, section 68.015 (1975)). However, State-listing in Texas provides no protection for the habitat of listed species.

State regulations in New Mexico and Texas allow for the use of live bait in the Pecos River in areas containing the Pecos pupfish. This situation has encouraged the spread of detrimental species, specifically the sheepshead minnow, which replaces and/or hybridizes with the Pecos pupfish (see Factor E). However, the NMDGF and the TPWD modified fishing regulations to ban the use of sheepshead minnow as a bait fish. Additionally, all signatories of the Conservation Agreement have committed to, when and where feasible, replacing the sheepshead minnow x Pecos pupfish hybrids within the Pecos River and at other sites with pure Pecos pupfish.

E. *Other natural or manmade factors affecting its continued existence*. The primary cause for the recent (post 1980) range reduction of Pecos pupfish is the introduction of the sheepshead minnow, a species once confined to shallow, brackish, coastal waters of the Gulf and Atlantic coasts of the continental United States. The two *Cyprinodon* species appear to have little in the way of premating isolating mechanisms and readily hybridize (Cokendolpher 1980). Hybridization with and/or replacement by the sheepshead minnow poses a major threat to the Pecos pupfish. The sheepshead minnow was introduced into the Pecos River, probably in the vicinity of Pecos, Texas, sometime between 1980 and 1984. Sheepshead minnow x Pecos pupfish hybrids have since moved upstream and downstream at a rapid pace despite the presence of six irrigation diversion dams. The spread of hybrids has occurred both naturally and presumably through ''bait bucket'' introductions.

The purity of the pupfish populations in Salt Creek, Texas, and in the abandoned gravel pits near Grandfalls, Texas, were unknown at the time of the proposal. Both populations occur on privately owned lands, and surveys had not been conducted on these lands since 1989. Because the gravel pits are close to the Pecos River and because hybrids occur in that portion of the river, the gravel pit populations were considered extremely vulnerable to introgression. Research conducted during the proposal period confirmed that the gravel pit populations are hybrid.

The northward expansion of sheepshead minnow x Pecos pupfish hybrids reduced the range of the Pecos pupfish by approximately 60 percent by the late 1980s (Wilde and Echelle 1992). Subsequent expansion of the hybrids into the Pecos River upstream from Red Bluff Reservoir has further constricted the range of the pupfish. Genetically pure populations of Pecos pupfish may now occur only in off-channel habitats. While the river populations are most susceptible to replacement by and/or hybridization with sheepshead minnow, the sinkhole populations are also considered vulnerable to hybridization due to the possibility of anglers releasing sheepshead minnows into sinkholes. However, actions by the States of New Mexico and Texas to restrict the use of sheepshead minnows for bait, plus the construction of a fish barrier at Bitter Lake National Wildlife Refuge, have enhanced the security of the off-channel pupfish populations. Additionally, all signatories of the Conservation Agreement have committed to, when and where feasible, replacing the sheepshead minnow x Pecos pupfish hybrids within the Pecos River and other sites with pure Pecos pupfish.

Large-scale fish kills caused by algal blooms occurred in the Pecos River, Texas, in 1985 and 1986 (Rhodes and Hubbs 1992). Such algal blooms may affect the Pecos pupfish (Rhodes and Hubbs 1992).

Other threats to the Pecos pupfish include nonnative fish introductions and piscicide applications. Anglers interested in developing sport fisheries in sinkholes apply piscicides to remove unwanted fish species prior to introducing sport fish. Such manipulation, conducted exclusively on private lands and without the knowledge by the landowner of the presence of the Pecos pupfish, can adversely affect or eliminate Pecos pupfish populations. Enforcement by either State of its prohibitions against take of protected species on private lands is not considered an effective bar to these activities. However, we do not consider such applications of piscicides a significant threat to the species and do not specifically address piscicide application in the Conservation Agreement.

Oil spills from pipelines into Salt Creek in Texas are a threat because they have occurred in the past and represent an ongoing threat to water quality and Pecos pupfish habitats. However, Salt Creek is believed to be the only population clearly vulnerable to such a catastrophe, and the Salt Creek population, although the only known naturally occurring pure population in Texas, represents only about one-tenth of the species' population throughout its range. Catastrophic spills of oil or other contaminants into pupfish-occupied privately owned habitats are not considered controllable by the Conservation Agreement. However, establishment of more populations, as delineated in the agreement, would act as a buffer against such losses.

We consider the latter two threats, the introduction of nonnative fish and use of piscicides on private land and uncontrolled oil spills or other contamination of isolated habitats, far less significant threats to the Pecos pupfish than hybridization. Thus, we do not specifically address them in the Conservation Agreement. However, both the States of New Mexico and Texas have committed to conducting public outreach and education to inform private landowners of the occurrence of the Pecos pupfish and to increasing the numbers and security of populations of the Pecos pupfish. Hence, the increased numbers of fish diminish the potential impacts of isolated losses arising from the latter two threats.

Finding and Withdrawal

The Conservation Agreement signed by the NMDGF, New Mexico Department of Agriculture, NMSPD, TPWD, the BLM, and us was specifically developed to address and alleviate the known threats to the Pecos pupfish.

The two most significant threats, security of existing populations and loss of genetic purity of Pecos pupfish populations through hybridization with the sheepshead minnow, have received immediate action—physical barriers now prohibit access by the sheepshead minnow to occupied Pecos pupfish habitat; the resource entities have included the conservation of the Pecos pupfish as a specific management goal in planning documents; and the NMDGF and the TPWD approved revision of State regulations to ban the use of sheepshead minnow as a bait fish in the Pecos River. Additionally, signatories of the Conservation Agreement committed to establishing and protecting additional populations on lands they administer and, with the cooperation of willing landowners, on private lands within the historical range of the species. Based on these commitments, we determine that listing the Pecos pupfish as endangered or threatened under the Act is not warranted. Therefore, we withdraw our January 30, 1998, proposed rule (63 FR

4608) to list the Pecos pupfish as endangered.

References Cited

A complete list of all references we cited, as well as others, is available upon request from our New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Jennifer Fowler-Propst, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Authority: The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: February 25, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–6602 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 000229053–0053–01; I.D. 120699A]

RIN 0648–AK96

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 17

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 17 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This rule proposes to extend the current commercial reef fish vessel permit moratorium, which expires on December 31, 2000, for 5 years to December 31, 2005. The purpose of the moratorium is to provide a stable environment in the fishery necessary for evaluation and development of a more comprehensive controlled access system for the entire commercial reef fish fishery.

DATES: Comments must be received no later than 5:00 p.m., eastern standard time, on May 1, 2000, at the appropriate address or fax number (see **ADDRESSES**).

ADDRESSES: Written comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702; they may also be sent via facsimile (fax) to 727–570–5583, but they may not be sent via e-mail or the Internet.

Requests for copies of Amendment 17, which includes an environmental assessment and a regulatory impact review, should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida 33619–2266; phone: 813–228–2815; fax: 813–225–7015; e-mail: Gulf.Council@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727-570-5305; fax: 727–570–5583; e-mail: Michael.Barnette@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery is managed under the FMP as prepared by the Gulf of Mexico Fishery Management Council (Council) and approved and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

This proposed rule would implement FMP Amendment 17 and extend the moratorium on the issuance of new commercial reef fish vessel permits that was initiated by Amendment 4 in 1992. Amendment 4 was intended to last for 3 years but was extended twice. The second extension in 1995 was for 5 years ending on December 31, 2000. The permit moratorium was deemed necessary to moderate short-term future increases in fishing effort and to stabilize fishing mortality while the Council was considering a more comprehensive effort limitation program. During the moratorium, the Council developed an individual transferable quota system for red snapper. However, before it was implemented, Congress prohibited individual fishing quotas (IFQs) under sections 303(d) and 407 of the Magnuson-Stevens Act. The current Congressional prohibition of IFQs will lapse on October 1, 2000.

The Council intends to evaluate a broad range of controlled access systems, including IFQs, for the commercial reef fish fishery. Development and implementation of a comprehensive controlled access system are expected to extend past the period of the current moratorium. Without a moratorium, fishing effort in the resulting open access reef fish fishery is likely to increase and complicate allocation of fishing privileges, creating an unstable fishery environment.

Additional background and rationale for the measures discussed above are contained in Amendment 17, the availability of which was announced in the **Federal Register** on December 17, 1999 (64 FR 70678). Written comments on Amendment 17 were solicited and must have been received by February 15, 2000, to be considered in the approval/disapproval decision on Amendment 17. All comments received on Amendment 17 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendment 17.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule contains a single provision to extend the commercial reef fish permit moratorium for 5 years, from its current expiration date of December 31, 2000, to December 31, 2005, unless replaced sooner by a comprehensive controlled access system. The moratorium on new permits was first instituted in May 1992 and was extended on two previous occasions by FMP Amendments 9 and 11. The current expiration date of December 31, 2000, was set by FMP Amendment 11 in January 1996 with the stated purpose of allowing time for the Gulf of Mexico Fishery Management Council (Council) to consider limited access for the reef fish fishery. However, several intervening events since January 1996, including a Congressional moratorium on new individual transferable quota management systems in effect until October 2000, have hindered the Council's taking its intended action to develop a limited access system for this fishery. Comprehensive controlled access systems are difficult to develop and implement; there is an insufficient amount of time to implement such a system by December 31, 2000. Hence, the Council is proposing the current action to provide additional time to develop a new limited access system and to ensure that the current management system will not revert to open access before the new system is developed, approved, and implemented.

The entities that could be affected by Amendment 17 are those firms holding commercial reef fish harvest permits. There

are currently about 1,204 such permit holders and they all meet the Small Business Administration definition of small business entities.

The status quo (taking no action) means that the permit moratorium would expire, the fishery would revert to open access, and the number of permits issued to fishermen would likely increase. Conversely, the proposed action to extend the existing moratorium means that nothing would change and the permit moratorium, would continue. Under the status quo alternative, then there would be a number of economic effect changes related to the fishery's reversion to open access. For example, given that there were 2,200 permits issued to fishermen at the start of the moratorium in 1992 and that there are now only about 1,204 permits. it is likely that additional vessel owners would obtain permits. While some of them would probably obtain a permit with the intention only of establishing harvesting rights in the reef fish fishery and would not actively participate in the fishery, other new entrants would ostensibly be active. Some of the active new entrants might land a minimum quantity of reef fish with the expectation that having a permit in combination with at least some level of landings history would enhance their claim to future fishery access rights.

Another reason to expect additional entrants into the fishery under open access conditions is that the moratorium has created an economic situation in which about 120 permit transfers occur each year. A market has developed for reef fish permits, and recent single permit prices have been in the range of $8,000 to $10,000. This market probably exceeds the expected net present value of profits (net revenues) derived from the small catches made by marginal participants. The market value is also indicative of the value that some entrants have put on participation in the fishery. With the moratorium lifted, new entry would be possible by paying only the administrative permit fee, currently $50 for a new permit or $20 for a reef fish endorsement to an existing permit for another species. If some fishermen are willing to buy a permit for several thousand dollars, others must be ready to pay the $20 or $50 for an endorsement or for a new permit.

Further, at the present time, the fisherman giving up a permit by transfer must exit the fishery, and current exit behavior is probably influenced by the value of a permit. Logbook data indicate that some participants do not land a large amount of reef fish on an annual basis and these are the participants who are most likely to sell their existing permit to a new entrant under the continuing condition of a moratorium on new permits. the reasoning is that the expected net present value of profits (net revenues) derived from small catches would be exceeded by the current market value of the reef fish permit. This exit behavior probably accounts for the bulk of the annual transfer of about 120 permits.

In summary, maintaining the status quo and thereby allowing the current permit moratorium to expire could result in an increase in the number of permits; an increase in the catch of those reef fish species not currently subject to a commercial catch quota; an unknown, but likely small, decrease in exvessel prices; and a loss of the estimated $8,000 to $10,000 market value of a permit. The result would be a negative economic impact on all current permit holders, including those who might otherwise be expected to sell their permits and exit the fishery under the current system.

At the same time, there would also be positive impacts for at least some new entrants because they could obtain a permit for $20 to $50 instead of paying $8,000 to $10,000 for an existing permit. Some new entrants probably would be able to participate in the fishery at a significant and profitable level. In addition to these rather straightforward impacts on current participants and new entrants, the increase in the number of permitted fishermen could create derby fisheries for species subject to commercial quotas with the attendant loss in economic benefits typically associated with such fisheries.

By allowing the fishery to revert to open access, the Council would once again have to undertake the preliminary steps necessary to establish a comprehensive controlled access system. It is likely that these steps would have negative economic impacts on at least some participants who may have to reestablish a fishing history or take other steps to remain in the new system.

The overall conclusion is that if the status quo was chosen and the permit moratorium allowed to expire on December 31, 2000, there would be negative impacts on existing participants in the Gulf of Mexico reef fish fishery. While there would likely be some positive economic impacts for a portion of the new entrants, the negative impacts would be expected to exceed the positive impacts. Taking action to extend the moratorium means that the expected negative economic outcome of the status quo (letting the permit moratorium expire) will not occur. In other words, the proposed action of extending the moratorium for an additional 5 years will forestall economic changes and impacts associated with the status quo scenario. The effect of taking action in this case is to maintain the present permits system; hence, there should be no economic impacts. It follows, therefore, that there will not be a significant economic impact on a substantial number of small business entities.

As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: March 13, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.4, paragraph (m) introductory text is revised to read as follows:

§ 622.4 Permits and fees.

* * * * *

(m) *Moratorium on commercial vessel permits for Gulf reef fish.* The provisions of this paragraph (m) are applicable through December 31, 2005.

* * * * *

[FR Doc. 00–6714 Filed 3–16–00; 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; Correction

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; correction.

SUMMARY: On March 1, 2000, NMFS published an announcement that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the deep-sea red crab (*Chaceon quinquedens*) resource if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act that limits the number of participants in the fishery. The announcement indicated that written comments may be sent to the New England Fishery Management Council at the address provided in the announcement and may also be submitted by facsimile (fax). However, an incorrect fax number was provided. This document corrects the error.

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 may also be sent via fax to (978) 465–3116.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978-281-9221, email: regina.l.spallone@noaa.gov

SUPPLEMENTARY INFORMATION: The notice of a control date for the purposes of controlling entry in the deep-sea red crab fishery was published in the **Federal Register** on March 1, 2000 (65 FR 11029), and invited public comment. The fax number identified in the announcement was incorrect and this action corrects the error.

Correction

Accordingly, the publication on March 1, 2000, of the advance notice of proposed rule for the deep-sea red crab fishery (I.D. 020300A), which was the subject of FR Doc. 00–4910, is corrected as follows:

On page 11029, column 3, ninth line in the **ADDRESSES** section is corrected to read as follows:

''facsimile (fax) to (978) 465–3116.''

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 9, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 00–6715 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 53
Friday, March 17, 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.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee

AGENCY: Joint Board for the Enrollment of Actuaries

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a closed meeting of the Advisory Committee on Actuarial Examination at William M. Mercer, Incorporated, New York, New York, on April 3, 2000.

DATES: The meeting will be held on April 3, 2000, from 8:30 AM to 5 PM.

ADDRESSES: The meeting will be held at William M. Mercer, Incorporated, at 1166 Avenue of the Americas, Conference Room 30C, 30th Floor, New York, NY.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Director of Practice and Executive Director of the Joint Board for the Enrollment of Actuaries, 202–694–1805.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at William M. Mercer, Incorporated, 1166 Avenue of the Americas, Conference Room 30C, 30th Floor, New York, NY on Monday, April 3, 2000, from 8:30 AM to 5:00 PM.

The purpose of the meeting is to discuss topics and questions, which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) that the subject of the meeting falls with the exception to the open meeting requirement set forth in Title 5, U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 10, 2000.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 00–6578 Filed 3–16–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 99–061–1]

Declaration of Emergency Because of Scrapie in the United States

Scrapie, a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats, is present in the United States. Scrapie is a complicated disease because it often has an extremely long incubation period without clinical signs of disease.

Currently, scrapie-free countries have an enormous competitive advantage over U.S. sheep producers, who are unable to certify that their flocks originated from a scrapie-free country or region. Because importing countries are demanding that imported sheep come from scrapie-free regions and sheep producers in the United States are unable to make this certification, U.S. producers are finding themselves locked out of the international market, a situation that is taking a serious financial toll on the U.S. sheep industry.

We estimate that scrapie costs the U.S. sheep industry $20 million per year in direct losses, and millions of dollars more in lost potential markets and flock productivity.

Therefore, the Animal and Plant Health Inspection Service (APHIS) has determined it is necessary to accelerate the eradication of scrapie from the United States, an accomplishment that would allow the U.S. sheep industry to once again become competitive in the global market. We estimate this plan will cost a total of $100 million over 7 years.

However, APHIS resources are insufficient to carry out this accelerated scrapie eradication program, which requires $10 million for FY 2000. This $10 million includes approximately $3.6 million for diagnostic support; approximately $2.6 million for animal identification and regulatory enforcement; $1.2 million to indemnify owners of animals that are found through surveillance to be high risk, suspect, or test positive (although no regulations currently exist to provide for the payment of indemnity for sheep and goats, APHIS expects to have such regulations in effect in 2000); $625,000 for the purchase of animals for diagnostic purposes; $692,000 for activities such as necropsy, disposal of animal carcasses, coordination, and training; $1 million for slaughter surveillance activities; and $250,000 to update the generic database for scrapie (making it possible for field and laboratory personnel to enter test and other data efficiently and to generate required reports) and for data analysis at APHIS' Center for Epidemiology and Animal Health.

Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. 953 (7 U.S.C. 147b), I declare that there is an emergency that threatens the sheep and goat industry of this country, and I authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to the United States Department of Agriculture to conduct a program to accelerate the eradication of scrapie from the United States.

EFFECTIVE DATE: This declaration of emergency shall become effective February 1, 2000.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 00–6638 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–00–08]

National Advisory Committee for Tobacco Inspection Services; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: National Advisory Committee for Tobacco Inspection Services.

Date: April 20, 2000.

Time: 1:00 p.m.

Place: U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), 14th and Independence Avenue, SW,

Room 3501 South Agriculture Building, Washington, DC 20250.

Purpose: To review various regulations issued pursuant to the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*), and discuss the level of service (number of sets of graders) AMS will provide for the 2000–2001 tobacco marketing season. The Committee will recommend the desired level of service to be provided to producers by AMS and an appropriate fee structure to fund the recommended services for the 2000–2001 selling season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456; (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting. If you need any accommodations to participate in the meeting, please contact the Tobacco Programs at (202) 205–0567 by April 14, 2000, and inform us of your needs.

Dated: March 14, 2000.

John P. Duncan III,

Deputy Administrator, Tobacco Programs.

[FR Doc. 00–6676 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Proposed collection: comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBS), Rural Utilities Service (RUS), and the Farm Service Agency's (FSA) intention to request an extension for a currently approved information collection in support of compliance with applicable acts for planning and performing construction and other development work.

DATES: Comments on this notice must be received by May 16, 2000, to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Samuel J. Hodges III, Architect, Program Support Staff, RHS, U.S. Department of Agriculture, Stop 0761, 1400 Independence Avenue, SW., Washington, DC 20250–0761, Telephone (202) 720–9653.

SUPPLEMENTARY INFORMATION:

Title: RD 1924–A, ''Planning and Performing Construction and Other Development.''

OMB Number: 0575–0042

Expiration Date of Approval: May 31, 2000

Type of Request: Extension of a currently approved information collection.

Abstract: The information collection under OMB Number 0575–0042 enables the Agencies to effectively administer the policies, methods, and responsibilities in the planning and performing of construction and other development work for the related construction programs.

Section 501 of Title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to extend financial assistance to construct, improve, repair, replace, or rehabilitate dwellings; farm buildings; and/or related facilities to provide decent, safe, and sanitary living conditions and adequate farm buildings and other structures in rural areas.

Section 506 of the act requires that all new buildings and repairs shall be constructed in accordance with plans and specifications as required by the Secretary and that such construction be supervised and inspected.

Section 509 of the act grants the Secretary the power to determine and prescribe the standards of adequate farm housing and other buildings. The Housing and Urban-Rural Recovery Act of 1983 amended section 509 (a) and section 515 to require residential buildings and related facilities comply with the standards prescribed by the Secretary of Agriculture, the Secretary of Housing and Urban Development, or in any of the nationally recognized model building codes.

Similar authorizations are contained in sections 303, 304, 306, and 339 of the Consolidated Farm and Rural Development Act, as amended.

In several sections of both acts, loan limitations are established as percentages of development cost, requiring careful monitoring of those costs. Also, the Secretary is authorized to prescribe regulations to ensure that Federal funds are not wasted or dissipated and that construction will be undertaken economically and will not be of elaborate or extravagant design or materials.

Other information collection is required to conform to numerous Public Laws applying to all Federal agencies, such as: Civil Rights Acts of 1964 and 1968, Davis-Bacon Act, Historic Preservation Act, Environmental Policy Act; and to conform to Executive Orders governing use of Federal funds. This information is cleared through the appropriate enforcing Agency or other executive Department.

The Agencies provide forms and/or guidelines to assist in the collection and submission of information; however, most of the information may be collected and submitted in the form and content which is accepted and typically used in normal conduct of planning and performing development work in private industry when a private lender is financing the activity. The information is usually submitted via hand delivery or U.S. Postal Service to the appropriate Agency office.

The information is used by the Agencies to determine whether a loan/grant can be approved, to ensure that the Agency has adequate security for the loans financed, to provide for sound construction and development work, and to determine that the requirements of the applicable acts have been met. The information is also used to monitor compliance with the terms and conditions of the Agencies' loan/grant programs and to monitor the prudent use of Federal funds.

If the information were not collected and submitted, the Agencies would not have control over the type and quality of construction and development work planned and performed with Federal funds. The Agencies would not be assured that the security provided for loans is adequate, nor would the Agencies be certain that decent, safe, and sanitary dwelling or other adequate structures were being provided to rural residents as required by the different acts.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .33 hours per response.

Respondents: Individuals or households, farms, business or other for-profit, non-profit institutions, and small businesses or organizations.

Estimated Number of Respondents: 25,340.

Estimated Number of Responses per Respondent: 12.00.

Estimated Total Annual Burden on Respondents: 94,924 hours.

Copies of this information collection can be obtained from Diana Wareham, Regulations and Paperwork Management Division, at (202) 692–0044.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the Agencies, including whether the information will have practical utility; (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information, including the validity of 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 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. Comments may be sent to Diana Wareham, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Development, Stop 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 1, 2000.

James C. Kearney,

Administrator, Rural Housing Service.

Dated: March 8, 2000.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

Dated: March 2, 2000.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

Dated: March 8, 2000.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 00–6604 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Manti-La Sal National Forest and Utah State Office/Price Field Office; Flat Canyon Coal Lease Track, UTU–77114 Sanpete County, UT; Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA and Bureau of Land Management, USDI.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service and Bureau of Land Management (BLM) will jointly prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental and human effects of proposed actions to offer the Flat Canyon Coal Lease Tract (UTU–77114) for competitive leasing in accordance with 43 CFR 3425. The Office of Surface Mining Reclamation and Enforcement will participate as a cooperating agency.

The coal lease tract to be considered for leasing, as delineated by the Interagency Tract Delineation Team, encompasses 2,692.16 areas of Federal coal lands on the Manti-La Sal National Forest as follows:

T. 13 S., R. 6 E., SLM
Section 21, lots 1–4, E½E½,
Section 28, lots 1–8, S½NW¼,SW¼;
Section 33, E½, E½W½, NW¼NW¼, SW¼SW¼.
T. 14 S., R. 6 E., SLM
Section 4, lots 1–4, S½N½,S½;
Section 5, lots 1–4, S½N½,S½.

Additions and/or deletions to the delineated tract may be considered as alternatives to the proposed action, to be developed and analyzed based on issues and management needs.

Canyon Fuel Company, LLC (Canyon Fuel) submitted an application for leasing of the Tract to the Bureau of Land Management on March 18, 1998. The purpose of the application is to obtain the right to mine the remaining Federal coal reserves to the west of the permit area for Canyon Fuel's Skyline Mine. If Canyon Fuel is successful in obtaining the tract, they intend to extend the existing underground workings of the Skyline Mine to the west into the Flat Canyon Tract to extend the mine life an estimated 7–9 years at the current production rate.

Pursuant to Canyon Fuel's application, the Bureau of Land Management, with participation from the Forest Service and State of Utah, completed a tract delineation report that set the boundaries of the tract to be evaluated for leasing (Uinta-Southwestern Utah Coal Region, Bureau of Land Management, Tract Delineation Report, Lease by Application UTU–77114, Canyon Fuel, 1999).

The Forest Service determined that the proposed lands are available for further consideration for coal leasing under the Land and Resource Management Plan (Forest Plan), Final EIS, and Record of Decision (ROD) for the MManti-La National Forest, 1986. The Bureau of Land Management (BLM) and Forest Service (FS) have determined that coal and environmental data are available to meet Uinta-Southwestern Utah Coal region Data Adequate Standards.

Agency Decisions

In accordance with the Mineral Leasing Act of 1920, as amended, the BLM Utah State Director must decide whether or not to offer the tract for competitive leasing and under what terms, conditions,and stipulations.

In accordance with the Coal Leasing Amendments Act of 1975 that amended the Mineral Leasing Act of 1920, the Forest Supervisor, Manti-La Sal National Forest must decide whether or not to consent to leasing by BLM and under what conditions for the protection of non-mineral resources. Forest Service conditions would be included into the lease document as stipulations.

DATES: Written comments concerning the scope of the analysis described in this notice should be received on or before April 18, 2000.

ADDRESSES: Send written comments to Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be addressed to carter Reed or Aaron Howe, Manti-LA Sal National Forest, phone (435) 637–2817.

SUPPLEMENTARY INFORMATION: The EIS and Record of Decision (ROD) will tier to the final EIS and ROD for the Mani-La Sal National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan provides the overall guidance (Goals, Objectives, Standards, and Management Area Direction) to achieve the Desired Future Condition for the area being analyzed, and contains specific management area prescriptions for the entire Forest.

Issues and alternatives to be evaluated in the analysis will be determined through scoping. The primary issues are expected to include the socioeconomic benefits of leasing and mining, the potential impacts of underground mining and mining-induced subsidence to surface and ground water, vegetation, wildlife, cultural resources, range improvements, recreation, and other land uses.

The Forest Service and BLM are seeking information and comments from Federal, State, and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The agencies invite written comments and suggestions on the issues related to the proposed action and the area being analyzed. Information received will be used to

prepare the Draft and Final EIS and to make the respective agency decisions. For most effective use, comments would be submitted to the Forest Service within 30 days from the date of publication of this notice in the **Federal Register**. Preparation of the EIS will include the following steps:

1. Define the proposed action and purpose and need for action.
2. Identify potential issues.
3. Eliminate issues of minor importance or those that have been covered by previous and relevant environmental analyses.
4. Select issues to be analyzed in depth.
5. Identify reasonable alternatives to the proposed action.
6. Describe the affected environment.
7. Identify the potential environmental effects of the alternatives.

Steps 2, 3, and 4 will be completed through the scoping process.

Step 5 will consider a range of alternatives developed from the key issues and management needs. At a minimum, the ''No Action'' and ''Proposed Action'' alternatives will be analyzed. Other alternatives could involve modified tract boundaries (additions) and/or reductions) and different sets of lease stipulations for the protection of natural resources. Alternatives may also be developed to include analysis of mining and the existing adjacent lease area and additions to adjacent leases needed to prevent bypassing coal reserves.

Step 6 will describe the physical attributes of the area to be affected by this proposal, with special attention to the environmental factors that could be adversely affected.

Step 7 will analyze the environmental effects of each alternative. This analysis will be consistent with management direction outlined in the Forest Plan. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented. In addition, the site-specific mitigation measures for each alternative will be identified and the effectiveness of these mitigation measures will be disclosed.

Agency representatives and other interested people are invited to visit with Forest Service and BLM officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment period are, (1) during the scoping process, the next 30 days following publication of this Notice in the **Federal Register**, and (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review in November, 2000. At that time the EPA will publish an availability notice in the **Federal Register.**

The comment period on the Draft EIS will be 45 days from the date that EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the Draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (See the Council of Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental 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). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel,* (19th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338, (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at the time when it can meaningfully consider them and respond to them in the final document.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on the Draft EIS should be specific as possible. Referring to specific pages or chapters of the Draft EIS is most helpful. Comments may also address the adequacy of the Draft EIS 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, 40 CFR 1503.3, in addressing these points. The Final EIS is expected to be released in March, 2001.

The Forest Supervisor of the Manti-La Sal National Forest and Utah State Director of the Bureau of Land Management, who are the responsible officials for the EIS, will then make their respective decisions regarding this proposal, after considering the comments, Environmental Impact Statement, and applicable laws, regulations, and policies. The rationale for the respective agency decisions will be documented in the Records of Decision.

Authority: (Mineral Leasing Act of February 25, 1920 (P.L. 66–146, 41 Stat. 437, as amended; 30 U.S.C. 181–287))

Dated: March 7, 2000.

Jeff Walter,

Acting Forest Supervisor, Manti-La Sal National Forest.

Dated: March 8, 2000.

Richard L. Manus,

Field Office Manager, Bureau of Land Management, Price Field Office.

[FR Doc. 00–6150 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Public Meeting on Proposed Withdrawal of Forest Service Lands, Arizona

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the time and place for a public meeting on the proposed Forest Service withdrawal application for the protection of cultural, recreational, and resource values on and around the San Francisco Peaks near Flagstaff, Arizona. This public meeting will provide the opportunity for public involvement in this proposed action as required by regulation. All comments will be considered when a final determination is made on whether this land should be withdrawn.

MEETING DATE AND TIME: The public meeting will be held on May 17, 2000 from 5 pm to 8 pm.

MEETING LOCATION: Flagstaff City Hall, Council Chambers and Conference Room, 211 West Aspen Avenue, Flagstaff, Arizona 86001.

FOR FURTHER INFORMATION CONTACT: Ken Jacobs or Alvin Brown, Peaks Ranger District, Coconino National Forest, 520–526–0866.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal for the San Francisco Peaks/Mount Elden Area was published in the **Federal Register** issue of November 4, 1998, Vol 63, No. 213, page 59576. The notice contained a legal description of the proposed withdrawal area and stated that a public meeting would be held at a later date. Notice is hereby given that a public meeting will

be held at the location, date, and time shown above. The purpose of the meeting is to allow interested persons to ask questions and comment on the proposed withdrawal.

Dated: March 8, 2000.

James W. Golden,

Forest Supervisor, Coconino National Forest.

[FR Doc. 00–6581 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) Inviting Applications for the Rural Community Development Initiative (RCDI)

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the availability of $6 million of grant funds for the RCDI program through the Rural Housing Service (RHS), herein referred to as the Agency, USDA. Applicants must provide matching funds from non-Federal sources in an amount at least equal to the Federal grant. These grants will be made to qualified intermediary organizations that will provide technical assistance to recipients to develop their capacity and ability to undertake projects to improve housing, community facilities, or community and economic development. This Notice lists the information needed to submit an application for these funds.

DATES: The deadline for receipt of an application is 4:00 p.m. EST on June 15, 2000. The application deadline is firm as to date and hour. The agency will not consider any application received after the deadline.

The comment period for information collection under the Paperwork Reduction Act of 1995 continues through May 16, 2000. Comments on the paperwork burden must be received by this date to be assured of consideration.

ADDRESSES: Entities wishing to apply for assistance may download the application requirements from the RCDI website at: www.rurdev.usda.gov/rhs/rcdi/index.htm. Applicants may also request application packages from: Beth Jones, Rural Housing Service, STOP 0787, 1400 Independence Ave. SW, Washington, DC 20250–0787, Telephone (202) 720–1498, E-mail: epjones@rdmail.rural.usda.gov.

FOR FURTHER INFORMATION CONTACT: Beth Jones, Senior Loan Specialist, Community Programs, RHS, USDA, STOP 0787, 1400 Independence Ave. SW, Washington, DC 20250–0787, Telephone (202) 720–1498, Facsimile (202) 690–0471, E-mail: epjones@rdmail.rural.usda.gov. You may also obtain information from the RCDI website at: www.rurdev.usda.gov/rhs/rcdi/index.htm.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The reporting requirements contained in this notice have received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0575–0180. However, in accordance with the Paperwork Reduction Act of 1995, RHS will seek standard OMB approval of the reporting requirements contained in this Notice and hereby opens a 60-day public comment period.

Abstract: RHS, an Agency within the USDA Rural Development mission area, will administer the RCDI grant program through their Community Facilities Division. The intent of the RCDI grant program is to develop the capacity and ability of rural area recipients through a program of technical assistance provided by qualified intermediary organizations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.37 hours per response.

Respondents: Intermediaries and recipients.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 15.

Estimated Total Annual Burden on Respondents: 2,012 hours.

Copies of this information collection can be obtained from Tracy Gillin, Regulations and Paperwork Management Branch, (202) 692–0039.

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 will have practical utility; (b) the accuracy of the Agency 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments on the paperwork burden may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue SW, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Background

Congress created the Rural Community Development Initiative (RCDI) in Fiscal Year 2000 with an appropriation of $6 million under the Rural Community Advancement Program (RCAP). These funds are to be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, and low income rural communities to improve housing, community facilities, and community and economic development projects in rural areas. Qualified private and public (including tribal) intermediary organizations proposing to carry out technical assistance programs will be eligible to receive the funding. The intermediary will be required to provide matching funds from non-Federal sources in an amount at least equal to the RCDI grant.

Definitions for RCDI Purposes

Agency—The Rural Housing Service (RHS) or its successor.

Beneficiary—entities or individuals that receive benefits from assistance provided by the recipient.

Capacity—the ability of a recipient to finance and implement housing, community facilities, and community and economic development projects or provide technical assistance to enhance a community's potential.

Intermediary—a qualified private or public (including tribal) organization that provides technical assistance to multiple recipients.

Low-income community a city, town, village, county, parish, or borough with a median household income at, or below, 80 percent of the statewide median household income.

Matching Funds cash or confirmed funding commitments from non-Federal sources. Matching funds must be at least equal to the grant amount. In-kind contributions cannot be used as matching funds.

Recipient—the entity that receives the technical assistance from the intermediary. The recipient must be either a private, nonprofit community-based housing or community development organization or a low-income rural community.

Rural and Rural Area—a city, town, or unincorporated area that has a

population of 50,000 inhabitants or less, other than urbanized areas immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

Technical Assistance—skilled help in improving the recipient's abilities in the areas of housing, community facilities, or community and economic development. The Agency will determine whether a specific activity qualifies as technical assistance.

Eligibility Requirements

1. The recipient and beneficiary, but not the intermediary, must be located in an eligible rural area. The applicable Rural Development State Office can assist in determining the eligibility of an area. A listing of Rural Development State Offices is included in this Notice.
2. The recipients must be identified in the grant application.
3. The recipients must be private, nonprofit organizations or low-income rural communities, not individuals.
4. The intermediary must provide matching non-Federal funds at least equal to the amount of the grant.
5. The intermediary must provide a program of technical assistance to the recipient.
6. The intermediary organization must have at least three years prior experience working with nonprofit organizations or low-income rural communities in the areas of housing, community facilities, or community and economic development.
7. The respective minimum and maximum grant amount per intermediary is $50,000 and $1 million.
8. Proposals must be structured to utilize the grant funds within 3 years from the date of the award.
9. Each intermediary, whether singularly or jointly, may only submit one application for RCDI funds under this NOFA unless the intermediary's participation is limited to providing all or part of the matching funds.
10. Only federally recognized Indian tribes are eligible tribal applicants.

Eligible Grant Uses

Grant uses must be consistent with the RCDI purpose, (see ''Background'' section of this Notice). A nonexclusive list of eligible grant uses includes the following:

1. Provide technical assistance to develop recipients' capacity and ability to undertake projects to improve housing, community facilities, or community and economic development, (*e.g.,* the intermediary hires a staff person to provide technical assistance to the recipient; the recipient hires a staff person, under the supervision of the intermediary, to carry out the technical assistance provided by the intermediary).
2. Develop the capacity of recipients to conduct community development programs, (*e.g.,* home-ownership education or training for minority business entrepreneurs).
3. Develop the capacity of recipients to conduct development initiatives, (*e.g.,* programs that support micro-enterprise, cooperatives, and sustainable development).
4. Increase the leveraging ability and access to alternative funding sources by providing resources to recipients for training, staffing, and other related costs.
5. Develop successful essential community facilities by providing resources to recipients for training, staffing, and other related costs.
6. Assist recipients in completing predevelopment requirements for housing, community facilities, or community and economic development projects by providing resources for a technical assistance program.
7. Improve recipient's organizational capacity by providing training and resource material on developing strategic plans, board operations, and management.

Ineligible Grant Uses

1. Funding a revolving loan fund.
2. Construction (in any form).
3. Intermediary preparation of strategic plans for recipients.
4. Funding illegal activities.
5. Grants to individuals.
6. Funding a grant where there may be a conflict of interest or an appearance of a conflict of interest involving any action by the Agency.
7. Paying obligations incurred before the beginning date or after the ending date of the grant agreement.
8. Purchasing real estate.
9. Improvement or renovation of the grantee's office space or for the repair or maintenance of privately-owned vehicles.
10. Any other purpose prohibited in 7 CFR parts 3015, 3016, and 3019, as applicable.

Methods for Evaluating Applications

Applications will be rated and ranked by a review panel based on the ''Evaluation Criteria and Weights'' contained in this Notice. If there is a tie score after the applications have been rated and ranked, the tie will be resolved by a lottery. The names of the applicants will be entered into a drawing. The first name drawn will receive the highest ranking of those in the lottery. This name-drawing process will continue until there are no tied scores. The State Office will review their copy of the application and provide the State Director's written comments and recommendations to the National Office.

Evaluation Criteria and Weights

This information should be presented in narrative form. Documentation must be limited to two pages per criterion with the exception of ''Economic Distress'', which must be limited to one page per recipient.

1. Improve Capacity—maximum 60 points

The applicant must demonstrate how they will improve the recipients' capacity as it relates to the RCDI purposes. Applications must include a description of how the improved capacity will be measured. All applications will be competitively ranked with the applications providing the most improvement in capacity development and specific measurements of success being ranked the highest. Each of the following rating criteria will be equally considered, with the sub-criteria equally considered within each criterion:

a. Number of recipients trained and extensiveness of training programs on:

(1) Building organizational capacity through developing strategic plans, board operations, and management;

(2) Developing projects related to housing, community facilities or community and economic development; and

(3) Developing initiatives that support micro-enterprises, cooperatives, and home-ownership education.

b. Programs' demonstrated ability to:

(1) Increase recipients' leveraging and access to alternative funding sources;

(2) Enlarge the recipients' geographic service area;

(3) Increase the services provided by the recipient; and

(4) Allow the recipient to provide new services.

c. Any other technical assistance program that meets the recipients' unique needs to improve capacity.

The application ranking and scoring are:

Ranking	Scoring (points)
8 highest ranking applications	60
Next 8 highest ranking applications	45
Next 8 highest ranking applications	30
Next 8 highest ranking applications	15

2. Expertise—maximum 40 points

The applicant must demonstrate they have conducted programs of technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas. All applications will be competitively ranked using the following equally rated criteria:

a. The number of years of organizational experience the applicant has providing technical and other assistance to nonprofit organizations or low-income rural communities in the areas of housing, community facilities, or community and economic development;

b. The average number of staff years the members of the applicant organization have providing technical and other assistance to nonprofit organizations or low-income rural communities in the areas of housing, community facilities, or community and economic development; and

c. Previous Federal grant experience measured by the dollar amount of Federal grants received in the last 5 years by the intermediary and the number of housing, community facilities, or community and economic development recipients assisted.

The application ranking and scoring are:

Ranking	Scoring (points)
8 highest ranking applications	40
Next 8 highest ranking applications	30
Next 8 highest ranking applications	20
Next 8 highest ranking applications	10

3. Population—maximum 30 points

Population is based on the 1990 census data. The applicant must submit national data on population, from the Bureau of the Census, to verify the population figures being used. This data can be accessed from a link on the RCDI website. The RCDI web address is www.rurdev.usda.gov/rhs/rcdi/index.htm. The average population of the recipient locations will be used and will be scored as follows:

Population	Scoring (points)
5,000 or less	30
5,001 to 10,000	20
10,001 to 20,000	10
20,001 to 50,000	5

4. Income—maximum 30 points

Points will be awarded by comparing the average median household income of recipients' location with the State median household income using 1995 data from the Bureau of the Census. The applicant must submit national data on income to verify the income figures being used. This information can be accessed from a link on the RCDI website. The web address is www.rurdev.usda.gov/rhs/rcdi/index.htm. Points will be awarded as follows:

Average recipient median income is	Scoring (points)
Less than 60 percent of the State median household income	30
Between 60 and 70 percent of the State median household income	20
Greater than 70 percent of the State median household income	10

5. Sustainability—30 points

Applications that have self-sustaining proposals will be awarded 30 points. To be considered self-sustaining, a proposal must, at a minimum, be expected to be fully functional for at least 3 years after the expiration of the grant. Points will be awarded to applications that have the highest score on the following factors: a. The number of years the proposal will be self-sustaining and what the ongoing impact will be; b. How the capacity being built and the impact will be measured; and c. How the program will be financially sustained after funds are fully disbursed.

6. Economic Distress—maximum 20 points

Appropriate documentation and verification must be submitted to support these criteria. For each recipient location, select only one type of economic distress, if applicable, and provide documentation. The recipient location must meet the requirements listed for the category selected. The areas of economic distress that will be considered are:

a. Loss of industry—compare the annual average unemployment rate for 1998 to the lowest annual average unemployment rate since 1994. The difference between the rates must be seven percent or more and be directly related to the loss of industry. Unemployment data, to verify the differences in the unemployment rate, can be accessed from a link on the RCDI website. The RCDI web address is www.rurdev.usda.gov/rhs/rcdi/index.htm. Submit excerpts from this data to verify the difference in unemployment figures. Newspaper articles or a letter from the Chamber of Commerce can be used as verification of the loss of industry.

b. Unemployment—an annual average unemployment rate for 1998 of 11.5 percent or greater, in accordance with the U.S. Department of Labor, Bureau of Labor Statistics. This data can be accessed from a link on the RCDI website. The RCDI web address is www.rurdev.usda.gov/rhs/rcdi.index.htm. Submit the excerpt from this data to verify the unemployment rate.

c. Poverty—a location where the median household income is below 60% of the State median household income. Submit national data on income, using 1995 data from the Bureau of the Census, to verify income figures. This data can be accessed from a link on the RCDI website. The RCDI web address is www.rurdev.usda.gov/rhs/rcdi/index.htm.

d. Out-migration of population—a 10 percent or greater decline in population between the July 1, 1998 estimated population and the April 1, 1990 census population. Submit population data to verify the decline in population. The population figures can be accessed from a link on the RCDI website. The RCDI web address is www.rurdev.usda.gov/rhs/rcdi/index.htm.

e. Natural disasters—a Presidentially declared natural disaster area.

The percentages and scoring are:

Percentage of recipients with documented economic distress	Scoring (points)
95–100	20
75–94	15
50–74	10
25–49	5

7. Innovative Approach—maximum 20 points

The applicant must demonstrate that they have developed an innovative approach that can be used by other organizations as a model. To be considered innovative, the approach must propose an easily replicated new or useful service or method of providing service to recipients that builds their capacity to improve their communities in the areas of housing, community facilities or community and economic development. Points will be awarded to applications that have the highest score on the following factors:

a. Ease of replication by nonprofit organizations or low-income rural communities;

b. Uniqueness of proposal;

c. Financial return to rural communities; and

d. Need by nonprofit organization or low-income rural community.

If warranted, up to ten applicants will be eligible to receive points in this category. The application ranking and scoring are:

Ranking	Scoring (points)
5 highest ranking applications	20
Next 5 highest ranking applications	10

8. Geographic Distribution Points—20 points

Applicant must provide a map that specifically describes the areas covered by their recipients. After applications have been evaluated and awarded points under the first seven criteria, the Agency may award 20 points per application to promote a broad geographic distribution of RCDI funds.

9. Purpose Distribution Points—20 points

Applicant must state the purpose of their application, *i.e.,* housing, community facilities, or community and economic development. After applications have been evaluated and awarded points under the first seven criteria, the Agency may award 20 points per application to promote diversity of RCDI purposes.

10. Proportional Distribution Points—20 points

Applicant must state the amount of their grant request. After applications have been evaluated and awarded points under the first seven criteria, the Agency may award 20 points per application to promote dispersion of grant awards between the range of $50,000 to $1,000,000.

Deliverables

Grant funds and matching funds must be used in equal proportions. Grant funds will be disbursed pursuant to relevant provisions of 7 CFR parts 3015, 3016, and 3019, as applicable. Matching funds must be used to support the overall purpose of the RCDI program.

Grant Amounts

In the event that the applicant is awarded a grant that is less than the amount requested, they will be required to modify their application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or de-obligate the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the application is returned to the applicant. Any modifications must be within the scope of the original application.

Program Requirements

1. A Civil Rights Impact Analysis Certification must be completed by the Agency prior to grant approval.

2. A pre-award compliance review will be conducted by the Agency prior to closing the grant.

3. The intermediary and recipient must comply with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973 and Executive Order 12250.

4. The grantee must comply with the applicable requirements of 7 CFR part 3015, ''Uniform Federal Assistance Regulations,'' part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' and part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.''

Grantee Requirements

Grantees will be required to do the following.

1. Execute a Rural Community Development Initiative Grant Agreement, which is published at the end of this NOFA.

2. Execute Form RD 1940–1, ''Request for Obligation of Funds.''

3. Provide evidence of fidelity or employee dishonesty bond coverage equal to the grant amount at grant closing.

4. Use Form SF 270, ''Request for Advance or Reimbursement'' to request advances and reimbursements.

5. Provide financial status and project performance reports on a quarterly basis starting with the first full quarter after the grant award.

6. Maintain a financial management system that is acceptable to the Agency.

7. Provide annual audits or management reports on Forms RD 442–2, ''Statement of Budget, Income, and Equity,'' and RD 442–3, ''Balance Sheet,'' depending on the amount of Federal funds expended and the outstanding balance.

8. Collect and maintain data provided by recipients on race, sex, and national origin and ensure that their recipients collect and maintain the same data on their beneficiaries.

9. Provide a final project performance report.

Contents of Application Package

A complete application for RCDI funds must include the following.

1. A summary page listing the following items. This information should be double-spaced between items and not in narrative form.

a. Applicant's name,

b. Applicant's address,

c. Applicant's telephone number,

d. Name of applicant's contact person,

e. Amount of grant request,

f. Number of recipients, and

g. Source and amount of matching funds.

2. A detailed Table of Contents containing page numbers for each component of the application.

3. A project overview, no longer than three pages, which should include:

a. Recipient names and locations, (locations should include town, county, and state and the population composition of the service area of the recipient including race, sex, and national origin), submit information from the 1990 census to verify population figures;

b. Evidence that the recipient is a nonprofit organization or a public body in a low-income rural community; and

c. Verification of matching funds, i.e., a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source. The applicant will be contacted by the Agency prior to grant award if verification of matching funds was not submitted with the application. The applicant will have 10 working days, from the date of contact, to submit verification of matching funds. If the applicant is unable to provide the verification within that timeframe, their application will be considered ineligible.

Describe Items ''d'' Through ''h'' in Narrative Form.

d. The type of technical assistance and how it will be implemented,

e. How the capacity and ability of the recipient will be improved,

f. The overall goal to be accomplished,

g. The benchmarks that will be used to measure success, and

h. A synopsis of what the applicant organization does or attach a copy of its mission statement, if available.

4. Each of the ''Evaluation Criteria'' must be addressed specifically and individually by category. Present these criteria in narrative form. Documentation must be limited to two pages per criterion with the exception of ''Economic Distress'', which must be limited to one page per recipient.

5. A separate one-page information sheet listing each of the ''Evaluation Criteria and Weights'', contained in this Notice, followed by the page numbers of all relevant material and documentation contained in the application which supports these criteria. This page should immediately follow the project overview.

6. A breakdown of specific time increments and steps to accomplish goals.

7. A detailed breakdown of estimated costs and a project budget.

8. Organizational documents for the intermediary.

9. Form SF–424, ''Application for Federal Assistance.''

10. Form SF–424B, ''Assurances—Non-Construction Programs.''

11. Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions.''

12. Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions.''

13. Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

14. Certification of Non-Lobbying Activities.

15. Standard Form LLL, ''Disclosure of Lobbying Activities''.

16. Form RD 400–1, ''Equal Opportunity Agreement''.

17. Form RD 400–4, ''Assurance Agreement''.

18. Identify and Report Any Association or Relationship with Rural Development Employees.

What and Where To Submit

An original and one copy of the complete application package must be submitted to: Beth Jones, Rural Housing Service, STOP 0787, 1400 Independence Ave. SW, Washington, DC 20250–0787 and a copy of the application must be submitted to the Rural Development State Office that has jurisdiction over the location of the recipients of this assistance. A listing of Rural Development State Offices is included in this Notice. Applications sent electronically or by facsimile will not be accepted.

When To Submit

The deadline for receipt of an application is 4:00 p.m. EST on June 15, 2000. The application deadline is firm as to date and hour and applies to submission of the original application and one copy to the National Office in Washington, DC. The Agency will not consider any application received after the deadline. A listing of Rural Development State Offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3455, TDD (334) 279–3495, James B. Harris

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7705, TDD (907) 745–6494, Frank Muncy

Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8747, TDD (602) 280–8706, Leonard Gradillas

Arkansas State Office, 700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3257, TDD (501) 301–3279, Jesse Sharp

California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5825, TDD (530) 792–5825, Charles M. Clendenin

Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (303) 236–2801 (ext. 136), TDD (303) 236–1590, Leroy W. Cruz

Connecticut served by Massachusetts State Office

Delaware and Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4314, TDD (302) 697–4303, Arthur Greenwood

Florida & Virgin Islands State Office, 4440 N.W. 25th Place, PO Box 147010, Gainesville, FL 32614–7010, (352) 338–3440, TDD (352) 338–3499, Glenn E. Walden

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2171, TDD (706) 546–2034, Jerry M. Thomas

Guam served by Hawaii State Office

Hawaii, Guam, & Western Pacific Territories State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309, TDD (808) 933–8321, Thao Khamoui

Idaho State Office, Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5617, TDD (208) 378–5644, Daniel H. Fraser

Illinois State Office, Illini Plaza, Suite 103, 1817 South Neil Street, Champaign, IL 61820, (217) 398–5412 (ext. 246), TDD (217) 398–5396, Gerald A. Townsend

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3109 (ext. 431), TDD (317) 290–3343, Greg Delp

Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4152, TDD (515) 284–4858, Dorman Otte

Kansas State Office, 1200 SW Executive Drive, PO Box 4653, Topeka, KS 66604, 785) 271–2728, TDD (785) 271–2767, Gary L. Smith

Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (606) 224–7415, TDD (606) 224–7422, Vernon Brown

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7940, TDD (318) 473–7655, Danny H. Magee

Maine State Office, 967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9168, TDD (207) 942–7331, Alan C. Daigle

Maryland Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4318, TDD (413) 253–7068, Daniel R. Beaudette

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Philip H. Wolak

Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7820, TDD (651) 602–3799, Jackie Goodnough

Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, TDD (601) 965–5850, Danny Ivy

Missouri State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0995, TDD (573) 876–9301, D. Clark Thomas

Montana State Office, Unit 1, Suite B 900 Technology Blvd., Bozeman, MT 59715, (406) 585–2515, TDD (406) 585–2562, MaryLou Affleck

Nebraska State Office, Federal Building, room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5559, TDD (402) 437–5093, Denise Brosius-Meeks

Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 26), TDD (775) 885–0633, Mike Holm

New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6037, TDD (603) 229–0536, William W. Konrad

New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3641, TDD (609) 265–3687, Michael P. Kelsey

New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 522–8775, ext. 6,TDD (505) 761–4938, Clyde F. Hudson

New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6427, TDD (315) 477–6447, David Miller

North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2061, TDD (919) 873–2003, Thurman E. Burnette

North Dakota State Office, Federal Building, Room 208, 220 East Rosser, PO Box 1737, Bismarck, ND 58502, (701) 530–2040, TDD (701) 530–2113, William C. Davis

Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2391, TDD (614) 469–5757, David M. Douglas

Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1060, TDD (405) 742–1007, Rock W. Davis

Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3363, TDD (503) 414–3387, Jerry W. Sheridan

Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock

Puerto Rico State Office, New San Juan Office Bldg., Room 501, 159 Carlos E. Chardon Street, Hato Rey, PR 00918–5481, (787) 766–5095 (ext. 261), TDD 1–800–274–1572, Pedro Gomez

Rhode Island served by Massachusetts State Office,

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3432, TDD (803) 765–5697, Larry D. Floyd

South Dakota State Office, Federal Building, Room 210, 200 Fourth Street, SW, Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Dwight Wullweber

Tennessee State Office, Suite 300, 3322 West End Avenue, Nashvile, TN 37203–1084, (615) 783–1345, TDD (615) 783–1397, Keith Head

Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9755, TDD (254) 742–9712, Eugene G. Pavlat

Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4326, TDD (801) 524–3309, Jack Cox

Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6030, TDD (802) 223–6365, Rhonda Shippe

Virgin Islands served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1600, TDD (804) 287–1753, H. Kent Ware

Washington State Office, Suite B, 1835 Black Lake Boulevard, SW, Olympia, WA 98512–5715, (360) 704–7707, TDD (360) 704–7760, Deborah Davis

Western Pacific Territories served by Hawaii State Office

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4868, TDD (304) 284–5941, Dianne Crysler

Wisconsin State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7615 (ext. 131), TDD (715) 345–7614, Mark Brodziski

Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6318, TDD (307) 261–6333, Charles Huff

Dated: March 13, 2000.

Inga Smulkstys,

Acting Under Secretary, Rural Development.

OMB NO. 0575–0180

United States Department of Agriculture

Rural Housing Service

Rural Community Development Initiative Grant Agreement

THIS GRANT AGREEMENT (Agreement) dated , is a contract for receipt of grant funds under the Rural Community Development Initiative (RCDI).

BETWEEN

a private or public or tribal organization, (Grantee or Intermediary) and the United States of America acting through the Rural Housing Service (the Agency), Department of Agriculture, (Grantor), for the benefit of recipients listed in Grantee's application for the grant.

WITNESSETH:

The principal amount of the grant is $ (Grant Funds). Matching funds, in an amount equal to the grant funds, will be provided by Grantee from a non-Federal source. The Grantee and Grantor will execute Form RD 1940–1, ''Request for Obligation of Funds''.

WHEREAS,

Grantee will provide a program of technical assistance to develop the capacity and ability of private, nonprofit community-based housing or community development organizations, or low-income rural communities to undertake projects to improve housing, community facilities, or community and economic development projects in rural areas;

NOW, THEREFORE, in consideration of said grant;

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575–0180. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and reviewing the collection of information.

Grantee agrees that Grantee will:

A. Provide a program of technical assistance in accordance with the proposal outlined in the application, the terms of which are incorporated with this Agreement and must be adhered to. Any changes to the approved program of technical assistance must be approved in writing by the Grantor;

B. Use Grant Funds only for the purposes and activities specified in the application package approved by the Agency including the approved budget. Any uses not provided for in the approved budget must be approved in writing by the Agency in advance;

C. Charge expenses for travel and per diem that will not exceed the rates paid Agency employees for similar expenses;

D. Request cash advances in the minimum amount needed and shall be timed to be in accord only with the actual, immediate cash requirements for carrying out the grant purpose. Form SF 270, ''Request for Advance or Reimbursement'', will be used for this purpose;

E. Provide periodic reports as required by the Grantor. A financial status report and a project performance report will be required on a quarterly basis (due 15 working days after each calendar quarter). The financial status report must show how grant funds and matching funds have been used to date and project the funds needed and their purposes for the next quarter. A final report may serve as the last quarterly report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include, but are not limited to, the following:

1. A comparison of actual accomplishments to the objectives for that period;

2. Reasons why established objectives were not met, if applicable;

3. Problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a statement of the action taken or planned to resolve the situation;

4. Objectives and timetables established for the next reporting period;

5. If available, a summary of the race, sex, and national origin of the recipients and a summary from the recipients of the race, sex, and national origin of the beneficiaries; and

6. The final report will also address the following:

(a) What have been the most challenging or unexpected aspects of this program?

(b) What advice would you give to other organizations planning a similar program? Please include strengths and limitations of the program. If you had the opportunity, what would you have done differently?

(c) Are there any post-grant plans for this project? If yes, how will they be financed?

(d) If an innovative approach was used successfully, the grantee must describe their program in detail for replication by other organizations and communities.

F. Consider potential recipients without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental disability;

G. Insure that any services or training offered by the recipient, as a result of the technical assistance received, must be made available to all persons in the recipient's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental disability at reasonable rates, including assessments, taxes, or fees. Programs and activities must be delivered from accessible locations. The recipient must ensure that where there are non-English speaking populations that materials are provided in the language that is spoken;

H. Insure that recipients are required to place nondiscrimination statements in advertisements, notices, pamphlets and brochures making the public aware of their services. The Grantee and recipient are required to provide widespread outreach and public notification in promoting any type of training or services that are available through grant funds;

I. The Grantee must collect and maintain data on recipients by race, sex, and national origin. The grantee must ensure that their recipients also collect and maintain data on beneficiaries by race, sex, and national origin as required by title VI of the Civil Rights Act of 1964 and must be provided to the Agency for compliance review purposes;

J. Upon any default under its representations or agreements contained in this instrument, Grantee, at the option and demand of Grantor, will immediately repay to Grantor the Grant Funds with any legally permitted interest from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Agreement may be enforced by Grantor, at its option and without regard to prior waivers of this Agreement or by such other proceedings in law or equity, in either Federal or State courts as may be deemed necessary by Grantor to assure compliance with the provisions of this Agreement and the laws and regulations under which this grant is made;

K. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis;

2. Records that identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

3. Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;

4. Accounting records supported by source documentation; and

5. Grantee tracking of fund usage and records that show matching funds and grant funds are used in equal proportions. The grantee will provide verifiable documentation regarding matching fund usage, i.e., bank statements or copies of funding obligations from the matching source.

L. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photocopies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts, and transcripts;

M. Provide an A–133 audit report if $300,000 or more of federal funds are expended in a one year period. If federal funds expended during a one-year period are less than $300,000 and there is an outstanding loan balance of $300,000 or more, an audit in accordance with generally accepted government auditing standards is required. If federal funds expended during a one year period are less than $300,000 and there is an outstanding loan balance of less than $300,000, a management report may be submitted on Forms RD 442–2, ''Statement of Budget, Income and Equity'' and 442–3, ''Balance Sheet'';

N. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of a State are not held accountable for interest earned on grant funds pending their disbursement;

O. Not encumber, transfer or dispose of the equipment or any part thereof, acquired wholly or in part with Grantor funds without the written consent of the Grantor; and

P. Not duplicate other program purposes for which monies have been received, are committed, or are applied to from other sources (public or private).

Grantor agrees that It:

A. Will make available to Grantee for the purpose of this Agreement funds in an amount not to exceed the Grant Funds. The funds will be advanced to Grantee on a pro rata basis with the Grantee's matching funds; and

B. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be:

1. Advisable to further the purpose of the grant or to protect Grantor's financial interest therein; and

2. Consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Both Parties Agree:

A. Extensions of this grant agreement may be approved by the Agency, in writing, provided in the Agency's sole discretion the extension is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the application package during the extension period;

B. The Grantor must approve any changes in recipient or recipient composition;

C. The Grantor has agreed to give the Grantee the Grant Funds, subject to the terms and conditions established by the Grantor: *Provided, However,* That any Grant Funds actually advanced and not needed for grant purposes be returned immediately to the Grantor. This agreement shall terminate three years from this date unless extended or unless terminated beforehand due to default on the part of the Grantee or for convenience of the Grantor and Grantee. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of this Agreement or the applicable regulations;

D. As a condition of the Agreement, the Grantee certifies that it is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in 7 CFR 3015.205(b), which are incorporated into this agreement by reference, and such other statutory provisions as are specifically contained herein. The Grantee will comply with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Executive Order 12250;

E. The Grantee will ensure that the recipients comply with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973 and Executive Order 12250. Each recipient must sign Form RD 400–1, ''Equal Opportunity Agreement'' and Form RD 400–4, ''Assurance Agreement'';

F. The provisions of 7 CFR part 3015, ''Uniform Federal Assistance Regulations,'' part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' or part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations,'' are incorporated herein and made a part hereof by reference; and

G. This Agreement may be terminated for cause in the event of default on the part of the Grantee or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the program will not produce

beneficial results commensurate with the further expenditure of funds.

IN WITNESS WHEREOF, Grantee has this day authorized and caused this Agreement to be executed by

Attest

By

(Grantee)

(Title)

United States of America, Rural Housing Service.

By

(Grantor) (Name) (Title)

[FR Doc. 00–6673 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 17, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Bag, T-Shirt Style & Bag, Produce, Star Bottom
8105–00–NIB–1023 (Bag, T-Shirt Style)
8105–00–NIB–1046 (Bag, Produce, Star Bottom) (Requirements for DeCA Northeast Region)
NPA: Envision, Inc., Wichita, Kansas

Services

Base Supply Center, Patrick Air Force Base, Florida
NPA: Signature Works, Inc., Hazlehurst, Mississippi

Base Supply Center & HAZMART, Marine Corps Air Ground Combat Center, Building 1102, TwentyNine Palms, California
NPA: L.C. Industries For The Blind, Inc., Durham, North Carolina

Janitorial/Grounds Maintenance, Federal Courthouse, Pocatello, Idaho
NPA: New Day Products, Inc., Pocatello, Idaho

Parking Facility Attendant, Department of Veterans Affairs Medical Center, John D. Dingell VA Medical Center, 4646 John R Street, Detroit, Michigan
NPA: Jewish Vocational Service and Community Workshop, Inc., Southfield, Michigan

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Transparency Film, Xerographic
7530–01–386–2371

Tea Mix, Instant
8955–00–823–7016

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–6668 Filed 3–16–00; 8:45 am]

BILLING CODE 6353–01–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List, Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and services previously furnished by such agencies.

EFFECTIVE DATE: April 17, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 8, and 22, November 29, and December 27, 1999 and January 3 and February 4, 2000, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 54862, 57031, 66611, 72312, and 65 FR 115, 5492 and 5493) of proposed

additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Bag, Waste Receptacle
8105–01–284–2924

Services

Base Supply Center, Camp Shelby, Mississippi, Mississippi Air National Guard at the following locations: Jackson, Mississippi, Meridian, Mississippi, Gulfport, Mississippi
Commissary Shelf Stocking, Custodial and Warehousing, Fort Hamilton Commissary, Brooklyn, New York
Food Service Attendant, Air National Guard Base, 50 Sabre Street, Battle Creek, Michigan
Grounds Maintenance, U.S. Army Reserve Center, Worcester, Massachusetts
Janitorial/Custodial, 126th Air Refueling Wing, Scott Air Force Base, Illinois
Janitorial/Custodial, U.S. Army Reserve Center, OMS, Kittaning, Kittanning, Pennsylvania
Operation of Individual Equipment Element Store and HAZMART, Travis Air Force Base, California
Operation of Individual Equipment Element Store and HAZMART, Dover Air Force Base, Delaware
Operation of Individual Equipment Element Store and HAZMART, Fairchild Air Force Base, Washington
Telephone Switchboard Operations, Dyess Air Force Base, Texas

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities and services.

3. The action may result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities and services are hereby deleted from the Procurement List:

Commodities

Amplifier Subassembly
5831–00–087–3408
Specimen Kit, Urine
6530–00–075–6636
Aerosol Paint, Lacquer
8010–00–721–9483
Enamel, Lacquer
8010–00–616–9144
8010–00–852–9034
8010–00–878–5761
8010–00–782–9356
8010–00–764–8434
Enamel, Aerosol, Waterbase
8010–01–363–1632

Services

Commissary Shelf Stocking, Naval Training Center, San Diego, California
Commissary Shelf Stocking and Custodial, Oakland Army Base, Oakland, California
Food Service, McClellan Air Force Base, California
Grounds Maintenance, Oakland Fleet Industrial Supply Center, Oakland, California
Grounds Maintenance
Naval Station, Treasure Island, California
Grounds Maintenance, Mare Island Naval Complex and Roosevelt Terrace, (Except the Combat Systems Technical School Command), Mare Island Naval Shipyard, Vallejo, California
Janitorial/Custodial, Naval Supply Center for the following locations in Alameda, California: DRMO Buildings 4 & 5 (Floor 1), Defense Subsistence Region Pacific, Warehouse 1, Building 6 (Floors 1 & 2), Building 7, Naval Regional Contracting Center, Building 6 (Floor 2)
Janitorial/Custodial, Naval Air Reserve, Moffett Field, California
Janitorial/Grounds Maintenance, U.S. Federal Building, 823 Marin Street, Vallejo, California
Painting Service, McClellan Air Force Base, California
Vehicle Maintenance, McClellan Air Force Base, California

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–6669 Filed 3–16–00; 8:45 am]

BILLING CODE 6353–01–U

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Questionnaire for Building Permit Officials.

Form Number(s): SOC–QBPO.

Agency Approval Number: 0607–0125.

Type of Request: Extension of a currently approved collection.

Burden: 225.

Number of Respondents: 900.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Census Bureau uses the SOC–QBPO to collect information from state and local building permit officials, such as (1) the types of permits they issue, (2) the length of time a permit is valid, (3) how they store the permits, and (4) the geographic coverage of the permit system. Census Bureau field representatives visit selected permit-issuing places and conduct the survey using Computer-Assisted Personal Interviewing (CAPI) technology and a lap top computer. We need this information to carry out the sampling for the Survey of Housing Starts, Sales and Completions (OMB number 0607–0110), also known as the Survey of Construction (SOC). The SOC provides widely used measures of construction activity, including the economic indicators Housing Starts, Housing Completions, and New Housing Sales.

We plan no changes to the information collection methodology. We have increased the number of respondents from 835 to 900 due to

local changes in municipal laws. The land area covered by the survey has not increased, but when a municipality begins issuing its own permits independently from the jurisdiction that previously covered their permits (usually a county government), that new municipality becomes part of the survey.

Affected Public: Businesses or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: March 13, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–6611 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On October 1, 1999, the Department of Commerce published in the **Federal Register** (64 FR 53318) a notice announcing the initiation of an administrative review of the antidumping duty order on Certain Corrosion-Resistant Carbon Steel Flat Products from Japan for two producers/exporters, Nippon Steel Corporation (''Nippon'') and Kawasaki Steel Corporation (''Kawasaki''), covering the period of review (''POR''), which is August 1, 1998 through July 31, 1999. The Department of Commerce has now rescinded this review with respect to Kawasaki as a result of the absence of Kawasaki's shipments and entries into the United States of subject merchandise during the period of review. In addition, it has rescinded the review with respect to Nippon at the request of petitioners, the only party that requested the review.

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Brandon Farlander, or Rick Johnson, Office 9, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0408, (202) 482–0182 or (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (1999).

Background

The Department published in the **Federal Register** on August 11, 1999 (64 FR 43649) a ''Notice of Opportunity to Request Administrative Review'' of the antidumping duty order on Certain Corrosion-Resistant Carbon Steel Flat Products from Japan. On August 31, 1999, petitioners requested that the Department conduct an administrative review of this order with respect to Nippon and Kawasaki.

On October 1, 1999, the Department initiated an administrative review for the period August 1, 1998—July 31, 1999 (64 FR 53318). On October 4, 1999, the Department issued questionnaires to Nippon and Kawasaki.

Kawasaki

On October 25, 1999, Kawasaki reported that it made no sales of the subject merchandise during the POR. On January 4, 2000, we issued a supplemental questionnaire to Kawasaki requesting that it answer additional questions concerning its statement that it did not have any sales to the United States during the POR. On January 11, 2000, Kawasaki submitted a response confirming that neither it nor any of its affiliated producers made sales of the subject merchandise to the United States during the POR. Also, Kawasaki stated that none of its subject merchandise sold to third countries during the POR was shipped to the United States. Finally, Kawasaki stated that, to the best of its knowledge, none of its third-party sales of the subject merchandise or the third-party sales of the subject merchandise made by affiliated producers, was ultimately destined for the United States. Additionally, we have reviewed U.S. Customs data, which confirms that there were no entries during the POR of merchandise produced or exported by Kawasaki. Finally, on February 10, 2000, we contacted petitioner and asked if petitioner was aware of any shipments made by Kawasaki during the POR. On February 23, 2000, petitioner confirmed that it had no information on Kawasaki's shipments to the United States during the POR. Therefore, we have determined that Kawasaki made no entries of subject merchandise into the customs territory of the United States during the POR.

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. In light of the fact that we determined that Kawasaki had no entries of the subject merchandise into the territory of the United States during the POR, we are rescinding this review for Kawasaki. The rate for Kawasaki will remain as that established in the most recently completed segment of this proceeding with respect to Kawasaki.

Nippon

On November 2, 1999, Nippon submitted section A of its questionnaire response. On December 10, 1999, it submitted sections B through D, and on December 27, it filed its response to question III.B of the Department's section D questionnaire.

On December 30, 1999, petitioners requested that the Department rescind the review with respect to Nippon. Petitioners were the only party requesting the review and their request for withdrawal was made within 90 days of the date of publication of the notice of initiation in accordance with section 351.213(d)(1) of the Department's regulations. The Department is therefore rescinding the review with respect to Nippon in accordance with that regulation.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4).

Dated: March 3, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 00–6689 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–475–811)

Grain-Oriented Electrical Steel From Italy: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg at (202) 482–1386, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days. The time limit for the final determination may be extended to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On October 1, 1999, the Department published a notice of initiation of administrative review of the antidumping duty order on Grain-Oriented Electrical Steel from Italy, covering the period August 1, 1998 through July 31, 1999 (64 FR 53318). The preliminary results are currently due no later than May 2, 2000.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore the Department is extending the time limit for completion of the preliminary results until no later than August 30, 2000. *See* Decision Memorandum from Richard Weible to Joseph A. Spetrini, dated March 9, 2000, which is on file in the Central Records Unit, Room B–099 of the main Commerce building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 9, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 00–6690 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 970424097–0068–05]

RIN 0625–ZA05

Market Development Cooperator Program

AGENCY: International Trade Administration (ITA), Commerce.

ACTION: Notice.

SUMMARY: The ITA of the U.S. Department of Commerce (the Department) requests that eligible organizations submit proposals (applications) for the fiscal year (FY) 2000 Market Development Cooperator Program (MDCP) competition. The ITA promotes U.S. exports and works to improve the global competitiveness of the United States, creating jobs for Americans. The Department administers the MDCP to build public/private export marketing partnerships. The MDCP is a competitive matching grants program that provides Federal assistance to export multipliers such as state trade departments, trade associations, chambers of commerce, world trade centers and other non-profit industry organizations that are particularly effective in reaching small-and medium-size enterprises (SMEs).

MDCP awards help to underwrite the start-up costs of new export promotion ventures which these groups are often reluctant to undertake without Federal Government support. The MDCP aims to:

- Challenge the private sector to think strategically about foreign markets;
- Be the catalyst that spurs private-sector innovation and investment in export marketing; and
- Increase the number of American companies, particularly SMEs, taking decisive export actions.

Partnerships enable the Federal Government to pool expertise and funds with non-Federal sources so that each maximizes its market development resources. They can also sharpen the focus on long-term export market development better than traditional trade promotion activities. These partnerships are also a mechanism for improving government-industry relations.

While the Department sponsors, guides and partially funds MDCP projects, it expects applicants to develop, initiate and provide matching funding to carry out market development project activities. As an active partner, the Department will, as appropriate, provide assistance that the applicant identifies as essential to the achievement of project goals and objectives.

Examples of activities that might be included in an applicant's project proposal are described below under ''I. Program Description''. The Department encourages applicants to propose activities that (1) would be most appropriate to the market development needs of their industry or industries; and (2) display the imagination and innovation of the applicants working in partnership with the government to obtain the maximum market development impact.

DATES: *Public Meeting:* The Department will hold a public meeting to discuss MDCP proposal preparation, procedures, and selection process on Monday, April 3, 2000. The meeting will begin at 1:30 p.m. in Room 3407, at the Herbert Clark Hoover Building, 14th and Constitution Avenue, N.W., Washington, D.C. No discussion of specific proposals will occur at this meeting. Attendance at this public meeting by potential applicants is not required.

Applications: Complete applications must be received no later than 5:00 p.m. Eastern Daylight Time, May 16, 2000. Late applications will not be accepted. They will be returned to the sender.

As set forth under *III.B.2. Number of Copies,* ITA is requesting one original application, plus six (6) copies. Applicants for whom this is a financial hardship should submit an original and two copies. Send the application to the address listed below under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Mr. Brad Hess, Manager, Market Development Cooperator Program, Trade Development, ITA, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 3215, Washington, D.C. 20230, (202) 482–2969. The e-mail address is *Brad Hess@ita.doc.gov.* The fax number is (202) 482–4462.

Information Online: Information on the Internet is available at *http://www.ita.doc.gov/mdcp.*

Application Kit: A kit with all forms necessary to participate in the MDCP application process is available at the Internet address identified above. This application kit also may be obtained via first-class mail by sending a legible mailing address to the ''Contact'' address listed above. The address as received will serve as the label for mailing a reply.

Pre-Application Counseling: Applicants with questions should contact the Department as soon as possible, while continuing to prepare their proposals. The Department will not extend the deadline for submitting applications.

The Department regularly provides information and responds to technical and procedural questions from entities which apply or may potentially apply for FY 2000 MDCP awards. Once the annual announcement of an awards competition appears in the **Federal Register**, however, the Department may not provide such entities with guidance regarding the merits of their applications or potential applications.

SUPPLEMENTARY INFORMATION: *Authority:* The Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100–418, Title II, sec. 2303, 102 Stat. 1342, 15 U.S.C. 4723.[1]

Catalog of Federal Domestic Assistance (CFDA): No. 11.112, Market Development Cooperator Program.

I. Program Description

The goal of the MDCP as set out in authorizing legislation is to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.[2] For purposes of this program, nonagricultural goods and service means goods and services other than agricultural products as defined in 7 U.S.C. 451.[3]

A. Examples of Successful Proposals

Applicants should propose activities that would be most appropriate to the market development needs of the relevant U.S. industry. Examples of activities which applicants from prior years have found appropriate are set forth below. These are provided only for illustration. Applicants are *not* required to propose any of these activities.

1. Commissioning overseas market research, participating in overseas trade exhibitions and trade missions to promote U.S. exports, and/or hosting reverse trade missions;

2. Developing a website to connect international customers to U.S. telecommunications and Internet companies through a ''virtual trade show.''

3. Conducting U.S. product demonstrations abroad;

4. Conducting export seminars in the United States or market penetration seminars in the market(s) to be developed;

5. Establishing technical trade servicing that helps overseas buyers choose the right U.S. goods or services and to use the goods or services efficiently;

6. Conducting joint promotions of U.S. goods or services with foreign partners;

7. Opening an overseas office to perform development services for companies who agree to participate. Such an office should not duplicate the programs or services of the U.S. and Foreign Commercial Service (US&FCS) post(s) in the region, but could include co-location with a US&FCS Commercial Center;

8. Detailing a private-sector representative to a US&FCS post in accordance with 15 U.S.C. 4723(c);

9. Training foreign nationals to perform after-sales service or to act as distributors for U.S. goods or services;

10. Improving market access for U.S. goods or services by working with organizations in the foreign marketplace responsible for setting standards and product testing;

11. Publishing an export resource guide or an export product directory for the U.S. industry or industries in question, if no comparable one exists; and

12. Establishing an electronic business information system to identify overseas trade leads and facilitate matches with foreign partners for U.S. businesses.

B. Funding

1. Type of Funding Instrument: Since the Department will be substantially involved in the implementation of each project for which an award is made, the funding instrument for this program will be a cooperative agreement.

2. Funding Availability: For FY 2000, the total funds expected to be available for this program are $2.0 million. The Department expects to conclude a minimum of five (5) cooperative agreements with eligible entities for this competition. No award will exceed $400,000, regardless of the duration of the cooperative agreement.

3. Matching Requirements: To receive MDCP funding, the applicant must contribute at least two dollars for each Federal dollar provided. So, for each Federal dollar of MDCP funding, the applicant must make at least one dollar of new cash outlays expressly for the project. The balance of the applicant's support may consist of in-kind contributions (goods and services).[4]

a. Minimum Match: An example of the minimum match is set forth below. An applicant requesting $200,000 of Federal funds must supply, at a minimum, $200,000 of new cash outlays expressly for the project. As illustrated below, the remaining $200,000 of the required match, can be made up of additional new cash outlays or in-kind contributions.

Item	Federal share	Applicant match
Cash	200,000	200,000
Cash or In-kind		200,000
Total	200,000	400,000

This example would establish a cost-share ratio of two-to-one, two applicant dollars for each dollar of Federal funds. The applicant assumes ⅔ of the total cost. In other words, 67 percent of the funding is provided by the applicant and 33 percent by the Federal Government. This means that in order to receive one dollar of Federal funds, the applicant must incur at least three dollars in project expenditures.

b. Additional Match: Applicants may propose projects for which the matching

[1] Unless otherwise noted, all legal authorities cited in this notice may be accessed via the Internet at *http://www.access.gpo.gov/* or at *http://wwwsecure.law.cornell.edu/federal/.*

[2] 'Produced in the United States'' means having substantial inputs of materials and labor originating in the United States, such inputs constituting at least 50 percent of the value of the good or service to be exported. The intended beneficiaries of the program are U.S. producers of non-agricultural goods or services that seek to export such goods or services. *See* ''Trade Mission Application Form'' ITA Form 4008P–1 (Rev. 8/97).

[3] This definition includes ''agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, the products of poultry and bee raising, the edible products of forestry, and any and all products raised or produced on farms and processed manufactured products thereof...''

[4] Recipient cash contributions are defined in 15 CFR Part 14, Sec. 14.2(g) as the award ''recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.''

funding exceeds two applicant dollars to each Federal dollar. However, as set forth below, this will increase the cost-share ratio.

Item	Federal share	Applicant match
Cash	200,000	200,000
Cash or In-kind		400,000
Total	200,000	600,000

This example would establish a cost-share ratio of three-to-one, three applicant dollars for each dollar of Federal funds. The applicant assumes ¾ of the total cost. In other words, 75 percent of the funding is provided by the recipient and 25 percent by the Federal Government. This means that in order to receive one dollar of Federal funds, the applicant must incur at least four dollars in project expenditures.

4. In-Kind Contributions: In the proposed budget, all in-kind contributions used to meet the applicant's share of costs are listed in a separate column from cash contributions. Applicants must describe these in-kind contributions separately in the application and in sufficient detail to determine that the requirements of 15 CFR Part 14.23(a), and 15 CFR Part 24.24 (a) and (b) are met.

5. Third Party Contributions: In order for an award recipient to outlay cash contributed by a third party, the third party must transfer the funds to the recipient. Otherwise, expenditures for goods and services contributed by a third party are considered to be in-kind contributions.

6. Indirect Costs: Federal funds may be used for a portion of the direct costs of each project, but not for indirect costs. Generally, direct costs result from activity specifically associated with an award, and usually include expenses such as personnel, fringe benefits, travel, equipment, supplies and contractual obligations relating directly to program activity. By contrast, indirect costs are generally those costs that are incurred regardless of whether there is activity associated with an award.

Federal funds may be used only to cover direct costs. The applicant must incur and pay direct costs that equal or exceed the amount of Federal funds. However, any portion of the balance of applicant's match may be used to cover indirect costs. For example, an applicant which requests $200,000 of Federal funds, must structure its match to include at least $200,000 of direct costs. The balance of the match, in this case $200,000, may be comprised entirely or partially of indirect expenses, as explained in greater detail below, under ''Indirect Cost Rate.''

Costs	Federal share	Applicant match
Direct	200,000	200,000
Indirect or Direct		200,000
Total	200,000	400,000

The Department will determine allowable costs on the basis of the applicable cost principles and definitions in OMB Circulars A–21, A–87, and A–122; in 45 CFR Part 74, Appendix E; and in 48 CFR Part 31.[5]

7. Indirect Cost Rate: The Department funds cannot be used to pay indirect costs. The total dollar amount of the indirect costs proposed in an application under this program (using recipient funds) must not exceed the amount calculated using the indirect cost rate and negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.[6]

8. Fee Income: Applicants may charge companies in the industry or other industry organizations reasonable fees to take part in or avail themselves of services provided as part of applicants' projects. Applicants should describe in detail any plans to charge fees. Fees generated under the award are program income and must be used for project-related purposes during the award period.

9. Approved Pre-Award-Period Expenditure: As a general matter, award recipients can request reimbursements only for costs incurred during the award period. However, if proposed in the application, award recipients can expend funds to attend an award-recipient orientation meeting even if it precedes the beginning of the award period. This orientation is usually held in Washington soon after the awards are announced. It is usually the first opportunity for award recipients to meet members of the Department's team. This allowable expenditure of funds prior to the beginning of the award period is limited to reimbursable expenses associated with attending the orientation.

10. Fees for Some Government Services: By winning an MDCP award, an applicant enters into a special relationship with ITA. (*See I.C.1. Project Team* below.) To fulfill its part of the partnership, ITA will provide, where possible, its resources to support project activities included in annual operating plans. (*See I.C.3. Annual Operating Plan* below.) However, ITA's ability to provide assistance free of charge is limited. For some services such as market research studies and Gold Key services, ITA is required to charge fees that recover costs. Applicants requiring ITA services that could involve charges should make provision in their budgets for such charges.

Information relating to charges for services provided in specific overseas markets can be obtained by contacting the Senior Commercial Officer (SCO) at each overseas post. Information relating to charges for services provided by Export Assistance Centers (EACs) throughout the United States can be obtained by contacting the relevant EAC director. The names of SCOs and EAC directors, and often the specific fees, can be found on the Internet via *http://www.usatrade.gov.*

C. Administration of Award Activity

1. Project Team: To administer each cooperative agreement, a project team is established including key personnel from the award-winning organization and officials from the Department who can help the award winner achieve MDCP project objectives. If representatives from other Federal agencies can make a meaningful contribution to the achievement of project objectives, they are invited to participate on the project team.

Each project team acts as a ''board of directors'' establishing direction for the project, recommending changes in the direction of the project, when necessary, and determining the mode of project operations and other management processes, coupled with close monitoring or operational involvement during the performance of project activities.

2. Award Period: Funds may be expended over the period of time required to complete the scope of work, but not to exceed three years from the start date of the award.

3. Annual Operating Plan: At the beginning of each year of the award period, the project team negotiates an annual operating plan, which is based on the work plan submitted in the application. The work plan sets forth a timetable for specific activities. In

[5] Access OMB circulars and forms at *http://www.whitehouse.gov/omb/grants/index.html.* Appendix E referred to on this OMB site is not listed separately. It is found at the end of 45 CFR 74.91, which may be accessed directly at *http://www.access.gpo.gov/nara/cfr/waisidx 99/45cfr74 99.html.*

[6] Information on calculating an indirect cost rate is available at *http://www2.dol.gov/dol/oasam/public/programs/guide.htm.* Additional information on indirect cost rates is available at *http://www.ntia.doc.gov/otiahome/tiiap/Application/97GUIDE.HTM.*

addition to this timetable, the annual operating plan includes team responsibilities for accomplishing each activity, and the budgeted cost of each activity. Annual operating plans are not part of the application. They are developed only after receipt of an award and designation of an ITA project team.

II. Eligibility

A. Definition of Eligible Entity

U.S. trade associations, non-profit industry organizations, state trade departments and their regional associations including centers for international trade development, and private industry firms or groups of firms in cases where no entity described above represents that industry, are eligible to apply for an MDCP cooperative agreement.

1. Trade Association: For the purpose of this program, a ''trade association'' is defined as a fee-based organization consisting of member firms in the same industry, or in related industries, or which share common commercial concerns. The purpose of the trade association is to further the commercial interests of its members through the exchange of information, legislative activities, and the like.

2. Non-Profit Industry Organization: For the purpose of this program, a ''non-profit industry organization'' is:

a. A small business development center operating under agreement with the Small Business Administration, or

b. An organization that has been granted status as a non-profit organization under Title 26 U.S.C. Section 501(c) (3), (4), (5), or (6) and operates as one of the following:

(1) A local, state, regional, or national chamber of commerce;

(2) A local, state, regional, or national board of trade;

(3) A local, state, regional, or national business, export or trade council/interest group;

(4) A local, state, regional, or national visitors bureau or tourism promotion group;

(5) A local, state, regional, or national economic development group;

(6) A small business development center;

(7) A world trade center; or

(8) A port authority.

B. Eligibility of Previous Award Recipients

The program aims to increase the sum of Federal and non-Federal export market development activities by using program funds to encourage new initiatives. MDCP funds are not intended to replace funds from other sources.

Expansion of the scope of an existing project also may qualify for funding consideration. Eligible organizations that have previously received an MDCP award may propose a new project or expansion of an existing project. *See IV.A.4. Creativity and Capacity* below.

C. Determination of Eligibility

1. Request for Determination: Prospective applicants can resolve questions regarding eligibility by requesting an eligibility determination. Requests should be made in writing accompanied by basic organizational documents (*e.g.,* charters, articles of incorporation) and information on types of members, membership fees, ties to state trade departments or their regional associations, organization's purpose, and activities, and non-profit status under Internal Revenue Code provisions. Prospective applicants should submit eligibility determination requests as soon as possible if they wish to have determinations prior to the application submission deadline. This deadline will not be extended, and applicants should continue to work on proposals while awaiting the Department's eligibility determination.

2. Joint Ventures: Entities may join together to submit an application as a joint venture and to share costs. For joint venture applicants, one organization meeting the above eligibility criteria must be designated as the prospective MDCP award recipient organization for administrative purposes. For example, two trade associations representing different segments of a single industry or related industries may pool their resources and submit one application. Foreign businesses and private groups also may join with eligible U.S. organizations to submit applications and to share the costs of proposed projects.

3. Benefit to All Companies: The Department will accept applications from eligible entities representing any industry, subsector of an industry or related industries. Each applicant must permit all companies in the industry targeted in its proposal to participate in all activities that are scheduled as part of a proposed project whether or not the company is a member or constituent of the eligible organization.

III. Applications

A. Format

The basic elements of the application are set forth below. Instructions and required forms are provided in the Application Kit *See* the **FOR FURTHER INFORMATION CONTACT** section for instructions on getting the Application Kit.

1. Executive Summary: The first element of the application is a one-page summary of the proposal.

2. Background Research: Developing a project plan requires solid background research. Applications should reflect the findings of the applicant's study of the following:

a. The market potential of the U.S. good(s) or service(s) to be promoted in a particular market(s);

b. The competition from host-country and third-country suppliers; and

c. The economic situation and prospects that bear upon the ability of a country to import the U.S. good(s) or service(s).

Applicants should present an assessment of industry resources that can be brought to bear on developing a market; the industry's ability to meet potential market demand expeditiously; and the industry's after-sales service capability in a particular foreign market(s).

3. Project Description: After describing their completed basic research, applicants should develop marketing plans that set forth the overall objectives of the projects and the specific activities applicants will undertake as part of these projects.

a. Work Plan: The project description should include a list of specific activities planned, including: (1) The different phases of the project, identifying each milestone and activity in chronological order; (2) the location where activities will take place; and (3) the ways the applicant intends to involve the Department of Commerce and/or other Federal agencies as partners in project activities.

b. Performance Measures: On August 3, 1993, the Government Performance and Results Act (GPRA) was enacted into law (Public Law 103–62). GPRA requires each Federal agency to submit a strategic plan for program activities to OMB. Among other things, each strategic plan must include ''performance indicators to be used in measuring or assessing the relevant outputs, service levels and outcomes of each program activity.'' While not abandoning outputs (units of products, including services, of an activity) as a measure of achievement, OMB directed agencies to focus more on outcomes (the resulting effect of the use or application of an output) as the primary indicator of the success of programs and activities.

The Department reports results using the GPRA measures defined for its programs and activities. Many of these measures apply only to the programs and activities of the Department and

have little relevance to the activities of MDCP award winners. The following performance measures, however, have particular applicability to MDCP projects:

(1) Outcome Measures.

(a) Dollar value of exports resulting from outputs.

(b) Number of new-to-export firms participating in activities.

(c) Number of new-to-market firms participating in activities.

(d) Degree of customer satisfaction (value of outputs determined by perception of the customer based on their expectation of the output versus the plan, an agreed-upon specification, or other criteria).

(2) Output Measures.

(a) Number of counseling sessions.

(b) Number of clients counseled.

(c) Number of reports (publications) prepared.

(d) Number of copies of reports (publications) distributed.

(e) Number of trade events.

(f) Number of firms participating in trade events.

Applicants should be mindful of these performance measures and should use them wherever possible when estimating projected results in their proposals. Award recipients will be expected to use these measures in their quarterly reports and in their end-of-year assessments of project accomplishments. Each applicant should describe its recording and reporting system in its proposals. In order to demonstrate the success of their projects, applicants are encouraged to develop and utilize additional performance measures which would reasonably gauge the success of the project. Each recipient of an award should be prepared to record and report the results achieved from project activities.

c. Partnership: Applications should display the imagination and innovation of the private sector working in partnership with the government to obtain the maximum market development impact.

d. Project Funding Priorities: Project proposals must be compatible with U.S. trade and commercial policy. In addition, applicants are encouraged to address the Department's international trade priorities. *See IV.A.3. Priorities and Partnership.* The Department is interested in receiving proposals which include projects that:

(1) Maximize the participation of small- and medium-sized enterprises (SMEs) in international trade;

(2) E-commerce;

(a) Provide the basic instruction, assistance and applications to help SMEs to take the initial steps onto international e-commerce platforms and into international sales;

(b) Make SMEs aware of the unique advantages e-commerce presents as a low-cost low-risk tool to overcome SME reluctance to pursue marketing opportunities in and profit from foreign markets;

(3) Increase ''hands-on'' export education designed for SMEs through:

(a) Development of educational tools such as curricula and media, or;

(b) Company-specific assistance such as export business plan development, market research, customs counseling, competitive position assessment, trade event preparation, foreign distribution alliances, and securing financing.

(4) Provide technical assistance to developing economies to build commercial infrastructure such as regulatory practices;

(5) Develop non-traditional approaches to creating demand for the products/services developed from new U.S. technologies;

(6) Improve communication with and outreach to old and new private-sector international trade constituencies and initiate or enhance public/private export partnerships;

(7) Identify and/or work to eliminate tariff and non-tariff barriers to market access for U.S. goods or services, including working with organizations in the foreign marketplace responsible for setting standards and for product testing;

4. Credentials: Eligible entities desiring to participate in this program must demonstrate the ability to provide an established, competent, experienced staff and other resources to assure adequate development, supervision, and execution of the proposed project activities. Applicants must describe in detail all assistance expected from the Department or other Federal agencies to implement project activities successfully. Each applicant must provide a description of the membership/qualifications, structure and composition of the eligible entity, the degree to which the entity represents the industry or industries in question, and the role, if any, foreign membership plays in the affairs of the eligible entity. Applicants should summarize both the recent history of their industry or industries' competitiveness in the international marketplace and the export promotion history of the eligible entity and its partners that intend to work on the project. This should include a resume for the project director and principal staff and a projection of the amount of time each professional will devote to the project.

5. Finance and Budget: In addition to Form 424A ''Budget Information—Non-Construction Programs'', applicants will provide a detailed budget for the project award period, supporting worksheets and explanations, a discussion of financial systems and projections, a history of financial programs, financial and organizational documents, and any additional evidence of financial responsibility.

6. Forms: The Application Kit includes the following forms which must be completed and included in an application: Forms SF–424 ''Application for Federal Assistance,'' SF–424A ''Budget Information—Non-Construction Programs,'' SF–424B ''Assurances—Non-Construction Programs,'' CD–346 ''Applicant for Funding Assistance''; and Forms SF–LLL, CD–346, CD–511, and CD–512, which are described below under *V.A. Other Requirements.*

B. Submission of Applications

1. Number of Pages: The main body of the application is limited to 90 pages. There is no limit on the number of pages for appendices. The main body of the application should include the substance of applicant's proposal as identified in *III.A.1.* through *III.A.5.* above. Forms and documentation requested in the Application Kit, as well as any other information applicants wish to submit, must be provided as appendices.

Each page of the main body should be numbered. Tabbing and/or numbering of pages included as appendices facilitates application review.

The Department encourages applicants to submit applications that are complete and responsive. However, applicants should be discriminating in what they choose to include in the application.

2. Number of Copies: Each applicant must submit a signed original application. In addition, the Department encourages applicants to submit six (6) copies. Several copies will be needed in order for the Department to complete its evaluation. (As noted below under *IV.B. Evaluation and Selection Procedures,* four Selection Panel members and several Department staff will review each application.) However, if submitting six (6) copies creates a financial hardship, submit the minimum of two copies plus the original.

If an applicant submits an original and two copies or any other number of copies greater than two and less than six (6), the Department will make

additional copies to allow all reviewers to read each application. However, the Department cannot guarantee that the copies will include features that are not easily reproduced on standard photocopy machines. For example, tabs might not be inserted, color pages might be reproduced in black and white, fold-out pages might not fold out, unusually sized (not 8.5″ × 11″) pages might be broken up, and the copies might be bound with staples or clips instead of the binding used for applicant-submitted material.

C. Retention of Applications

1. Award Winners: For each award winner, the Department of Commerce will retain the application for seven years. Copies of winning applications are distributed to project team members for their use in managing winning projects.

2. Unsuccessful and Ineligible Applicants: For each eligible application which does not win an award, and for each application determined to be ineligible, the Department of Commerce will retain the signed original of the application for seven years and will destroy the copies.

3. Late Applications Returned to Sender: Late applications are not accepted or retained. They are returned to the sender. However, the Department will retain a copy of the cover page or transmittal letter for seven years.

IV. Evaluation and Selection

A. Evaluation Criteria

The Department is interested in projects that demonstrate the possibility of both significant results during the project period and lasting benefits extending beyond the project period. To that end, consideration for financial assistance under the MDCP will be based upon the following evaluation criteria:

1. Export Success Potential: Potential of the project to generate export success stories and/or export initiatives in both the short-term and medium-term. For purposes of this program, an export initiative is defined as a significant expenditure of resources (time, people, or money) by the Chief Executive Officer (CEO) of a company in the active pursuit of export sales. Examples of export initiatives include, but are not limited to, the following:

a. Participating in an overseas trade promotion event;

b. Hiring an export manager;

c. Establishing an export department;

d. Exploring a new market through an overseas trip by the CEO;

e. Developing an export marketing/business plan;

f. Translating product literature into a foreign language;

g. Making product modifications to comply with foreign market requirements;

h. Commissioning an in-depth market research study;

i. Developing a website to connect international customers to U.S. telecommunications and Internet companies through a ''virtual trade show.''

j. Advertising in a foreign business publication;

k. Undertaking an overseas direct-mail campaign to create product awareness;

l. Signing an agent/distributor;

m. Getting introduced to a potential foreign buyer;

n. Signing an export contract/filling an export order; or

o. Co-locating with a US&FCS Commercial Center.

Applicants should provide detailed explanations of projected results of the project.

2. Performance Measures: Projected increase (multiplier effect) in the number of U.S. companies operating in the market(s) selected, particularly SMEs, and the degree to which the project will help the industry in question increase or maintain market share in the market(s) selected. Applicants should provide quantifiable estimates of projected increases.

3. *Priorities and Partnership:* The degree to which the proposal furthers or is compatible with the Department's priorities stated above and the degree to which the proposal initiates or enhances partnership with the Department.

4. Creativity and Capacity: Creativity, innovation, and realism displayed by the work plan as well as the institutional capacity of the applicant to carry out the work plan. Creativity and innovation can be displayed in a variety of ways. Applicants might propose projects that include ideas not previously tried to promote a particular industry's goods or services in a particular market. Creativity can be demonstrated by the manner in which techniques are customized to meet the specific needs of certain client groups. A proposal can be creative in the way it brings together the strengths and resources of partners participating in project activities. Further, projects that focus on market development are inherently more creative than projects that focus only on export promotion. Market development is the process of identifying or creating emerging markets or market niches and modifying products to penetrate those markets. Market development is demand driven and designed to create long-term export capacity. In addition to promoting current sales of existing products, market development promotes future sales and future products.

Current or past MDCP applicants should be aware that to be in a position to earn the maximum number of points under this criterion, they should propose projects that are entirely new. A current or past MDCP recipient may propose an expansion of an existing or past MDCP project. In order to earn a high score on this criterion, the expansion should be the majority of the total project for the proposal. In addition, current or past MDCP applicants that apply proposing an expansion of an existing or past project must clearly demonstrate how the expansion, standing alone, is creative and innovative in accordance with the above definition.

5. Budget and Sustainability: Reasonableness of the itemized budget for project activities, the amount of the cash match that is readily available at the beginning of the project, and the probability that the project can be continued on a self-sustained basis after the completion of the award.

Current or past MDCP recipients who propose an expansion of an existing project must show how the expansion will achieve self-sustainability independent of current or past projects funded under the MDCP.

Each of the above criteria is worth a maximum of 20 points. The five criteria together constitute the application score. At 20 points per criterion, the total possible score is 100.

B. Evaluation and Selection Procedures

Office of Planning Coordination and Resource Management (OPCRM) staff will review each application for completeness as soon as practicable after the application is received. The applicant is responsible for submitting a complete application in a timely manner.

Prior to selection, each complete application receives a thorough evaluation. The steps of the evaluation and selection process are set forth below.

1. Eligibility Determination: OPCRM staff, in consultation with the Department's Office of General Counsel, reviews all applications to determine the eligibility of each applicant. If an applicant's eligibility is in question, the applicant is contacted to supply additional information or clarification.

2. Staff Review: When the eligibility review has been completed, the OPCRM Director invites comments on eligible applications from relevant offices

within the Department (*e.g.*, Trade Development (TD), Market Access & Compliance (MAC), and US&FCS). This review allows the Department experts in the industry sector or geographical region to assess the claims made in the applications. The Department staff comments provide insights into both the potential benefits and the potential difficulties associated with the applications.

3. OPCRM Review: At least three representatives of OPCRM review and comment on all applications using the evaluation criteria identified above. The MDCP Manager prepares a summary of OPCRM staff comments and organizes all comments by the Department staff and applications for the Selection Panel. The OPCRM and Department staff comments afford the Selection Panel the insights and breadth of experience of Department professionals. However, they have no official weight, and the Selection Panel is free to consider or disregard them as it sees fit.

4. Selection Panel Composition: The MDCP Manager forwards all of the eligible applications, along with all related materials, to the Selection Panel of senior managers at the Department.

This panel is chaired by the OPCRM Director and typically includes three other members, one each from the Department's TD, MAC, and US&FCS bureaus. Panel members are Office Directors or higher.

5. Selection Panel Scoring: Each Selection Panel member reviews each eligible application and assigns a score for each of the five criteria stated above. The scores of each Selection Panel Member for each application reviewed are maintained in the files for seven years. The individual criteria scores are averaged to determine the total score for each application.

6. Ranked Recommendation: Based on the scores assigned by Selection Panel members and deliberations by the Selection Panel, the Selection Panel forwards the applications with the ten highest total scores to the Assistant Secretary for Trade Development and recommends which of the ten proposals should receive funding. The Selection Panel's recommendation will not deviate from the rank order. This means, for example, that the Selection Panel cannot recommend funding for the application ranked seventh without recommending funding for applicants ranked first through sixth. The Selection Panel recommendation includes the Panel's written assessment of the strengths and weaknesses of the top ten applications.

7. Selection of Applications for Funding: From the top ten applications forwarded by the Selection Panel, the Assistant Secretary for Trade Development selects those applications which will receive funding. In addition to the evaluation criteria stated above, the Assistant Secretary for Trade Development may consider the following in making decisions:

a. The scores of individual reviewers and the Selection Panel's written assessments;

b. The degree to which applications satisfy the Department priorities as established under *III.A.3.d. Project Funding Priorities* above;

c. The geographic distribution of the proposed awards;

d. The diversity of industry sectors and overseas markets covered by the proposed awards;

e. The diversity of project activities represented by the proposed awards;

f. Avoidance of redundancy and conflicts with the initiatives of other Federal agencies; and

g. The availability of funds.

C. Announcement of Award Decisions

Award winners will be notified by letter. Once award winners formally accept their awards, the Department will issue a press release and list the award winners at the MDCP Internet address.

Within ten days of the announcement of the issuance of the press release, unsuccessful applicants will be notified in writing and invited to receive a debriefing from MDCP officers.

V. Other Requirements and Classification

A. Other Requirements

1. Federal Policies and Procedures: Recipients and subrecipients are subject to all Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

2. Past Performance: Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

3. Pre-Award Activities: Except at noted above in *I.B.9. Approved Pre-Award-Period Expenditure,* if applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

4. No Obligation for Future Funding: If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

5. Delinquent Federal Debts: No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

a. The delinquent account is paid in full;

b. A negotiated repayment schedule is established and at least one payment is received; or

c. Other arrangements satisfactory to the Department of Commerce are made.

6. Name Check Review: All applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. The name check review process is based on information applicants provide in Form CD–346 ''Applicant for Funding Assistance''.

7. Primary Applicant Certifications: All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug Free Workplace Requirements and Lobbying''. Explanations are provided below.

a. Non-Procurement Debarment and Suspension: Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

b. Drug-Free Workplace: Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

c. Anti-Lobbying: Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

d. Anti-Lobbying Disclosures: Any applicant that has paid or will pay for

lobbying using any funds must submit Form SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

8. Lower Tier Certifications: Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure Form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to the Department of Commerce. SF–LLL submitted by any tier recipient or sub-recipients should be submitted to the Department of Commerce in accordance with the instructions contained in the award document.

9. False Statements: A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

10. Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

11. Buy American-Made Equipment and Products: Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program.

12. Fly America Act: All award recipients must comply with the provisions of the Fly America Act, 49 U.S.C. 40118.

B. Classification

This notice has been determined to be not significant for purposes of Executive Order 12866. The standard forms referenced in this notice are cleared under OMB Control No. 0348–0043, 0348–0044, 0348–0040, and 0348–0046 pursuant to the Paperwork Reduction Act. Notwithstanding any other provision of law, no person is required to respond nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Dated: March 14, 2000.

Robert W. Pearson,

Director, Office of Planning, Coordination and Resource Management, Trade Development, International Trade Administration, Department of Commerce.

[FR Doc. 00–6688 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

SUMMARY: The invention listed below is owned in whole or in part by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of Federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the inventions for purposes of commercialization. The invention available for licensing is:

NIST Docket Number: 98–916US.

Title: Designed Protein Pores As Components For Biosensors.

Abstract: The invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, Worcester Institute and the University of Chicago. A mutant staphylococcal alpha hemolysin polypeptide containing a heterologous analyte-binding amino acid which assembles into an analyte-responsive heptameric pore assembly in the presence of a wild type staphylococcal alpha hemolysin polypeptide, digital biosensors, and methods of detecting, identifying and quantifying analytes are described.

Dated: March 8, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–6718 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of a Partially Closed Meeting of the Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology's (NIST's) Manufacturing Extension Partnership National Advisory Board (MEPNAB) will meet to hold a meeting on Wednesday, May 10, 2000. The MEPNAB is composed of nine members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was set up, under the direction of the Director of NIST, to fill a need for outside input on MEP. MEP is a unique program consisting of centers in all 50 states and Puerto Rico. The centers have been created by state, federal, and local partnerships.

The Board works closely with MEP to provide input and advice on MEP's programs, plans, and policies. The purpose of this meeting is to delve into areas of operation determined by the Board. The agenda includes a look at center operations from the national perspective of what best practices can be shared across the system and what is the best mechanism for doing so. The Board also plans to address how MEP measures impact and how that affects the operations at the center level. The portion of the meeting, which involves personnel and proprietary budget information, will be closed to the general public. All other portions of the meeting will be open to the public.

DATES AND ADDRESSES: The meeting will convene on May 10, 2000, at 8:30 am and will adjourn at 3:30 pm and will be held at the Omni Rosen, Orlando, Florida. The closed portion of the meeting is scheduled from 8:30 am to 10:00 am

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration with the concurrence of the General Counsel formally determined on December 21, 1998, pursuant to Section 10(d) of the Federal Advisory Committee Act, that these portions of the meeting may be properly closed because they are concerned with matters that are within the purview of 5 U.S.C. 522(c)(4), (6) and (9)(b). A copy of the determination is available for public inspection in the Central Reference and Records Inspection Facility, Room 6219, Main Commerce.

MEP's services to smaller manufacturers address the needs of the national market as well as the unique needs of each company. Since MEP is committed to providing this type of individualized service through its centers, the program requires the perspective of locally based experts to be incorporated into its national plans. The MEPNAB was established at the direction of the NIST Director to maintain MEP's focus on local and market-based needs. The MEPNAB was approved on October 24, 1996, in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 2., to provide advice on MEP programs, plans, and policies; to assess the soundness of MEP plans and strategies; to assess the current performance against MEP program plans, and to function in an advisory capacity. The Board will meet three times a year and reports to the Director of NIST. This will be the second meeting of the MEPNAB in 2000.

FOR FURTHER INFORMATION CONTACT: Linda Acierto, Assistant to the Director for Policy, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301) 975–5033.

Dated: March 10, 2000.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 00–6719 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Approval Decision on Rhode Island Coastal Nonpoint Pollution Control Program

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and The U.S. Environmental Protection Agency.

ACTION: Notice of intent to approve the Rhode Island Coastal Nonpoint Program.

SUMMARY: Notice is hereby given of the intent to fully approve the Rhode Island Coastal Nonpoint Pollution Control Program (coastal nonpoint program) and of the availability of the draft Approval Decisions on conditions for the Rhode Island coastal nonpoint program. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. NOAA and EPA conditionally approved the Rhode Island coastal nonpoint program on September 27, 1997. NOAA and EPA have drafted approval decisions describing how Rhode Island has satisfied the conditions placed on its program and therefore has a fully approved coastal nonpoint program.

NOAA and EPA are making the draft decisions for the Rhode Island coastal nonpoint program available for a 30-day public comment period. If no comments are received, the Rhode Island program will be approved. If comments are received, NOAA and EPA will consider whether such comments are significant enough to affect the decision to fully approve the program.

Copies of the draft Approval Decisions can be found on the NOAA website at http://www.nos.noaa.gov/ocrm/czm/ or may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3121, extension 201, e-mail joseph.flanagan@noaa.gov.

DATES: Individuals or organizations wishing to submit comments on the draft Approval Decisions should do so by April 17, 2000.

ADDRESSES: Comments should be made to Joseph A. Uravitch, Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301–713–3155 extension 195, e-mail joseph.uravitch@noaa.gov or to Margherita Pryor, EPA Region, 1, 1 Congress Street, Suite 1100, Boston, MA, 02114–2023, tel. 617–918–1597, e-mail pryor.margherita@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: Helen Farr, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West, Silver Spring, Maryland 20910, tel. 301–713–3105, extension 150, e-mail helen.farr@noaa.gov.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: March 14, 2000.

Captain Ted I. Lillestolen,

Deputy Assistant, Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

J. Charles Fox,

Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 00–6692 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031000C]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council's (Council) Pelagics Advisory Panel (PAP) members will hold a meeting.

DATES: The meeting will be held April 5–6, 2000, from 8:30 a.m. to 5:00 p.m., each day.

ADDRESSES: The meeting will be held at the Ala Moana Hotel, Hibiscus Number 1 Ball Room, 410 Atkinson Drive, Honolulu, HI 96814.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The PAP meeting will discuss and may make recommendations to the Council on the following agenda items:

1. Review of recommendations arising from 1999 PAP;

2. Hawaii and American Samoa longline fishery reports;

3. Hawaii longline fishery issues;

4. Report of the Recreational Fisheries Data Task Force;

5. Recreational fishery issues;

6. Area closure for large pelagic fishing vessels around the islands of American Samoa;

7. Shark management in Hawaii;

8. Management of longline-protected species interactions;

9. Progress of the Multi-lateral High Level Conference process to implement a management convention for tunas in the Central-West Pacific;

10. Blue marlin research;

11. Council process; and

12. Other business as required.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: March 13, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–6716 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Pakistan

March 14, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482–3740.

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.

A notice published in the Federal Register on December 31, 1998 (63 FR 72288) announced that the Government of the United States had requested consultations with the Government of Pakistan on December 24, 1998 with respect to combed cotton yarn in Category 301, produced or manufactured in Pakistan and that, if no solution was agreed upon in consultations with the Government of Pakistan, the Government of the United States reserved its right to establish a twelve-month limit of not less than 5,262,665 kilograms for the entry for consumption and withdrawal from warehouse for consumption of combed cotton yarn in Category 301, produced or manufactured in Pakistan. A restraint limit was established at that level for the March 17, 1999 through March 16, 2000 period.

The Government of the United States has decided to establish a limit of not less than 5,578,425 kilograms for the entry for consumption and withdrawal from warehouse for consumption of combed cotton yarn in Category 301, produced or manufactured in Pakistan for a second twelve-month period, beginning on March 17, 2000 and extending through March 16, 2001.

The United States remains committed to finding a mutually agreed solution concerning Category 301. Should such a solution be reached in consultations with the Government of Pakistan, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 12290, published on March 12, 1999.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 14, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on March 17, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of combed cotton yarn in Category 301, produced or manufactured in Pakistan and exported during the twelve-month period beginning on March 17, 2000 and extending through March 16, 2001, in excess of 5,578,425 kilograms.

The limit set forth above is subject to adjustment pursuant to the provisions of the ATC.

Products in the above category exported during the March 17, 1999 through March 16, 2000 period shall be charged to the limit for that year (see directive dated March 5, 1999) to the extent of any unfilled balances. In the event the limit established for that period has been exhausted by previous entries, such products shall be charged to the limit set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–6762 Filed 3–16–00; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Navy

Closed Meeting of the Board of Visitors to the U.S. Naval Academy

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The Executive Session of this meeting will be closed to the public.

DATES: The meeting will be held on Monday, March 20, 2000, from 8:30 am to 11:45 am. The closed Executive Session will be from 10:50 am to 11:45 am.

ADDRESSES: The meeting will be held in the Bo Copped Room of Alumni Hall at the U.S. Naval Academy, Annapolis, MD.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Thomas E. Osborn, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, telephone (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. app. 2). The Executive Session of the meeting will consist of discussions of information, which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. app. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 5529b)(2), (5), (6), and (7) of title 5, U.S.C.

Dated: March 2, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–6582 Filed 3–16–00; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; List of Correspondence

AGENCY: Department of Education.

ACTION: List of correspondence from April 1, 1999 through June 30, 1999.

SUMMARY: The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of IDEA or the regulations that implement IDEA.

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds or Rhonda Weiss. Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5465 or the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 am and 8:00 pm, Eastern time, Monday through Friday, except Federal holidays.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued between April 1, 1999 and June 30, 1999.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

Part A: General Provisions

Section 602—Definitions

Topic Addressed: Emotional Disturbance

- Letter dated June 11, 1999 to individual, (personally identifiable information redacted), regarding use of the term ''emotional disturbance'' in lieu of ''serious emotional disturbance'' and the right of each child with a disability to receive special education and related services that address that child's unique needs.

Section 607—Requirements for Prescribing Regulations

Topic Addressed: Applicable Regulations

- OSEP memorandum 99–11 dated April 27, 1999 to State Directors of Special Education, regarding final regulations published on March 12, 1999 and dates by which compliance with these regulations became mandatory for States receiving funds under Part B of IDEA.

Part B: Assistance for Education of All Children With Disabilities

Section 612—State Eligibility

Topic Addressed: Free Appropriate Public Education

- Letter dated April 2, 1999 to Paul T. Halverson, Wisconsin Department of Public Instruction, regarding the absence of any requirements in Part B of IDEA that a free appropriate public education be made available to children with disabilities through age 22, and clarifying a State's discretionary authority to enact a law requiring that a free appropriate public education be made available to children with disabilities through the end of the school year during which they turn 21 years of age.
- Letter dated April 9, 1999 to Attorney Sonja D. Kerr, regarding the obligation of public agencies to finance the costs of residential placements in situations where the public agency responsible for the child's education determines that the placement is necessary for the provision of special education and related services to the child.
- Letters dated April 29, 1999 to U.S. Congressman Dennis J. Kucinich and to U.S. Congresswoman Stephanie Tubbs Jones, regarding medical interventions for children with attention deficit hyperactivity disorder, and explaining that it is the responsibility of medical, not educational professionals to prescribe medication to a child with a disability, and clarifying that a school

district's failure to deliver required services to an eligible child with a disability, due to a parent's refusal to give his or her child medication, may be a violation of the free appropriate public education requirements of Part B of IDEA and section 504 of the Rehabilitation Act of 1973 (section 504).

• Letter dated May 14, 1999 to Iowa Governor Thomas J. Vilsack, regarding the U.S. Supreme Court's decision in *Cedar Rapids Community School District* v. *Garret F.*, and provisions in the IDEA that assist States and school districts in paying for the cost of special education and related services, including the types of services at issue in the *Garret F.* decision.

Topic Addressed: Least Restrictive Environment

• Letter dated June 4, 1999 to New York State Education Department Commissioner Richard P. Mills, informing New York that if its funding formula that distributes States funds on the basis of the type of setting in which a child is served is not revised in a manner that ensures compliance with the least restrictive environment requirements of the IDEA Amendments of 1997, New York will become a high risk grantee and its Part B grant award for Federal Fiscal Year 1999 will include special conditions requiring the State to revise this funding formula.

Topic Addressed: State Educational Agency General Supervisory Responsibility

• Letter dated April 30, 1999 to U.S. Congressman Roy Blunt, regarding concerns about IDEA paperwork requirements and student discipline provisions and identifying ways in which the IDEA Amendments of 1997 actually reduce unnecessary paperwork and provide for expanded authority to address disciplining students with disabilities.

Topic Addressed: Information Required for Receipt of Grant Awards

• OSEP memorandum 99–13 dated June 28, 1999, to Chief State School Officers regarding Procedures for States to Follow in order to Receive a Grant Award under sections 611 and 619 of Part B of IDEA for Federal Fiscal Year 2000, which includes, among other matters, requirements for: (1) Submission of documentation of the State's eligibility by April 14, 2000, (2) a description of how amounts retained for State level activities will be used, and (3) a description of the steps the State proposes to take to ensure equitable access to, and participation in, activities conducted under Part B of IDEA by overcoming barriers to equitable participation, in accordance with section 427 of the General Education Provisions Act.

Section 613—Local Educational Agency Eligibility

Topic Addressed: Distribution of Subgrants to Eligible Charter Schools

• OSEP memorandum 99–12 dated June 25, 1999 to State Directors of Special Education, regarding a Notice of Proposed Rulemaking implementing the Charter School Expansion Act of 1998, clarifying that this Act is applicable to formula grant programs administrated by the Department, including programs funded under sections 611 and 619 of Part B of IDEA, and setting out permissible options for States and local educational agencies to consider using in implementing the Act's requirements that newly-created charter schools and charter schools that significantly expand their enrollment receive the Part B funds for which they are eligible.

Section 614—Evaluation, Eligibility Determinations, Individualized Education Programs, and Educational Placements

Topic Addressed: Evaluations

• Letter dated June 29, 1999 to Madison Elementary School Faculty Senate President Rosemary Anderson, regarding a school district's obligations to students with disabilities who initially register to attend school, and (1) clarifying that it would be a violation of Part B and section 504 for a school district to have a blanket policy that requires students with disabilities to delay attendance at a school after registration pending the evaluation, and (2) explaining that a child can be temporarily placed and provided accommodations agreed to by the parents and the school to ensure the child's safety.

Section 615—Procedural Safeguards

Topic Addressed: Attorney's Fees

• Letter dated June 24, 1999 to Attorney Robert Hornstein, and letter dated June 24, 1999 to Florida Bureau for Education of Exceptional Students Chief Shan Goff, regarding a State court's authority to grant attorneys' fees to the parents of a child with a disability who is the prevailing party in any action or proceeding brought under section 615 of IDEA.

Topic Addressed: Mediation

• Letter dated May 12, 1999 to Vice President of Florida Statewide Advocacy Network on Disability Nikole Whitehead, regarding the absence of a requirement under Part B of IDEA that a child must remain in his or her current educational placement based solely on a request for a mediation that occurs prior to a parent's request for a due process hearing.

Topic Addressed: Student Discipline

• Letter dated April 21, 1999 to individual, (personally identifiable information redacted), regarding options available to school authorities in disciplining students with disabilities.

Section 619—Preschool Grants

Topic Addressed: Procedures for Allocating Subgrants to Eligible Entities

• Letter dated June 28, 1999 to New York State Education Department Deputy Commissioner Lawrence Gloeckler, regarding procedures for State educational agencies to use in allocating subgrants of funds awarded under section 619 of IDEA to eligible entities, procedures for calculating base payments, and procedures for calculating population and poverty payments.

Part C: Infants and Toddlers With Disabilities

Sections 631–641

Topic Addressed: Natural Environments

• Letter dated May 26, 1999 to Missouri Department of Elementary and Secondary Education Assistant Commissioner John B. Heskett, regarding States' obligations to ensure that early intervention services are provided to infants and toddlers with disabilities in natural environments, including the home or community settings in which typically developing children participate, and that individualized determinations must be made by the individualized family service plan team (which includes the parent or parents) as to whether the setting in which the services are being offered would be the natural environment for the particular child.

• Letter dated June 11, 1999 to U.S. Congressman Martin Meehan, regarding serving infants and toddlers with disabilities in natural environments appropriate for the individual child and his or her family.

Topic Addressed: Provision of a Free Appropriate Public Education to Children With Disabilities Below Age 3

• Letter dated April 30, 1999 to Iowa Department of Education Part C Technical Assistant Julie Curry, confirming that when a child below age three receives a free appropriate public education, states must comply with the requirements of: (1) both Parts B and C

of IDEA when Part B funds are used, and (2) with Part C even if no IDEA Part B or C funds are used for that child as long as the State receives any Part C funds.

Part D: National Activities to Improve Education of children with Disabilities

Subpart 2—Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information

Section 682—Parent Training and Information Centers

Topic Addressed: Definition of Parent Organization

• Letter dated April 15, 1999 to National Association of Protection and Advocacy Systems Executive Director Curtis L. Decker, regarding the statutory definition of ''parent organization'' and explaining that a protection and advocacy entity that otherwise meets section 682 statutory criteria would be eligible to compete for funding as a parent training and information center (PTI).

Other Letters Relevant to the Administration of IDEA Programs

Topic Addressed: Freedom of Information Act

• Letter dated May 20, 1999 to individual, (personally identifiable information redacted), regarding an appeal of a partial denial of a request for agency records under the Freedom of Information Act (FOIA) and stating that FOIA exemption (b)(6), which protects from public disclosure information that would constitute a clear invasion of personal privacy, authorizes the Department not to release to the public personal information, such as home addresses and telephone numbers, of attendees contained in a register maintained by the Office of Special Education Programs (OSEP) of public meetings conducted in connection with OSEP's State educational agency monitoring.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register,** in text or Adobe Portable Document format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF 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 1–800–293–6498; or in the Washington, D.C., area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: March 14, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–6648 Filed 3–16–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; List of Correspondence

AGENCY: Department of Education.

ACTION: List of correspondence from July 1, 1999 through September 30, 1999.

SUMMARY: The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of IDEA or the regulations that implement IDEA.

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds or Rhonda Weiss. Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5465 or the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 am and 8:00 pm, Eastern time, Monday through Friday, except Federal holidays.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued between July 1, 1999 and September 30, 1999.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

Part A: General Provisions

Section 602—Definitions

Topic Addressed: Child With a Disability

• Letter dated September 14, 1999 to School Psychologist Anthony W. Coe, regarding criteria for establishing eligibility of children with pervasive developmental delay for services under Part B of IDEA, including any applicable State diagnostic criteria, and clarifying that the categories or conditions identified in the Diagnostic and Statistical Manual (DSM)–IV, are not synonymous with criteria for determining whether a child is a ''child with a disability'' under Part B of IDEA.

Topic Addressed: Related Services

• Letter dated August 2, 1999 to individual, (personally identifiable information redacted), regarding the U.S. Supreme Court's 1999 decision in *Cedar Rapids Community School District* v.*Garret F.*, which clarifies that required nursing services provided during school hours can be an eligible ''school health service,'' the Department's views regarding the impact of the decision, and provisions in IDEA that are designed to assist States and school districts in financing the costs of required school health services.

• Letter dated August 11, 1999 to U.S. Congressman David Camp, regarding the impact on school districts of the U.S. Supreme Court's 1999 decision in *Cedar Rapids Community School District* v. *Garret F.*, and an explanation of the impact of fully funding IDEA at 40 percent of the average per pupil expenditures in public elementary and secondary schools in the United States.

• Letter dated September 21, 1999 to individual, (personally identifiable information redacted), regarding the impact on school districts of the U.S. Supreme Court's 1999 decision in *Cedar Rapids Community School District* v. *Garrett F.* and clarifying that the number of disabled students requiring the one-on-one nursing services required by the Garrett F. decision is limited.

Part B: Assistance for Education of All Children with Disabilities

Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations

Topic Addressed: Distribution of Part B Funds

• Letter dated September 20, 1999 to Walnut Creek School District Superintendent Michael De Sa, and letter dated September 20, 1999 to individual, (personally identifiable information redacted), regarding provisions in the IDEA Amendments of 1997 that revise the formula for distribution of funds awarded under Part B of IDEA and describing increases in Federal funding levels for special education programs in the past several years, despite funding reductions in other Federal programs.

Topic Addressed: Use of Part B Funds

• Letter dated August 5, 1999 to Louisiana Department of Education Director Virginia C. Beridon regarding criteria for determining whether use of Part B funds for international travel is an allowable cost.

Section 612—State Eligibility

Topic Addressed: Free Appropriate Public Education

• Letter dated August 6, 1999 to Attorney Brian J. Bocketti, regarding State flexibility under section 504 of the Rehabilitation Act of 1973 (section 504) in determining nonresident tuition rates for students with disabilities in public school choice programs as long as appropriate educational services are made available and funded.

• Letter dated September 14, 1999 to Colorado Department of Education Federal Complaints Officer Charles M. Masner, regarding the responsibility of the State educational agency or public agency to appoint a hearing officer or to resolve a State complaint if a parent alleges either that the award of a regular high school diploma to their child was appropriate or that the award of a regular high school diploma to their child was not appropriate.

• Letter dated September 29, 1999 to individual, (personally identifiable information redacted), regarding a State's right to establish proficiency standards for high school graduation and clarifying that such State standards may not be established or implemented in a nondiscriminatory manner in violation of section 504 and Title II of the Americans With Disabilities Act, and the responsibility of the individualized education program (IEP) team under Part B of IDEA to determine if eligible students with disabilities require modifications to participate in State assessments.

Topic Addressed: Least Restrictive Environment

• Letter dated September 21, 1999 to individual, (personally identifiable information redacted), regarding the need to place certain disabled students in special schools or residential schools, and clarifying that the Part B regulatory requirement for a continuum of alternative placements does not compel a State to create an appropriate residential placement within a State if an appropriate residential placement for the child is otherwise available.

Topic Addressed: State Educational Agency General Supervisory Responsibility

• Letter dated August 5, 1999 to individual, (personally identifiable information redacted), and letter dated August 5, 1999 to Florida Department of Education Bureau of Instructional Support and Community Services Chief Shan Goff, regarding a State's obligation to resolve a complaint against a school district where a child's parents no longer reside, including: (1) Requiring appropriate corrective action by that district; and (2) using the State complaint procedures as a means of addressing both systemic and child-specific violations of Part B of IDEA.

• Letter dated August 19, 1999 to California Department of Education Superintendent of Public Instruction Delaine Eastin and Youth and Adult Correctional Agency Secretary Robert Presley, informing California of its receipt of IDEA sections 611 and 619 Part B funds for Federal Fiscal Year 1999 and its status as a high risk grantee, as well as the special conditions imposed on its receipt of these grant awards.

Topic Addressed: Information Required for State Program Grants

• Letter dated August 12, 1999 to Native American Protection & Advocacy Project, Inc. Attorneys Sarah J. Somers and Therese E. Yanan regarding the obligations of all States, including the Bureau of Indian Affairs (BIA), to submit final policies and procedures that comply with the requirements of the IDEA Amendments of 1997 as a condition for receipt of their Federal Fiscal Year 2000 Part B of IDEA grant awards, the difficulties experienced by children with disabilities attending schools funded by the BIA in obtaining appropriate educational services and in resolving disagreements with schools, and the obligations of the BIA to implement a due process system that meets the requirements of section 615 of IDEA and to ensure the availability of the State complaint procedures.

Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational placements

Topic Addressed: Individualized Education Programs

• Letter dated August 5, 1999 to Ohio Protection and Advocacy Association member Suzanne Faustini regarding the absence of a requirement in Part B of IDEA that recommendations of parents or other team members not adopted by the IEP team be included in the IEP, clarifying that the IEP is developed by consensus rather than by majority vote and that the public agency must give parents prior written notice explaining why the recommendations were not adopted.

• Letter dated September 14, 1999 to Attorney Gary D. Lander regarding whether a school board member may be a member of an IEP team, at the request of a parent or a public agency.

Section 615—Procedural Safeguards

Topic Addressed: Mediation

• Letter dated August 26, 1999 to individual, (personally identifiable information redacted), regarding the mediation confidentiality requirements of the IDEA Amendments of 1997 and the Department's regulations that prohibit the use of mediation discussions as evidence in a due process hearing or civil proceeding, but clarifying congressional intent that this requirement not be used to supersede any discovery rights in such proceedings or any parental access rights under the Family Educational Rights and Privacy Act of 1974.

Topic Addressed: Discipline Procedures

• Letter dated July 27, 1999 to U.S. Congressman Rush Holt regarding obligations of school districts to take prompt and appropriate steps whenever a student with or without a disability threatens school safety and explaining the options available to school authorities in disciplining a disabled student who threatens school safety.

• Letter dated September 20, 1999 to individual, (personally identifiable information redacted), regarding options available to school authorities in disciplining students with disabilities, particularly the use of proactive measures, including appropriate behavioral interventions, and information about some of the programs that the Department funds regarding the

use of appropriate behavioral interventions.

Section 619—Preschool Grants

Topic Addressed: Procedures for Allocating Subgrants to Eligible Entities

• Letter dated July 9, 1999 to Arizona Superintendent of Public Instruction Lisa Graham Keegan regarding the formula for the Preschool Grants program and how State educational agencies allocate subgrants to local educational agencies, procedures for calculating base payments and population and poverty payments, and clarifying that there are no provisions in Part B of IDEA authorizing waivers of these requirements.

Part D: National Activities To Improve Education of Children With Disabilities

Subpart 1—State Program Improvement Grants for Children With Disabilities

Section 653—Applications

Topic Addressed: Information About State Program Improvement Grants

• OSEP memorandum 99–14 dated July 30, 1999, to interested parties providing guidance related to State program improvement grants.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF 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 1–800–293–6498; or in the Washington, D.C., area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: March 14, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–6649 Filed 3–16–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 00–13; Medical Applications Program

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving grant applications to support one specific research area within the Medical Applications Program: *Imaging Gene Expression in Health and Disease.* The specific goals include development of nuclear medicine driven technologies to image mRNA transcripts in real time in tissue culture and whole animals. Special consideration will be given to applications arising from a well integrated, multidisciplinary team effort of scientists with skills to address the needs, issues and importance of nucleic acid biochemistry, radioligand synthesis and macromolecular interactions; functional consequences of gene expression by targeting and perturbing the activity of a particular gene; and biological applications of optical and radionuclide imaging devices; contributing to the goal of imaging specific gene expression in real time in animals to humans. The access to, or availability of specialized molecular radioligands, transgenic animal models of human disease, and biological imaging devices for real time imaging in animals to humans, will be important factors for funding considerations. Methodological approaches that are applicable to any mRNA species are encouraged.

DATES: Before preparing a formal application, potential applicants are encouraged to submit a brief preapplication. All preapplications referencing Program Notice 00–13, should be received by DOE by 4:30 pm, EDT., April 14, 2000. A response encouraging or discouraging the submission of a formal application will be communicated by electronic mail by April 21, 2000.

Formal applications submitted in response to this notice must be received by 4:30 p.m., E.D.T., May 30, 2000, to be accepted for merit review and consideration for award in Fiscal Years 2000 and 2001.

ADDRESSES: Preapplications referencing Program Notice 00–13, must be sent by E-mail to sharon.betson@science.doe.gov. Preapplications will also be accepted if mailed to the following address: Ms. Sharon Betson, Office of Biological and Environmental Research, SC–73, 19901 Germantown Road, Germantown, MD 20874–1290.

Formal applications referencing Program Notice 00–13, should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 00–13. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or hand-carried by the applicant. An original and seven copies of the application must be submitted.

FOR FURTHER INFORMATION CONTACT: Dr. Prem C. Srivastava, Office of Biological and Environmental Research, Medical Sciences Division (SC–73), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–4071, FAX: (301) 903–0567, E-mail: prem.srivastava@science.doe.gov. The full text of Program Notice 00–13 is available via the Internet using the following web site address: http://www.sc.doe.gov/production/grants/grants.html.

SUPPLEMENTARY INFORMATION: The Medical Applications Program supports directed nuclear medicine research through radiopharmaceutical development, molecular nuclear medicine and medical imaging instrumentation program activities to study uses of radioisotopes for non-invasive diagnosis and internal molecular radiotherapy. Molecules directing or affected by homeostatic controls always interact and, thus, are targets for specific molecular substrates. The substrate molecules can be tailored to fulfil a specific need and labeled with appropriate radioisotopes to become measurable in real time in the body on their way to, and in interaction with their targets allowing the analysis of molecular function in homeostatic control in health and disease. The function of radiopharmaceuticals at various sites in the body is imaged by nuclear medical instruments, such as, gamma cameras and positron emission tomographs (PET). This type of imaging refines diagnostic differentiation at molecular/metabolic levels between health and disease, and among various diseases such as of the heart, brain and cancer, often leading to more effective therapy. If labeled with high energy-emitting radioisotopes, the substrate molecules, carrying the radiation dose

may be powerful tools for targeted molecular therapy especially of cancer.

Basic research in molecular biology has provided new insights to the molecular basis of disease and molecular targets of human diseases. The current Molecular Nuclear Medicine program encourages development of new technologies for molecular delivery of radioisotopes to the disease-target-sites with a high degree of molecular precision, recognition, and target selectivity.

In addition nuclear medicine, with the availability of miniaturized PET technology for small animal imaging, can facilitate mapping of the biochemistry of the metabolic organ function, visualizing the molecular biology of cell function, and zooming in on gene function for delineating differences in molecular biology of normal health from disease, in animals to humans.

With the advent of the genome project and the development of transgenic mice, there has been a rapid proliferation of small animal models of human diseases, and improvement in optical and radionuclide in vivo imaging instrumentation technologies. These technological advancements have offered a paradigm shift in the current level of nuclear medicine research challenges and opportunities. Nuclear medicine techniques can permit analysis of the molecular elements as markers of genetic manipulations, biological transformations and progression of the disease, and provide insights to molecular pathways of disease and gene function. The development of generic methods to image specific gene expression will result in major advances in our understanding of developmental biology, cancer induction and pathogenesis, and in the clinical detection of inherited and acquired diseases. Such studies are therefore a major focus of this program. Additional information can be obtained at the following web site http://www.sc.doe.gov/production/ober/msd reports.html.

This Notice is to solicit applications for grants for imaging gene expression in real time, in tissue culture and in whole animals in vivo. Currently the expression of endogenous genes in animals (including humans) cannot be imaged, at least not directly. Given the astounding pace of biotechnology development, it may be highly challenging but not an unattainable goal. A well integrated concerted team effort from the overlapping disciplines of chemistry and radiopharmaceutical chemistry, cellular and molecular biology, and biological and nuclear medicine imaging will become increasingly important for success. It will be important for each application to address response in view of the following research areas, which may be crucial for progress in imaging gene expression:

(1) The radioligand molecules that will interact with the macromolecular nucleic acid structures in vivo. For example, the advances in antisense drug discovery means that antisense radiopharmaceuticals through combinatorial chemistry techniques can be designed to hybridize to target transcripts in a highly specific way. However, the antisense and combinatorial molecular chemistry technologies available for chemotherapeutic drug development, must be fully exploited and optimized for in vivo imaging.

(2) Molecular signal amplification methods are not yet available that work in vivo at the mRNA level, and technological advancement in this area is well desired.

(3) Equally important is the hurdle of drug targeting technology, which must be developed to such an extent that the various biological barriers can be safely surmounted in vivo.

(4) Finally, the fluorescent molecular imaging technologies available for more routine in vitro screening and in vivo real time imaging, that can be used as a proof of principle and a prelude to in vivo nuclear medicine imaging, should be exploited in conjunction with nuclear medicine devices.

Program Funding

It is anticipated that approximately $3 million will be available for multiple grant awards during Fiscal Years 2000 and 2001 contingent upon the availability of appropriated funds. Previous awards have ranged from $200,000 per year up to $400,000 per year (direct plus indirect costs) with terms lasting up to three years. Similar award sizes are anticipated for new grants. Applications may request project support up to three years, with out-year support contingent on the availability of funds, progress of the research and programmatic needs.

Preapplications

A brief preapplication should be submitted. The preapplication should identify, on the cover sheet, the title of the project, the institution, principal investigator name, address, telephone, fax, and E-mail address. The preapplication should consist of two to three pages identifying and describing the research objectives, methods for accomplishment, and the key members of the scientific team responsible for undertaking this effort. Preapplications will be evaluated relative to the scope and research needs for the Imaging Gene Expression Program.

Merit Review

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project
2. Appropriateness of the Proposed Method or Approach
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and the agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Submission Information

Information about the development, submission of applications, eligibility, limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at: http://www.sc.doe.gov/production/grants/grants.html. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

In addition, for this Notice, the Project Description must be 25 pages or less, exclusive of attachments, and the application must contain a Table of Contents, an abstract or project summary, letters of intent from collaborators (if any), and short curriculum vitae consistent with National Institutes of Health guidelines. On the SC grant face page, form DOE F4650.2, in block 15, also provide the PI's phone number, fax number, and E-mail address.

DOE policy requires that potential applicants adhere to 10 CFR 745

''Protection of Human Subjects'', or such later revision of those guidelines as may be published in the **Federal Register**.

The Office of Science as part of its grant regulations requires at 10 CFR 605.11(b) that a recipient receiving a grant and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with NIH ''Guidelines for Research Involving Recombinant DNA Molecules,'' which is available via the world wide web at: http://www.niehs.nih.gov/odhsb/biosafe/nih/rdna-apr98.pdf, (59 FR 34496, July 5, 1994,) or such later revision of those guidelines as may be published in the **Federal Register**.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on March 9, 2000.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 00–6654 Filed 3–16–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 00–12; Terrestrial Carbon Processes (TCP)

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for research on Terrestrial Carbon Processes (TCP).

DATES: The deadline for receipt of formal applications is 4:30 pm, EDT, April 27, 2000, to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2000 and early Fiscal Year 2001.

ADDRESSES: Formal applications referencing Program Notice 00–12, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 00–12. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Roger C. Dahlman, Environmental Sciences Division, SC–74, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–4951, E-mail: roger.dahlman@science.doe.gov, fax: (301) 903–8519. The full text of Program Notice 00–12 is available via the Internet using the following web site address: http://www.sc.doe.gov/production/grants/grants.html.

Applicants are strongly encouraged to match their research applications to terms of announcement scope, and preapplications therefore are not required. Brief questions for clarification can be addressed to Dr. Dahlman, Manager of Terrestrial Carbon Processes Research Program.

SUPPLEMENTARY INFORMATION: The general goal of TCP research is to advance the scientific understanding of terrestrial processes regulating carbon balance of ecosystems, and the role of ecosystems in the exchange of carbon dioxide (CO_2) between the atmosphere and terrestrial biosphere. Important endpoints of the research are to determine the capacity of ecosystems to store carbon, and estimate their influence on the rate of atmospheric CO_2 change. This research addresses the important global change issues of causes and rates of CO_2 change that may underlie climate change. In this context, the research is an important adjunct to policies and actions being considered for slowing the rise of greenhouse gases in the atmosphere. Interests and intents of TCP are to augment research on measurements, experiments and modeling of carbon processes. This Notice solicits research on ''terrestrial carbon processes'' with primary emphasis on measurements needed to derive or estimate the net exchanges of CO_2 between the atmosphere and the terrestrial biosphere, and the acquisition of new knowledge about fundamental processes that regulate exchanges.

The intent of this Notice is to strongly focus on field programs of measurement, experimental manipulation, and analysis of carbon processes; laboratory or controlled environment research is NOT encouraged. This is the third cycle of solicitations for refocused DOE research on terrestrial carbon that was formerly carried out on the global carbon cycle, and on the response of vegetation to CO_2. TCP is particularly interested in research activities that augment the existing AmeriFlux measurement program, including associated ecosystem level observations and experiments.

A central element of current TCP research is the AmeriFlux Program of measuring net CO_2 exchange, including the suite of core measurements that are needed for understanding intrinsic controls on carbon acquisition by ecosystems. The AmeriFlux Network of Sites and current Science Plan can be accessed from the web site: http://cdiac.esd.ornl.gov/programs/ameriflux/, which applicants are strongly advised to review. In general, the science questions of the current Science Plan continue to guide the AmeriFlux Program.

Progress of the AmeriFlux Program to date strongly suggests that the suites of CO_2 and biological measurements are providing unique estimates of Net Ecosystem Production (NEP), or the quantity of net annual carbon gain by the ecosystem. This is vital information for global carbon cycle analysis, and the results are providing important missing information needed to balance the global carbon budget. This solicitation seeks to continue and extend AmeriFlux research in the following ways:

(1) By moderate expansion of the AmeriFlux Network to include additional geo-climatic zones, or ecological successional states, or biome types. If applicants are interested in forming new sites, the present distribution of research locations should be reviewed from the web sites, and then propose new locations that would significantly augment the existing Network. New sites will be considered only if they offer both compelling differences relative to existing ones in terms of unique geo-climatic zone or biome characteristics, and circumstances where NEP would be expected to be significant. New-site applications must, of course, be based on representative stands of vegetation, and possess appropriate physical attributes amenable to producing quality net CO_2 exchange data. Applications for new sites would identify the suite of measurements that would provide for a balance of CO_2 exchange data and independently derived estimates of NEP, that is by dimensional analysis, physiological measurements or other means. Either ''natural'' or ''managed'' ecosystems would be eligible sites.

(2) By augmenting research at existing sites. Assistance will be provided to current Network sites to upgrade core measurement capabilities, with emphasis on acquisition of basic biological data needed to explain net CO_2 exchange results. It would be expected that augmented resources would provide improved measures of both CO_2 flux and associated biological

processes. These applications would be expected to describe current observations, explain what augmentations are needed in terms of either CO_2 flux or biological process measures that will significantly upgrade site core data bases, and explain the value the additional measurement capability would provide to the site and to the Network. Since the overall value of the AmeriFlux Network depends on data sharing and data inter-comparison, only those sites that have made data available to the AmeriFlux community through the network data system (CDIAC) will be eligible for augmentation awards.

(3) By supporting supplemental research at existing sites. Purpose is to enhance overall quality of carbon process information at individual sites or for the AmeriFlux Network—in contrast to item (2) above which simply upgrades core capabilities. Requests for support would be considered, for example, to: (a) Improve micrometeorological characterization of the CO_2 exchange ''footprint;'' (b) obtain data that extend results from ecosystem to biome or regional scales (this could include aircraft flux measurements and limited support for modeling, for example;) (c) obtain isotopic data that pinpoints source and seasonality of CO_2 fluxes; (d) enhance data processing and prompt delivery of data to users; and (e) the analysis of exchanges and terrestrial carbon processes at larger scale.

Foci of these components of the solicitation are to enhance AmeriFlux science with emphasis on measurements, the development of comprehensive data sets for AmeriFlux sites, and the analysis of collateral results throughout the Network. Limited support of modeling for these purposes will be considered to the extent that analysis focuses on site and Network data sets.

Innovative applications that develop new and cost effective research approaches which can be shown to clearly contribute to understanding terrestrial carbon processes, especially the quantification of NEP, and the scientific understanding of carbon sequestration by terrestrial ecosystems, will also be considered. Examples of innovative or exploratory ideas might include, among other things, unique field experiments or manipulations of variables that regulate carbon balance, or the analysis of unique sets of data. Interest is in non-conventional approaches that offer potential for advancing both estimating carbon quantities and the scientific understanding of processes and controls. While these types of scientific studies may be linked to other on-going CO_2 carbon sequestration and carbon cycle research, they should clearly identify distinct and unique contributions—beyond already defined research of existing programs like AmeriFlux, Free Air CO_2 Enrichment (FACE) Experiments (http://cdiac.esd.ornl.gov/programs/FACE/face.html), and Carbon Sequestration (Program Notice 00–09, which closed March 2, 2000, http://www.sc.doe.gov/production/grants/fr00 09.html).

Program Funding

It is anticipated that approximately $2 million will be available for grant awards in Fiscal Year 2000, contingent upon availability of appropriated funds. Previous awards for this type of research have ranged from $100,000 up to $300,000 per year, with most not exceeding $200,000. While most awards are expected to fall within this range, a few larger awards may be granted for coordinated activities across the Network, or that have requirements for unique field investigation. Any anticipated budgets exceeding $300,000 per year per application should be discussed with the Program Manager. Funding of multiple year grant awards is expected, and is also contingent upon availability of appropriated funds.

Merit Review

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project,
2. Appropriateness of the Proposed Method or Approach,
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources,
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation process will include program policy factors such as the relevance of the proposed research to the terms of the announcement and an agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Submission Information

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at: http://www.sc.doe.gov/production/grants/grants.html. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The research project description must be 15 pages or less, exclusive of attachments and must contain an abstract or summary of the proposed research. On the SC grant face page, form DOE F 4650.2, in block 15, also provide the PI's phone number, fax number and E-mail address. Attachments include curriculum vitae, a listing of all current and pending federal support, and letters of intent when collaborations are part of the proposed research. Curriculum vitae should be submitted in a form similar to that of NIH or NSF (two to three pages), see for example: http://www.nsf.gov:80/bfa/cpo/gpg/fkit.htm#forms-9.

In addition to the original and seven copies of the application that must be submitted, the applicants are asked to submit an electronic copy of the abstract in ASCII format to *karen.carlson@science.doe.gov.* The abstract should include the following information: PI and co-PI's, their institutions, brief summary of research, including identification of principal subcontractor/collaborators even if no funds are requested for their support.

The technical portion of the application should not exceed 20 double-spaced pages plus 5 pages for curriculum vitae and all other data, and should include a short one-half page abstract. Applications that deviate from the terms of this Notice will be returned, and will not be considered for support in the third cycle of TCP. Applications received after the deadline will not be eligible for award in Fiscal Year 2000.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on March 9, 2000.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 00–6655 Filed 3–16–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

[FE Docket No. 00–02–NG , Et Al.]

Office of Fossil Energy; Petrocom Energy Group, LTD.; Orders Granting, Amending and Transferring Authorizations To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending and transferring natural gas import and export authorizations. These Orders are summarized in the attached appendix and may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on March 10, 2000.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting, Amending and Transferring Import/Export Authorizations

Order No.	Date issued	Importer/Exporter FE Docket No.	Import volume	Export volume	Comments
1566	02–01–00	Petrocom Energy Group, LTD. 00–02–NG	2 Bcf ..... 1 Bcf	1 Bcf ..... 1 Bcf	Import and export from and to Canada and Mexico over a two-year term beginning on the date of first delivery of either the import or export.
1567	02–01–00	Calpine East Fuels LLC 00–06–NG	40 Bcf	.....	Import and export a combined total from and to Canada beginning on July 1, 2000, and extending through June 30, 2002.
1568	02–04–00	Suprex Energy Corporation 00–05–NG	15 Bcf	.....	Import from Canada beginning on March 1, 2000, and extending through February 28, 2002.
1195–A	02–07–00	Bear Paw Energy, L.L.C. (The successor to Interenergy Sheffield Processing Company) 96–54–NG.	.....	.....	Transfer of long-term import authority.
1569	02–17–00	Alliance Pipeline L.P. 00–08–NG	8.8 Bcf ...	.....	Import from Canada over a two-year term beginning on the date of first delivery.
500–B ..	02–24–00	Project Orange Associates L.P. 88–01–NG	.....	.....	Amendment to long-term import authority to reflect new suppliers.
1570	02–24–00	Williams Energy Marketing & Trading Company (Formerly Williams Energy Services Company) 00–09–NG.	400 Bcf		Import and export a combined total from and to Mexico over a two year term beginning on the date of first delivery after March 31, 2000.
1571	02–25–00	Questar Energy Trading Company 00–11–NG	50 Bcf	50 Bcf	Import and export from and to Canada beginning on February 28, 2000, and extending through February 27, 2002.

[FR Doc. 00–6656 Filed 3–16–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES00–19–000]

Louisiana Generating LLC; Notice of Application

March 10, 2000.

Take notice that on March 8, 2000, Louisiana Generating LLC (Generating) submitted an application under Section 204 of the Federal Power Act seeking Commission authorization of its proposed financing to acquire fossil fuel-fired electric generating facilities of Cajun Electric Power Cooperative, Inc. Generating requests authorization to incur long-term indebtedness in an amount not to exceed $850,000,000 and to guarantee repayment of not more than $850,000,000 of long-term bonds issued by its parent company, NRG South Central Generating LLC. Generating also requests a waiver of the Commission's competitive bidding and negotiated placement requirements in 18 CFR 34.2.

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 23, 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).

David P. Boergers,

Secretary.

[FR Doc. 00–6600 Filed 3–16–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–112–000, et al.]

DTE River Rouge No. 1, LLC, et al.; Electric Rate and Corporate Regulation Filings

March 9, 2000.

Take notice that the following filings have been made with the Commission:

1. DTE River Rouge No. 1, LLC

[Docket No. EG00–112–000]

Take notice that on March 6, 2000, DTE River Rouge No. 1, LLC (Applicant), a Michigan limited liability company, with its principal place of business at 425 S. Main Street, Suite 201, Ann Arbor, Michigan 48107, 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.

Comment date: March 30, 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. Black River Limited Partnership

[Docket No. EL00–48–000]

Take notice that on March 6, 2000, Black River Limited Partnership filed with the Federal Energy Regulatory Commission (Commission) a petition for declaratory order disclaiming jurisdiction and a request for expedited consideration.

Comment date: April 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Company

[Docket No. ER00–1732–000]

Take notice that on February 29, 2000, Florida Power & Light Company (FPL), tendered for filing a settlement agreement (the Settlement Agreement) entered into by and between FPL and Florida Keys Electric Cooperative Association (FKEC) to the ''Long-Term Agreement to Provide Capacity and Energy by Florida Power & Light to Florida Keys Electric Cooperative Association, Inc.'' (FERC Rate Schedule No. 130). The purpose of the Settlement Agreement is to modify the contractual formula rate applied in calculating the demand charges.

Comment date: March 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER00–1807–000]

Take notice that on March 6, 2000, Pacific Gas and Electric Company (PG&E) filed a revised and amended Control Area Service Agreement between Dynegy Power Services, Inc. (DPS) and PG&E (Revised CATSA) and PG&E's request for withdrawal of the Second Amendment to the CATSA submitted on November 1, 1996 in Docket No. ER97–320–000.

The proposed revisions modify the existing CATSA to conform to the terms of a Settlement Agreement between DPS and PG&E, dated May 8, 1999.

Copies of this filing have been served upon DPS, the California Independent System Operator Corporation, the California Public Utilities Commission and the intervenors in Docket No. ER00–902–000.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Duke Power a Division of Duke Energy Corporation

[Docket No. ER00–1808–000]

Take notice that on March 6, 2000, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement with American Municipal Power—Ohio, Inc. for power sales at market-based rates.

Duke requests that the proposed Service Agreement be permitted to become effective on September 10, 1999.

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 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Avista Corporation

[Docket No. ER00–1809–000]

Take notice that on March 6, 2000, Avista Corporation tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 35.12 of the Commissions, 18 CFR Part 35.12, an executed Amendment to a Mutual Netting Agreement with Merchant Energy Group of the Americas, previously filed with the Commission under Docket No. ER99–2254–000, Service Agreement No. 271, effective March 24, 1999, changing billing and payment terms.

AVA requests waiver of the prior notice requirements and requests an effective date of March 1, 2000 for the amended terms for net billing of transactions.

This filing has been served upon the following: Ms. Vangie McGilloway, Contract Administrator, Merchant Group of the Americas, 151 West Street, Suite 300, Annapolis, MD 21401.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Conectiv Energy Supply, Inc.

[Docket No. ER00–1810–000]

Take notice that on March 6, 2000, Conectiv Energy Supply, Inc. (CESI) filed with the Federal Energy Regulatory Commission a letter approving its membership in the Western Systems Power Pool (WSPP).

CESI requests that the Commission allow its membership in the WSPP to become effective on March 7, 2000.

CESI states that a copy of this filing has been served on the Delaware Public Service Commission, the WSPP Executive Committee, General Counsel to the WSPP and the members of the WSPP.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Portland General Electric Company

[Docket No. ER00–1811–000]

Take notice that on March 6, 2000, Portland General Electric Company (PGE) tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96–137–000), executed Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Coral Power, LLC.

PGE requests that the Service Agreement become effective March 1, 2000.

A copy of this filing was served on Coral Power, LLC.

Comment date: March 27, 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. ER00–1812–000]

Take notice that on March 6, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company) filed Amendment No. 2 to Supplement No. 9 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 24, 1999, to Virginia Electric & Power Company.

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 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Avista Turbine Power, Inc.

[Docket No. ER00–1814–000]

Take notice that on March 6, 2000, Avista Turbine Power, Inc. (Avista Turbine) tendered for filing a petition for acceptance of an initial rate schedule authorizing Avista Turbine to make wholesale sales of power at market-based rates.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Otter Tail Power Company

[Docket No. ER00–1815–000]

Take notice that on March 6, 2000, Otter Tail Power Company (OTP) tendered for filing a Service Agreement between OTP and Northcentral Power Co. The Service Agreement allows Northcentral Power Co. to purchase capacity and/or energy under OTP's Coordination Sales Tariff.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. DTE River Rouge No. 1, LLC

[Docket No. ER00–1816–000]

Take notice that on March 6, 2000, DTE River Rouge No. 1, LLC (DTE-River Rouge) submitted a petition for authorization to make sales of capacity and energy at market-based rates, and a request for certain related blanket authorizations and waivers.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER00–1818–000]

Take notice that the California Independent System Operator Corporation, on March 6, 2000, tendered for filing a Scheduling Coordinator Agreement between the ISO and Constellation Power Source, Inc. for acceptance by the Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of February 28, 2000.

The ISO states that this filing has been served on Constellation Power Source, Inc. and the California Public Utilities Commission.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota)

[Docket No. ER00–1819–000]

Northern States Power Company (Wisconsin)

Take notice that on March 6, 2000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP) tendered for filing a Non-Firm and a Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and Allegheny Energy Supply Company, LLC.

NSP requests that the Commission make the Agreement effective February 7, 2000.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Commonwealth Edison Company and Commonwealth Edison Company of Indiana

[Docket No. ER00–1820–000]

Take notice that on March 6, 2000, Commonwealth Edison Company and Commonwealth Edison Company of Indiana (collectively ComEd) filed amendments to ComEd's Open Access Transmission Tariff (OATT) to add an Appendix K prescribing procedures for the interconnection of generation.

ComEd requests an effective date of May 1, 2000 for the proposed amendments and accordingly requests waiver of the Commission's notice requirements.

Copies of the filing were served upon ComEd's jurisdictional customers and interested state commissions.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. PJM Interconnection, L.L.C.

[Docket No. ER00–1825–000]

Take notice that on March 6, 2000, PJM Interconnection, L.L.C. (PJM) tendered for filing one signature page of Washington Gas Energy Services, Inc. to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA), and an amended Schedule 17 listing the parties to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including Washington Gas Energy Services, Inc., and each of the electric

regulatory commissions within the PJM Control Area.

Comment date: March 27, 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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–6598 Filed 3–16–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1830–000, *et al.*]

El Segundo Power, LLC, *et al.*; Electric Rate and Corporate Regulation Filings

March 10, 2000.

Take notice that the following filings have been made with the Commission:

1. El Segundo Power, LLC

[Docket No. ER00–1830–000]

Take notice that on March 7, 2000, El Segundo Power, LLC (ESP), tendered for filing a proposed Non-Market Dispatch Service Tariff. The tariff provides for the dispatch of units of the ESP Facility by market participants in California to maintain reliable grid operation and other purposes and sets a rate for that service.

ESP requests that the notice requirements set forth in Section 35.3(a) be waived to the extent required to allow the tariff to become effective as of January 1, 2000.

Comment date: March 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–1817–000]

Take notice that on March 7, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and FPL Energy Power Marketing, Inc. (FPL ENERGY), dated March 6, 2000. This Service Agreement specifies that FPL ENERGY has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and FPL ENERGY to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 6, 2000, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. California Independent System Operator Corporation

[Docket No. ER00–1821–000]

Take notice that on March 7, 2000, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and Constellation Power Source, Inc., for acceptance by the Commission.

The ISO states that this filing has been served on Constellation Power Source, Inc. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of February 28, 2000.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. California Independent System Operator Corporation

[Docket No. ER00–1822–000]

Take notice that on March 7, 2000, the California Independent System Operator Corporation, tendered for filing a Scheduling Coordinator Agreement between the ISO and Cargill-Alliant, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Cargill-Alliant, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of February 28, 2000.

Comment date: March 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–1823–000]

Take notice that on March 7, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and DukeSolutions, Inc. (DUKESOLUTIONS), dated March 6, 2000. This Service Agreement specifies that DUKESOLUTIONS has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and DUKESOLUTIONS to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 6, 2000, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: March 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–1824–000]

Take notice that on March 7, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered an executed Service Agreement between GPU Energy and Potomac Electric Power Company (PEPCO), dated March 6, 2000. This Service Agreement specifies that PEPCO has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No.

5. The Sales Tariff allows GPU Energy and PEPCO to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 6, 2000, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: March 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Detroit Edison Company

[Docket No. ER00–1826–000]

Take notice that on March 6, 2000, The Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements (the Service Agreement) for Short-term Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1, between Detroit Edison and CMS Marketing, Services and Trading Company, dated as of February 25, 2000. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of March 28, 2000.

Comment date: March 27, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. ANP Marketing Company

[Docket No. ER00–1828–000]

Take notice that on March 7, 2000, ANP Marketing Company (Marketing), tendered for filing pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.205 and 385.207) a petition seeking waivers and blanket approvals under various regulations of the Commission, and an order accepting its FERC Electric Rate Schedule No. 1, to be effective on the date of the Commission's order on such petition.

Marketing intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Marketing purchases power, including capacity and related services from electric utilities, qualifying facilities, and independent power producers, and resells such power to other purchasers, Marketing will be functioning as a marketer. In Marketing's marketing transactions, Marketing proposes to charge rates mutually agreed upon by the parties. In transactions where Marketing does not take title to the electric power and/or energy, Marketing's role will be limited to that of a broker. Marketing is not in the business of generating or transmitting electric power, and does not currently have or contemplate acquiring title to any electric power generation or transmission facilities.

FERC Electric Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices.

Comment date: March 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Southwest Power Pool, Inc.

[Docket No. ER00–1829–000]

Take notice that on March 7, 2000, Southwest Power Pool, Inc. (SPP), tendered for filing three executed service agreements for firm point-to-point transmission service under the SPP Tariff with Tenaska Power Services Company (Tenaska).

SPP requests effective dates for these service agreements of January 1, 2002, January 2, 2003, and January 1, 2004, respectively, which is the date service is to commence under each of the three agreements.

Copies of this filing were served upon Tenaska and Entergy Power Marketing Corporation (Entergy). Entergy has filed a complaint concerning the subject service agreements in Docket No. EL00–46 which SPP is answering concurrently with this filing.

Comment date: March 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–6599 Filed 3–16–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Proposed Rate Adjustment for the Jim Woodruff Project

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of public hearing and opportunities for review and comment.

SUMMARY: Southeastern proposes replacing Wholesale Power Rate Schedules JW–1–E and JW–2–B with new Wholesale Rate Schedules JW–1–F and JW–2–C effective September 20, 2000. Rate Schedules JW–1–F and JW–2–C will remain in effect through September 19, 2005. Rate Schedule JW–1–F is applicable to Southeastern power sold to existing preference customers in the Florida Power Corporation Service area. Rate Schedule JW–2–C is applicable to Florida Power Corporation.

Opportunities will be available for interested persons to review the present and proposed rates, and the supporting studies and to participate in a hearing and to submit written comments. Southeastern will consider all comments received in this process.

DATES: Written comments are due on or before June 15, 2000. A public information and public comment forum will be held in Tallahassee, Florida, at 10 a.m. on May 3, 2000. Persons desiring to speak at the forum must notify Southeastern at least seven (7) days before the forum is scheduled so that a list of forum participants can be prepared. Others present at the forum may speak if time permits. Persons desiring to attend the forum should notify Southeastern at least seven (7) days before the forum is scheduled. The forum will be canceled with no further notice unless Southeastern has been notified by close of business on April 24, 2000, that at least one person intends to be present at the forum.

ADDRESSES: Five copies of written comments should be submitted to: Charles Borchardt, Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment Forum will meet at the Courtyard by Marriott, 1018 Apalachee

Parkway, Tallahassee, Florida 32301, Phone (850) 222–8822.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance and Marketing Division, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (706) 213–3800.

SUPPLEMENTARY INFORMATION: Existing rate schedules are supported by a March 1995 Repayment Study and other supporting data contained in FERC Docket EF95–3031–000. A repayment study prepared in March 2000 shows that the existing rates are not adequate to meet repayment criteria. A revised repayment study with a revenue increase of $237,000, or 4.3 percent, demonstrates that all costs are paid within their repayment life thus satisfying the repayment criteria. The increase is primarily due to costs associated with the rehabilitation of the project. Southeastern is proposing to raise rates to recover this additional $237,000.

The capacity charge in the proposed Wholesale Power Rate Schedule JW–1–F has been raised from $5.13 per kilowatt per month to $5.52 per kilowatt per month. The energy charge has been increased from 15.2 mills per kilowatt-hour to 15.49 mills per kilowatt-hour. Proposed Wholesale Power Rate Schedule JW–2–C, raises the rate from 60 percent of the Florida Power Corporation's fuel cost to 63 percent of the Corporation's fuel cost.

The studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635, as are the 1995 repayment study and the proposed Rate Schedules.

Dated: March 1, 2000.

Charles A. Borchardt,

Administrator.

[FR Doc. 00–6677 Filed 3–16–00; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6252–1]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR www.epa.gov/oeca/ofa.

Weekly Receipt of Environmental Impact Statements Filed March 06, 2000 Through March 10, 2000 Pursuant to 40 CFR 1506.9

EIS No. 000071, Final EIS, TPT, CA, Presidio of San Francisco General Management Plan, Implementation, New Development and Uses within the Letterman Complex, Golden Gate National Recreation Area, City and County of San Francisco, CA, Due: April 17, 2000, Contact: John G. Pelka (415) 561–5300.

EIS No. 000072, Draft EIS, FAA, RI, T. F. Green Airport Project, To Implement the Part 150 Noise Abatement Procedures in a Safe and Efficient Manner, Warwick County, RI, Due: May 01, 2000, Contact: Theresa Flieger (781) 238–7524.

EIS No. 000073, Draft EIS, TVA, TN, Tellico Reservoir Land Management Plan, Implementation of Seven Mainstream and Two Tributary Reservoirs, Blount, Loudon and Monroe, TN, Due: May 01, 2000, Contact: Steven L. Akers (865) 988–2430.

EIS No. 000074, Draft EIS, AFS, CO, Upper Blue Stewardship Project, Implementation of Vegetation Management, Travel Management, Designation of Dispersed Camping Sites, White River National Forest, Dillion Ranger District, Summit County, CO, Due: May 12, 2000, Contact: Kathleen Phelps (970) 468–5400.

EIS No. 000075, Draft EIS, COE, NJ, Raritan Bay and Sandy Hook Bay, Hurricane and Storm Damage Reduction Project, Flood Control and Storm Damage Protection, Port Monmouth, Middletown Township, Monmouth County, NJ, Due: May 01, 2000, Contact: Mark H. Barlas (212) 264–4663.

EIS No. 000076, Draft EIS, AFS, ID, Middle Fork Weiser River Watershed Project, Implementation of Vegetation Restoration, Landscape Fire Pattern and Watershed Restoration Objectives, Payette National Forest, Council Ranger District, Adams County, ID, Due: May 18, 2000, Contact: Faye Kreieger (208) 253–0100.

EIS No. 000077, Draft EIS, BLM, OR, CA, Cascade Siskiyou Ecological Emphasis Area Management Plan, To Maintain, Protect, Restore or Enhance the Ecological Processes, Planning Area for Designation as a National Monument by the President, OR and CA, Due: June 14, 2000, Contact: Tom Sensenig (541) 618–2200.

Amended Notices

EIS No. 000034, Draft EIS, FRA, Use of Locomotive Rule, Nationwide, Due: May 26, 2000, Contact: Mark H. Tessler (202) 493–6038. Published -FR–02–18–00 This EIS was inadvertently published in the 02–18–2000 FR. The correct Notice of Availability was published in the 01–21–2000 FR CEQ #000006 the correct date comments are due back to the preparing agency is May 26, 2000.

Dated: March 13, 2000.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–6706 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6252–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 28, 2000 Through March 03, 2000 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1999 (63 FR 17856).

Draft EISs

ERP No. D–AFS–L65341–OR Rating EC2, Tower Fire Recovery Project, Restoration and Salvage, Implementation, Umatilla National Forest, North Fork John Day Ranger District, Umatilla and Grant Counties, OR.

Summary: EPA expressed concerns with the lack of information on related TMDL efforts by the Oregon Dept. of Environmental Quality, and the potential impacts to federally listed salmonid species, especially increased sedimentation and habitat fragmentation from current and proposed roads.

ERP No. D–BLM–J65318–00 Rating EC2, Montana, North Dakota and Portions of South Dakota Off-Highway Vehicle Management and Plan Amendment, Implementation, MT, ND and SD.

Summary: EPA expressed environmental concerns due to potential adverse impacts to water quality, wetlands and endangered species habitat from non-system roads and user exemptions. The final EIS should include information related to monitoring, enforcement and an inventory of non-system roads. EPA suggests that the selected alternative consider the exclusion of non-system

roads and trails for OHV access prior to site-specific analysis to identify appropriate use areas.

ERP No. D–BLM–L65339–OR Rating LO, North Bank Habitat Management Area (NBHMA)/Area of Critical Environmental Concern (ACEC), Federally Endangered Columbian White-Tailed Deer (CWTD) and Special Status Species Habitat Enhancements to Ensure Viability Over Time, Implementation, OR.

Summary: EPA expressed lack of objections and expects that road restrictions, trail maintenance, camping restrictions and environmental education programs will help improve deer habitat while maintaining recreation opportunities within the area.

ERP No. D–FHW–D40303–PA Rating EC2, Mon/Fayette Transportation Project, Improvements from Uniontown to Brownsville Area, Funding and COE Section 404 Permit, Fayette and Washington Counties, PA.

Summary: EPA expressed concern due to potential impacts on cultural/natural resources and residential/commercial properties. EPA requested that the final document provide additional mitigation to avoid/protect aquatic and terrestrial resources.

ERP No. D–NPS–J65319–UT Rating LO, Zion National Park, General Management Plan, Implementation, Washington, Iron and Kane Counties, UT.

Summary: EPA has no objection to the proposed action.

ERP No. DS–FHW–G40145–00 Rating LO, US 71 Highway Improvement Project, Updated Information, between Texarkana, (US71) Arkansas and DeQueen, Texarkana Northern Loop Funding, Right-of-Way Approval and COE Section 404 Permit, Little River, Miller and Sevier Counties, AR and Bowie County, TX.

Summary: EPA's previous review indicated that there was no objection to the preferred alternative. EPA has no objections to the two new alternatives now identified in the document.

ERP No. DS–UAF–E11032–FL Rating EO2, Homestead Air Force Base (AFB) Disposal and Reuse Updated and Additional Information on Disposal of Portions of the Former Homestead (AFB), Implementation, Dade County, FL.

Summary: EPA objects to the proposed action to convert the former HAFB into a commercial regional airport. EPA believes that siting a commercial airport between the Everglades and Biscayne National Parks is inappropriate and strongly recommend an environmentally sensitive mixed use alternative be selected as the preferred alternative. Of the presented alternatives, EPA believes that the Collier Mixed Use Proposal with some modifications and assurances is the environmentally preferred alternative and should be pursued further in the final EIS.

Final EISs

ERP No. F–BLM–G65051–NM New Mexico Standards for Public Land Health and Guidelines for Livestock Grazing Management, Implementation, NM.

Summary: EPA had no objections to the proposed action.

ERP No. F–COE–E39051–FL Lake Okeechobee Regulation Schedule Study, To Maintain or Improve Existing Water Storage, St. Lucie and Caloosahatchee River Estuaries, FL.

Summary: EPA continue to express concern regarding the lack of a comprehensive downstream monitoring program. EPA requested the ROD commit to a monitoring program and that the acquired data be shared with involved state and federal agencies in determining the effects of short-term phosphorous increases on the Everglades Protection Area.

ERP No. F–FHW–F40380–IN IN–641 Terre Haute Bypass, Improve access between US 41 South to I–70 East of Terre Haute, Funding and COE Section 404 Permit, Vigo County, In.

Summary: EPA's previous issues were resolved, therefore EPA has no objection to the action as proposed.

ERP No. F–FHW–G50008–00 Great River Bridge, Construction, US 65 in Arkansas to MS–8 in Mississippi, Funding, COE Section 404 Permit and US Coast Guard Bridge Permit, Desha and Arkansas Counties, AR and Bolivar County, MS.

Summary: EPA's previous issues have been resolved, therefore EPA has no objection to the selection of the Southern Alternative as the preferred transportation corridor.

ERP No. F–FHW–J40150–ND Interstate 29 Reconstruction Project, Improvements from Rose Coulee to Cass County Road No. 20, Funding, City of Fargo, ND.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–K40193–CA I–215 Improvements, Orange Show Road to CA–30, Funding, City of San Bernardino, San Bernardino County, CA.

Summary: EPA expressed continued concern that cumulative impacts were not fully addressed. EPA requested that additional comments on air and water quality mitigation, solid waste, pollution prevention, and cumulative impacts be addressed in the Record of Decision.

ERP No. F–FRC–J05079–00 Cabinet Gorge (No. 2058–014) and Noxon Rapids (No. 2075–014) Hydroelectric Project, Relicensing, MT and ID.

Summary: EPA recommended that FERC include a minimum flow release from Noxon Rapids Dam to reduce the magnitude of flow, velocity, and depth fluctuations in the river channel below Noxon Rapids Dam. EPA also recommended that the recommended measures, terms and conditions of the US Fish and Wildlife Service to minimize an incidental take of the bull trout be included as FERC license conditions.

ERP No. F–NPS–D61051–VA Booker T. Washington National Monument (BOWA), General Management Plan, Implementation, Franklin County, VA.

Summary: EPA's previous issues have been adequately addressed, therefore EPA no objection to the action as proposed.

ERP No. F–UAF–G11038–00 Realistic Bomber Training Initiative, Improve the B–52 and B–1 Aircrews Mission Training and Maximize Combat Training Time, Barksdale Air Force Base, LA, NM and TX.

Summary: EPA has no objection to the action as proposed.

ERP No. F–USN–K11099–NV Fallon Naval Air Station (NAS), Proposal for the Fallon Range Complex Requirements, Federal and Private Lands, Churchill, Eureka, Lander, Mineral, Nye and Washoe Counties, NV.

Summary: No formal comment letter was sent to the preparing agency.

Dated: March 14, 2000.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–6707 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6252–3]

Peace River Intake Facility, DeSoto County, Florida Construction and Operation of Expanded Water Treatment and Aquifer Storage/Recovery Facilities: Intent To Prepare an Environmental Impact Statement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) on facility construction associated with the Peace River/Manasota Regional

Water Supply Authority Facility Construction Grant.

PURPOSE: Pursuant to 40 CFR 1501.7 and in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA), EPA has identified the need to prepare an EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1507.7.

FOR FURTHER INFORMATION AND TO BE PLACED ON THE PROJECT MAILING LIST CONTACT: Ms Lena Scott, Environmental Protection Agency—Region 4, Office of Environmental Assessment, 61 Forsyth Street, Atlanta, Georgia 30303, Telephone: (404) 562-9607 or FAX (404) 562–9598.

SUMMARY: EPA intends to prepare the EIS to evaluate the impacts of the Peace River/Manasota Regional Water Supply Authority's (Authority) proposal to construct and operate expanded water treatment and aquifer storage/recovery facilities at its existing Peace River Facility located in southwest DeSoto County, Florida. The proposed facilities will include treatment of surface water, alternative water storage including off-stream aquifer storage and recovery wells, and expansion of regional pipeline connections. EPA intends to retain the services of an independent contractor to provide technical data and to prepare the EIS using the ''third party method'' as provided under 40 CFR 6.510(b)(3). By utilizing the third party method, EPA enters into an agreement for the Authority to engage and pay for the services of a contractor to prepare the EIS under the direction of EPA.

NEED FOR ACTION: EPA awarded construction grants totaling $9,574,000 to the Authority for the construction of water treatment and aquifer storage/recovery facilities. Based on draft Environmental Information Documents (EID) submitted by the Authority, EPA determined the EID did not adequately address potential impacts and could not issue a Finding of No Significant Impact (FONSI). Known concerns include impacts from reduced flows on the Peace River, long-term impacts to Charlotte Harbor, threatened and endangered species, salinity regime change impacts on aquatic organisms, sport and commercial fisheries, cumulative and secondary impacts.

ALTERNATIVES:

- EPA issues construction grant with conditions.
- EPA issues construction grant with no conditions.
- EPA withholds construction grant, the No Action Alternative.

SCOPING: EPA will hold a public scoping meeting in April in which a general description of the projects and its goals will be presented. Time and meeting location will be announced in newspapers local to the project. Details of the proposed project will be presented. Both oral and written comments will be accepted at the scoping meeting to assist EPA to determine the scope of the EIS. Persons who do not attend the meeting and wish to comment on the issues and scope of the project are invited to respond in writing to this agency within 30 days of the scoping meeting.

ESTIMATED DATE OF DEIS RELEASE: September 1, 2001.

RESPONSIBLE OFFICIAL: A. Stanley Meiburg, Deputy Regional Administrator, Region 4, Environmental Protection Agency.

Dated: March 3, 2000.

Anne N. Miller,

Deptuy Director, Office of Federal Activities.

[FR Doc. 00–6705 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 10, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 16, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0752.

Title: Billing Disclosure Requirements for Pay-Per Call and Other Information Services, 47 CFR 64.1510.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for profit.

Number of Respondents: 1350.

Estimated Time Per Response: 40 Hours.

Total Annual Burden: 54,000 Hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Needs and Uses: Pursuant to Section 64.1510, telephone bills containing charges for interstate pay-per-call and other information services must include information detailing consumers' rights and responsibilities with respect to these charges. Specifically, telephone bills carrying pay-per-call charges must include a consumer notification stating that (1) the charges are for non-communications services; (2) local and long distance telephone services may not be disconnected for failure to pay pay-per-call charges; (3) pay per call (900 number) blocking is available upon request; and (4) access to pay-per-call services may be involuntarily blocked for failure to pay pay-per-call charges. In addition, each call billed must show the type of service, the amount of the charge, and the date, time, and duration of the call. Finally, the bill must display a toll-free number which subscribers may call to obtain information about pay-per-call services. Similar billing disclosure requirements apply to charges for information services either billed to subscribers on a collect basis or accessed by subscribers through a toll-free number. The billing disclosure contained in Section 64.1510 are intended to ensure that telephone subscribers billed for pay-per-call or

other information services are able to understand the charges levied and are informed of their rights and responsibilities with respect to payment of such charges.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–6670 Filed 3–16–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 9, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 17, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Report and Order in MM Docket No. 99–25—Creation of Low Power Radio Service.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit, state, local or tribal governments.

Number of Respondents: 1,200 respondents; 9,875 responses.

Estimated Time Per Response: .0003 to 6 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement, recordkeeping requirement.

Total Annual Burden: 27,350 hours.

Total Annual Cost: $9,000.

Needs and Uses: The information collection requirements contained in MM Docket No. 99–25, Report and Order, will ensure that the integrity of the FM spectrum is not compromised. It will also ensure that unacceptable interference will not be caused to existing radio services and that the statutory requirements are met. These rules will ensure that the stations are operated in the public interest.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–6671 Filed 3–16–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–00–33–A (Auction No. 33); DA 00–559]

Auction of Licenses for the 700 MHz Guard Bands Scheduled for June 14, 2000; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document seeks comment on the reserve prices or minimum opening bids and other auction procedural issues for the upcoming auction of licenses for the 700 MHz Guard Bands (Auction No. 33) scheduled to commence on June 14, 2000.

DATES: Comments are due on or before March 22, 2000, and reply comments are due on or before March 29, 2000.

ADDRESSES: An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, TW–A325, Washington, DC 20054. In addition, one copy of each pleading must be delivered to each of the following locations:

(1) Commission's duplicating contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW, Washington, DC 20036;

(2) Office of Media Relations, Public Reference Center, 445 Twelfth Street, SW, Suite CY–A257, Washington, DC 20554;

(3) Rana Shuler, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, 445 Twelfth Street, SW, Suite 4–A628, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Howard Davenport or Craig Bomberger, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660, Kathy Garland, Project Manager, at (717) 338–2888.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released March 10, 2000. The complete text of the public notice, including Attachment A, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, D.C. 20554. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov*.

1. By this Public Notice, the Wireless Telecommunications Bureau (''Bureau'') announces the auction (''Auction No. 33'') of Guard Band Manager licenses in the 700 MHz Guard Bands to commence on June 14, 2000. *See* Service Rules for the 746–764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99–168, FCC 00–90, released March 9, 2000 (''*700 MHz Second Report and Order*''). As discussed in greater detail herein, the Bureau proposes that Auction No. 33 be composed of 104 licenses in the 700 MHz Guard Bands, 746–747/776–777 and 762–764/792–794 MHz. One 4 megahertz license (paired 2 megahertz blocks) and one 2 megahertz license (paired 1 megahertz blocks) will be offered in each of 52 Major Economic Areas (MEAs).

2. The following table contains the Block/Frequency Band Cross Reference List for each MEA in Auction No. 33:

746–747, 762–764, 776–777, AND 792–794 MHZ ALLOCATIONS 746–747, 762–764, 776–777, AND 792–794 MHZ ALLOCATIONS

License suffix	Frequency	Frequency
A	746–747	776–777
B	762–764	792–794

The Balanced Budget Act of 1997 requires the Commission to ''ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *'' Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. *See* Memorandum Opinion and Order, and Notice of Proposed Rule Making (''*Part 1 Order*'') 62 FR 13540 (March 21, 1997) and Amendment of Part 1 of the Commission's Rules—Competitive Bidding Proceeding (''*Part 1 Third Report and Order'')* 63 FR 770 (January 1, 1998). We therefore seek comment on the following issues relating to Auction No. 33.

I. Auction Structure

A. Simultaneous Multiple Round Auction Design

3. We propose to award the licenses in a single, simultaneous multiple-round auction to allow bidders to take advantage of any synergies that exist among licenses. *See 700 MHz Second Report and Order,* ¶¶ 61, 62, and 71; *see also* 47 CFR 27.604. This methodology offers every license for bid at the same time in successive bidding rounds. We seek comment on this proposal.

B. Upfront Payments and Initial Maximum Eligibility

4. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned taking into account such factors as the population in each geographic license area, and the value of similar spectrum. The upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. *See* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PD Docket No. 93–253 (''*Second Report and Order''*) 59 FR 22980 (May 4, 1994). In this case, we have information available in the form of a congressional estimate of the value of the spectrum. Accordingly, we list all licenses, including the related license area population and the proposed upfront payment for each, in Attachment A. We seek comment on this proposal.

5. We further propose that the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments will not be attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility, which cannot be increased during the auction. The maximum eligibility will determine the licenses on which a bidder may bid in each round of the auction. Thus, in calculating its upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. We seek comment on this proposal.

C. Activity Rules

6. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver.

7. We propose to divide the auction into three stages: Stage One, Stage Two and Stage Three, each characterized by an increased activity requirement. The auction will start in Stage One. We propose that the auction will generally advance to the next stage (*i.e.,* from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately ten percent or below for three consecutive rounds of bidding in each stage. However, we further propose that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We seek comment on these proposals.

8. For the 700 MHz Guard Band Auction, we propose the following activity requirements:

Stage One: In each round of Stage One, a bidder desiring to maintain its current eligibility be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths ($5/4$).

Stage Two: In each round of the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on at least 90 percent of its current bidding eligibility. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the current round activity by ten-ninths ($10/9$).

Stage Three: In each round of Stage Three, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty-fortyninths ($50/49$). We seek comment on these proposals.

D. Activity Rule Waivers and Reducing Eligibility

9. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

10. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a

waiver (known as an ''automatic waiver'') at the end of any bidding period where a bidder's activity level is below the minimum required unless:

(i) There are no activity rule waivers available; or

(ii) The bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

11. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

12. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

13. We propose that each bidder in Auction No. 33 be provided with five activity rule waivers that may be used at the bidder's discretion during the course of the auction. We seek comment on this proposal.

E. Information Relating to Auction Delay, Suspension or Cancellation

14. For Auction No. 33, we propose that, by public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. We seek comment on this proposal.

II. Bidding Procedures

A. Round Structure

15. The Commission will use its Automated Auction System to conduct the electronic simultaneous multiple round auction format for Auction No. 33. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The simultaneous multiple round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

16. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. We seek comment on this proposal.

B. Reserve Price or Minimum Opening Bid

17. The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.,* because the Commission has accepted mutually exclusive applications for those licenses), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

18. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally has the discretion to lower the amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

19. In light of the Balanced Budget Act, the Bureau proposes to establish minimum opening bids for Auction No. 33. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool. *See* Auction of 800 MHz Upper 10 MHz Band, Minimum Opening Bids or Reserve Prices (''*800 MHz SMR Order*'') 62 FR 55252 (October 23, 1997) and Auction of the Phase II 220 MHz Service Licenses, Auction Notice and Filing Requirements for 908 Licenses Consisting of Economic Area (EA), Economic Area Grouping (EAG), and Nationwide Licenses, Scheduled for September 15, 1998, Minimum Opening Bids and Other Procedural Issues, (''*Phase II 220 MHz Public Notice*'') 63 FR 35213 (June 29, 1998). A minimum opening bid, rather than a reserve price, will help to regulate the pace of the auction and provides flexibility. For Auction No. 33, we have information available in the form of a congressional estimate of the value of the spectrum. Accordingly, we list all licenses, including the related license area population and the proposed minimum opening bid for each, in Attachment A. We seek comment on this proposal.

20. If commenters believe that these minimum opening bids will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, we particularly seek comment on such factors as, among other things, the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the 700 MHz Guard Bands. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act; the public interest would be served by having no minimum opening bid or reserve price.

C. Minimum Accepted Bids and Bid Increments

21. Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. For Auction No. 33, we propose to use a smoothing methodology to calculate bid

increments, as we have done in several other auctions. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. We seek comment on these proposals.

22. The exponential smoothing formula calculates the bid increment for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology will tailor the bid increment for each license based on activity, rather than setting a global increment for all licenses. For every license that receives a bid, the bid increment for the next round for that license will be established using the exponential smoothing formula.

23. The calculation of the percentage bid increment for each license in a given round is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1, and the maximum percentage increment at 0.2.

Equations

$A_i = (C * B_i) + ((1–C) * A_{i–1})$

I_{i+1} = smaller of $((1 + A_i) * N)$ and M where,

A_i = activity index for the current round (round i)

C = activity weight factor

B_i = number of bids in the current round (round i)

$A_{i–1}$ = activity index from previous round (round i–1), A_0 is 0

I_{i+1} = percentage bid increment for the next round (round i+1)

N = minimum percentage increment or bid increment floor

M = maximum percentage increment or bid increment ceiling

Under the exponential smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the new high bid plus the dollar amount associated with the percentage increment (variable I_{i+1} from above times the high bid). This result will be rounded to the nearest thousand if it is over ten thousand or to the nearest hundred if it is under ten thousand.

Examples

License 1

C = 0.5, N = 0.1, M = 0.2

Round 1 (2 new bids, high bid = $1,000,000)

i. Calculation of percentage increment for round 2 using exponential smoothing:

$A_1 = (0.5 * 2) + (0.5 * 0) = 1$

The smaller of $I_2 = (1 + 1) * 0.1 = 0.2$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 2 using the percentage increment (I_2 from above)

0.2 * $1,000,000 = $200,000

iii. Minimum acceptable bid for round 2 = $1,200,000

Round 2 (3 new bids, high bid = $2,000,000)

i. Calculation of percentage increment for round 3 using exponential smoothing:

$A_2 = (0.5 * 3) + (0.5 * 1) = 2$

The smaller of $I_3 = (1 + 2) * 0.1 = 0.3$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 3 using the percentage increment (I_3 from above)

0.2 * $2,000,000 = $400,000

iii. Minimum acceptable bid for round 3 = $2,400,000

Round 3 (1 new bid, high bid = $2,400,000)

i. Calculation of percentage increment for round 4 using exponential smoothing:

$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$

The smaller of $I_4 = (1 + 1.5) * 0.1 = 0.25$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 4 using the percentage increment (I_4 from above)

0.2 * $2,400,000 = $480,000

iii. Minimum acceptable bid for round 4 = $2,880,000

D. Information Regarding Bid Withdrawal and Bid Removal

24. For Auction No. 33, we propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments.

25. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. We seek comment on these bid removal and bid withdrawal procedures.

26. In the *Part 1 Third Report and Order*, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

27. Applying this reasoning, we propose to limit each bidder in Auction No. 33 to withdraw standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. We seek comment on this proposal.

E. Stopping Rule

28. For Auction No. 33, the Bureau proposes to employ a simultaneous stopping rule approach. The Bureau has discretion ''to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time.'' A

simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers or withdrawals are received. After the first such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

29. The Bureau seeks comment on a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used unilaterally or only in stage three of the auction.

30. The Bureau proposes to retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

31. Finally, we propose that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposes to exercise this option only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. We seek comment on these proposals.

Federal Communications Commission.

Louis J. Sigalos,

Deputy Chief, Auctions & Industry Analysis Division.

[FR Doc. 00–6652 Filed 3–16–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 00–546]

Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document advises interested persons of a meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, D.C. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the seventh meeting of the Public Safety National Coordination Committee.

DATES: April 7, 2000 at 1 p.m.–4 p.m.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, Michael J. Wilhelm, (202) 418–0680, e-mail mwilhelm@fcc.gov. Press Contact, Meribeth McCarrick, Wireless Telecommunications Bureau, 202–418–0600, or e-mail mmccarri@fcc.gov.

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: This Public Notice advises interested persons of the seventh meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, D.C. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC.

Date: April 7, 2000

Meeting Time: General Membership Meeting—1 p.m.–4 p.m.

ADDRESS: Federal Communications Commission, 445 12th Street, S.W., Commission Meeting Room, Washington, D.C. 20554.

The NCC Subcommittees will meet from 8:30 a.m. to 11:30 p.m., continuing their meetings from the previous day. The NCC General Membership Meeting will commence at 1 p.m. and continue until 4 p.m. The agenda for the NCC membership meeting is as follows:

1. Introduction and Welcoming Remarks
2. Administrative Matters
3. Report from the Interoperability Subcommittee
4. Report from the Technology Subcommittee
5. Report from the Implementation Subcommittee
6. Public Discussion
7. Other Business
8. Upcoming Meeting Dates and Locations
9. Closing Remarks

The FCC has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764–776/794–806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. See The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96–86, First Report and Order and Third Notice of Proposed Rulemaking, FCC 98–191, 14 FCC Rcd 152 (1998), 63 FR 58645 (11–2–98).

The NCC has an open membership. Previous expressions of interest in membership have been received in response to several Public Notices inviting interested persons to become members and to participate in the NCC's processes. All persons who have previously identified themselves or have been designated as a representative of an organization are deemed members and are invited to attend. All other interested parties are hereby invited to attend and to participate in the NCC processes and its meetings and to become members of the Committee. This policy will ensure balanced participation. Members of the general public may attend the meeting. To attend the seventh meeting of the Public Safety National Coordination Committee, please RSVP to Joy Alford or Bert Weintraub of the Policy and Rules Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau of the FCC by calling (202) 418–0680, by faxing (202) 418–2643, or by E-mailing at jalford@fcc.gov or bweintra@fcc.gov. Please provide your name, the organization you represent, your phone number, fax number and e-mail address. This RSVP is for the purpose of determining the number of people who will attend this seventh meeting. The FCC will attempt to accommodate as many people as possible. However,

admittance will be limited to the seating available. Persons requesting accommodations for hearing disabilities should contact Joy Alford immediately at (202) 418–7233 (TTY). Persons requesting accommodations for other physical disabilities should contact Joy Alford immediately at (202) 418–0694 or via e-mail at jalford@fcc.gov. The public may submit written comments to the NCC's Designated Federal Officer before the meeting.

Additional information about the NCC and NCC-related matters can be found on the NCC website located at: http://www.fcc.gov/wtb/publicsafety/ncc.html.

Federal Communications Commission.

Jeanne Kowalski,

Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 00–6672 Filed 3–16–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

March 10, 2000.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, March 17, 2000, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW, Washington, DC.

Item No., Bureau, and Subject

1—Common Carrier and Wireless Telecommunications—Title: Numbering Resource Optimization (CC Docket No. 99–200). Summary: The Commission will consider a Report and Order and Further Notice of Proposed Rule Making concerning strategies for numbering resource optimization.

2—Office of Engineering and Technology—Title: Inquiry Regarding Software Defined Radios. Summary: The Commission will consider a notice of Inquiry concerning issues related to software defined radio technology, including the current state of software defined radio technology, interoperability between radio services, the efficiency of spectrum use, and the equipment approval process.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY (202) 418–2555.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800; fax (202) 857–3805 and 857–3184; or TTY (202) 293–8810. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov.realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–6871 Filed 3–15–00; 3:18 pm]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Forms Relating to FDIC Outside Counsel Services.''

DATES: Comments must be submitted on or before May 16, 2000.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Forms Relating to FDIC Outside Counsel Services.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@ fdic.gov]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Forms Relating to FDIC Outside Counsel Services.

OMB Number: 3064–0122.

Form Number: 5200/01.

Frequency of Response: On occasion.

Affected Public: Legal service firms and businesses.

Estimated Number of Respondents: 500.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden: 500 hours.

General Description of Collection: The collection ensures that law firms that seek to provide legal services to the FDIC meet the eligibility requirements established by Congress.

Request for Comment

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 10th day of March, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–6708 Filed 3–16–00; 8:45 am]

BILLING CODE 6714–01–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Securities of Insured Nonmember Banks.''

DATES: Comments must be submitted on or before May 16, 2000.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Securities of Insured Nonmember Banks.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@ fdic.gov]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Securities of Insured Nonmember Banks.

OMB Number: 3064–0030.

Form Number: F–7, F–8, F–8A.

Frequency of Response: Annually.

Affected Public: All financial institutions.

Estimated Number of Respondents: 3,620.

Estimated Time per Response: Form F–7 (1 hour); Form F–8 (0.5) hour; Form F–8A (1 hour)

Estimated Total Annual Burden: 2,220 hours.

General Description of Collection: The information is collected from FDIC-supervised banks and from officers, directors and shareholders subject to the securities registration requirements of the Securities Exchange Act of 1934, as amended. The information is considered necessary for actual and potential investors making investment decisions concerning securities issued by reporting banks.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 10th day of March, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–6709 Filed 3–16–00; 8:45 am]

BILLING CODE 6714–01–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks).''

DATES: Comments must be submitted on or before May 16, 2000.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks).'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@ fdic.gov]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks).

OMB Number: 3064–0093.

Form Number: G–FIN, G–FINW, G–FIN–4, G–FIN–5.

Frequency of Response: On occasion.

Affected Public: All financial institutions.

Estimated Number of Respondents: 180.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden: 180 hours.

General Description of Collection: The Government Securities Act of 1986 requires all financial institutions acting as government securities brokers and dealers to notify their federal regulatory agencies of their broker-dealer activities,

unless exempted from the notice requirement by Treasury Department regulation.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 10th day of March, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–6710 Filed 3–16–00; 8:45 am]

BILLING CODE 6714–01–U

FEDERAL DEPOSIT INSURANCE CORPORATION

General Counsel's Opinion No. 12, Engaged in the Business of Receiving Deposits Other Than Trust Funds

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of General Counsel's Opinion No. 12.

SUMMARY: Section 5 of the Federal Deposit Insurance Act provides that an applicant for deposit insurance must be ''engaged in the business of receiving deposits other than trust funds.'' The statute has included this phrase since 1950. During the past half century the FDIC has construed the phrase so as to accommodate the evolving nature of banking. The phrase has been interpreted on a case-by-case basis to encompass non-traditional banks that do not accept unlimited non-trust deposits from the general public.

This long-standing interpretation is confirmed in this General Counsel's opinion. As set out in this opinion, the statutory requirement of being ''engaged in the business of receiving deposits other than trust funds'' is satisfied by the continuous maintenance of one or more non-trust deposits in the aggregate amount of $500,000.

FOR FURTHER INFORMATION CONTACT: Christopher L. Hencke, Counsel, Legal Division, (202) 898–8839, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

Text of General Counsel's Opinion

General Counsel's Opinion No. 12, Engaged in the Business of Receiving Deposits Other Than Trust Funds

By William F. Kroener, III, General Counsel

Introduction

The FDIC is authorized to approve or disapprove applications for federal deposit insurance. See 12 U.S.C. 1815. In determining whether to approve deposit insurance applications, the FDIC considers the seven factors set forth in the Federal Deposit Insurance Act (FDI Act). These factors are (1) the financial history and condition of the depository institution; (2) the adequacy of the institution's capital structure; (3) the future earnings prospects of the institution; (4) the general character and fitness of the management of the institution; (5) the risk presented by the institution to the Bank Insurance Fund or the Savings Association Insurance Fund; (6) the convenience and needs of the community to be served by the institution; and (7) whether the institution's corporate powers are consistent with the purposes of the FDI Act. 12 U.S.C. 1816. Also, the FDIC must determine as a threshold matter that an applicant is a ''depository institution which is engaged in the business of receiving deposits other than trust funds * * *.'' 12 U.S.C. 1815(a)(1). Applicants that do not satisfy this threshold requirement are ineligible for deposit insurance.

The FDIC applies the seven statutory factors in accordance with a ''Statement of Policy on Applications for Deposit Insurance.'' See 63 FR 44752 (August 20, 1998). The Statement of Policy discusses each of the factors at length; however, it does not address the threshold requirement that an applicant be ''engaged in the business of receiving deposits other than trust funds.''

The threshold requirement for obtaining federal deposit insurance is set forth in section 5 of the FDI Act. See 12 U.S.C. 1815(a)(1). The language used by section 5 (''engaged in the business of receiving deposits other than trust funds'') also appears in section 8 and section 3 of the FDI Act. Under section 8, the FDIC is obligated to terminate the insured status of any depository institution ''not engaged in the business of receiving deposits, other than trust funds * * *.'' 12 U.S.C. 1818(p). In section 3, the term ''State bank'' is defined in such a way as to include only those State banking institutions ''engaged in the business of receiving deposits, other than trust funds * * * .'' 12 U.S.C. 1813(a)(2). This definition is significant because the term ''State bank'' appears in a number of sections of the FDI Act.

For many years the FDIC has applied the statutory phrase on a case-by-case basis. In applying the phrase, the FDIC has approved applications from institutions that did not intend to accept non-trust deposits from the general public. The FDIC has thus found that the acceptance of non-trust deposits from the public at large is not a necessary component of being ''engaged in the business of receiving [non-trust] deposits.'' The acceptance of non-trust deposits from a particular group (such as affiliates or trust customers) has been deemed by the FDIC to be sufficient.

Prior to 1991 the Office of the Comptroller of the Currency (OCC) was responsible for determining whether new national banks would be ''engaged in the business of receiving [non-trust] deposits.'' See 12 U.S.C. 1814(b) (1980). The OCC similarly never adopted an interpretation that would require new national banks to accept non-trust deposits from the general public.

The long-standing practices of the FDIC and the OCC have not been sufficient to remove all questions as to the proper interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' Questions have arisen from time to time about the application of the agencies' long-standing interpretation in the context of certain non-traditional depository institutions, such as credit card banks and trust companies.

The purpose of this General Counsel's opinion is to clarify the Legal Division's interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' Although the primary purpose of this opinion is to provide guidance to applicants for deposit insurance under section 5 of the FDI Act, the interpretation in this opinion also applies to section 8 (dealing with terminations) and section 3 (definition of ''State bank'').

Factors

A number of factors must be considered in determining whether a depository institution should be regarded by the FDIC as ''engaged in the business of receiving deposits other than trust funds.'' These factors are (1) the statutory language; (2) the legislative history; (3) the practices of the FDIC and the OCC; (4) construction with other federal banking law; (5) the relevant case law; and (6) State banking statutes. Below, each of these factors is considered in interpreting the statutory phrase in the FDI Act.

Statutory Language

Under section 5 of the FDI Act an applicant cannot obtain federal deposit insurance unless it is ''engaged in the business of receiving deposits other than trust funds.'' 12 U.S.C. 1815(a)(1). The Act does not define ''engaged in the business of receiving deposits other than trust funds''; however, it defines ''deposit'' and ''trust funds.'' See 12 U.S.C. 1813(l); 12 U.S.C. 1813(p). The former term (''deposit'') includes but is not limited to the latter term (''trust funds''). See 12 U.S.C. 1813(l)(2). The latter term is defined as funds held by an insured depository institution in a fiduciary capacity, including funds held as trustee, executor, administrator, guardian or agent. See 12 U.S.C. 1813(p).

An applicant cannot be insured by the FDIC if it receives ''trust funds'' alone. Under section 5, it also must be engaged in the business of receiving non-trust or non-fiduciary deposits. Generally, the FDI Act defines ''deposit'' as the unpaid balance of money or its equivalent received or held by a bank or savings association in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other such certificate. See 12 U.S.C. 1813(l)(1).

The corollary to section 5 of the FDI Act is section 8. Under the latter section the FDIC must terminate the insured status of any depository institution ''not engaged in the business of receiving deposits, other than trust funds * * *.'' 12 U.S.C. 1818(p). Significantly, section 8 does not provide for any judicial determination of whether a depository institution is ''not engaged in the business of receiving [non-trust] deposits'' or judicial review of the FDIC's finding on this issue. Rather, section 8 provides that the FDIC's finding is ''conclusive.'' See *id.*

The statutory phrase (''engaged in the business of receiving deposits, other than trust funds'') also appears in section 3. In that section, the term ''State bank'' is defined in such a way as to include only those State banking institutions ''engaged in the business of receiving deposits, other than trust funds * * *.'' 12 U.S.C. 1813(a)(2).

The statutory language is not unambiguous but requires interpretation by the FDIC in a number of respects. The statute does not specify whether a depository institution must hold a particular dollar amount of deposits in order to be ''engaged in the business of receiving [non-trust] deposits.'' Similarly, the statute does not specify whether a depository institution must accept a particular number of deposits within a particular period in order to be ''engaged in the business of receiving [non-trust] deposits.'' In addition, the statute does not specify whether a depository institution must accept non-trust deposits from the general public as opposed to accepting deposits from one or more members of a particular group (such as affiliates or trust customers). All these questions are unanswered and left to the FDIC for consideration and determination.

One possible interpretation is that an insured depository institution must receive a continuing stream of non-trust deposits from the general public. The statute refers to the ''receiving'' of ''deposits''; however, the statute also defines ''deposit'' in such a way as to equate ''receiving'' and ''holding.'' See 12 U.S.C. 1813(l)(1). Moreover, the statute recognizes that a single deposit can be accepted or ''received'' many times through rollovers. See 12 U.S.C. 1831f(b) (dealing with the acceptance of brokered deposits). Thus, the word ''receiving'' in the statute can be reconciled with the holding—and periodic renewal or rollover—of a single certificate of deposit. Similarly, the plural word ''deposits'' is not inconsistent with the holding of a single deposit account because multiple deposits of funds can be made into a single account. A depositor might, for example, make a deposit of funds every month into the same account. The accrual of interest would represent an additional deposit into the same account. In the case of a certificate of deposit, the deposit would be replaced with a new deposit at maturity.

The ambiguity of the statutory language results from the nature of the banking business. The opening of a deposit account does not represent a completed, isolated transaction. Rather, the opening of an account initiates a continuing business relationship with periodic withdrawals, deposits, rollovers and the accrual of interest. For this reason the statutory phrase (''engaged in the business of receiving deposits other than trust funds'') can be interpreted as encompassing the holding of one or few non-trust deposit accounts. Nothing in the statute specifies that an institution must receive a continuing stream of non-trust deposits from the general public.

Legislative History

The phrase ''engaged in the business of receiving deposits'' can be traced to the Banking Act of 1935 (Pub. L. 74–305). In that Act the term ''State bank'' was defined as any bank, banking association, trust company, savings bank or other banking institution ''which is engaged in the business of receiving deposits.'' This qualification has been retained in the FDI Act, which also defines ''State bank'' in such a manner as to include only those institutions ''engaged in the business of receiving deposits, other than trust funds.'' 12 U.S.C. 1813(a)(2).

The qualification relating to ''trust funds'' can be traced to the Banking Act of 1950 (Pub. L. 81–797). In the applicable House Report the purpose of this qualification is explained as follows: ''The term 'State bank' is redefined to exclude banking institutions (certain trust companies) which do not receive deposits other than trust funds. There appears to be no necessity for such institutions being insured, as they place most of their uninvested funds on deposit in insured banks, retaining only nominal amounts, if any, in their own institutions.'' H.R. Rep. No. 2564, reprinted in 1950 U.S.C.C.A.N. 3765, 3768. The term ''nominal amounts'' refers to uninvested trust funds held by the institution; it does not apply to non-trust deposits.

The House Report indicates that a trust company cannot obtain insurance if it does not receive any non-trust deposits. It provides no guidance, however, as to whether a trust company can be insured if it accepts a small amount of non-trust deposits from a particular group (such as affiliates or trust customers) as opposed to a large amount or continuing stream of non-trust deposits from the general public. In essence, the House Report simply paraphrases the statutory language that an insured depository institution must be ''engaged in the business of receiving deposits other than trust funds.''

A more useful reflection of Congressional intent may be found in legislation enacted after the FDIC and

the OCC had begun to interpret the statutory language. As discussed below, this subsequent legislation indicates that Congress neither modified nor indicated any disagreement with the broader construction given to the statutory phrase by the FDIC and the OCC.

Practices of the FDIC and the OCC

The FDIC has acted on a case-by-case basis in determining whether depository institutions are ''engaged in the business of receiving deposits other than trust funds.'' The FDIC has never adopted a formal interpretation or set of guidelines. Under section 5 the FDIC for many years has approved applications for deposit insurance from non-traditional depository institutions with few non-trust deposits. This practice began at least as early as 1969 with Bessemer Trust Company (Bessemer) located in Newark, New Jersey. Originally, Bessemer was an uninsured trust company that accepted no deposits except deposits related to its trust business. In 1969 Bessemer decided to offer non-trust checking accounts to its trust customers. Bessemer did not offer non-trust deposit accounts to the general public. Notwithstanding this fact, the FDIC approved Bessemer's application for deposit insurance.

In the 1970s the FDIC approved more applications from banks that intended to serve limited groups of customers. Again, the FDIC did not object to the fact that the banks did not intend to accept non-trust deposits from the general public. Some of these banks were ''Regulation Y'' trust companies under the Bank Holding Company Act (BHCA). See 12 U.S.C. 1843(c); 12 CFR Part 225. The FDIC took the position that the statutory language (''engaged in the business of receiving [non-trust] deposits'') should be construed very broadly so as to promote public confidence in the greatest number of institutions.

In the 1980s the FDIC staff reviewed the meaning of being ''engaged in the business of receiving [non-trust] deposits.'' The staff noted questions about the insurance of ''Regulation Y'' trust companies; the staff also noted questions as to whether the acceptance of funds from a single non-trust depositor would represent a sufficient level of non-trust deposit-taking. Notwithstanding these continuing questions, the FDIC did not adopt a strict interpretation (or any formal interpretation) of the statutory phrase. Instead, the FDIC during this period continued to approve applications from depository institutions with very limited deposit-taking activities. For example, in 1984 the FDIC's Board of Directors approved an application from Bear Stearns Trust Company located in Trenton, New Jersey, even though the institution planned to accept non-trust deposits only from employees and affiliates. The institution did not intend to accept non-trust deposits from the general public.

Because the FDIC has never adopted a formal interpretation or guidelines, the FDIC's interpretation has been subject to questions from time to time. In 1991 the FDIC contemplated whether the insured status of certain national trust companies should be terminated under section 8 of the FDI Act because the trust companies held few or no non-trust deposits. The issue was not resolved because the institutions terminated their insurance voluntarily.

The practices of the OCC also are relevant. Prior to 1991 the OCC was responsible for determining whether national banks satisfied the threshold statutory requirements for obtaining deposit insurance. See 12 U.S.C. 1814(b) (1980). In exercising this authority the OCC chartered a number of national banks with limited deposit-taking functions on the basis that such banks were ''engaged in the business of receiving deposits other than trust funds.''

A significant statutory change occurred in 1991. At that time Congress provided that all applicants for deposit insurance must apply directly to the FDIC. See 12 U.S.C. 1815(a). Congress thus authorized the FDIC to make the requisite determination as to whether any applicant for deposit insurance would be ''engaged in the business of receiving deposits other than trust funds.'' In making this change, Congress made no objection to the practices of the FDIC and the OCC in extending insurance to institutions with limited deposit-taking activities. Thus, Congress accepted this practice. See *Lorillard* v. *Pons,* 434 U.S. 575 (1978). In addition, Congress accepted this practice through the enactment of certain provisions in the Bank Holding Company Act (discussed in the next section).

Since 1991 the FDIC has approved applications for deposit insurance from more than 70 non-traditional depository institutions holding one or a very limited number of non-trust deposits. Some of these institutions have been credit card banks; others have been trust companies. Over the last two years the FDIC has received approximately 20 applications from limited purpose federal savings associations operating as trust companies and chartered by the Office of Thrift Supervision (OTS). Approximately 15 of these applications already have been approved. In granting insurance to some of these institutions, the FDIC has required the holding of at least one non-trust deposit (generally owned by a parent or affiliate) in the amount of $500,000.

The practices of the FDIC and the OCC support a broad, flexible interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' The agencies have approved applications from institutions that did not intend to accept deposits from the general public. Neither agency has ever specifically adopted the position that an insured depository institution must accept non-trust deposits from the general public.

The Bank Holding Company Act

The FDI Act also must be reconciled with the Bank Holding Company Act of 1956 (BHCA) as amended by the Competitive Equality Banking Act of 1987, Pub. L. No. 100–86 (CEBA). In the BHCA the definition of ''bank'' includes banks insured by the FDIC. See 12 U.S.C. 1841(c)(1). A list of exceptions includes institutions functioning solely in a trust or fiduciary capacity if several conditions are satisfied. The conditions related to deposit-taking are: (1) All or substantially all of the deposits of the institution must be trust funds; (2) insured deposits of the institution must not be offered through an affiliate; and (3) the institution must not accept demand deposits or deposits that the depositor may withdraw by check or similar means. See 12 U.S.C. 1841(c)(2)(D)(i)–(iii). The significant conditions are (1) and (2). The first condition provides that all or substantially all of the deposits of the institution must be trust funds; the second condition involves ''insured deposits.'' Thus, the statute contemplates that a trust company—functioning solely as a trust company and holding no deposits (or substantially no deposits) except trust deposits—could hold ''insured deposits.'' In other words, the BHCA contemplates that an institution could be insured by the FDIC even though the institution does not accept non-trust deposits from the general public.

The BHCA is difficult to reconcile fully with the FDI Act, which mandates that all FDIC-insured institutions must be ''engaged in the business of receiving [non-trust] deposits.'' The appropriate way to reconcile the BHCA with the FDI Act is for the FDIC to construe the threshold requirement of being ''engaged in the business of receiving deposits other than trust funds'' in a flexible and broad way. The FDIC has done so by allowing depository

institutions to satisfy the statutory requirement by receiving very limited non-trust deposits.

Court Decisions

The courts have offered few interpretations of being engaged in the specific ''business of receiving deposits other than trust funds.'' The leading case is *Meriden Trust and Safe Deposit Company* v. *FDIC,* 62 F.3d 449 (2d Cir. 1995). In that case, a bank holding company acquired two State-chartered banks insured by the FDIC. One of these banks was Meriden Trust; the other was Central Bank. After making the acquisitions, the holding company transferred most of the assets and liabilities of Meriden Trust to Central Bank. Nothing was retained by Meriden Trust except the assets and liabilities relating to its trust business. Also, Meriden Trust held two non-trust deposits in the aggregate amount of $200,000. One of the non-trust deposits was owned by the holding company; the other was owned by Central Bank. In order to maintain the ability to function as a full-service bank, Meriden Trust did not seek to terminate its insurance from the FDIC.

Later, Central Bank failed. Meriden Trust then informed the FDIC that it no longer considered itself an ''insured depository institution'' because it had stopped accepting non-trust deposits. By taking this position, Meriden Trust hoped to avoid liability under section 5(e) of the FDI Act. Section 5(e) provides that an ''insured depository institution'' shall be liable for any loss incurred by the FDIC in connection with the failure of a commonly controlled insured depository institution. See 12 U.S.C. 1815(e).

The FDIC did not agree with Meriden Trust. In court, the issue was whether Meriden Trust was an ''insured depository institution.'' Under the FDI Act, the term ''insured depository institution'' includes any bank insured by the FDIC including a ''State bank.'' See 12 U.S.C. 1813(c)(2). In turn, ''State bank'' includes any State-chartered bank or trust company ''engaged in the business of receiving deposits, other than trust funds.'' 12 U.S.C. 1813(a)(2)(A). Again, Meriden Trust argued that it was not ''engaged in the business of receiving deposits, other than trust funds'' because it had stopped accepting non-trust deposits from the general public.

The position taken by Meriden Trust was rejected by the federal district court as well as the United States Court of Appeals for the Second Circuit. The Court of Appeals relied upon the fact that Meriden Trust held two non-trust deposits (in the aggregate amount of only $200,000). Also, the court relied upon the fact that Meriden Trust never obtained a termination of its status as an ''insured depository institution'' in the manner prescribed by the FDI Act. Under the Act, termination of this status requires the involvement or consent of the FDIC. See 12 U.S.C. 1818; 12 U.S.C. 1828(i)(3).

Another noteworthy case is *United States* v. *Jenkins,* 943 F.2d 167 (2d Cir.), cert. denied, 502 U.S. 1014 (1991). In that case the court found that the defendant had violated the Glass-Steagall Act by engaging ''in the business of receiving deposits'' without proper State or federal authorization. See 12 U.S.C. 378(a). The case is noteworthy because the defendant was convicted for receiving a single deposit in the amount of only $150,000.

A recent case is *Heaton* v. *Monogram Credit Card Bank of Georgia,* Civil Action No. 98–1823 (E.D. La.). In that case credit card holders in Louisiana have brought suit against an insured State-chartered credit card bank in Georgia. The cardholders have charged the bank with violating Louisiana restrictions on fees and interest rates. In its defense the Georgia bank has cited section 27 of the FDI Act. Under that section, a ''State bank'' may avoid certain State restrictions on fees and interest rates when operating outside its State of incorporation. See 12 U.S.C. 1831d. The key issue in the litigation is whether the Georgia bank—holding a fixed and limited number of deposits—qualifies as a ''State bank'' entitled to protection under section 27.

The Georgia bank in Heaton holds only two deposits and both are from affiliates. As a non-party in the litigation, the FDIC informed the court that it deemed the bank to be a ''State bank'' under the FDI Act despite the bank's limited number of deposits. The court disagreed. On November 22, 1999, the federal district court ruled on a preliminary jurisdictional motion that the Georgia bank was not a ''State bank'' because it was not ''engaged in the business of receiving deposits, other than trust funds.'' The Georgia bank appealed the court's ruling to the United States Court of Appeals for the Fifth Circuit. The case is pending before the Court of Appeals.

Meriden and Jenkins are more persuasive than the district court's decision in Heaton. As discussed above, the Court of Appeals in Meriden found that a trust company was ''engaged in the business of receiving [non-trust] deposits'' even though it held only two non-trust deposits in the aggregate amount of only $200,000. In part the court relied upon the fact that the insured status of the trust company never was terminated in the manner prescribed by the FDI Act. This reliance was appropriate in light of the FDIC's ''conclusive'' authority under section 8 to determine whether an insured depository institution is ''not engaged in the business of receiving deposits, other than trust funds.'' 12 U.S.C. 1818(p).

In contrast, the Heaton court disregarded the fact that the FDIC has never terminated the insured status of the Georgia credit card bank. The implication of the Heaton decision is that a bank may remain insured by the FDIC under the FDI Act even though it ceases to exist as a ''State bank'' under the FDI Act. This interpretation is irrational. It would lead to the existence of State depository institutions that are insured by the FDIC but unregulated by every section of the FDI Act that regulates ''State banks.'' See, *e.g.,* 12 U.S.C. 1831a (regulating the activities of insured ''State banks'').

Meriden and Jenkins support a broad interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' These cases involved and are directly relevant to banks. There are cases outside the banking field that suggest that being ''engaged in a business'' implies regularity of participation or involvement in multiple transactions. See, *e.g., McCoach* v. *Minehill & Schuylkill Haven Railroad Co.,* 228 U.S. 295, 302 (1913); *United States* v. *Scavo,* 593 F.2d 837, 843 (8th Cir. 1979); *United States* v. *Tarr,* 589 F.2d 55, 59 (1st Cir. 1978). It is inappropriate to apply such cases (rather than Meriden and Jenkins) in the banking business because, as previously explained, the opening of a single deposit account initiates a continuing business relationship with periodic withdrawals, deposits, rollovers and the accrual of interest.

State Banking Statutes

Some State banking statutes impose significant restrictions on the ability of some depository institutions to accept non-trust deposits. For example, a Florida statute provides that a ''credit card bank'' (1) may not accept deposits at multiple locations; (2) may not accept demand deposits; and (3) may not accept savings or time deposits of less than $100,000. At the same time, the statute provides that the bank must obtain insurance from the FDIC. See Fla. Stat. 658.995(3). Thus, the statute contemplates that a bank may be ''engaged in the business of receiving [non-trust] deposits'' (a necessary condition for obtaining insurance from the FDIC) even though the bank may not

accept deposits on an unrestricted basis from the general public. Indeed, the statute contemplates that a bank may be insured by the FDIC even though the bank's business consists solely of making credit card loans and conducting such activities as may be incidental to the making of credit card loans. See Fla. Stat. 658.995(3)(f).

Similarly, a Virginia statute provides that a general business corporation may acquire the voting shares of a ''credit card bank'' only if certain conditions are satisfied. See Va. Code 6.1–392.1.A. These conditions comprise the definition of a ''credit card bank.'' See Va. Code 6.1–391. These conditions include the following: (1) The bank may not accept demand deposits; and (2) the bank may not accept savings or time deposits of less than $100,000. Indeed, the statute provides that a ''credit card bank'' may accept savings or time deposits (in amounts in excess of $100,000) only from affiliates of the bank having their principal place of business outside the State. See Va. Code 6.1–392.1.A.3–4. In other words, the Virginia statute prohibits the acceptance of any deposits from the general public. At the same time, the statute requires the deposits of the bank to be federally insured. See Va. Code 6.1–392.1.A.4.

A third example is the Georgia Credit Card Bank Act. Prior to a recent amendment, this statute provided that a credit card bank could take deposits only from affiliated parties. In other words, the Georgia statute was similar to the current Virginia statute in prohibiting a credit card bank from accepting deposits from the general public. See Ga. Code Ann. 7–5–3(7) (1997). At the same time, Georgia law required such banks to be ''authorized to engage in the business of receiving deposits.'' Ga. Code Ann. 7–1–4(7) (1997). Thus, Georgia law (consistent with the current Virginia law) was based on the premise that the receipt of deposits from the general public is not a necessary element of being ''engaged in the business of receiving deposits.'' The receipt of deposits from affiliated parties was deemed sufficient. (Under the current Georgia law, a credit card bank may accept savings or time deposits in amounts of $100,000 or more from anyone. See Ga. Code 7–5–3(7).)

These State laws contemplate a broad and flexible interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' Of course, the FDIC in applying the FDI Act cannot be controlled by State law but the FDIC should be cognizant of the evolving nature of banking as reflected by State laws.

Confirmation of the FDIC'S Interpretation

For more than 30 years the FDIC has approved applications for deposit insurance from non-traditional depository institutions. During this period the FDIC has not required the acceptance of deposits from the general public in determining that applicants are ''engaged in the business of receiving deposits other than trust funds.'' On the contrary, the FDIC has approved applications from many institutions (such as trust companies and credit card banks) that did not intend to solicit deposits from the general public. Indeed, some of these institutions planned to accept no more than one non-trust deposit from a parent or affiliate.

The FDIC's consistent practice represents an interpretation of being ''engaged in the business of receiving deposits other than trust funds.'' This long-standing broad interpretation is consistent with the protective purposes of deposit insurance generally and is well within the FDIC's discretion in light of the ambiguity of the statutory phrase. The FDIC's long-standing interpretation also is supported by (1) the practices of the OCC; (2) the acceptance by Congress of the practices of the FDIC and the OCC; (3) the Bank Holding Company Act; (4) the relevant case law; and (5) State banking statutes. On the basis of the foregoing, I conclude that the statutory requirement of being ''engaged in the business of receiving deposits other than trust funds'' is satisfied by the continuous maintenance of one or more non-trust deposits in the aggregate amount of $500,000 (the amount specified in a number of recent applications).

Some discussion is warranted regarding the most limited forms of being ''engaged in the business of receiving deposits other than trust funds.'' It could be argued that a difference exists between allowing depository institutions to decline non-trust deposits from the general public and allowing depository institutions to decline all non-trust deposits from all potential depositors with the exception of a single deposit from a parent or affiliate. Perhaps an argument also could be made that the minimum number of non-trust depositors or the minimum number of non-trust deposit accounts should be greater than one. The problem with this argument is that a single deposit account can be divided into portions. Moreover, if the FDIC required the existence of a particular number of depositors or the periodic acceptance of a particular number of non-trust deposits, institutions holding one deposit account would simply arrange for the prescribed number of depositors to hold the funds in the prescribed number of accounts. At periodic intervals, funds would be withdrawn and redeposited. The FDIC should not and need not interpret the minimum threshold requirement of the statute so as to require such stratagems.

In summary, the Legal Division believes and the General Counsel is of the opinion that the FDIC may determine that a depository institution is ''engaged in the business of receiving deposits other than trust funds'' as required by section 5 of the FDI Act if the institution holds one or more non-trust deposits in the aggregate amount of $500,000. This interpretation is not intended to suggest that a depository institution will necessarily not be ''engaged in the business of receiving [non-trust] deposits'' if it holds such deposits in the aggregate amount of less than $500,000. Rather, the Legal Division is merely adopting the opinion that the amount of $500,000 is sufficient for purposes of section 5 as well as section 8 (terminations) and section 3 (definition of ''State bank''). If an applicant for deposit insurance proposes to hold non-trust deposits in a lesser amount (based on projected deposit levels), the FDIC would need to determine in that particular case whether the applicant would be ''engaged in the business of receiving [non-trust] deposits.'' Similarly, under section 8 or section 3, the FDIC will determine on a case-by-case basis whether the holding of non-trust deposits in an amount less than $500,000 constitutes being ''engaged in the business of receiving [non-trust] deposits.''

Conclusion

Section 5 of the FDI Act provides that an applicant for deposit insurance must be ''engaged in the business of receiving deposits other than trust funds.'' In the opinion of the General Counsel, on the basis of the foregoing, the holding by a depository institution of one or more non-trust deposits in the aggregate amount of $500,000 is sufficient to satisfy this threshold requirement for obtaining deposit insurance.

By Order of the Board of Directors.

Dated at Washington, D.C., this 9th day of March, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–6548 Filed 3–16–00; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 31, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. The Garst Family (Stephen Garst, Elizabeth Garst, Edward Garst, Rachel Garst, all of Coon Rapids, Iowa; Katherine Garst, Seattle, Washington; Jennifer Garst, Takoma Park, Maryland; and Sarah Garst, West Des Moines, Iowa) and Elizabeth Garst, individually; to acquire additional voting shares of Audubon Investment Company, Coon Rapids, Iowa, and thereby indirectly acquire additional shares of Audubon State Bank, Audubon, Iowa.

2. William W. Parish, Dallas, Texas; to acquire voting shares of Parish Bank and Trust Company, Momence, Illinois.

Board of Governors of the Federal Reserve System, March 13, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6596 Filed 3–16–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 10, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Maries County Bancorp, Inc., Vienna, Missouri, and its subsidiary, Progress Bancshares, Inc., Sullivan, Missouri; to acquire at least 89.53 percent of the voting shares of Tritten Bancshares, Inc., St. Robert, Missouri; and thereby indirectly acquire First State Bank of St. Robert, St. Robert, Missouri.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. ETN Leasing, Inc., Palestine, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of East Texas National, Inc., Palestine, Texas, and thereby indirectly acquire East Texas-Dover, Inc., Wilmington, Delaware, and East Texas National Bank, Palestine, Texas.

Board of Governors of the Federal Reserve System, March 13, 2000.

Robert deV. Frierson,

Associte Secretary of the Board.

[FR Doc. 00–6597 Filed 3–16–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–00–29]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork reduction Act of 1995, the Centers for Disease Control and Prevention is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

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 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 for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 14 days of this notice.

Proposed Projects

Possible Estuary-Associated Syndrome (PEAS) Surveillance —New— National Center for Environmental Health (NCEH) is requesting an emergency clearance to collect data on PEAS. In 1997, scientists found a newly identified microorganism, the dinoflagellate Pfiesteria piscicida, in water samples taken from a bay tributary. The presence of large numbers of this organism (a bloom) was purportedly associated with observations of thousands of dead fish as well as with reports of a wide range of adverse human health effects. Reports of this purported association created excessive public concern about exposure to estuarine waters and a general distrust in seafood that prompted a flood of inquiries to public health and environmental quality agencies.

Since 1997, the Centers for Disease Control and Prevention (CDC) has been working with the States of Delaware, Florida, Maryland, North Carolina, South Carolina, and Virginia in a series of meetings, workshops, and conference calls to design, implement, evaluate, and revise surveillance activities to provide a quantitative estimate of the public health burden associated with responding to Pfiesteria-related events, including blooms, fish kills, and people with health complaints. Cooperative agreement funds were awarded to these states to develop a multi-state surveillance system to examine the effects of Pfiesteria blooms upon humans and to expand the scientific knowledge of the human health effects if Pfiesteria. Specifically, the states will quantify the burden of PEAS on their health agencies by enumerating the number of contacts involving public and professional requests for information as well as symptoms involved in self-reporting. In collaboration with the state health departments, NCEH has developed a standardized data collection instrument that the states may use to collect and store the surveillance data. NCEH has requested that the states report specific data elements back at regular intervals so that NCEH can compile the data and issue periodic aggregate reports.

CDC/NCEH is requesting a 6 month emergency clearance. There is no cost to respondents.

Type of burden	Number of respondents	Number of responses	Avg. burden/ response (in hrs.)	Total burden (in hrs.)
Information only calls	800	1	5/60	66
Symptomatic reports—telephone interview	80	1	25/60	33
Total				99

Dated: March 13, 2000.

Charles Gollmar,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–6614 Filed 3–16–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2000–07]

Fiscal Year 2000 Family Violence Prevention and Services Program—National Domestic Violence Hotline; Availability of Funds and Request for Applications

AGENCY: Office of Community Services (OCS), Administration for Children and Families (ACF), DHHS.

ACTION: Notice of the availability of funds and request for applications to establish and operate the National Domestic Violence Hotline.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), announces the availability of funds in fiscal year (FY) 2000 for the award of one cooperative agreement on a competitive basis to operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. This announcement contains all of the application materials needed to apply for this cooperative agreement.

The purpose of the national domestic violence hotline is to provide information and referral services, counseling, and assistance to victims of domestic violence, their children and other family members, and others affected by such violence and to enable them to find safety and protection in crisis situations. The successful applicant will be required to provide telephonic assistance on a 24 hour-per-day, seven day-a-week basis throughout the continental United States, and in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

Closing Date: The closing date for submission of applications is May 17, 2000. Applications postmarked after the closing date will be classified as late. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing. Detailed application submission instructions, including the addresses where applications must be received, are found in Part IV of this announcement.

Mailing Address: Applications should be mailed to Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor Aerospace Center, 370 L'Enfant Promenade, SW Washington, DC 20447; Attention: Application for Family Violence Prevention and Services Program.

Number of Copies Required: One signed original application and four copies should be submitted at the time of initial submission. (OMB–0970–0062, expiration date 10/31/2001.)

Acknowledgment of Receipt: An acknowledgment will be mailed to all applicants with an identification number which will be noted on the acknowledgment. This number must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgment is not received within three weeks after the application deadline, applicants must notify ACF by telephone (202) 401–5103. Applicant should also submit a mailing label for the acknowledgment. (**Note:** To facilitate receipt of this acknowledgment from ACF, applicant should include a cover letter with the application containing an E-mail address and facsimile (FAX) number if these items are available to applicant.)

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, Division of State Assistance, 370 L'Enfant Promenade, SW, Washington, DC 20447. Contact: William Riley, (202) 401–5529.

For a Copy of the Announcement, Contact: Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW, 5th Floor West, Washington DC 20447. Telephone: (202) 401–4787.

In addition, the announcement will be accessible on the OCS website for reading or printing at: *http://www.acf.dhhs.gov/programs/ocs* under ''Funding Opportunities''.

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts. Part I provides information on the legislative authority applicable to this announcement and background information on the proposed national domestic violence hotline. Part II describes the minimum requirements for the design of the hotline that the applicant must address in its

application. Part III describes the evaluation criteria. Part IV provides information and instructions for the development and submission of an application.

The forms to be used for submitting an application follow Part IV. Please copy and use these forms in submitting an application under this announcement. No additional application materials are available or needed to submit an application.

Applicants should note that the cooperative agreement to be awarded under this program announcement is subject to the availability of funds.

Part I: General Information

A. Legislative Authority

Title III of the Child Abuse Amendments of 1984, (Pub. L. 98–457, 42 U.S.C. 10401, *et seq.*) is entitled the Family Violence Prevention and Services Act (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Pub. L. 102–295, and was reauthorized and amended for fiscal years 1996 through 2000 by Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (Crime Bill), signed into law on September 13, 1994. The Act was most recently amended by Pub. L. 104–235, the ''Child Abuse Prevention and Treatment Act Amendment of 1996.''

Section 316 of the Crime Bill, the Violence Against Women Act, authorized a grant award for up to five years to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

B. Conceptual Framework and Scope of Services

The prevalence of family violence is widespread and its effective prevention and treatment requires coordination and collaboration among a broad range of legal, justice system, health, and social service providers, and advocates at the Federal, State and local levels.

To serve the wide range of expected calls effectively, the hotline must have expertise about domestic violence and services to victims of domestic violence. The staff also must understand the importance of using appropriate linkages with State and local resources to serve callers to the hotline. The benefits of a highly visible national hotline to victims and others will be directly related to the productive working relationships and coordinated provision of services between and among the hotline and State and local hotlines and other services and resources.

Calls to the hotline may range from the urgent and life-threatening to calls for general reference information. The target population to be served by the hotline is specified in the statute as ''victims of domestic violence''. The hotline should be prepared to respond to the broad range of violence that occurs in the context of family and intimate relationships, domestic violence, spouse abuse, partner abuse, battering of women, sexual assault, date rape, and acquaintance rape. The hotline also will serve those less directly affected by such abuse, *e.g.,* relatives, children of victims and other family members, friends, neighbors, perpetrators and batterers, other concerned individuals, and the general public.

In terms of the scope of the services provided by the hotline, the statute requires the provision of ''information and assistance'' and ''counseling and referral services''. Therefore, the applicants' proposed design and plan for operating the hotline and responding to callers is important. However, the hotline is not expected to provide extended or long-term counseling or therapy services. The fuller discussion of a problem and consideration of options is done most appropriately at the local level, given the variation in laws and services available among the States and localities.

Because domestic violence often contributes to isolation, helplessness, loss of self-esteem, and dependence, a self-help and empowerment model of services is needed. Such a model:

- Protects and assures safety for all victims and other family members;
- Builds on the strengths and resources of individuals and families;
- Offers options and support for independent decision-making based on specific individual and family needs and circumstances; and
- Assists individuals and families to obtain protection and needed services that are respectful of cultural and community characteristics.

Finally, we recognize that there is an inter-relationship between alcohol, drug abuse, and mental health (ADM) problems and domestic violence. Alcohol abuse has been demonstrated to contribute to violent behavior. Moreover, the abuse of alcohol coupled with other drugs is even more likely to be associated with severe battering incidents than is alcohol by itself. Victims of and or witnesses to domestic violence also may experience psychological consequences or turn to substance abuse to ameliorate their pain. In addition to the physical trauma resulting from acts of physical abuse, battered women suffer from a number of mental health consequences, including higher levels of depression, drug and alcohol abuse, suicide attempts, and low self-esteem. Many of the mental health consequences of spousal violence result from chronic intimidation and fear, which are often as significant as the actual, acts of physical aggression. Witnessing spousal violence contributes to the cycle of violence outside the home. There is an increased likelihood of child abuse in homes where there has already been spouse abuse.

C. Eligible Applicants

Any private nonprofit agency, organization, institution, Tribal organization, or combination thereof, is eligible to apply for these funds. The applicant nonprofit entity must submit documentation of its experience and capability to operate a 24 hour, 365 days a year, domestic violence hotline. Any nonprofit organization submitting an application must also submit proof of its nonprofit status in its application at the time of submission. Proof of nonprofit status can be accomplished by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS Code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

D. Availability of Funds

As authorized by section 316 of the Act, the Office of Community Services will award one cooperative agreement in FY 2000 for a maximum of $1,957,000 for the implementation of the toll-free rational domestic violence hotline. The source of these funds will be the Crime Bill Trust Fund.

Non-competitive continuation grant awards for each of years two through five (FYs 2001–2004) are projected to be $2,000,000 per fiscal year subject to the availability of funds.

E. Duration of Project

The Office of Community Services will award one grant, as a cooperative agreement, for up to five years (60-month project period). The initial grant award will cover a 12-month budget period. Application for continuation funding beyond the initial 12-month budget period, but within the 60-month project period, will be considered in subsequent years on a non-competitive basis, subject to the approval of the Secretary, the availability of funds, the

satisfactory performance of the grantee, and the determination that the continued funding and support of the project would be in the best interest of the government.

F. Cooperative Agreement

The Office of Community Services intends to support the national toll-free hotline through a cooperative agreement. A cooperative agreement is Federal financial aid in which substantial Federal involvement is anticipated. The responsibilities of the Administration for Children and Families and of the successful applicant will be identified and incorporated into the cooperative agreement during pre-award negotiations. It is anticipated that ACF responsibilities will not change the project requirements found in Part II of this announcement.

The grantee will outline a plan of interaction with OCS for implementation under a cooperative agreement including, as appropriate, activities involving Federal staff. The plan under the cooperative agreement will describe the general and specific responsibilities of the grantee and the grantor as well as foreseeable joint responsibilities. A schedule of tasks will be developed and agreed upon in addition to any special conditions relating to the implementation of the hotline.

Part II: Project Requirements

Requirements for Project Implementation

The following requirements must be met by the grantee and addressed in the application:

1. All funds received by the grantee pursuant to Section 316 of the Act must be used to establish and operate a national toll-free, telephone hotline to provide information and assistance to victims of domestic violence.

2. In establishing the hotline, the private, nonprofit entity shall:

- Contract with a carrier for the use of a toll-free telephone line;
- Employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services on a 24-hour-a-day basis;
- Assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve battered women and their children; and
- Publicize the hotline to potential users throughout the United States.

3. To be approved by the Secretary, the application must include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including description of:

- The training program for hotline personnel;
- The hiring criteria for hotline personnel;
- The methods for the creation, maintenance, and updating of a resource database;
- A plan for publicizing the availability of the hotline;
- A plan for providing service to non-English speaking callers, including hotline personnel who speak Spanish; and
- A plan for facilitating access to the hotline by persons with hearing impairments.

4. The applicant must demonstrate that it has:

- Nationally recognized expertise in the operation of a domestic violence hotline and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups, such as domestic violence State coalitions or recognized national domestic violence groups; and
- A commitment to diversity, and to the provision of services to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities.

5. The applicant must demonstrate knowledge of the field, including the range of services and the resources available for domestic violence victims, their children and family members, perpetrators and batterers, and other concerned individuals, including services and resources relating to substance and mental health problems; State and Indian tribal domestic violence laws, including the availability of legal protection; and the barriers affecting access to such services, resources and protection.

6. The applicant must demonstrate experience in providing high-quality crisis intervention, information and referral, and counseling services and support to battered women, their children, other domestic violence victims, their family and friends, batterers, and the general public through a national toll-free hotline.

7. The applicant must demonstrate an understanding of the relationship of alcohol, drug abuse, and mental health problems to incidents of domestic violence and the ability to make appropriate referrals to callers.

8. The applicant must demonstrate an understanding of the need for a national hotline for domestic violence victims, including a description of the function and limitation of the current network of national and State crisis hotlines, information lines, and State victims' referral services.

9. The applicant must provide a plan and demonstrated ability to build, maintain, and keep current a comprehensive database of resource information, including the full range of services available in local communities, the types of legal protection and services available in different States and localities, and the capability to access information.

10. The applicant must provide a detailed description of:

- The telecommunications and computer technology that is or will be employed to establish and support the hotline, including all management functions, referral functions, resource database management functions, monitoring functions, and overall project administration and quality control, including periodic reporting to HHS;
- The design and operation of the telephone system that will be used to provide the service; its capacity and its limitations, including information such as the capacity to facilitate the number of incoming calls, call conferencing, automatic call referral to local providers, and service integration with computers;
- The methods that will be used to ensure that the national hotline is a confidential crisis intervention and the specific provisions that will be in place to safeguard the confidentiality of callers and ensure the proper handling of confidential or sensitive information;
- The personnel recruitment, hiring, and training program (*i.e.,* a description of an initial and ongoing training plan for staff and volunteers should be included in this section) that will ensure the delivery of quality crisis intervention, information and referral, assistance, and counseling services to diverse populations;
- The specific emergency response and crisis protocol to be used, the ability to conference call (or ''patch'') a caller to a local domestic violence, legal services, or mental health or substance abuse program when appropriate, and the plans for minimizing such problems as crank/obscene calls and busy signals; and
- The methods the applicant will use to provide for the development, maintenance, and updating of a comprehensive resource database (distributed to the maximum extent appropriate); the technical capacity to link with other State and local databases in order to maintain an extensive and current resource locator or listing; the

ability to facilitate communication among service providers to assist the provision of services; and how the information on best practices gathered through various inventories will be used to assist victims of family violence.

11. The applicant must demonstrate an understanding of the technological requirements of such a project and include a detailed timeline to provide the following services nationally:

- 24-hour/365 days per year access;
- Direct access to English and Spanish-speaking personnel at all times and provision for services to other non-English speaking callers and the hearing impaired;
- Personnel (paid staff and volunteers) trained in crisis intervention, information and referral, and counseling skills;
- Comprehensive database of current information;
- The ability to connect callers directly to local programs or services when appropriate;
- Emergency response protocol for callers in immediate danger; and
- Appropriate confidentiality safeguards; and data collection and data management capability sufficient to support program administration, reporting, monitoring, and an ongoing quality assessment of the hotline service.

12. The applicant must provide a plan to coordinate, work with, and provide hotline services and data resource and referrals that make maximum use of existing domestic violence programs and resources, including, but not limited to, local and State-wide domestic violence hotlines, State Domestic Violence Coalitions, State Sexual Assault Coalitions, shelter programs, emergency services, legal services programs, national domestic violence resource centers, other existing national hotlines, and other national organizations; resources related to child abuse and youth endangerment, ADM problems, and perpetrators and batterers programs. The applicant must provide support to State and local domestic violence hotlines in response to demands generated by the national public awareness campaign.

13. The applicant must provide a description of the quality assurance system it will use to assess regularly the quality of the services being provided by the hotline and the extent to which the goals and objectives of the service are being met. The quality assurance system also must include actions to address identified problems.

14. The applicant must provide a comprehensive plan to publicize the hotline to a national audience, including efforts to ensure promotion through the national media and through targeted outreach to racially and ethnically diverse communities, older individuals, and individuals with disabilities.

15. The applicant must demonstrate the ability to staff, financially support, and programmatically administer a national project of this scope.

16. The author(s) of the application must be clearly identified together with a description of his or her current relationship to the applicant organization and any future project role he or she may have if the project is funded.

17. The applicant must provide an assurance that any information collected as a part of this grant will become the property of the Federal Government.

18. The applicant must provide an assurance that it will work with the Federal Project Officer to identify the information that will be compiled based on incoming calls including compilation of information on both maternal and child victims of domestic violence and individual and situational factors characterizing violent and abusive behavior.

19. The applicant must provide an assurance that it will comply with the grant administration requirements in 45 CFR part 74.

Part III: Evaluation Criteria

The five criteria that follow will be used to review and evaluate how each applicant has addressed the requirements stated in Part II and should be used in developing the program narrative. The point values following each criterion heading indicate the maximum numerical weight that each section will be given in the review process.

1. Need for the Project (10 Points)

Provide a detailed discussion of the need for a national domestic violence hotline of the scope being proposed. Provide a detailed analysis of the available data related to the problem being addressed (both domestic violence in general and the specific lack of a national domestic violence hotline); the strengths and limitations of other national and local crisis intervention and victim services hotline/referral services available, and the ''state-of-the-art'' relative to the problem being addressed by the proposal.

2. Goals and Objectives (10 Points)

Clearly state the project goals and objectives. Objectives should be stated in concrete, measurable terms which clearly identify the population(s) to be served, the type, quality, and level of service to be provided, the timeline for the establishment and delivery of services, and other project benchmarks. The anticipated demand for hotline services during the initial start-up period and a projection of the demand on an ongoing basis should be discussed, with supporting documentation. Describe the precise location of the project.

3. Approach (30 Points)

Provide a sound workable plan of action (approach) which details: How the proposed work will be accomplished; how each task relates to the project's goals and activities; identifies the key staff member responsible for the specific tasks; provides a chart indicating the timetable for completing each task, the phasing in of the tasks over time, the lead staff person, and the time committed to the task; cites factors which might accelerate or decelerate the work; justifies the approach selected over other approaches; makes maximum use of existing facilities and resources and off-the-shelf technology; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social or community involvement; and provides projections of the accomplishments to be achieved and identifies the activities for which Federal technical assistance, advice, or guidance as the project is implemented is anticipated and would be acceptable.

4. Results and Benefits Expected (20 Points)

Identify, in specific terms, the results and benefits to be derived from the project and relate each result and benefit to a specific objective. Indicate the aggregate number of calls expected to be received and individuals to be assisted on an annual basis, *e.g.,* the expected volume of calls in such service areas as crisis counseling, immediate referrals to shelters, or the number of referrals made in response to non-English speaking callers. Indicate the anticipated impact on and the subsequent benefit of the national hotline to victims of domestic violence and on the existing network of State and local shelters and services. Identify the kinds of data to be collected, maintained, and updated, and discuss the criteria to be used to assure the quality of the services provided.

5. Level of Effort (30 Points)

Expertise, Commitment, and Support. The extent to which the applicant has nationally recognized expertise in the

area of domestic violence and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups, such as State Domestic Violence Coalitions or recognized national domestic violence groups; the extent of the applicant's commitment to diversity, and to the provision of service to ethnic, racial, and non-English speaking minorities, older individuals, and individuals with disabilities.

Staff Background and Organizational Experience. The adequacy of the staffing pattern for the proposed project, how the individual responsibilities are linked to project tasks, and the contributions to be made by key staff. Each collaborating or cooperative organization, individual consultant, or other key individuals who will work on the project should be listed along with a description of the nature of their effort or contribution.

Competence of Staff. The background and experience of the project director and key project staff and the history and accomplishments of the organization; the qualifications of the project team including any experience with similar projects; the variety of skills, relevant educational background, and the ability to effectively manage the project and to coordinate activities with other agencies. One or two pertinent paragraphs on each key member are preferred to vitae/resumes. However, vitae/resumes may be included.

Adequacy of Resources. The adequacy of the available resources and organizational experience with regard to the tasks of the proposed project. List the financial, physical, and other resources already committed by other public and private agencies and institutions, if any. Explain how these organizations will participate in the day to day operations of the project. Letters from these agencies and organizations identifying and discussing the specifics of their commitment and participation must be included in the application.

Budget. Relate the proposed budget to the level of effort required to obtain the project objectives. Demonstrate that the project's costs are reasonable in view of the anticipated results.

Collaborative Efforts. The additional anticipated private sector resources that may be available to support or enhance the overall program. Discuss in detail and provide documentation for any proposed collaborative or coordinated efforts with other public and private agencies or organizations. Identify these agencies or organizations and explain how their participation will enhance the project. Letters from these agencies and organizations must be included discussing their interest and/or commitment in supporting this project, the stage of the planning and decision-making, and the expected level of resource commitment.

Part IV: Other Information and Instructions for the Development and Submission of Applications

A. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, (E.O.) ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the E.O., States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and Palau, have elected to participate in the E.O. process and have established a Single Point of Contact (SPOCs). Applicants from these twenty-three jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that OCS can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations that may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families Office of Grants Management/OCSE, 4th Floor Aerospace Center, 370 L'Enfant Promenade, SW, Washington, DC 20447.

A list of the Single Point of Contact for each State and Territory is included at the end of this announcement.

B. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations, including program announcements. This program announcement does not contain information requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062, expiration date 10/31/2001. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

C. Application Submission

The closing date and time for submittal of applications under this program announcement is found at the beginning of this program announcement under ''Closing Date''. Applications postmarked after the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor West, Aerospace Center, 370 L'Enfant Promenade, SW., Washington, DC 20447; Attention: Application for Family Violence Prevention and Services Program.

Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private Metered postmarks shall not be acceptable as proof of timely mailing.

Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST,

and at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note: Attention: Application for Family Violence Prevention and Services Program. (Applicants are again cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods and hurricanes, or when there is widespread disruption of the mails. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

D. Instructions for Preparing the Application and Completing Application Forms

1. SF 424

The SF 424 and certifications have been reprinted for your convenience in preparing the application. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies.

At the top of the Cover Page of the SF 424, enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

2. SF 424A—Budget Information—Non-Construction Programs

With respect to the 424A, Budget Information—Non-Construction Programs, Sections A, B, C, E, and F are to be completed. Section D does not need to be completed.

In order to assist applicants in correctly completing the SF 424 and 424A, detailed instructions for completing these forms are contained on the forms themselves. See the Instructions accompanying the attached SF 424A, as well as the instructions set forth below.

Section A—Budget Summary

Lines 1–4

Column (a) Line 1—Enter OCS FVPS Program.

Column (b) Line 1—Enter 93.592.

Columns (c) and (d)—Not Applicable.

Columns (e), (f) and (g)—For lines 1 through 4, enter in appropriate amounts needed to support the project for the entire project period.

Line 5

Enter the figures from Line 1 for all columns completed, (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period will be entered in Column (1).

Allocability of costs is governed by applicable cost principles set forth in the *Code of Federal Regulations (CFR)*, Title 45, Parts 74 and 92.

Budget estimates for administrative costs must be supported by adequate detail for the grants officer to perform a cost analysis and review. Adequately detailed calculations for each budget object class are those which reflect estimation methods, quantities, unit costs, salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class *other,* identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives; large dollar amounts; local, regional, or other travel; new positions; major equipment purchases; and training programs.

A detailed itemized budget with a separate budget justification for each major item should be included as indicated below:

Line 6a

Personnel—Enter the total costs of salaries and wages.

Justification—Identify the project director and staff. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Line 6b

Fringe Benefits—Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on Line 6j.

Justification—Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Line 6c

Travel—Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification—Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances. Traveler must be a person listed under the personnel line or employee being paid under non-federal share. (**Note:** Local transportation and Consultant travel costs are entered on Line 6h.)

Line 6d

Equipment—Enter the total costs of all equipment to be acquired by the project. *Equipment* means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) $5,000. (**Note:** If an applicant's current rate agreement was based on another definition for equipment, such as ''tangible personal property $500 or more'', the applicant shall use the definition used by the cognizant agency in determining the rate(s). However, consistent with the applicant's equipment policy, lower limits may be set.)

Justification—Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its subgrantees must not already have the equipment or a reasonable facsimile available to the project.

Line 6e

Supplies—Enter the total costs of all tangible personal property other than that included on line 6d.

Justification—Provide a general description of what is being purchased such as type of supplies: office, classroom, medical, etc. Include equipment costing less than $5,000 per item.

Line 6f

Contractual—Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary

recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification—Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and selection process of the awards as part of the budget justification. Also provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements.

Note 1: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit Sections A and B of this Form SF–424A, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6f. Provide draft Request for Proposal in accordance with 45 CFR part 74, appendix A. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

Note 2: Contractual cannot be a person—must be an organization, firm, etc. Enter Consultant cost on Line 6h.

Line 6g

Construction—Not applicable.

Line 6h

Other—Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (non-contractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Line 6j

Indirect Charges—Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by DHHS or other Federal agencies.

Line 6k

Totals—Enter the total amount of Lines 6i and 6j.

Line 7

Program Income—Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification—Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of *Non-Federal* resources that will be used to support the project. *Non-Federal* resources mean other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Category, (See SF–424A, Section B.6) and whether it is cash or third party in-kind. The firm commitment of these required funds must be documented and submitted with the application in order to be given credit in the Criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8

Column (a)—Enter the project title.

Column (b)—Enter the amount of cash or donations to be made by the applicant.

Column (c)—Enter the State contribution.

Column (d)—Enter the amount of cash and third party in-kind contributions to be made from all other sources.

Column (e)—Enter the total of columns (b), (c), and (d).

Lines 9, 10 and 11

Leave Blank.

Line 12

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, Column (f).

Justification—Describe third party in-kind contributions, if included.

Section F—Other Budget Information

Line 21

Direct Charges—Include narrative justification required under Section B for each object class category for the total project period.

Line 22

Indirect Charges—Enter the type of DHHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement.

Line 23

Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the application. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project ''abstract.'' It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II. The narrative should also provide information concerning how the application meets the evaluation criteria using the following headings:

(a) Need for the Project;
(b) Goals and Objectives;
(c) Approach;
(d) Results and Benefits; and
(e) Level of effort.

The specific information to be included under each of these headings is described in Part III, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½″ x 11″ plain white paper, with 1″ margins on

all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives and Need for the Project'' as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½″ x 11″ sheet of paper. Applicants are requested not to send pamphlets, maps, brochures or other printed material along with their application as these pose photocopy difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs, and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities; and (3) Certification Regarding Environmental Tobacco Smoke. These certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this Application Kit and should be reproduced as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities, and Environmental Tobacco Smoke certifications.

E. The Application Package

Each application package must include an original and four copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Applicants should include a self-addressed stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application. If acknowledgment of receipt of your application is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–5103.

F. Post-Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total required financial grantee participation.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantees will be subject to the provisions of 45 CFR part 74 or 92.

Grantees will be required to submit quarterly progress and semi-annual financial reports (SF 269) throughout the project period, as well as a final progress and financial report within 90 days of the termination of the project.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental), 92 (governmental), OMB Circular A–133 and OMB Circular A–128. If an applicant does not request indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and Tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) To certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and the purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantees will pay with profits or nonappropriated funds on or after December 22, 1989 and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance.

(Catalog of Federal Domestic Assistance number 93.592, Family Violence Prevention and Services)

Dated: March 9, 2000.

Donald Sykes,

Director, Office of Community Services.

Family Violence Prevention and Services Program; List of Attachments

Attachment B–1 Application for Federal Assistance
Attachment B–2 Budget Information—Non Construction Programs
Attachment B–3 Assurances—Non Construction Programs
Attachment C Certification Regarding Drug Free Requirements
Attachment D Certification Regarding Debarment, Suspension
Attachment E Certification Regarding Environmental Tobacco Smoke
Attachment F–1 Certification Regarding Lobbying
Attachment F–2 Disclosure of Lobbying Activities
Attachment G State Single Point of Contact Listing

BILLING CODE 4184–01–P

APPLICATION FOR FEDERAL ASSISTANCE

Attachment B-1, Page 1

OMB Approval No. 0348-0043

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:

Application
- ☐ **Construction**
- ☐ **Non-Construction**

Preapplication
- ☐ **Construction**
- ☐ **Non-Construction**

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, State, and zip code):*

Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (*e.g.,* construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (*e.g.,* State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official *representative must be on file in the applicant's office.* (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–M

Attachment B-2, Page 1

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

Attachment B-2, Page 2

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page

BILLING CODE 4184-01-C

Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal Assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Column (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5, Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i

Show the totals of Lines 6a to 6h in each column.

Line 6j

Show the amount of indirect cost.

Line 6k

Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5 .For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7

Enter the estimated amount of income, if any, expected to be generated from thisproject. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11

Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12

Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13

Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14

Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15

Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19

Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20

Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21

Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22

Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23

Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

Please do not return your completed form to the office of management and budget send it to the address provided by the sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A or OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6.Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd–3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental of financing of housing; (i) any other nondiscrimination provisions in specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statue(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, a applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 *et seq.*); (f) conformity of Federal actions to State (Clean Air) Implementations Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 *et seq.*); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 *et seq.*) related to protecting components or potential of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a–1 *et seq.*).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 *et seq.*) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 *et seq.*) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

Signature of Authorized Certifying Official

Applicant Organization
Title
Date Submitted

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services,

the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement,the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace, Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals. Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification, If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (*e.g.,* all vehicles of a mass transit authority of State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 13208.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (*e.g.,* volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Take one of the following action, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may inset in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each effected grant. [55 FR 21690, 21702, May 25, 1990]

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into the transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or

agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department of agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this cause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting his proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily

excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL ''Disclosure form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

BILLING CODE 4184–01–M

Attachment F-2, Page 1

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Attachment F–2

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, *e.g.,* the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee,'' then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, *e.g.,* ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Attachment G

State Single Point of Contact Listing Maintained by OMB

In accordance with Executive Order #12371, ''Intergovernmental Review of Federal Programs,'' Section 4, ''the Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development.'' This attached listing is the OFFICIAL OMB LISTING. This listing is also published in the Catalogue of Federal Domestic Assistance biannually

August 23, 1999—OMB State Single Point of Contact Listing*

Arizona

Joni Saad
Arizona State Clearinghouse
3800 N. Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone: (602) 280–1315
FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
515 W. 7th St., Room 412
Little Rock, Arkansas 72203
Telephone: (501) 682–1074
FAX: (501) 682–5206

California

Grants Coordination
State Clearinghouse
Office of Planning & Research
1400 Tenth Street, Room 121
Sacramento, California 95814
Telephone: (916) 445–0613
FAX: (916) 323–3018

Delaware

Francine Booth
State Single Point of Contact
Executive Department
Office of the Budget
540 S. Dupont Highway—Suite 5
Dover, Delaware 19901
Telephone: (302) 739–3326
FAX: (302) 739–5661

District of Columbia

Charles Nichols
State Single Point of Contact
Office of Grants Mgmt. & Dev.
717 14th Street, N.W. Suite 1200
Washington, D.C. 20005
Telephone: (202) 727–1700 (direct)
(202) 727–6537 (secretary)
FAX: (202) 727–1617

Florida

Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399–2100
Telephone: (850) 922–5438
FAX: (850) 414–0479
Contact: Cherie Trainor (850) 414–5495

Georgia

Deborah Stephens, Coordinator
Georgia State Clearinghouse
270 Washington Street, S.W.—8th Floor
Atlanta, Georgia 30334
Telephone: (404) 656–3855
FAX: (404) 656–7901

Illinois

Virginia Bova, State Single Point of Contact
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph, Suite 3–400
Chicago, Illinois 60601
Telephone: (312) 814–6028
FAX: (312) 814–1800

Indiana

Renee Miller
State Budget Agency
212 State House
Indianapolis, Indiana 46204–2796
Telephone: (317) 233–2971 (directline)
FAX: (317) 233–3323

Iowa

Steven R. McCann
Division for Community Assistance
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Telephone: (515) 242–4719
FAX: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director
Sandra Brewer, Executive Secretary
Intergovernmental Affairs
Office of the Governor
700 Capitol Avenue
Frankfort, Kentucky 40601

Telephone: (502) 564–2611
FAX: (502) 564–0437

Maine

Joyce Benson
State Planning Office
184 State Street
38 State House Station
Augusta, Maine 04333
Telephone: (202) 287–3261
FAX: (202) 287–6489

Maryland

Linda Janey
Manager, Plan & Project Review
Maryland Office of Planning
301 W. Preston Street—Room 1104
Baltimore, Maryland 21201–2365
Staff Contact: Linda Janey
Telephone: (410) 767–4490
FAX: (410) 767–4480

Michigan

Richard Pfaff
Southeast Michigan Council of Governments
660 Plaza Drive—Suite 1900
Detroit, Michigan 48226
Telephone: (313) 961–4266
FAX: (313) 961–4869

Mississippi

Cathy Mallette
Clearinghouse Officer
Department of Finance and Administration
550 High Street
303 Walters Sillers Building
Jackson, Mississippi 39201–3087
Telephone: (601) 359–6762
FAX: (601) 359–6758

Missouri

Lois Phol
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Jefferson Building, 9th Floor
Jefferson City, Missouri 65102
Telephone: (314) 751–4834
FAX: (314) 751–7819

Nevada

Department of Administration
State Clearinghouse
209 E. Musser Street, Room 220
Carson City, Nevada 89710
Telephone: (702) 687–4065
FAX: (702) 687–3983
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Please direct all questions and correspondence about intergovernmental review to: Linda Clarke Telephone (809) 774–0750 FAX: (809) 776–0069.

If you would like a copy of this list faxed to your office, please call our publications office at: (202) 395–9068

*In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' this listing represents the designed State Single Points of Contact. The jurisdictions not listed no longer participate in the process BUT GRANT APPLICANTS ARE STILL ELIGIBLE TO APPLY FOR THE GRANT EVEN IF YOUR STATE, TERRITORY, COMMONWEALTH, ETC DOES NOT HAVE A ''STATE SINGLE POINT OF CONTACT.'' STATES WITHOUT ''STATE SINGLE POINTS OF CONTACT'' INCLUDE: Alabama, Alaska; American Samoa; Colorado; Connecticut; Hawaii; Idaho; Kansas; Louisiana; Massachusetts, Minnesota; Montana; Nebraska; New Jersey; Ohio; Oklahoma; Oregon; Palau;

Pennsylvania; South Dakota; Tennessee; Vermont, Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

[FR Doc. 00–6547 Filed 3–16–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Renewals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of certain FDA advisory committees by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the charters of the committees listed below for an additional 2 years beyond charter expiration date. The new charters will be in effect until the dates of expiration listed below. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463 (5 U.S.C. app. 2)).

DATES: Authority for these committees will expire on the date indicated below unless the Commissioner formally determines that renewal is in the public interest.

Name of committee	Date of Expiration
Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants	December 2, 2001
Food Advisory Committee	December 18, 2001
Vaccines and Related Biological Products Advisory Committee	December 31, 2001
Advisory Committee for Pharmaceutical Science	January 22, 2002
Pharmacy Compounding Advisory Committee	February 3, 2002
Medical Imaging Drugs Advisory Committee	February 28, 2002

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5496.

Dated: March 9, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–6575 Filed 3–16–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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 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: Healthy Schools, Healthy Communities Program Data Collection and Progress Report (OMB No. 0915–0188)—Revision

This is a request for revision of approval of the Healthy Schools Data System, which contains the annual reporting requirements for the Healthy Schools, Healthy Communities grantees funded by the Bureau of Primary Health Care (BPHC), HRSA. Authorizing legislation is found in Public Law 104–299, Health Center Consolidation Act of 1996, enacting Section of the Public Health Service Act.

The Healthy Schools, Healthy Communities program provides comprehensive primary and preventive health care services. The purpose of the progress report is to collect data specific to school health services, such as service utilization, health problems and risk behaviors.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hour
Progress Report	100	4	2	800
Total	100			800

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 13, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–6628 Filed 3–16–00; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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 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: Grantee Reporting Requirements for the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Title III HIV Early Intervention Services Program (OMB 0915–0158)—Revision

Section 2651 of the Public Health Service (PHS) Act (commonly known as Title III of the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act of 1990), provides categorical funding to increase the capacity and capability of organizations that provide primary health care to HIV-related early intervention services to medically underserved persons who have, or are at high risk for, HIV infection. These services are provided as part of a continuum of HIV prevention and health care services.

This clearance request is for a revision of OMB approval of the Title III Program Data Report form, which is submitted annually by Title III grant recipients. The bulk of the information being collected describes the epidemiologic and demographic characteristics of the populations receiving early intervention services from grant recipients, and provides the basis for the annual report to the Secretary, which is legislatively mandated. It is also used to monitor the delivery of services, guide federal policy, and assist in program development and evaluation.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hour
Progress Report	348	1	84	29,232
Total	348			29,232

Send comments to Susan G. Queen, HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 13, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–6629 Filed 3–16–00; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)

Administration for Children and Families (ACF)

[Program Announcement CFDA Number 93.604]

Discretionary Funds for Assistance for Treatment of Torture Survivors

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Request for applications for services to victims of torture, including medical and psychological services; legal and social services; and research and training for health care providers outside of treatment centers to enable the provision of services to victims of torture.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), announces that competing applications will be accepted for Category I—''Treatment and Services for Torture Survivors,'' grants to provide assistance to victims of torture, including treatment for the physical and psychological effects of torture; and social and legal services, and Category II—''Technical Assistance for Treatment and Service Providers for Torture Survivors,'' a cooperative agreement for one organization to provide technical assistance such as research and training activities for the torture treatment centers and other health care providers.

DATES: The closing date for submission of applications is May 15, 2000. See Part IV of this announcement for more information on submitting applications.

ANNOUNCEMENT AVAILABILITY: The program announcement and the application materials are available from Marta Brenden, Office of Refugee Resettlement (ORR) 370 L'Enfant Promenade, SW, Washington DC 20447 and from the ORR website at www.acf.dhhs.gov/programs/orr.

FOR FURTHER INFORMATION CONTACT: Marta Brenden, Refugee Program Specialist, Division of Community Resettlement, Office of Refugee Resettlement, Tel (202) 205–3589, Fax (202) 401–5772, MBrenden@ACF.DHHS.GOV.

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background and General Information—background, purpose and objectives, legislative authority, funding availability, CFDA Number, eligible applicants, project and budget periods.

Part II. General Instructions for Preparing a Full Project Description

Part III: The Review Process—intergovernmental review, initial ACF screening, evaluation criteria and competitive review.

Part IV: The Application—application development, application submission, certifications, and applicable regulations and reporting requirements.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 30 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collection is included in the program announcement: OMB Approval No. 0970–0139, ACF UNIFORM PROJECT DESCRIPTION (UPD), which expires 10/31/2000. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Part I. Background and General Information

Background

Torture and Torture Victims

The psychosocial and health consequences of violence and traumatic stress have emerged as one of the public health problems of our time. Torture constitutes one of the most extreme forms of trauma, with the potential for long-term psychological and physical suffering. The term torture has been defined in different ways by different organizations and for different purposes. The two most commonly used definitions of torture were formulated by the World Health Organization (WHO) and by the United Nations (UN). The WHO, which governs professional standards and ethics for physicians, developed its definition in 1975; it is frequently called the ''Declaration of Tokyo,'' and it represents a popular definition among the medical community. It defines torture as:

''* * * the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.''

The UN definition, developed at the same time and revised in 1989, narrows the concept of torture somewhat by adding the legal and political responsibilities of governments. It states:

* * * the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or, a third person, information or a confession, punishing him for an act he or a third person has committed, or intimidating or coercing him or a third person for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

The United States ''Torture Victims Relief Act of 1998'' uses the definition of torture given the term in 18 U.S.C. 2340(l) and ''includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.'' The definition of ''torture'' at 18 U.S. C. 2340(l) provides that: torture means an act committed by a person under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

This provision also defines the term ''severe mental pain or suffering'' as: the prolonged mental harm caused by or resulting from—

(A) The intentional infliction or threatened infliction of severe physical pain or suffering;

(B) The administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) The threat of imminent death; or

(D) The threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.

It should be emphasized that, for purposes of this announcement, the experience of torture may include specific characteristics of torture as documented in personal testimony or in clinical, medical, or detention settings. Some specific examples of physical and psychological types of torture are: systemic beating, sexual torture, electrical torture, suffocation, burning, bodily suspension, pharmacological torture, mutilations, dental assaults, deprivation and exhaustion, threats about the use of torture, witnessing the torture of others, humiliation, and isolation.

Estimates of the number of torture survivors have been established primarily by extrapolating from the major populations at risk—refugees and internally displaced persons. In 1997, there were estimated to be more that 13,600,000 refugees and asylum seekers in the world and 20 million internally displaced persons. The estimates of refugees, asylum seekers and displaced persons who have been tortured vary widely from 5% to 35%. This announcement, which focuses on health, social and legal services for torture survivors, as well as education and training of providers, recognizes that torture may have been an experience of many members of groups residing in the United States, including refugees, asylees, immigrants, other displaced persons, and U.S. citizens. Using data cited above, it has been estimated that there may be more than 400,000 torture survivors in the United States.

Consequences of Torture and Services for Torture Survivors

Physical consequences of torture may be extensive and severe. Specific neuropsychological symptoms are often difficult to diagnose because of head injuries and the multiplicity of symptoms. Post-traumatic stress disorder, depression, substance abuse, and other anxiety disorders are common diagnoses among torture survivors. Therefore, for many severely tortured individuals, access to medical practitioners and sophisticated diagnostic instruments and testing (*e.g.,* neuro-imaging, cognitive functions, etc.), for the purpose of differential diagnosis, is paramount.

A high percentage of torture survivors are in need of social and legal services. Access to legal and immigration services is usually a priority. Social services, such as employment assistance and training, are also extremely important and correlate with successful psychosocial adjustment and well-being. From the national experience with refugees and survivors of wartime violence, it has been demonstrated that early and adequate access to social and legal services may also preclude the need for more specialized psychological treatment services.

The torture rehabilitation and treatment center movement, which was established in Denmark in the 1970's, and adopted in the US, Canada, France and other countries, has led to the growth of specialized torture survivor treatment centers in select parts of the nation. Although the treatment center movement has created opportunities for treatment and training in specific urban areas, many torture survivors do not have access to these highly specialized programs. Medical, social and legal services for torture survivors are needed in areas and in settings and institutions wherever torture survivors will seek

assistance. Thus there is also a national need for more broad-based training of medical and mental health practitioners in the identification, diagnosis and treatment of torture survivors.

Torture survivors, now in the United States, should be provided with the rehabilitation services which would enable them to become productive community members. The Torture Victims Relief Act of 1998 provides for services for the treatment of the psychological and physical effects of torture, social and legal services for torture survivors, and research and training for health care providers.

Purpose and Objectives

The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF) intends to fund grant applications for 10–15 organizations to provide assistance to victims of torture, and for one organization under a cooperative agreement to provide technical assistance, such as research and training to the torture treatment centers, social and legal service providers and health care providers.

Applications should be clearly labeled for either Category I—Treatment and Services for Torture Survivors or Category II—Technical Assistance for Treatment Centers and Service Providers for Torture Survivors. Under the cooperative agreement for technical assistance Category II, ORR intends to review and approve: (1) proposed plan for technical assistance activities, (2) schedule, location, and individual treatment centers and community-based agencies where site visits will be conducted, (3) training and research plans, and (4) locations of proposed workshops.

Not all torture survivors have the same medical, psychological, social, or legal needs, and services funded under this announcement should reflect diverse populations to be targeted and services to be provided. This is particularly true when considering conventional psychological services. It is emphasized that, within the clinical, social and legal service domains, proposals are encouraged that will address a broad menu of services for torture survivors and may include collaborative relationships. Partnerships are encouraged among several organizations in order to provide a comprehensive program of services. For example, an organization that currently provides legal advice to detained asylum seekers, who are torture survivors, might collaborate with another social service or clinical organization to pool resources and expand their range of services.

Legislative Authority

In October 1998, Congress enacted the ''Torture Victims Relief Act of 1998,'' Pub. Law 105–320 (22 U.S.C. 2152 note). As stated in Sec. 5 (a) ASSISTANCE FOR TREATMENT OF TORTURE VICTIMS—The Secretary of Health and Human Services may provide grants to programs in the United States to cover the cost of the following services:

(1) Services for the rehabilitation of victims of torture, including treatment of the physical and psychological effects of torture.

(2) Social and legal services for victims of torture.

(3) Research and training for health care providers outside of treatment centers, or programs for the purpose of enabling such providers to provide the services described in paragraph (1).

In November 1999, Congress enacted the ''Torture Victims Relief Reauthorization Act of 1999,'' Pub. Law 106–87 (22 U.S. C. 2151 note).

Funding Availability

Congress appropriated $7,500,000 for carrying out section 5 of the Torture Victims Relief Act of 1998. Department of Health and Human Services Appropriations Act, 2000, as enacted by section 1000(a)(4) of the Consolidated Appropriations Act, 2000 (Pub. L. 106–113). As a result of a rescission of approximately 3%, the funds available under this program announcement total $7,265,000 for the federal fiscal year 2000. ORR anticipates making 10–15 grants in the amounts of $500,000–$750,000 and making a cooperative agreement for technical assistance for approximately $300,000.

Applications for subsequent year continuation grants funded under these awards will be entertained on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

CFDA Number: 93.604.

Eligible Applicants

Eligible applicants are public or private organizations and institutions.

Project and Budget Periods

Under this announcement, ORR solicits applications for Category I for approximately 10–15 grants to provide assistance to survivors of torture for up to 4 years with successive one year budget periods and for Category II one cooperative agreement to provide technical assistance for up to 4 years to torture treatment centers, social and legal service providers and health care providers.

Part II. General Instructions for Preparing a Full Project Description

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

General Instructions

Cross-referencing should be used rather than repetition. ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Pages should be numbered and a table of contents should be included for easy reference.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the

applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, an applicant might describe torture survivors and the benefits to the survivors of the proposed services.

Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of microloans made. For an example of the approach in providing services to torture survivors, the applicant might provide quantitative monthly or quarterly projections of clients taken into service and the number of clinical, social or legal interventions. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a ''collection of information'' that is ''conducted or sponsored'' by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Dissemination Plan

Provide a plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

self explanatory

Part III. The Review Process

Intergovernmental Review: State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/Territory participation in the intergovernmental review process does not signify applicant eligibility for financial assistance under a program. A potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its SPOC, if applicable, or to ACF.

In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' this listing represents the designated State Single Points of Contact. The jurisdictions not listed no longer participate in the process *but grant applicants are still eligible to apply for the grant even if your state, territory, commonwealth, etc. does not have a ''State Single Point of Contact.'' Jurisdictions without ''State Single Points of Contacts'' include:* Alabama; Alaska; American Samoa; Colorado; Connecticut; Kansas; Hawaii; Idaho; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; and Washington.

This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

Jurisdictions that participate in the Executive Order process have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade

SW, 6th Floor, Washington DC, 20447 ATTN: Ms. Daphne Weeden.

A list of the Single Points of Contact for each State and Territory is included in this announcement.

OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144, e-mail: jonis@ep.state.az.us

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning and Research/State Clearinghouse, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 323–7480, FAX: (916) 323–3018,

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, 540 S. duPont Highway, Suite 5, Dover, Delaware 19901, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, NW—Suite 1200, Washington, DC 20005, Telephone: (202) 727–6537, FAX: (202) 727–1617, e-mail: charlesnic@yahoo.com or cnichols-ogmd@dcgov.org

Florida

Cherie L. Trainor, Coordinator, Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438 or (850) 414–5495, FAX: (850) 414–0479, e-mail: cherie.trainor@dca.state.fl.us

Georgia

Debra S. Stephens, Coordinator, Georgia State Clearinghouse, 270 Washington, Street, SW—8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, FAX: (404) 656–7901, e-mail: ssda@mail.opb.state.ga.us

Illinois

Virginia Bova, State Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Frances Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director, John-Mark Hack, Deputy Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Frankfort, Kentucky 40601, Telephone: (502) 564–2611, FAX: (502) 564–2849

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

Linda C. Janey, JD, Manager, Clearinghouse and Plan Review Unit, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2305, Telephone: (410) 767–4491, FAX: (410) 767–4480, e-mail: Linda@mail.op.state.md.us

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359-6762, FAX: (601) 359–6764

Missouri

Lois Pohl/Carol Meyer, Federal Assistance Clearinghouse, Office Of Administration, P.O. Box 809, Room 915, Jefferson Building, Jefferson City, Missouri 65102, Telephone: (573) 751–4834, FAX: (573) 522–4395

Nevada

Heather Elliott, Department of Administration, State Clearinghouse Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–6367, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process; Mike Blake, Office of State Planning, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Nick Mandell, Local Government Division, Room 201, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–4991, FAX: (505) 827–4948

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Marsha Roth, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617

North Carolina

Chrys Baggett, Director, North Carolina State Clearinghouse, Office of the Secretary of Administration, 116 West Jones Street—Suite 5106, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

Jim Boyd, North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Department 105, Bismarck, North Dakota 58505–0170, Telephone: (701) 328–2094, FAX: (701) 328–2308

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 222–2656, FAX: (401) 222–2083

South Carolina

Omegia Burgess, State Single Point of Contact, Budget and Control Board, Office of State Budget, 1122 Ladies Street—12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0645

Texas

Tom Adams, Single Point of Contact, State of Texas, Governor's Office of

Budget and Planning, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711–2428, Telephone: (512) 463–1771, FAX: (512) 936–2681, e-mail: tadams@governor.state.tx.us

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

West Virginia

Judith Dryer, Chief Program Manager, West Virginia Development Office, Building #6, Room 645, State Capitol, Charleston, West Virginia 25305, Telephone: (304) 558–0350, FAX: (304) 558–0362,

Wisconsin

Jeff Smith, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th, Floor P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931

Wyoming

Matthew Jones, State Single Point of Contact, Office of the Governor, 200 West 24th Street, State Capital, Room 124, Cheyenne, Wyoming 82002, FAX: (307) 632-3909

Territories

Guam Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444 or (809) 723–6190, FAX: (809) 724–3270 or (809) 724–3103.

Northern Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, Office of Management and Budget, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2256, FAX: (670) 664–2272.

Please direct all questions and correspondence about intergovernmental review to: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 664–2289, FAX: (670) 664–2272.

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802.

Please direct all questions and correspondence about intergovernmental review to: Daisey Millen, Telephone: (809) 774–0750, FAX: (809) 776–0069.

Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) The application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

Competitive Review and Criteria

Applications which pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria are designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement.

Please Note: Applicants are reminded to appropriately label their application as Category I—''Treatment and Services for Torture Survivors'' or Category II—''Technical Assistance for Treatment and Service Providers for Torture Survivors.'' An organization may apply to both categories but must submit separate applications, one for each category.

Review Criteria

Category I—Applications for Treatment and Services for Torture Survivors Will Be Reviewed and Ranked Against the Following Criteria

1. Objectives and Need for Assistance. The application clearly demonstrates knowledge of eligible clients, including: a.) A reasonable statement of the eligibility criteria for the intake assessment (attach the assessment form) and an understanding of eligibility by providing descriptive examples of individual torture survivors and the families that accompany them, description of the circumstances that resulted in torture (such as presenting the applicant's understanding of the political and social context in which the torture was administered); b.) Demographic details of the eligible population of torture survivors, including the number, nationality and ethnicity in the applicant's geographic service area; and c.) access to clients by adequately discussing issues of client's trust in the applicant organization, the likelihood of referral from other organizations, and outreach activities. (15 points)

2. Approach. The application provides a clear and feasible strategy for assistance to torture survivors, including: a.) client assessment strategy to determine which services are appropriate for the individual/family (e.g., not all clients will need all services, rather each client should be assessed for which social, legal, medical and psychological services are relevant to the client's circumstances); b.) goal and purpose of the assistance for the client/family; c.) description of medical, psychological, social and legal services and client access to services, such as location of treatment, proximity to communities where prospective clients live, and means of transportation that makes services accessible; and d.) established partnerships with community-based public and private agencies that participate in the provision of services to the client/family, for example, government and private organizations such as income maintenance, advocacy, immigration, recreational, public health, microenterprise, or whatever agency may be needed by the client/family with attachments that document the partnerships with memorandums of understandings (MOUs), letters of intent from partners, and plans for financial needs/arrangements for client support. (25 points)

3. Organization Profiles. The application demonstrates the organization's capacity to provide assistance appropriate to torture survivors and includes: (a.) Agency mission and organizational chart; (b.) resumes of project staff demonstrating linguistic and cultural access for clients; (c.) history of experience with torture survivors, such as experience as a treatment center or an organization that provides social and legal services to survivors of torture; (d.) management plan for the project contains systems of client records, program records, and financial management; and (e.) timeline for implementation of project activities. (25 points)

4. Results or Expected Benefits. The outcomes and benefits of the assistance are clearly explained and are reasonable. There are clear and understandable outcome measures for the services, and a reasonable plan for

reporting the outcomes to ORR. (25 points)

5. Budget and Budget Justification. The budget is reasonable and clearly justified. The methodologies for estimating the number of client/patients to be served are reasonable. The plan for obtaining funds from Medicaid, Refugee Medical Assistance (RMA), and private health coverage for client fees for treatment, when available, is appropriate, informed and viable. (10 points)

Category II—Applications for the Cooperative Agreement To Provide Technical Assistance to the Treatment Centers and Health Care Providers Will Be Reviewed and Ranked Against the Following Criteria

1. Objectives and Need for Assistance. The applicant clearly demonstrates knowledge of and access to treatment organizations providing services to torture survivors. The applicant also demonstrates a clear understanding of the nature and extent of technical assistance needed by the treatment facilities. (15 points)

2. Approach. The application provides a clear and feasible plan for providing technical assistance to approximately 15 treatment facilities. The application provides a clear and feasible strategy and persuasive explanation for technical assistance activities such as research to support training of medical, mental health, social service, and legal services, including: goals and objectives of the training and research; number of training sessions, curriculum for training; access to the targeted participants (such as, organizations and professionals whose services will be improved by training) (25 points)

3. Organization Profiles. The application demonstrates that it has the necessary staff and organization capabilities for providing technical assistance to treatment facilities and includes: a.) agency mission and organizational chart; b.) resumes of project staff demonstrating appropriate professional background and work experience with torture survivors; c.) management plan for the project contains plans for reports, program records, and financial management; and d.) timeline for implementation of project activities. (25 points)

4. Results and Expected Benefits. The outcomes and benefits of the assistance are clearly explained and are reasonable. There are clear and understandable outcome measures for the technical assistance and training, and a plan for reporting the outcomes to ORR. (25 points)

5. Budget and Budget Justification. The budget is reasonable and clearly justified. (10 points)

Part IV. Application Submission

Application Development

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ACF. Application materials including forms and instructions are available from the contact named under the ''Announcement Availability'' section in the preamble of this announcement. It is required that the application indicate on the SF–424 Item 11. ''Descriptive Title of Applicant's Project'' the category for which the application is to be considered.

Each application should include one signed original and two additional copies.

Each application narrative portion should not exceed 25 double-spaced pages in a 12-pitch font. Attachments and appendices should not exceed 25 pages and should be used only to provide supporting documentation such as maps, administration charts, position descriptions, resumes, and letters of intent for partnership agreements. Please do not include books or video tapes as they are not easily reproduced and are therefore, inaccessible to the reviewers. Each page should be numbered sequentially, including the attachments or appendices.

Funding Reconsideration

After Federal funds are exhausted for this grant competition, applications which have been independently reviewed and ranked but have no final disposition (neither approved nor disapproved for funding) may again be considered for funding. Reconsideration may occur at any time funds become available within twelve (12) months following ranking. However, ACF does not select from multiple ranking lists for a program. Therefore, should a new competition be scheduled and an application remain ranked without final disposition, applicants are informed of their opportunity to reapply for the new competition, to the extent practical.

Application Deadlines

The closing date for submission of applications is May 15, 2000. Mailed applications postmarked after the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attention: Ms. Daphne Weeden.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, the Office of Refugee Resettlement, 6th Floor, Aerospace Building, 901 D Street, SW, Washington, DC 20447 between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: Ms. Daphne Weeden.'' (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mails service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

For Further Information Contact: Ms. Daphne Weeden, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington, DC 20447, (202) 401–4577.

Standard Language Concerning the Certifications, Assurances, and Disclosure Required for Non Construction Programs

Applicants requesting financial assistance for non construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification of their compliance with the Drug Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

Applicable Regulations and Reporting Requirements

1. Applicable Regulations

Applicable DHHS regulations can be found in 45 CFR Part 74 or Part 92.

2. Reporting Requirements

Grantees are required to file the Financial status Report (SF–269) and Program Performance Reports on a semi-annual basis. Funds issued under these awards must be accounted for and reported upon separately from all other grant activities. ORR does not expect the proposed components/projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes. The official receipt point for all reports and correspondence is the ORR Grants Officer. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Grants Officer. The mailing address is: Ms. Daphne Weeden, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington, DC 20447. A final Financial and Program Report shall be due 90 days after the budget expiration date or termination of grant support.

Dated: March 13, 2000.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 00–6661 Filed 3–16–00; 8:45 am]

BILLING CODE 4184–01–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), Center for Substance Abuse Prevention (CSAP), and Center for Mental Health Services (CMHS) announces the availability of FY 2000 funds for grants for the activities discussed in detail under Section 3 of this notice. This notice is not a complete description of the activities; potential applicants *must* obtain a copy of the Program Announcements, including Part I, Cooperative Agreement To Study Women With Alcohol, Drug Abuse and Mental Health (ADM) Disorders Who Have Histories of Violence: Phase II, and Cooperative Agreement To Study Children Of Women With Alcohol, Drug Abuse and Mental Health (ADM) Disorders Who Have Histories Of Violence; 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 No. of awards	Project period
Women, ADM Disorders and Violence II.	June 13, 2000	$7,500,000	10	Up to 3 years.
Children's Subset Study	June 13, 2000	1,200,000	6	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.

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 activities 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

Cooperative Agreement Awards for Women with Alcohol, Drug Abuse and Mental Health (ADM) Disorders Who Have Histories of Violence (short title: Women, ADM Disorders, and Violence II), number TI 00–003; and

Cooperative Agreement Awards to Study Children of Women with Alcohol, Drug Abuse and Mental Health (ADM) Disorders Who Have Histories of Violence (short title: Children's Subset Study) number TI 00–006.

Application Deadline: June 13, 2000 for both announcements.

Purpose: This notice is to inform the public that the Substance Abuse and Mental Health Services Administration is making available approximately $7.5 million for approximately 10 awards in FY 2000 to current study site grantees who were funded under the Women, ADM Disorders and Violence-Phase I program. These phase II cooperative agreements will include a full scale implementation of service intervention models, integrated strategies, and outcome evaluations of alternative models of delivering and financing integrated service models for women with co-occurring ADM disorders who have histories of physical and/or sexual abuse. The study seeks to generate and apply empirical knowledge about the development of a comprehensive, integrated services approach, and the effectiveness of this approach for the target population of women with ADM disorders who are/have been the victims of violence.

In addition, it is estimated that $1.2 million will be available in FY 2000 to support up to five awards for study sites for the Children's Subset Study and one award for the Coordinating Center for the Children's Subset Study. The Children's Subset Study will evaluate children 5–10 years of age who have been impacted by their mother's co-occurring disorders and their mother's history of violence. The objective of the Children's Subset Study is to identify models of care that will prevent (or reduce) the intergenerational perpetuation of violence, substance abuse and mental health problems, and reduce the impact of violence in the lives of children whose mothers have co-occurring disorders and histories of trauma. A cross-site process and outcome evaluation of age-specific interventions and services will be conducted by the Coordinating Center.

Eligible Applicants: Applications for the cooperative agreements for the Women, ADM Disorders, and Violence II study sites may be submitted only by current SAMHSA Women, ADM Disorders and Violence Phase I study site grantees. Phase II cooperative agreements are restricted to these specific grantees because their study protocols are in place, thus allowing them to proceed immediately to the next step of expanding the project's scope to improve the knowledge base. Phase I grantees have already (1) established an integrated system of care for women with co-occurring disorders who have histories of physical and sexual abuse, (2) determined the most promising services intervention models for this population, and (3) developed project protocols in compliance with multi-site requirements established by the Steering Committee.

Applications for the Children's Subset Study may be submitted only by current SAMHSA Women, ADM Disorders and Violence Phase I study grantees who are also applying to the Women, ADM Disorders and Violence-Phase II Study. Only those receiving a Phase II award will be eligible to receive a Children's Subset Award. During Phase I, the study grantees established a Children's

subcommittee whose main purpose was to develop parameters for the Children's Subset Study. In Phase I, the Children's subcommittee: (1) Developed study goals and objectives, (2) established the common service intervention, and (3) developed the multi-site protocol for the Children's Subset Study.

Only the current Coordinating Center for the SAMHSA Women, ADM Disorders and Violence Study is eligible to apply for funds to carry out additional tasks for the Children's Subset Study. The Coordinating Center is currently in the second year of its five-year project period. The Coordinating Center is an integral part of the Women, ADM Disorders and Violence Study; therefore, it is critical that continuity of the study be maintained by its leadership role during the Phase II study and during the concurrent Children's Subset Study. Its continued responsibility for coordination, technical assistance, evaluation expertise, and advice to the overall Steering Committee's Children's subcommittee established during Phase I are essential to guide those study sites selected to receive a Children's Subset Study award.

Amount: Approximately $7.5 million will be available to support approximately 10 awards under the Women, ADM Disorders and Violence II Cooperative Agreement; approximately $1.2 million will be available to support approximately 6 awards under the Children's Subset Study Cooperative Agreement in FY 2000.

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: Melissa Rael, RN, M.A., Project Officer, Division of Practice and Systems Development, Center for Substance Abuse Treatment, SAMHSA, Rockwall II, Suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–8236.

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: March 12, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–6574 Filed 3–16–00; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–11]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing

this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1998 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) Its intention to declare the property excess to the agency's needs, or (3) A statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review and should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Air Force:* Ms. Barbara Jenkins, Air Force Estate Agency, (Area-MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; *Energy:* Mr. Tom Knox, Department of Energy, Office of Contract and Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–0052; *Navy:* Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: March 9, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 3/17/00

Suitable/Available Properties

LAND (by State)

Mississippi

Proposed Site
Army Reserve Center
Waynesboro Co: Wayne MS 39367–
Landholding Agency: GSA
Property Number: 54200010005
Status: Excess
Comment: 7.60 acres, most recent use—pine plantation, periodic flooding, possible wetlands on 30–40% of property
GSA Number: 4–D–MS–0555

Ohio

Communications Site
Trebein Road
Beavercreek Co: Greene OH 00000–
Landholding Agency: Air Force
Property Number: 18200010008
Status: Excess
Comment: 92 acres

Communications Site
Central Ohio, Lot #1
Randor Co: Delaware OH 00000–
Landholding Agency: Air Force
Property Number 18200010009
Status: Excess
Comment: 11.73 acres

Unsuitable Properties

BUILDINGS (by State)

California

Bldg. 154
Naval Air Station
North Island Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200010037
Status: Excess
Reason: Extensive deterioration

Connecticut

Bldg. 480
Naval Submarine Base
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200010075
Status: Unutilized
Reason: Secured Area

Florida

Bldg. 44
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010038
Status: Unutilized
Reason: Secured Area

Bldg. 58
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010039
Status: Unutilized
Reason: Secured Area

Bldg. 365
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010040
Status: Unutilized
Reason: Secured Area

Bldg. 455
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010041
Status: Unutilized
Reason: Secured Area

Bldg. 467
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010042
Status: Unutilized
Reason: Secured Area

Bldg. 475
Naval Air Station

Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010043
Status: Unutilized
Reason: Secured Area

Bldg. 605A
Naval Air Station
Pensacola Co: Escambia FL 43508–
Landholding Agency: Navy
Property Number: 77200010044
Status: Unutilized
Reason: Secured Area

Bldg. 689
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010045
Status: Unutilized
Reason: Secured Area

Bldg. 802A
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010046
Status: Unutilized
Reason: Secured Area

Bldg. 835
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010047
Status: Unutilized
Reason: Secured Area

Bldg. 859B
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010048
Status: Unutilized
Reason: Secured Area

Bldg. 859C
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010049
Status: Unutilized
Reason: Secured Area

Bldg. 869
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010050
Status: Unutilized
Reason: Secured Area

Bldg. 1713
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010051
Status: Unutilized
Reason: Secured Area

Bldg. 2437
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010052
Status: Unutilized
Reason: Secured Area

Bldg. 2462
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010053
Status: Unutilized
Reason: Secured Area

Bldg. 3446
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010054
Status: Unutilized
Reason: Secured Area

Bldg. 3478
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010055
Status: Unutilized
Reason: Secured Area

Bldg. 3878
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010056
Status: Unutilized
Reason: Secured Area

Georgia

Stored Products Insects
R&D Lab
3401 Edwin Street
Savannah Co: Chatham GA 31403–
Landholding Agency: GSA
Property Number: 54200010003
Status: Excess
Reason: Floodway
GSA Number: 4–A–GA–861

Indiana

Former Army Reserve Ctr
East Hupp Road
LaPorte Co: IN 46345–0358
Landholding Agency: GSA
Property Number: 54200010004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Within airport runway clear zone. Extensive deterioration
GSA Number: 1–D–IN–430F

Bldg. 3
Naval Surface Warfare
Naval Investigtion Ofc.
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010057
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

3 Bldgs.
Naval Surface Warfare
157, 166, 171
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010058
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

Bldgs.
Naval Surface Warfare
#22, 2792, 2794
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010059
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

3 Bldgs.
Naval Surface Warfare
#158, 167, 172
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010060
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

Bldgs. 162, 163
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010061
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

Bldgs. 169D, 169E
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010062
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

4 Bldgs.
Naval Surface Warfare
#173, 2171, 2172, 2179
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010063
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

5 Bldgs.
Naval Surface Warfare
2174, 2175, 2176, 2193, 2784
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010064
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

Bldgs. 2500, 2501
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010065
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

3 Bldgs.
Naval Surface Warfare
#2502, 2503, 2715
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010066
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area

10 Bldgs.
Naval Surface Warfare
#2803, 2855–2863
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010067
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area.

Bldgs. 29095, 3074
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010068
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area.

New Mexico

Bldg. 149, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010024
Status: Unutilized
Reason: Secured Area.

Bldg. 312, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010025
Status: Unutilized
Reason: Secured Area.

Bldg. 313, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010026
Status: Unutilized
Reason: Secured Area.

Bldg. 314, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010027
Status: Unutilized
Reason: Secured Area.

Bldg. 315, TA–21
Los Alamos National Lab
Los Alamos Co: NM 8754–
Landholding Agency: Navy
Property Number: 41200010028
Status: Unutilized
Reason: Secured Area

Virginia

Facility P–77
Norfolk Naval Base
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200010071
Status: Unutilized
Reason: Extensive deterioration

Bldgs. A13, A13A
Norfolk Naval Base
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200010072
Status: Unutilized
Reason: Extensive deterioration

Washington

Bldg. 17
Naval Radio Station
Jim Creek
Arlington Co: WA 98223–8599
Landholding Agency: Navy
Property Number: 77200010073
Status: Excess
Reason: Secured Area Extensive deterioration

Bldg. 47
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77200010074
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

LAND (by State)

North Carolina

0.1291 acres
Camp Lejeune
off Dogwood
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 77200010069
Status: Unutilized
Reason: Secured Area

0.1291 acres
Camp Lejeune
off Brewster Rd.
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 77200010070
Status: Unutilized
Reason: Secured Area

Pennsylvania

Novak Estate Land
off the Parkway West
Moon Township Co: Allegheny PA 15222–
Landholding Agency: GSA
Property Number: 54200010006
Status: Excess
Reason: inaccessible
GSA Number: 4–G–PA–7887

[FR Doc. 00–6281 Filed 3–16–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4560–N–02]

Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development and Empowerment Programs and Section 8 Housing Voucher Assistance for Fiscal Year 2000; Table of Contents

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice of Table of Contents to SuperNOFA for HUD Grant Programs.

SUMMARY: This notice provides a Table of Contents for HUD's SuperNOFA for HUD Grant Programs published on February 24, 2000.

FOR FURTHER INFORMATION CONTACT: For further information about the SuperNOFA, please see HUD's publication of the SuperNOFA in the **Federal Register** on February 24, 2000, at 65 FR 9321, or at HUD's website at http://www.hud.gov. You also may call, during business hours, the SuperNOFA Information Center at 1–800–HUD–8929. If you are a person with a hearing or speech impairment you may call the Center's TTY number at 1–800–HUD–2209.

SUPPLEMENTARY INFORMATION: On February 24, 2000 (65 FR 9321), HUD published its Super Notice of Funding Availability (SuperNOFA) for Housing, Community Development and Empowerment Programs and Section 8 Housing Voucher Assistance. HUD's SuperNOFA announced the availability of approximately $2.424 billion in HUD program funds covering 39 grant categories within programs operated and administered by HUD offices and Section 8 housing voucher assistance.

To assist the public in finding more easily the individual funding availability announcements within the SuperNOFA in which they may be interested, HUD is publishing a Table of Contents to the **Federal Register** publication of the SuperNOFA.

The Table of Contents follows.

Dated: March 13, 2000.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

Table of Contents of FY 2000 SuperNOFA

(Published February 24, 2000, 65 FR 9320–9993)

- Application Due Dates and Address for Submitting Applications—65 FR 9322
- Introduction to the FY 2000 SuperNOFA—65 FR 9323
- Charts Providing Overview of FY 2000 SuperNOFA Programs—65 FR 9326–9334
- General Section of the FY 2000 SuperNOFA—65 FR 9335
- List of HUD Field Offices—65 FR 9341
- List of EZs, ECs, Urban Enhanced & Strategic Planning Communities—65 FR 9354–9356
- Standard Forms and Certifications—65 FR 9357–9386
- Community Development Technical Assistance—65 FR 9387
- Community Outreach Partnership Centers (COPC)—65 FR 9405
- Historically Black Colleges and Universities (HBCUs) Program—65 FR 9429
- Hispanic-Serving Institutions Assisting Communities (HSIAC)—65 FR 9455
- Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC)—65 FR 9469
- Fair Housing Initiatives Program (FHIP)—65 FR 9485
- Housing Counseling—65 FR 6519
- Lead-Based Paint Hazard Control Program—65 FR 9537
- Research to Improve the Evaluation and Control of Residential Lead-Based Paint Hazards—65 FR 9557
- Healthy Homes Initiative—65 FR 9577
- HOPE VI Revitalization and Demolition—65 FR 9597
- Public & Indian Housing Drug Elimination Technical Assistance Program (DETAP)—65 FR 9641
- Public Housing Drug Elimination: Technical Assistance for Safety and Security (DETASS)—65 FR 9653
- New Approach Anti-Drug Program—65 FR 9663
- Multifamily Housing Drug Elimination—65 FR 9681
- Resident Opportunity and Self-Sufficiency (ROSS) Program—65 FR 9695
- Outreach and Assistance Training Grants (OTAG)—65 FR 9777
- Economic Development Initiative (EDI)—65 FR 9787
- Brownfields Economic Development Initiative (BEDI)—65 FR 9813

- Self-Help Homeownership Program (SHOP)—65 FR 9823
- Youthbuild—65 FR 9829
- Continuum of Care Homeless Assistance Programs—65 FR 9849
- Housing Opportunities for Persons with AIDS (HOPWA) Program—65 FR 9865
- Section 202 Supportive Housing for the Elderly Program—65 FR 9899
- Section 811 Supportive Housing for Persons with Disabilities Program—65 FR 9927
- Mainstream Housing Opportunities for Persons with Disabilities—65 FR 9963
- Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Developments—65 FR 9975
- Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans—65 FR 9985

[FR Doc. 00–6639 Filed 3–16–00; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have 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.*):

Applicant: Center for Environmental Research and Conservation, Columbia Univ., NY, NY, PRT–02924.

The applicant requests a permit to import biological tissue samples from Javan rhinoceros (*Rhinoceros sondaicus*) from the Cat-Tien National Park, Vietnam for the scientific research on genetic markers for use in population analysis to enhance the survival of the species.

Applicant: Carlos T. Oliveira, Laredo, TX, PRT–023972.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: National Marine Fisheries Service/South West Region/Pacific Island Area Office, Honolulu, HI, PRT–022729.

The applicant requests a permit to introduce from the high seas samples and/or whole carcasses of Olive Ridley Sea Turtle, *Lepidochelys olivacea*, Green Sea Turtle, *Chelonia mydas*, Hawkswbill Sea Turtle, *Eretmochelys imbricata,* Loggerhead Sea Turtle, *Caretta caretta* and Leatherback Sea Turtle, *Dermochelys coriacea* for enhancement of the species through scientific research.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Terry Meyer, Westfield, PA, PRT–023759.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Davis Straight polar bear population, Northwest Territories, Canada for personal use taken prior to April 30, 1994. The holding of such a hearing is at the discretion of the Director.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 10, 2000.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 00–6601 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Advisory Committee on Water Information (ACWI)

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of an open meeting of the Advisory Committee on Water Information (ACWI).

SUMMARY: Notice is hereby given of a meeting of the ACWI. This meeting of the ACWI is to discuss broad policy-related topics relating to national water initiatives, and to hear reports from ACWI subgroups. The proposed agenda will include a series of discussions concerning various U.S. Government policies and programs related to the development and dissemination of water information.

The ACWI has been established under the authority of the Office of Management and Budget Memorandum 92–01 and the Federal Advisory Committee Act. The purpose of the ACWI is to provide a forum for water-information users and professionals to advise the Federal Government of activities and plans which may improve the effectiveness of meeting the Nation's water information needs. More than 30 organizations have been invited by the Secretary of the Interior to name representatives to the ACWI. These include Federal departments, State, local, and tribal government organizations, industry, academia, agriculture, environmental organizations, professional societies, and volunteer groups.

DATES: The formal meeting will convene at 8 a.m., on May 16, 2000, and will adjourn on May 17, 2000 at 3:30 p.m.

ADDRESSES: Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Ethan T. Smith (Executive Secretary), Chief, Water Information Coordination Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, 417 National Center, Reston, VA 20192. Telephone: 703–648–5022; Fax: 703–648–5295.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Up to a half hour will be set aside for public comment. Persons wishing to make a brief presentation (up to 5 minutes) are asked to provide a written request with a description of the general subject to Dr. Smith at the above address no later than noon, April 5, 2000. It is requested that 40 copies of a written statement be submitted at the time of the meeting for distribution to members of the ACWI and placement in the official file. Any member of the public may submit written information and (or) comments to Dr. Smith for distribution at the ACWI.

Dated: Dated: March 7, 2000.

Lewis V. Wade,

Assistant Chief Hydrologist for Information, U.S. Geological Survey.

[FR Doc. 00–6585 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–830–1030XP–02 241A]

Information Collection Activities; Proposed Collection; Comments Request

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request approval a new collection of information. The BLM is soliciting comments concerning a proposed collection of information that would conduct surveys of the public in two user groups, state and local governments and stakeholders and partners.

DATES: Written comments for the proposed collection must be received by May 16, 2000 to assure consideration.

ADDRESSES: If you wish to comment, you may submit your comments by one of several methods. You may mail them to Andrew Goldsmith, Management Systems Group, Business and Fiscal Resources Directorate, Bureau of Land Management, 1849 C Street, NW, Room LS 1000, Washington, DC 20240. You may comment via e-mail to andrew goldsmith@blm.gov. You may also fax your comments to 202–453–5171.

Comments, including names and street addresses of respondents, will be available for public review.

Finally, you may hand-deliver comments to the Bureau of Land Management at 1620 L Street, NW, Room 1000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew Goldsmith, Bureau of Land Management, at 202–452–5169.

NATURE OF COMMENTS: In accordance with 5 CFR 1320.12(a), the BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in proposed rules or other documents to solicit comments on: (1) Whether the collection of information is necessary for the proper functioning of the BLM; (2) the accuracy of our estimates of the burden of collecting the information, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information collected; and (4) how to minimize the burden of collecting the information on those who are to respond, including using the appropriate automated, electronic, mechanical or other forms of information technology. The BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval under 44 U.S.C. 3501 *et seq.* to the Office of Management and Budget.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Methodology
IV. Requests for Comments

I. Background

The Government performance and Results Act of 1993 (Public Law 103–63) sets out to improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction (Section 2. B. 3). In order to fulfill this responsibility, the BLM must collect data from its user groups to better understand the needs and desires of the public and respond to those needs and desires accordingly.

This course of action is fortified by Executive Order 12862, signed by President Clinton on September 11, 1993, aimed at ensuring the federal government provides the highest quality service possible to the American people. The Order discusses surveys as a means for determining the kinds and qualities of services desired by the federal government's customers and for determining satisfaction levels for existing services. These voluntary customer surveys will be used to ascertain customer satisfaction with the BLM in terms of services and products. Respondents will be individuals that are the recipients of the BLM services and products. Previous customer surveys have provided useful information to the BLM for assessing how well the Bureau delivers our services and products and for making improvements. The results are used internally and summaries are provided to the Office of Management and Budget on an annual basis and are used to satisfy the requirements and spirit of Executive Order No. 12862.

II. Current Actions

The request to OMB will be for a 3-year clearance to conduct customer surveys for the BLM. During the past clearance cycle the BLM conducted four different customer surveys by telephone. (Examples of previously conducted customer surveys are available upon request.) Our planned activities in the next three fiscal years reflect our increased emphasis on and expansion of these activities.

III. Methodology

The BLM will survey customers in the following general categories: (1) Stakeholders and partners and (2) state and local governments. A randomized sampling technique is employed for both of these categories if there are more than 200 people in a state's database. If there are less than 200 individuals, a census, counting everyone, will be utilized. An 80 percent response rate goal has been set; for this reason, whenever possible telephone surveys are chosen over mail surveys for their increased response rates.

The questionnaires are developed with the help of focus groups from around the country. The BLM asks questions in the following general areas: (1) Communication with the public; (2) service quality and accountability; (3) information and education services; (4) resource management; (5) overall satisfaction; and (6) general demographics.

IV. Requests for Comments

Prospective respondents and other interested parties should comment on the actions of discussed in items II & III. The following guidelines are provided to assist you in responding.

General Issues

A. Is the proposed collection of information necessary, taking into account its accuracy, adequacy, and reliability, and the agency's ability to process the information it collects in a useful and timely fashion?

B. What enhancements can the BLM make to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. The average public reporting burden for a customer survey is estimated to be .25 hours per response (1720 respondents per year × 15 minutes per response = 430 hours annually). Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for purposes of collecting, validating, verifying, processing, maintaining, disclosing, and providing information; (3) adjusting the existing way to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting or otherwise disclosing the information.

Please comment on the accuracy of our estimate and how the BLM could minimize the burden of collecting the information, including the use of automated collection techniques.

B. The BLM estimates that respondents will incur no additional costs for reporting other than the time required to complete the collection. What are the estimated total dollar amount annualized for capital and start-up costs and recurring annual dollar amount of operation and maintenance and purchase of services costs associated with this data collection? The estimates should take into account the costs associated with generating, maintaining, and disclosing or providing information.

C. Do you know of any other federal, state, or local agency that collects similar data? If you do, specify the agency, collection element(s), and the methods of collection.

As a Potential User

Are there any alternative sources of data and do you use them? If so, what are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the survey. They also will become a matter of public record.

Dated: March 14, 2000.

Carole Smith,

BLM Information Clearance Officer.

[FR Doc. 00–6666 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–096–1610–00]

Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has prepared a draft Bitter Creek and Mountain Plover Areas of Critical Environmental Concern (ACEC) Plan Amendment and Environmental Assessment (EA). The draft plan amendment/EA addresses two potential ACECs in the Glasgow Field Station, Valley County, Montana.

DATES: Comments on the draft plan amendment/EA should be submitted to BLM on or before May 16, 2000.

ADDRESSES: Address all comments to John Fahlgren, Assistant Field Manager, Glasgow Field Station, RR1–4775, Glasgow, MT 59230.Comments, including names and street addresses of respondents, will be available for public review at the above Glasgow address during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: John Fahlgren, 406–228–4316.

SUPPLEMENTARY INFORMATION: This plan amendment/EA addresses special management for two potential ACECs; Bitter Creek and Mountain Plover. The public land being considered is located in Valley County, Montana. This plan would amend the Judith-Valley-Phillips Resource Management Plan (RMP).An ACEC is an area where special management attention is required to protect important historic, cultural or scenic values, fish and wildlife resources or other natural systems, or to protect life and safety from natural hazards.The Bitter Creek Wilderness Study Area (WSA) (59,660 acres) was found to meet the criteria as a potential ACEC due to the scenic diversity and variety of vegetation types and wildlife habitat. The Mountain Plover area (24,730 acres) provides natural habitat for the mountain plover, a prairie bird. It is an area of native plover habitat which is not associated with black-tailed prairie dogs.

(Authority: Sec. 202, Pub. L. 94–579, 90 Stat. 2747 (43 U.S.C. 1712))

Dated: February 22, 2000.

John Fahlgren,

Assistant Field Manager, Bureau of Land Management.

[FR Doc. 00–6591 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–1020–001]

Mojave-Southern Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

March 3, 2000.

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council meeting locations and times.

DATES: March 23, and 24, 2000.

TIME: March 23, noon–4:30 p.m., and March 24, 8 a.m.–4:30 p.m.

ADDRESS: 4765 West Vegas Drive, Las Vegas, NV 89108.

FOR FURTHER INFORMATION CONTACT: Phillip L. Guerrero, Las Vegas Field Office, Public Affairs Officer, telephone: (702) 647–5046.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), council meeting of the Mojave-Southern Great Basin Resource Advisory Council (RAC) will be held as indicated above. The agenda includes a public comment period, and discussion of public land issues.

The Resource Advisory Council develops recommendations for BLM regarding the preparation, amendment, and implementation of land use plans for the public lands and resources within the jurisdiction of the council. For the Mojave-Great Basin RAC this jurisdiction is Clark, Esmeralda, Lincoln and Nye counties in Nevada. Except for the purposes of long-range planning and the establishment of resource management priorities, the RAC shall not provide advice on the allocation and expenditure of Federal funds, or on personnel issues.

The RAC may develop recommendations for implementation of ecosystem management concepts, principles and programs, and assist the BLM to establish landscape goals and objectives.

All meetings are open to the public. The public may present written comments to the council. Public comments should be limited to issues for which the RAC may make recommendations within its area of jurisdiction. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and

need further information about the meeting, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Phillip L. Guerrero at the Las Vegas District Office, 4765 Vegas Dr., Las Vegas, NV 89108, telephone, (702) 647–5000.

Dated: March 3, 2000.

Phillip L. Guerrero,

Public Affairs Officer.

[FR Doc. 00–6588 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–00–1040–AE]

Meeting Cancellation; Gila Box Riparian National Conservation Area Advisory Committee

AGENCY: Bureau of Land Management.

ACTION: Notice of Meeting Cancellation.

SUMMARY: The purpose of this notice is to cancel the April 7 and 8, 2000 Gila Box Riparian National Conservation Area Advisory Committee Meeting. The purpose of the Advisory Committee is to provide informed advice to the Safford Field Office Manager on management of public lands in the Gila Box Riparian National Conservation Area. The committee meets as needed, generally between two and four times a year.

The meeting was to begin at the Bureau of Land Management, Safford Field Office on April 7, 2000 commencing at 8:00 am for the purpose of floating the Gila River within the Gila Box RNCA. However, due to the lack of snow pack and runoff into the Gila River, water levels are so low it will make floating of the river nearly impossible. A new meeting date for the Advisory Committee will be negotiated with the members of the committee in the near future, and posted in the **Federal Register.**

DATES: Meeting proposed on April 7, 2000 starting 8:00 am has been cancelled.

FOR FURTHER INFORMATION CONTACT: Jon Collins, Gila Box NCA Project Coordinator, Safford Field Office, 711 14th Ave., Safford AZ 85546, Telephone (520) 348–4400.

Dated: March 10, 2000.

Frank L. Rowley,

Acting Safford Field Office Manager.

[FR Doc. 00–6488 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–00–1430–NH; AZA 31171]

Arizona: Closure of Public Land to All Vehicle Use

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given that the Bureau of Land Management is closing an area of public land located within Yuma County, Arizona, approximately 1 mile south of Interstate 8 and 3 miles west of Avenue 25 E to all vehicle use.

Order: Effective upon publication, that portion of public land described below is closed to all vehicle use for a term of 2 years:

Gila and Salt River Meridian, Yuma County, Arizona

T.9S., R.20 W.,

Sec. 1, E½NE¼SW¼ within, SE¼SW¼ within,

Sec. 12, W½NE¼ within, W½SE¼NE¼ within, NE¼NE¼NW¼ within, W½NE¼SE¼ within, SE¼SE¼ within,

Sec. 13, W½NE¼NE¼ within, W½NE¼ within, SW¼SW¼ (south 50 feet) within, E½SE¼SW¼ within, SW¼SE¼SW¼ (south 50 feet) within, W½NW¼SE¼ within, SE¼ (south 50 feet) within.

Containing 22.36 acres, more or less.

No person may use, drive, transport, park, let stand, or have charge or control over any vehicle in this area. Exemptions to this order are granted to law enforcement and other emergency vehicles in the course of official duties. This order does not affect Bureau of Reclamation and Wellton-Mohawk Irrigation and Drainage District personnel in the course of their official duties along the Wellton-Mohawk Canal and related facilities. This order does not affect Arizona Department of Transportation personnel in the course of their official duties within the Interstate 8 right-of-way.

All other exemptions to this order are by written authorization of the Bureau of Land Management, Yuma Field Manager only.

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Realty Specialist Lucas Lucero, Bureau of Land Management, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, Arizona 85365, telephone (520) 317–3237.

SUPPLEMENTARY INFORMATION: The purpose of this closure is to protect the natural and cultural resources from disturbance caused by unauthorized vehicle use. This closure is needed in order to assess existing resource damage and prevent any further damage caused by vehicle use and unauthorized road improvements. The affected area will be posted with standard signs prohibiting vehicle use. Authority for this closure of public land to vehicle use is found at Title 43 Code of Federal Regulations, subpart 8360.0–3. In accordance with 43 CFR 8360.0–7, violation of this order is punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

Dated: March 7, 2000.

Gail Acheson,

Field Manager.

[FR Doc. 00–6592 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–62–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–5410–EQ–E030; MTM 89208]

Application for Conveyance of Mineral Interest; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is given that, pursuant to Section 209b of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)), Ms. Margaret I. Alm has applied to purchase the mineral estate described as follows:

Principal Meridian, Montana

T. 10 N., R. 4 W.,

Sec. 33, lot 1, N½NE¼, SW¼NE¼, NE¼NW¼, E½SE¼, and SW¼SE¼.

Containing 305.14 acres in Lewis and Clark County.

The mineral interest will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface mineral ownership where there are no known mineral values or in those instances where the United States mineral reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Deborah Sorg, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–896–5045.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests within the

legal description given above will be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate upon issuance of a conveyance document, final rejection of the application, or 2 years from the date of filing of the application, April 28, 1999, whichever occurs first.

Dated: February 25, 2000.

John E. Moorhouse,

Acting Deputy State Director, Division of Resources.

[FR Doc. 00–6587 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–63292]

Notice of Realty Action: Lease/conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, DOI.

ACTION: Recreation and Public Purpose Lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Las Vegas proposes to use the land for a fire station.

Mount Diablo Meridian, Nevada

T. 19 S., R. 59 E.,
Sec. 25, E½SE¼NE¼SE¼.
Containing 5 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement 30 feet in width along the North boundary, 50 feet in width along the East boundary, and 30 feet in width along the South boundary in favor of the City of Las Vegas for roads, public utilities and flood control purposes.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a fire station Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a fire station.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: February 17, 2000.

Jacqueline M. Gratton,

Acting Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 00–6590 Filed 3–16–00; 8:45 am]

BILLING CODE 4510–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–00–1010–DA]

Proposed BLM Resource Management Plan Amendment From the Designation of Environmentally Preferred Alternative in the Clancy-Unionville Vegetative Manipulation and Travel Management Final Environmental Impact Statement

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The USDI, Bureau of Land Management, and USDA, Forest Service have released the Clancy-Unionville Vegetative Manipulation and Travel Management Project Final Environmental Impact Statement (FEIS) for public examination. The BLM has determined that a Resource Management Plan (RMP) Amendment is preferred, as described under the ''Features Common to All BLM Action Alternatives'' section of the FEIS located on page II–8 of the document.

Public Participation: Headwaters RMP Amendment: The Travel Planning features analyzed in this FEIS and part of the Environmentally Preferred Alternative are subject to the provisions of BLM regulations under 43 CFR Part 1600. The BLM travel management features, as found in the draft EIS for the Clancy-Unionville Vegetation Manipulation and Travel Management Project, were available for public review and comment for 90 days, beginning November 6, 1998. Written comments were received from agencies, individuals, and organizations. All comments were considered in the preparation of the FEIS and the proposed RMP Amendment.

The resource management planning process includes the opportunity for review of the RMP Amendment and, if desired, to submit a protest to the BLM's Director. Any person or organization who participated in the planning process and who has an interest that is or may be adversely affected by the approval of this RMP Amendment may protest the plan. Careful adherence to the following guidelines will help you prepare a protest that will assure the

greatest consideration for your point of view.

Only those persons or organizations who participated in the planning process may protest the plan. A protesting party may raise only those issues which were commented on during the planning process.

DATES: The protest period lasts 30 days and begins March 17, 2000, the day this Notice of Availability is published in the **Federal Register**. There is no provision for an extension of time. Protests filed late or filed with the State Director, Field Manager or the Forest Service shall be rejected by the Director. To be considered ''timely'' your protest must be postmarked no later than April 17, 2000. Although not a requirement, sending your protest by ''certified mail, return receipt requested,'' is recommended.

ADDRESSES: Reading copies of the Environment Impact Statement and proposed RMP Amendment will be available at the BLM's Butte Field Office, 106 North Parkmont, Butte, Montana 59702, or the Forest Service's Helena Ranger District, 2001 Poplar Street, Helena, Montana 59601.

All protests must be filed in writing to: Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, WO–210/LS–1075, Department of the Interior, Washington, D.C. 20240.

The Overnight Mail address is: Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, 1620 L Street NW, Room 1075, Washington, D.C. 20036.

To expedite consideration, in addition to the original protect being sent by mail or overnight mail, a copy of the protest may be sent by fax to 202–452–5112 or by electronic mail to bhudgens@wo.blm.gov.

To be considered complete, your protest must contain, at a minimum, the following information:

(1) The name, mailing address, telephone number, and interest of the persons filing the protest;

(2) A statement of the issue being protested;

(3) A statement of the portion of the plan being protested. To the extent possible, this should be done by referencing specific pages, paragraphs, sections, tables, and maps in the proposed RMP Amendment.

(4) A copy of all documents addressing the issue that were submitted during the planning process or a reference to the date the issue was discussed for the record.

(5) A concise statement explaining why the BLM State Director's decision is believed to be incorrect (a critical part of the protest).

Take care to document all relevant facts and to reference or cite the planning documents, environmental analysis documents, and available planning records (meeting minutes, summaries, correspondence). A protest without data will not provide us with the benefit of your information and insight, and the Director's review will be based on the existing analysis and supporting data.

At the end of the 30-day protest period, the BLM may issue a Record of Decision approving implementation of any portion of the proposed plan not under protest. Approval will be withheld on any portion of the plan that is under protest, until the protest is resolved.

FOR FURTHER INFORMATION CONTACT: Mike Small of the BLM Butte Field Office at 406–494–5059.

Dated: February 25, 2000.

Steve Hartmann,

Acting Field Manager.

[FR Doc. 00–6589 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–030–1430–00; ES–50582, Group 547, Minnesota]

Notice of Filing of Plat of an Island; Minnesota, Suspended

On Tuesday, January 18, 2000, there was published in the **Federal Register**, Volume 5, Number 11, on page 2640, a notice entitled, ''Notice of Filing of Plat of an Island; Minnesota.'' Said notice referenced the filing of the plat of the survey of an island in Cedar Lake, Township 117 North, Range 30 West, Fifth Principal Meridian, Minnesota, accepted on January 6, 2000.

This plat officially filed on February 22, 2000, is hereby suspended pending the consideration of a protest against the survey.

Dated: March 7, 2000.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 00–6586 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 30550, AZA 30551, AZA 30552, AZA 30553, AZA 30554, AZA 30582, AZA 30583, AZA 30584, AZA 30596, AZA 30597]

Public Land Order No. 7439; Withdrawal of National Forest System Lands for Recreation Sites, Trailhead, and Summer Home Area; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 2,833.15 acres of National Forest System lands from location and entry under the United States mining laws for 20 years to protect Alto Pit Off-Highway Vehicle Area, Camp Anytown, Camp Patterdell Pines, Camp Pearlstein, Camp Wamotochick, Granite Basin Recreation Area, Lynx Creek Recreation Area, Pine Summit Camp, Williamson Valley Trailhead, and Miller Creek Summer Home Area.

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Beverley Everson or Doug Franch, Prescott National Forest, 344 S. Cortez Street, Prescott, Arizona 86303, 520–445–7253.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), to protect Alto Pit Off-Highway Vehicle Area, Camp Anytown, Camp Patterdell Pines, Camp Pearlstein, Camp Wamotochick, Granite Basin Recreation Area, Lynx Creek Recreation Area, Pine Summit Camp, Williamson Valley Trailhead, and Miller Creek Summer Home Area:

Gila and Salt River Meridian, Prescott National Forest

Alto Pit OHV Area (AZA 30596)

T.14 N., R.3 W.,
Sec. 15, lots 1 to 5, inclusive, S½N½, N½SW¼, and NE¼SW¼SW¼;
Sec. 16, E½SE¼NE¼ and NE¼NE¼SE¼.

Camp Anytown (AZA 30553)

T.14 N., R.3 W.,
Sec. 24, N½N½NW¼.

Camp Patterdell Pines (AZA 30554)

T.13 N., R.2 W.,
Sec. 28, lots 9, 14, and 15.

Camp Pearlstein (AZA 30583)

T.13 N., R.3 W.,

Sec. 12, lot 5;
Sec. 13, lot 2.

Camp Wamotochick (AZA 30551)

T.13N., R2W.,
Sec. 35, lots 12 and 13.

Granite Basin Recreation Area (AZA 30597)

T.14 N., R.3W.,
Sec. 1, SW¼SW¼;
Sec. 2, SW¼NE¼, E½SE¼NW¼, E½NE¼SW¼, NW¼NE¼SW¼, E½SW¼NE¼SW¼, NE¼SE¼SW¼, E½NW¼SE¼SW¼, N½SE¼SE¼SW¼, and SE¼;
Sec. 3, NE¼NE¼SE¼, W½NE¼SE¼, W½SE¼NE¼SE¼, W½NE¼SE¼SE¼,E½NW¼SE¼SE¼, and W½SW¼SE¼SE¼;
Sec. 10, E½NE¼NE¼NE¼, W½NW¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, and E½SE¼;
Sec. 11, lots 11 to 17, inclusive, E½NE¼, W½NW¼, SW¼SW¼, and SE¼;
Sec. 12, W½ and SW¼NE¼;
Sec. 13, W½NW¼ and SW¼;
Sec. 14, lots 1 to 6, inclusive, E½NE¼, and NE¼NE¼SE¼;
Sec. 15, NE¼NE¼;
Sec. 24, lots 1, 3, and 4, and S½N½NW¼.

Lynx Creek Recreation Area Expansion (AZA 30584)

T.13N., R.1W.,
Sec. 5, lots 10 and 11, S½NW¼, and W½SW¼ (except the lands withdrawn by Public Land Order No. 5058);
Sec. 6, lot 8 and SE¼NE¼ (except the lands withdrawn by Public Land Order No. 5058);
Sec. 8, NE¼NW¼ and N½NW¼NW¼ (except the lands withdrawn by Public Land Order No. 5058).

Pine Summit Camp (AZA 30550)

T.13N., R.2W.,
Sec. 34, lots 9 (except the patented portion of MS 4226), 10 (except the patented portion of MS 4226), 11, 12, and 18;
Sec. 35, lots 14 and 15.

Williamson Valley Trailhead (AZA 30582)

T.15N., R.2W.,
Portions of lot 4, sec. 19 and lot 1, sec. 30, more particularly described by metes and bounds as follows: BEGINNING at the section corner of secs. 19, 30, 24, and 25, T. 15 N., Rs. 2 and 3 W., thence south along the west section line of sec. 30, 50 feet, thence along a line parallel with the north section line of sec. 30, 125.2 feet to the west right-of-way line of the Williamson Valley Road, A.K.A., Prescott-Simmons County Highway; thence North 23 degrees West, 320.5 feet along said right-of-way line to the west section line of sec. 19; thence south along said section line, 245 feet to the POINT OF BEGINNING.

T.15N., R.3W.,
Sec. 25, NE¼NE¼NE¼NE¼.

Miller Creek Summer Home Area (AZA 30552)

T.14N., R.3W.,
Sec. 35, W½NE¼SE¼SW¼ and NW¼SE¼SW¼.

The areas described aggregate 2,833.15 acres in Yavapai County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 13, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–6667 Filed 3–16–00; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of new information collection.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on a proposal for the new collection of information discussed below. We intend to submit this collection of information to the Office of Management and Budget (OMB) for approval. The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Submit written comments by May 16, 2000.

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. 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 may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy of the collection of information at no cost.

SUPPLEMENTARY INFORMATION:

Title: Survey—Public Information Offices (PIO).

OMB Control Number: 1010–NEW.

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, requires the Secretary of the Interior to preserve, protect, and develop offshore oil and gas and sulphur resources; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources of the OCS; preserve and maintain free enterprise competition; and ensure that the extent of oil and natural gas resources of the OCS is assessed at the earliest practicable time. MMS administers this program.

Executive Order 12862, September 11, 1993, Setting Customer Service Standards, provided renewed focus on surveying customers. The Executive Order states that customer satisfaction is seen as the ultimate performance indicator for the Federal Government because it shows how well our customers are being served and what we must do to close the gap between what we provide our customers and what they want. We included in our Government Performance Results Act Strategic Plan, a requirement to survey customers to validate our customer service/satisfaction performance. We have not conducted a survey of the regional PIOs for several years.

A goal included in the Strategic Plan requires the Offshore Minerals Management program to improve the level of service of its PIOs by 2003. The baseline for this improvement is FY 2000. To assess whether this goal has been met, we plan to conduct an annual customer satisfaction survey over the next 3 years. The first survey will probably include the most questions, and the results will provide the FY 2000 baseline for measuring achievement of this performance goal. The questions to be included in the subsequent surveys may be reduced, depending on the results from the baseline survey. MMS

will use the information to improve services to its customers.

No proprietary data, confidential information, or items of a sensitive nature will be collected. Responses are voluntary.

Frequency: Annual survey.

Estimated Number and Description of Respondents: Approximately 4,100 MMS customers on regional mailing lists, including Federal OCS oil, gas, and sulphur lessees and operators.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: We estimate 20–25 minutes to complete each survey, for a total annual burden of 427 hours. There are no recordkeeping requirements.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None.

Comments: We will summarize written responses to this notice and address them in our submission for OMB approval. We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Is the estimate of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744).

Dated: March 2, 2000.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 00–6662 Filed 3–16–00; 8:45 am]

BILLING CODE 4310–MR–W

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement: United States of America v. CBS Corporation, Infinity Broadcasting Corporation and Outdoor Systems, Inc.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *CBS Corporation, Infinity Broadcasting Corporation and Outdoor Systems, Inc.* Case No. 1:99CV03212. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act. 15 U.S.C. § 16(b)–(h).

The United States filed a civil antitrust Complaint on December 6, 1999, alleging that the proposed acquisition of Outdoor Systems, Inc. (''OSI'') by CBS Corporation (''CBS'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that CBS and OSI compete head-to-head to sell out-of-home advertising displays in Three Metropolitan Areas: (1) New York, New York; (2) New Orleans, Louisiana; and (3) Phoenix, Arizona; (collectively ''the Three Metropolitan Areas''). Outdoor advertising companies sell out-of-home advertising display space to local and national customers. The out-of-home advertising display business in the Three Metropolitan Areas is highly concentrated. CBS, through TDI, a subsidiary of CBS-owned Infinity Broadcasting Corporation, and OIS would have a combined share of revenue is excess of 60 percent in New York, New York and a combined share in excess of 75 percent in Phoenix, Arizona and New Orleans, Louisiana. Unless the acquisition is blocked, competition would be substantially lessened in the Three Metropolitan Areas, and advertisers would likely pay higher prices.

The prayer for relief seeks: (a) An adjudication that the proposed transaction described in the Complaint would violate Section 7 of the Clayton Act; (b) Preliminary and permanent injunctive relief preventing the consummation of the transaction; (c) An award to the United States of the costs of this action; and (d) Such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits CBS to complete its acquisition of OSI, yet preserves competition in the Three Metropolitan Areas where the transaction raises significant competitive concerns. A Stipulation and proposed Final Judgment embodying the settlement were filed at the same time the complaint was filed.

In Phoenix and New Orleans, the defendants are required to divest assets equivalent to all the out-of-home assets of one of the merging parties, thus completely restoring the pre-merger industry structure and resolving any competitive concerns. In New York, the defendants are required to divest assets yielding a net revenue of no less than $25.3 million, which is equivalent to all the out-of-home advertising assets of OSI with the exception of its bus shelter and subway businesses. With respect to these two businesses, if the parties possess both contracts as of February 2000, they are required to divest one of these businesses.

Unless the plaintiff grants a time extension, CBS must divest these outdoor advertising assets with one-hundred and fifty (150) days after the filing of the Complaint in this action. Finally, in the event that the Court does not, for any reason, enter the Final Judgment with that one-hundred and fifty day period, the divestitures are to occur within five (5) business days after notice of entry of the Final Judgment.

If CBS does not divest the assets within the time periods specified in the final judgment, the Court, upon plaintiff's application, is to appoint a trustee to sell the assets. The proposed Final Judgment also requires that, until the divestitures mandated by the final Judgment have been accomplished, CBS shall take all steps necessary to maintain and operate the divestiture assets as active competitors; maintain the management, staffing, sales and marketing of the out-of-home advertising displays; and maintain out-of-home advertising displays in operable condition. Further, the proposed Final Judgment requires CBS to give the United States prior notice regarding certain future outdoor advertising acquisitions or agreements pertaining to the sale of outdoor advertising in the Three Metropolitan Areas,

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

A Competitive Impact Statement filed by the United States, describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Willie Hudgins, Assistant Chief, Litigation II, Antitrust Division, 1401 H Street, NW., Suite 3000, Washington,

D.C. 20530 (telephone: 202–307–0001). Copies of the Complaint, Stipulation, proposed Final Judgment and Competitive Impact Statement are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, NW., Washington, DC 20530 (telephone: 202–514–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue, NW, Washington, DC 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,
Director of Operations, Antitrust Division.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an Order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon writing by the parties and submitted to the Court.

5. In the event (a) the plaintiff withdraws its consent, as provided in paragraph 2 above, or (b) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: December 6, 1999.

For Plaintiff United States:

Renee Eubanks,
U.S. Department of Justice, Antitrust Division, Litigation II, 1401 H Street, NW, Suite 4000, Washington, DC 20005, Washington, DC 20005, (202) 307–0001.

Dated December 6, 1999.

So Ordered:

Thomas F. Hogan,
United States District Judge.

For Defendant CBS Corporation and Infinity Broadcasting Corporation:

Helene Jaffe,
Weil, Gotshal & Manges, LLP, 767 Fifth Avenue, New York, NY 10153–0119, (212) 310–8000.

For Defendants Outdoor Systems Inc.:

Lawrence R. Fullerton,
Powell, Goldstein, Frazer, & Murphy, 1001 Pennsylvania Ave., NW, Washington, DC 20004, (202) 624–7282.

Final Judgment

Whereas, plaintiff, the United States of America, filed its Complaint in this action on December 6, 1999, and Plaintiff and Defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, Defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essence of this Final Judgment is prompt and certain divestiture of the out-of-home advertising assets in the Three Metropolitan Areas, as defined below, to ensure that competition is substantially preserved;

And Whereas, plaintiff requires Defendants to make the divestitures for the purpose of maintaining the current level of competition in the sale of out-of-home advertising;

And Whereas, Defendants have represented to the plaintiff that the divestitures ordered herein can and will be made and that Defendants will not later raise claims of hardship or difficulty as grounds for asking the Court to modify any of the divestitures contained below;

Now, Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, and Decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the Defendants hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against the Defendants, as herein after defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''CBS'' means Defendant CBS Corporation, a Pennsylvania corporation with its headquarters in New York, New York, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees, including but not limited to, Infinity Broadcasting Corporation, and TDI Worldwide Inc., a subsidiary of CBS-owned Infinity Broadcasting Corporation.

B. ''Infinity'' means Defendant Infinity Broadcasting Corporation, a Delaware corporation with its headquarters in New York, New York, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

C. ''OSI'' means Defendant Outdoor Systems, Inc., a Delaware corporation with its headquarters in Phoenix, Arizona, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

D. ''Defendants'' means CBS, Infinity, and OSI.

E. ''Net Revenues'' means gross revenues minus agency commissions as those terms are ordinarily and customarily calculated with respect to the assets covered by this Final Judgment.

F. ''Out-of-Home Advertising Display Assets'' means:

(1) CBS's business of selling advertising displays that appear on or in public buses in the New Orleans Metropolitan Area, the rights to place and sell advertising on such faces having been awarded to TDI through contract by the Regional Transit Authority in New Orleans or any other governing authority;

(2) Either (a) CBS's business of selling advertising displays that appear on or in public buses in the Phoenix Metropolitan Area, the rights to place and sell advertising on such faces having been awarded to TDI through contract by the Phoenix Transit System or any other governing authority, or (b) a combination of out-of-home advertising display faces in the Phoenix Metropolitan Area, to be approved by the United States in its sole discretion, consisting of mix of Bulletins, Thirty-sheet posters, Walls, and Spectaculars that yielded Net Revenues in 1998 of no less than the Net Revenues generated in 1998 from the sale of the outdoor advertising display faces described in Section II(F)(2)(a); and

(3) A combination of out-of-home advertising display faces owned and/or operated by the Defendants in the New York City Area, to be approved by the United States in its sole discretion, consisting of a mix of Bulletins, Thirty-sheet posters, Walls, and Spectaculars that yielded Net Revenues in 1998 of no less than twenty-five point three ($25.3) million dollars.

Out-of-Home Advertising Display Assets includes all tangible and intangible assets used in the sale of advertising on each of the display faces described above including, but not limited to, all real property (owned or leased); all licenses, permits and authorizations issued by any governmental organization relating to the operation of the display faces; all contracts, agreements, leases, licenses, commitments and understandings pertaining to the sale of advertising on those display faces; all applicable customer lists, contracts, accounts, promotional materials, and credit records pertaining to the sale of advertising on those display faces; all applicable logs and other records maintained by Defendants in connection with the display faces; and maps or other documents depicting the location of the display faces.

G. ''New York City Subway Business'' means OSI's business of selling advertising on displays within the subway transit system of the New York City Area, including, but not limited to, subway car interior displays, platform postings and lighted platform displays, the rights to place and sell advertising on such displays pursuant to contract awarded by the Metropolitan Transit Authority of New York to OSI. The New York City Subway Business includes all tangible and intangible assets used in the sale of advertising on each of the display faces described above including, but not limited to, all real property (owned or leased); all licenses, permits and authorizations issued by any governmental organization relating to the operation of the display faces; all contracts, agreements, leases, licenses, commitments and understandings pertaining to the sale of advertising on those display faces; all applicable customer lists, contracts, accounts, promotional materials, and credit records pertaining to the sale of advertising on those display faces; all applicable logs and other records maintained by Defendants in connection with the display faces; and maps or other documents depicting the location of the display faces.

H. ''New York City Bus Shelter Business'' means OSI's business of selling advertising on display faces mounted in glass in or on bus shelters and often backlit for 24-hour visibility, found along public bus routes in the New York City Area, the rights to place and sell advertising such displays, pursuant to contract awarded by the New York City Department of Transportation to OSI. The New York City Bus Shelter Business includes all tangible and intangible assets used in the sale of advertising on each of the display faces described above including, but not limited to, all real property (owned or leased); all licenses, permits and authorizations issued by any governmental organization relating to the operation of the display faces; all contracts, agreements, leases, licenses, commitments and understandings pertaining to the sale of advertising on those display faces; all applicable customer lists, contracts, accounts, promotional materials, and credit records pertaining to the sale of advertising on those display faces; all applicable logs and other records maintained by Defendants in connection with the display faces; and maps or other documents depicting the location of the display faces.

I. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom CBS and OSI divest the assets required to be divested pursuant to this Final Judgment.

J. ''Bulletins'' are defined as structures typically sized 14′ x 48′ or larger, located primarily on major highways, expressways or principal arterials.

K. ''Thirty-sheet posters'' are defined as poster panels, typically of lithographed or silk-screened material, typically measuring 12′ x 25′ or 300 square feet or larger and located primarily on primary and secondary arterials.

L. ''Walls'' are defined as painted or computer generated vinyl advertisements found directly on building walls.

M. ''Spectaculars'' are defined as non-standard sized structures which are custom designed to gain maximum attention at key locations with mass consumer exposure.

N. ''Metropolitan Areas'' means: (1) With respect to New York, New York, the five boroughs of Brooklyn, Queens, Manhattan, the Bronx and Staten Island (''New York City Area''); (2) with respect to New Orleans, Louisiana, the parishes of St. Tammany, Orleans and Jefferson, (''New Orleans Metropolitan Area'') and (3) with respect to Phoenix, Arizona, Maricopa County (''Phoenix Metropolitan Area'').

O. ''Three Metropolitan Areas'' means the New York City Area, the Phoenix Metropolitan Area; and the New Orleans Metropolitan Area.

III. Applicability

A. The provisions of this Final Judgment apply to the Defendants, their successors and assigns, their subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Each Defendant shall require, as a condition of the sale or other disposition of all of substantially all of their out-of-home advertising business in any of the Three Metropolitan Areas, that the purchasing party or parties agree(s) to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Defendants are hereby ordered and directed in accordance with the terms of this Final Judgment, within one hundred fifty days (150) after the filing of the Complaint in this matter or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Out-of-Home Advertising Display Assets to an Acquirer (or Acquirers) acceptable to the United States in its sole discretion.

B. If, as of February 1, 2000, (1) CBS or OSI is deriving revenue from the sale of advertising on displays within the subway transit system of the New York City Area, in accordance with any franchise, contract, agreement with, understanding, or condition imposed by

the Metropolitan Transit Authority, and (2) CBS or OSI is deriving revenue from the sale of advertising on display faces found along public bus routes in the New York City Area, in accordance with any franchise, contract, agreement with, understanding, or condition imposed by the New York City Department of Transportation, then CBS and/or OSI must divest, by the terms of this Final Judgment, at their option, either the New York City Subway Business or the New York City Bus Shelter Business; and inform the United States on February 1, 2000 which of the two businesses they intend to divest. The divestitures required under this subsection shall also be accomplished within one hundred fifth (150) calendar days after the filing of the Complaint in this matter or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to an Acquirer acceptable to the United States is its sole discretion.

C. Defendants shall use their best efforts to accomplish the divestitures as expeditiously and timely as possible and shall use their best efforts to obtain all transit or other governing authority consents and approvals necessary to complete the divestitures. The United States, in its sole discretion, may extend the time period for any divestiture for two (2) additional thirty (30) day periods of time, not to exceed sixty (60) calendar days in total.

D. In accomplishing the divestitures ordered by this Final Judgment Defendants promptly shall make known, by usual and customary means, the availability of the assets required to be divested pursuant to Section IV (A) and (B) of this Final Judgment (''Divestiture Assets''). Defendants shall inform any person making any inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall also offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information regarding the Divestiture Assets, customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

E. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make such inspection of the physical facilities associated with the assets and any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. Defendants shall not interfere with any negotiations by any Acquirer to employ any of Defendants' employees who work at, or whose principal responsibilities relate to, the Divestiture Assets.

G. Defendants shall take no action, direct or indirect, that will impede in any way the operation of Divestiture Assets.

H. Unless the United States otherwise consents in writing and whether pursuant to Section IV or Section V of this Final Judgment:

(1) The divestitures in the Phoenix Metropolitan Area shall be made to a single Acquirer;

(2) The divestitures in the New Orleans Metropolitan Area shall be made to a single Acquirer; and

(3) The divestitures in the New York City Area of the New York City Subway Business or New York City Bus Shelter Business; and those assets described in Section II (F)(3) of this Final Judgment, shall be made to a single Acquirer. If, after making a reasonable, good faith effort, Defendants are unable to effect a sale to a single Acquirer, they may submit more than one Acquirer for approval by the United States which, in its sole discretion, may determine whether to permit such a sale.

1. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include all of the Divestiture Assets and be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by an Acquirer or Acquirers as viable, ongoing commercial businesses engaged in the sale of out-of-home advertising and that the divestiture of such advertising assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment: (1) Shall be made to an Acquirer (or Acquirers) who it is demonstrated to the United States' sole satisfaction has or have the intent and capability (including the necessary managerial, operational, and financial capability) of competing effectively in the sale of out-of-home advertising; and (2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer (or Acquirers) and CBS or OSI give CBS or OSI the ability unreasonably to raise the Acquirer's (or Acquirers') costs, to lower the Acquirer's (or Acquirers') efficiency, or otherwise to interfere with the ability of the Acquirer (or Acquirers) to compete effectively.

V. Appointment of Trustee

A. In the event that Defendants have not divested the Divestiture Assets within the time specified in Section IV(A) of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States in its sole discretion to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. In the event that divestitures are required under Section IV(B), then the trustee shall have the right in, in its sole discretion, to divest either the New York City Subway Business or the New York City Bus Shelter Business. The trustee shall also have the right, in its sole discretion, to divest either the assets described in Section II(F)(2)(a) or the assets described in Section II(F)(2)(b). The trustee shall have the power and authority to accomplish the divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VII of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures of Divestiture Assets at the earliest possible time to an Acquirer (or Acquirers) acceptable to the United States in its sole discretion, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to plaintiff and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. The trustee shall serve at the cost and expense of Defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its

services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants as appropriate according to ownership of the assets and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary consents and regulatory approvals. The trustee, and any consultants, accountants, attorneys and other persons retained by the trustee, shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and Defendants shall develop financial or other information relevant to the businesses to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make such inspection of physical facilities associated with the displays and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After it appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered pursuant to this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact wit any such person during that period. The trustee shall maintain full records of all efforts made to divest the businesses to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth: (1) The trustee's efforts to accomplish the required divestitures; (2) the reasons, in the trustee's judgment, why the required divestitures have not bee accomplished; and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the plaintiff and the Defendants, each of whom shall have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a (the ''HSR Act''), Defendants shall give thirty (30) days notice to the United States prior to acquiring any assets of or any interest, including any financial, security, loan, equity or management interest, in any out-of-home display advertising business, that owns and/or operates any out-of-home displays that have a similar advertising purpose as the out-of-home displays currently held by the Defendants:

(1) In the new Orleans metropolitan Area and the Phoenix Metropolitan Area that generates Net Revenues of $250,000 or greater over a twelve-month period (beginning when this Final Judgment is entered and continuing for the term of the Final Judgment); for the purposes of this limitation, acquisitions during each twelve-month period shall be aggregated; and

(2) In the New York City Area that generates Net Revenues of $3.9 million or greater over a twelve-month period (beginning when this Final Judgment is entered and continuing for the term of the Final Judgment); for the purposes of this limitation, acquisitions during each twelve-month period shall be aggregated.

Defendants are not required, however, to give notice for any acquisition derived from Defendants' successful bid on any public contract. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

VII. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Sections IV or V of this Final Judgment, Defendants or the trustee, whichever is then responsible for effecting the divestitures, shall notify the United States of the proposed divestitures. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed transaction and list the name and address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the businesses to be divested that are the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by the United States of notice, the United States may request from Defendants, the proposed Acquirer (or Acquirers), or any other third party additional information concerning the proposed divestitures and the proposed Acquirer or Acquirers. Defendants and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer (or Acquirers), and any third party, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestitures. If the United States provides written notice to Defendants an the trustee that the United States does not object, then the divestitures may be consummated, subject only to Defendants' limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer (or Acquirers) or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VIII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed whether pursuant to Section IV or Section V of this Final Judgment, Defendants shall deliver to the United States an affidavit as to the fact and manner of compliance with this Final Judgment. Each such affidavit shall include, *inter alia,* the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that Defendants have taken to solicit a buyer for the Divestiture Assets and to provide required information to prospective Acquirers.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in detail all actions they have taken and all steps they have implemented on an on-going basis to preserve the Divestiture Assets pursuant to Section IX of this Final Judgment. The affidavit also shall describe, but not be limited to, the efforts of Defendants to maintain and operate the Divestiture Assets as active competitors; maintain the management, staffing, sales, and marketing of the Divestiture Assets; and maintain the Divestiture Assets in operable condition. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in their earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, Defendants shall preserve all records of all efforts made to preserve the business to be divested and effect the divestitures.

IX. Preservation of Assets

Until the divestitures required by the Final Judgment have been accomplished, Defendants shall take all steps necessary to maintain and operate the Divestiture Assets in each of the Three Metropolitan Areas, as active competitors; maintain the management, staffing, sales and marketing of the Divestiture Assets; and maintain the Divestiture Assets in operable condition. Defendants shall take no action that would jeopardize the divestitures required under this Final Judgment.

X. Financing

The Defendants are ordered and directed not to finance all or any part of any purchase by an Acquirer (or Acquirers) made pursuant to Sections IV or V of this Final Judgment.

XI. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the plaintiff, upon the written request of the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice, and on reasonable notice to the Defendants made to their principal offices, shall be permitted:

(1) Access during office hours of the Defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the Defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the Defendants and without restraint or interference from any of them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, made to the Defendants' principal offices, the Defendants shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment.

C. No information or documents obtained by the means provided in Sections VIII or XI of this Final Judgment shall be divulged by a representative of the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the plaintiff is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by the Defendants to the plaintiff, the Defendants represent and identify in writing the material in any such information or documents to which a claim or protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given by the plaintiff to the Defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the Defendants are not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

Competitive Impact Statement

Plaintiff, the United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Plaintiff filed a civil antitrust Complaint on December 6, 1999, alleging that a proposed acquisition of Outdoor Systems, Inc. (''OSI'') by CBS Corporation and Infinity Broadcasting Corporation (collectively ''CBS'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that CBS and OSI compete head-to-head-to sell outdoor advertising in three metropolitan areas: (1) The New York City Area; (2) The New Orleans, Louisiana Metropolitan Area; and (3)

The Phoenix, Arizona Metropolitan Area, (collectively ''the Three Metropolitan Areas''). Outdoor advertising companies sell out-of-home advertising display space to local and national customers. The out-of-home advertising display business in the Three Metropolitan Areas is highly concentrated. CBS and OSI have a combined share of revenue ranging from about 60 percent to over 90 percent in the Three Metropolitan Areas. Unless the acquisition is blocked, competition would be substantially lessened in the Three Metropolitan Areas, and advertisers would pay higher prices.

The prayer for relief seeks: (a) An adjudication that the proposed transaction described in the Complaint would violate Section 7 of the Clayton Act: (b) Preliminary and permanent injunctive relief preventing the consummation of the transaction; (c) An award to the United States of the costs of this action; and (d) Such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits CBS to complete its acquisition of OSI, yet preserves competition in the Three Metropolitan Areas where the transaction raises significant competitive concerns. A Stipulation and proposed Final Judgment embodying the settlement were filed along with the Complaint.

The proposed Final Judgment orders CBS to divest out-of-home advertising displays in each of the Three Metropolitan Areas. In particular, CBS must divest its business of selling advertising on buses in the New Orleans Metropolitan Area. In the Phoenix Metropolitan Area, CBS is required to divest either its bus advertising business or out-of-home advertising displays that generated the same amount of net revenues. In the New York City Area, CBS will divest a package of out-of-home advertising displays, defined in Section II F(3) of the proposed Final Judgment, worth approximately $25.3 million. In addition, if, as of February 1, 2000, CBS is deriving revenue from the sale of advertising on subway displays *and* from bus shelters in the New York City Area, then CBS will divest, at its option, either the subway or the bus shelter advertising business.

Unless the plaintiff grants an extension of time, CBS must divest the out-of-home advertising displays within one hundred fifty (150) days after the filing of the Complaint in this action or within five (5) business days after notice of entry of the proposed Final Judgment, whichever is later.

If CBS does not divest the out-of-home advertising displays in the specified areas within the divestiture period, the Court, upon plaintiff's application, shall appoint a trustee to sell the displays. The proposed Final Judgment also requires that, until the divestitures mandated by the proposed Final Judgment have been accomplished in the Three Metropolitan Areas, CBS and OSI must preserve the out-of-home advertising displays to be divested and take all steps necessary to maintain and operate them as active competitors. Further, Section VI of the proposed Final Judgment requires CBS to give the United States prior notice regarding certain future out-of-home advertising display acquisitions or agreements pertaining to the sale of out-of-home advertising in the Three Metropolitan Areas.

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain, for a period of ten years, jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. The Alleged Violations

A. The Defendants

CBS, a major corporation engaged in numerous media businesses, including out-of-home advertising, is a Pennsylvania corporation headquartered in New York, New York. CBS conducts its out-of-home advertising business through TDI Worldwide, Inc. (''TDI''), a wholly owned subsidiary of CBS-owned Infinity Broadcasting Corporation (''Infinity''). TDI sells out-of-home advertising in various markets throughout the United States, including the Three Metropolitan Areas.

Infinity is a Delaware corporation headquartered in New York, New York. Infinity owns and/or operates numerous radio stations in major markets in the United States and conducts the sale of out-of-home advertising through its subsidiary, TDI.

OSI is a Delaware corporation headquartered in Phoenix, Arizona. OSI is the largest out-of-home advertising company in North America, operating over 100,000 out-of-home advertising display faces in approximately 90 markets throughout the United States, including in each of the Three Metropolitan Areas.

B. Description of the Events Giving Rise to the Alleged Violations

On May 17, 1999, CBS entered into an Agreement and Plan of Merger with OSI. After a newly formed and wholly owned subsidiary of Infinity is merged into OIS, OSI shareholders will receive shares of Infinity valued at approximately $6.5 billion. In addition, Infinity will assume debt obligation of OSI valued at approximately $1.8 billion, bringing the total transaction value to $8.3 billion.

CBS and OSI compete for the business of advertisers seeking to obtain out-of-home advertising space in the Three Metropolitan Areas. The proposed acquisition of OSI by CBS would eliminate that competition in violation of Section 7 of the Clayton Act.

C. The Relevant Markets and Concentration

The Complaint alleges that the sale of out-of-home advertising constitutes a relevant product market and a line of commerce and that each of the Three Metropolitan Areas constitutes a relevant geographic market and section of the country for antitrust purposes.

Advertisers select out-of-home advertising based on a number of factors, including the size of the target audience (individuals most likely to purchase the advertiser's products or services), the vehicular and pedestrian traffic patterns of the audience, as well as other audience characteristics. Many advertisers seek to reach a large percentage of their audience by selecting out-of-home advertising forms, like billboards, that appear on highways, roads and streets where vehicle and pedestrian traffic is high. This way, the advertisements will be viewed frequently by the advertiser's target audience.

In some densely populated metropolitan areas, a significant number of advertisers also select out-of-home advertising displayed within metropolitan transit authority systems. This includes displays found on the sides of buses and within subway systems. Advertisers select advertising space within a transit system because of the large number of viewers who will routinely be exposed to the advertiser's message each day. Such viewers include commuters who use the transit system, as well as pedestrians and passengers in vehicles.

Out-of-home advertising has prices and characteristics that are distinct from other advertising media. It is particularly suitable for highly visual, limited-information advertising, because consumers are exposed to an out-of-home advertisement for only a brief period of time. Out-of-home advertising is typically less expensive and more cost-efficient than other media at reaching an advertiser's target audience.

Many advertisers who use out-of-home advertising also advertise in other media, including radio, television, newspapers and magazines, but use out-of-home advertising when they want a large number of exposures to consumers at a low cost per exposure.

For many advertising customers, out-of-home advertising has particular characteristics that make it an advertising medium for which there is no close substitute. Such customers would not switch to another advertising medium if out-of-home advertising prices increased by a small but significant amount.

Geographically, out-of-home advertising is typically offered on a localized, market-by-market basis, rather than nationally or regionally. Much of the inventory (*e.g.,* transit advertising contracts or leases for billboard space) is obtained on a local basis through contracts between out-of-home advertising firms and municipal authorities or property owners. Firms that sell out-of-home advertising set prices based on local market conditions and employ local sales forces.

Similarly, many advertisers need to reach consumers in a particular city or metropolitan area. For those advertisers, advertising that targets consumers in a different area (or outside the city or metropolitan area) is not an adequate substitute. Such advertisers may have their businesses located in that city or metropolitan area and therefore need to reach that area's consumers. For many advertisers who target consumers in each of the Three Metropolitan Areas, there are no reasonable substitutes for out-of-home advertising located within each of the Three Metropolitan Areas. A small but significant increase in the price of out-of-home advertising in each of the Three Metropolitan Areas would not cause these advertisers to turn to out-of-home advertising located outside each area.

The Complaint alleges that CBS's proposed acquisition of OSI would lessen competition substantially in the sale of out-of-home advertising in each of the Three Metropolitan Areas. The proposed transaction would create further market concentration in already highly concentrated markets, and CBS would control a substantial share of the out-of-home advertising revenues in these markets.

In the New York City Area, CBS and OSI are the number one and number two providers of out-of-home advertising, respectively. After the merger, CBS's share of the out-of-home advertising market, based on advertising revenues, would exceed 60 percent. The approximate Herfindahl-Hirschman Index (''HHI''), explained in Exhibit A, attached hereto, post-merger would be 3960, representing an increase of 1850 points.

In the New Orleans Metropolitan Area, OSI and CBS are two of four major providers of out-of-home advertising. Post-merger, CBS's share of the out-of-home advertising market, based on advertising revenues, would increase to over 90 percent and the approximate post-merger HHI would be 3944, representing an increase of 672 points.

In the Phoenix Metropolitan Area, OSI and CBS are two of four major providers of out-of-home advertising. Post-merger, CBS's share of the out-of-home advertising market, based on advertising revenues, would increase to over 75 percent. The approximate post-merger HHI would be 5904, representing an increase of 568 points.

D. Harm to Competition as a Result of the Merger

In each of the Three Metropolitan Areas, CBS and OSI compete head-to-head, and, for many local and/or national advertisers buying certain types of out-of-home advertising, are each other's closest competitor. During individual price negotiations, these advertisers are currently able to ensure competitive prices by obtaining rates from both OSI and CBS and playing the rates of one off the rates of the other. CBS's acquisition of OSI will end this competition. After the acquisition, such advertisers will be unable to reach their desired audiences with equivalent efficiency without using CBS's out-of-home advertising displays. Because advertisers seeking to reach these audiences would have inferior alternatives to the merged entity as a result of the acquisition, the acquisition would give CBS the ability to raise prices and reduce the quality of its service to advertisers in each of the Three Metropolitan Areas.

New entry into the out-of-home advertising market in response to a small but significant price increase by the merged parties in any of these markets is unlikely to be timely and sufficient to render the price increase unprofitable.

For all of these reasons, plaintiff concluded that the proposed transaction would lessen competition substantially in the sale of out-of-home advertising in the Three Metropolitan Areas, eliminate actual and potential competition between CBS and OSI, and result in increased prices and/or reduced quality of services for out-of-home advertisers in each of the Three Metropolitan Areas, all in violation of Section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve existing competition in the sale of out-of-home advertising in the Three Metropolitan Areas. In the Phoenix and New Orleans Metropolitan Areas, CBS is required to divest assets equivalent to all the out-of-home assets of one of the merging parties, thus completely restoring the pre-merger industry structure and resolving any competitive concerns. In the New York City Area, CBS is required to divest a package of out-of-home advertising displays generating approximately $25.3 million in revenue—the same amount of revenue OSI's out-of-home advertising assets generated last year, with the exception of the revenue earned by its bus shelter and subway advertising operations. With respect to bus shelters and subways, if CBS if offering both kinds of advertising for sale as of February 1, 2000, it is required to divest one of those lines of business. The objective of the divestiture is to ensure that the purchaser of the divested assets receives sufficient assets to compete effectively in the market and replaces the competitor lost as a result of the merger of CBS/OSI. Out-of-home advertising displays worth $25.3 million, along with potentially either the bus shelter or subway advertising business, accomplishes this objective and thereby effectively restores the pre-merger competitive situation in the New York market.[1]

Unless plaintiff grants an extension of time, the divestitures must be completed within one hundred fifty (150) days after the filing of the Complaint in this matter or within five (5) business days after notice of entry of the proposed Final Judgment by the Court, whichever is later.

Until the divestitures occur in all Three Metropolitan Areas, defendants must maintain and operate the advertising displays as active competitors; maintain the management and staffing, sales and marketing of the advertising assets; and maintain the assets to be divested in operable condition. This requirement ensures that the advertising assets remain viable and can be used effectively by the proposed purchasers.

The divestitures must be made to a purchaser or purchasers acceptable to the plaintiff in its sole discretion. Unless plaintiff otherwise consents in writing, the divestitures shall include

[1] As of February 1, 2000, CBS was engaged in the sale of advertising on bus shelters and subways in the New York City Area and therefore must divest one of these businesses.

all the assets of the out-of-home advertising display business being divested, and shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that such assets can and will be used as viable, ongoing commercial out-of-home advertising businesses. In addition, the purchaser or purchasers must have the intent and capability of competing effectively in the sales of out-of-home advertising and there must be no conditions restricting competition in the terms of the sale. These provisions are intended to ensure that the purchasers chosen by the defendants (or the trustee) can effectively replace competition that may be lost due to the merger.

If defendants fail to divest these out-of-home advertising displays within the time periods specified in the proposed Final Judgment, the Court, upon plaintiff's application, is to appoint a trustee nominated by plaintiff to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. After appointment, the trustee will file monthly reports with the plaintiff, defendants and the Court, setting forth the trustee's efforts to accomplish the divestitures ordered under the proposed Final Judgment. If the trustee has not accomplished the divestitures within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished and (3) the trustee's recommendations. At the same time the trustee will furnish such report to the plaintiff and defendants, who will each have the right to be heard and to make additional recommendations.

Section VI of the proposed Final judgment requires CBS to provide at least thirty (30) days' notice to the Department of Justice before acquiring more than a *de minimis* interest in any assets of, or any interest in, another out-of-home advertising display company in the Three Metropolitan Areas. Such acquisitions could raise competitive concerns, but might be too small to be reported otherwise under the Hart-Scott-Rodino premerger notification statute. Thus, this provision ensures that the Department will receive notice of and be able to act, if appropriate, to stop any agreements that might have anticompetitive effects in the Three Metropolitan Areas.

The relief in the proposed Final Judgment is intended to remedy the likely anticompetitive effects of CBS's proposed transaction with OSI in the Three Metropolitan Areas. Nothing in the proposed Final Judgment is intended to limit the plaintiff's ability to investigate or bring actions, where appropriate, challenging other past or future activities of the defendants in the Three Metropolitan Areas.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bring of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the plaintiff has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the plaintiff written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this competitive Impact Statement in the **Federal Register**. The plaintiff will evaluate and respond to the comments. All comments will be given due consideration by the plaintiff, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the plaintiff will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Willie L. Hudgins, Assistant Chief, Litigation II, Antitrust Division, United States Department of Justice, 1401 H Street, NW; Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

Plaintiff considered, as an alternative to the proposed Final judgment, a full trial on the merits of its compliant against defendants. Plaintiff is satisfied, however, that the divestiture and other relief contained in the proposed Final Judgment will preserve viable competition in the sale of out-of-home advertising display in the Three Metropolitan Areas and will effectively prevent the anticompetitive effects that would result from the proposed acquisition.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the Court shall determine whether entry of the proposed Final Judgment '' is in the public interest.'' In making that determination, the Court may consider

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement ad modification, duration or relief sought, anticipated effects of alternative remedies actually considered and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial. 15 U.S.C. § 16(e).

As the United States Court of Appeals for the D.C. Circuit held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient and whether the decree may positively harm third parties. *See United States* v. *Microsoft,* 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

The courts have recognized that the term '''public interest' take[s] meaning from the purposes of the regulatory legislation.'' *NAACP* v. *Federal Power Comm'n,* 425 U.S. 662,669 (1976). Since the purpose of the antitrust laws is to preserve ''free and unfettered competition as the rule of trade,''

Northern Pacific Railway Co. v. *United States,* 356 U.S. 1, 4 (1958), the focus of the ''public interest'' inquiry under the APPA is whether the proposed Final Judgment would serve the public interest in free and unfettered competition. *United States* v. *American Cyanamid Co.,* 719 F.2d 558,565 (2d Cir. 1983), *cert. denied,* 465 U.S. 1101 (1984); *United States* v. *Waste Management, Inc.,* 1985–2 Trade Cas. ¶ 66,651, at 63,046 (D.D.C. 1985).

In conducting this inquiry,'' [t]he Court is nowhere compelled to go to trail or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.''[2] Rather,

> [a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-American Dairymen, Inc.,* 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988), *citing United States* v. *Bechtel Corp.,* 648 F.2d 660,666 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981); *see also Microsoft,* 56 F.3d at 1460–62. Precedent requires that:

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of the insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is '*within the reaches of the public interest.*' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[3]

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties do not hastily and thoughtlessly stipulate to a decree because, in doing so, they:

> waive their right to litigate the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation. Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

United States Armour & Co., 402 U.S. 673,681 (1971).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a proposed final judgment requires a standard more flexible and less strict then the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest''.[4]

Moreover, the court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Since ''[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that the court ''is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.* at 1459–60.

The relief obtained in this case is strong and effective relief that should fully address the competitive harm posed by the proposed transaction.

VIII. Determination Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the plaintiff in formulating the proposed Final Judgment.

Dated: February 10, 2000.

Respectfully submitted,

Renee Eubanks,
U.S. Department of Justice, Antitrust Division, 1401 H Street, NW; Suite 4000, Washington, DC 20530, (202) 307–0001.

Exhibit A.—Definition of HHI and Calculations for Market

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2$=2600). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Merger Guidelines. See Merger Guideline § 1.51.

Certificate of Service

I, Renee Eubanks, hereby certify that, on February 10, 2000, I caused the foregoing document to be served on defendants CBS Corporation, Infinity Broadcasting Corporation and Outdoor Systems Inc., having a copy mailed, first-class, postage prepaid, to:

Helene Jaffe,

Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Counsel for CBS Corporation and Infinity Broadcasting Corporation.

Mitchell Raup,

Mayer, Brown & Platt, 1909 K Street, N.W., Washington, D.C. 2006, Counsel for Outdoor Systems, Inc.

[FR Doc. 00–4593 Filed 3–16–00; 8:45 am]

BILLING CODE 4410–11–M

[2] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), *reprinted in* U.S.C.C.A.N. 6535, 6538.

[3] *Bechtel,* 648 F.2d at 666 (citations omitted) (emphasis added); *see BNS,* 858 F.2d at 463; *United States* v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette,* 406 F. Supp. at 716. *See also Microsoft,* 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'') (citations omitted).

[4] *United States* v. *American Tel. and Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983), *quoting Gillette,* 406 F. Supp. at 716 (citations omitted); *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; report of complaint.

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 public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 16, 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 methodogy and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Report of Complaint.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–847. Border Patrol Division, Immigration and Naturalization.

(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 to establish a record of complaint and to initiate an investigation of misconduct by an officer of the INS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 63 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: March 13, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–6664 Filed 3–16–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy

Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: March 29, 2000, 10:00 AM, U.S. Department of Labor, N–4437 B&C, 200 Constitution Ave., NW, Washington, DC 20210.

Purpose: The meeting will include a review and discussion of current issues which influences U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Jorge Perez-Lopez, Director, Office of International Economic Affairs. Phone: (202) 219–7597.

Signed at Washington, DC this 6th day of March 2000.

Andrew James Samet,

Deputy Under Secretary International Affairs.

[FR Doc. 00–6658 Filed 3–16–00; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February and March, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–36,694; Weathervane Window, Inc., Brighton, MI

TA–W–37–216; AK Steel Corp., Dover Operations, Dover, OH

TA–W–37,169; Shepard Airtronics, Inc., Passaic, NJ
TA–W–37,106; Oxford Automotive, Argos, IN
TA–W–37,211; Masonite Corp., Pilot Rock, OR
TA–W–37,142, A & B; Mitchell Energy Corp., The Woodlands, TX Operating Throughout the State of TX and Ruston, LA, Mitchell Gas Service LP, The Woodlands, TX & Operating Throughout the State of TX and MND Service, Inc., The Woodlands, TX

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–37,102; Fisher-Price, Inc., Mattel Operations Group, East Aurora, NY
TA–W–37,264; KTI Energy of Martinsville, Inc., Martinsville, VA
TA–W–37,292; Deepwater Corrosion Services, Houston, TX
TA–W–37,229; L.G.&E Natural Gathering & Processing, Hobbs, NM
TA–W–37,249; Snap-On, Inc., Ottawa, IL
TA–W–37,001; AMP, Inc., Harrisburg, PA
TA–W–37,316; Lower Umpqua Federal Credit Union, Reedsport, OR
TA–W–37,240; Chevron Products Co., Roosevelt, UT
TA–W–37,313; Pacificorp, Shareholder Service & Investor Relations Dept, Portland, OR
TA–W–37,023; Cerplex, Corvallis, OR
TA–W–37,080, & A; Pratt & Whitney, Pratt and Whitney Talon, Inc., Rocky Hill, CT and Pratt & Whitney Advance Refurbishment Operations, Inc., North Haven, CT
TA–W–37,217; Penguin Putnam, Inc., Book Warehouse, Newburn, TN

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–37,325; Serrot International, Galesburg, IL
TA–W–36,984; Rheem Manufacturing Co., Air Conditioning Div., Greenville, AL
TA–W–36,078; Unocal Corp., The Geysers, Cloverdale, CA
TA–W–37,082; OMC, Evinrude Plant, Milwaukee, WI
TA–W–37,076; Appleton Paper, Inc, Newton Falls Mill, Newton Falls, NY
TA–W–37,063; Kellogg Co., South Operations Plant, Battle Creek, MI
TA–W–37,131; Chevron Chemical Corp., Orange, TX
TA–W–37,218; Bausch & Lomb, Contact Lenses Div., Rochester, NY
TA–W–36,960 & A, B, C, D, E & F; CNG Transmission Corp., Clarksburg, WV, Hope Gas, Inc., Clarksburg, WV, East Ohio Gas, Cleveland, OH, Virginia Natural Gas, Norfolk, VA, CNG Producing Co., New Orleans, LA, Peoples Natural Gas Co., Pittsburgh, PA and CNG Corp., Pittsburgh, PA
TA–W–37,060; Liz Clairborne, North Bergen, NJ
TA–W–37,244; Motorola, Inc., Cellular Infrastructure Group (CIG), Arlington Heights, IL
TA–W–37,016; Deluxe Corp., Financial Service Div., Springfield, MA
TA–W–37,318; Grifel & Lebel, Inc., New York, NY
TA–W–37,221; Weigh-Tronix, Inc., Fairmont, MN
TA–W–37,250; BP Amoco Refinery, Texas City, TX
TA–W–37,002; Sparrow Blouse Co., Nazareth, PA
TA–W–36,903 & A; UNIFI, Inc., Raeford Plant, Raeford, NC and Sanford Plant, Sanford, NC
TA–W–35,631 & B, C, D, E, F, G, H, I, K, L, & M; Burlington Industries, Statesville Plant, Statesville, NC, J.C. Cowan Plant, Forest City, NC, Raeford Plant, Raeford, NC, Raeford Dying Plant, Raeford, NC, Oxford Plant, Oxford, NC, Burlington Tailored Fashions Div. Offices, Greensboro, NC, Klopman Fabrics Div Office, Greensboro, NC, Bishopville Plant, Bishopville, SC, Johnson City Plant, Johnson City, TN, Burlington Tailored Fashions, Clarksville, VA, Stonewall Cutting Plant, Stonewall, MS, and Burlington Tailored Fashions, New York, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–37,291; IMC Kalium, Carlsbad, NM
TA–W– Kemmer Prazision, Janesville, WI

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or an appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–35,631A & J; Burlington Industries, Mooresville Plant, Mooresville, NC and Hillsville Plant, Hillsville, VA: January 29, 1998.
TA–W–37,083; Hempfield Foundries Co., Greensburg, PA: November 9, 1998.
TA–W–37,059; Allied Signal, Avionics and Lighting, Boyne City, MI: October 27, 1998.
TA–W–37,195; Vinant Dress, Inc., Jermyn, PA: December 10, 1998.
TA–W–37,151; Hagale Industries, Inc., Marshfield, MO: November 23, 1998.
TA–W–37,163; White Swan—Meta, Dawson Springs, KY: December 2, 1998.
TA–W–37,256; ABB Automation, Inc., Electronic & Systems Assembly Div., Williamsport, PA: December 28, 1998.
TA–W–37,272; Winpak Portion Packaging, Bristol, PA: January 7, 1999.
TA–W–37,156; Ray-Ban Sun Optics, Inc., San Antonio, TX: November 20, 1998.
TA–W–37,160 & A,B,C; Dexter Shoe Co., Dexter, ME, Milo, ME, Skowhegan, ME and Newport, ME: February 4, 2000.
TA–W–37,199; Sulzer Pumps, Portland, OR: December 7, 1998.
TA–W–37,178; VF Workwear, Inc., Erwin, TN: November 30, 1998.
TA–W–37,138; Headwear USA, d/b/a, Identity Headwear, Pattonsburg, MO: November 18, 1998.
TA–W–37,186; Avdel Cherry Textron, Inc., Parsippany, NJ: December 8, 1998.
TA–W–37,324 7 A; The Williamson Co., Fairfield, IL and Mt. Vernon, IL; January 26, 1999.
TA–W–37,198; Sea Gull Lighting Products, Inc., Philadelphia, PA: December 6, 1998.
TA–W–37,132; Eileen Fisher, Inc., Irvington, NY: November 3, 1998.
TA–W–37,202 & A; Jockey International, Inc., Carlisle, KY and Mt. Sterling, KY: November 29, 1998.
TA–W–37,210; Cooper-Standard Automotive, Gaylord, MI: December 9, 1999.
TA–W–37,052; Metric Products, Inc., Culver City, CA: October 12, 1998.
TA–W–37,191; Arctic Pipe Inspection, Inc., Prudhoe Bay, AK: December 14, 1998.
TA–W–37,265; O'Bryan Brothers, Inc., Richland Center, WI: January 10, 1999.
TA–W–37,203; Braun Thermoscan, San Diego, CA: December 10, 1998.
TA–W–36,993; Modern Manufacturing Co., Los Angeles, CA: October 12, 1998.

TA–W–37,214 & A,B; Fox Point Sportswear, Inc., Merrill, WI, Bruce, WI, and Ironwood, MI: December 20, 1998.
TA–W–37,162; Allen Telecom-Solon, Solon, OH: December 3, 1998.
TA–W–37,232; Thomas Bradford Shirt Co., Huntington, TN: December 23, 1998.
TA–W–37,172; Rossmor Industries, Twinsburg, OH: November 19, 1998.
TA–W–37,170; International Service Group, Elizabeth, NJ: July 19, 1999.
TA–W–37,104; F.N. Burt Co., Inc., Buffalo, NY: November 9, 1998.
TA–W–37,261; Ithaca Industries, Glennville, GA: January 6, 1999.
TA–W–37,278; Cheraw Dyeing & Finishing, A. Div. of Piece Dye Acquisition Corp., Cheraw, SC: January 11, 1999.
TA–W–37,090 & A; SAS' SA Limited Sylvester, GA and Baxley, GA: November 4, 1998.
TA–W–36,847; Iron Horse Products, Inc., Port Huron, MI: September 2, 1998.
TA–W–37,254; Sony Electronics, Inc., Frackville, PA: January 6, 1999.
TA–W–37,026; Brunswick Bicycles, Olney, IL: October 18, 1998.
TA–W–37,184; Yates Foil USA, Bordentown, NJ: December 3, 1998.
TA–W–37,277; Partlow West Co., New Hartford, NY: January 13, 1999.
TA–W–36,977; Georgia Pacific Corp., Superwood Div., Bemidji, MN: October 13, 1998.
TA–W–37,129 & A, B, C; The Boeing Co., Commercial Airplace Group, Puget Sound Region, WA, Spokane, WA, Portland, OR and Wichita, KS: March 24, 1999.
TA–W–37,161; Bailey Creation, York, AL: November 30, 1998.
TA–W–37,046; Mobius, Inc., Eugene, OH: October 26, 1998.
TA–W–37,154; Phillips-Joanna, Ladd, IL: November 23, 1998.
TA–W–37,181; Trend Manufacturing, Parsons, KS: November 30, 1998.
TA–W–37,274; Fasco Motors, Eldon, MO: January 4, 1999.
TA–W–37,290; Ochoco Lumber Co., d/b/a Malheur Lumber Co., John Day, OR: January 10, 1999.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of February and March, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–03665; Cooper Industries, Cooper Lighting, Elk Grove Village, IL
NAFTA–TAA–03611; Headwear USA, d/b/a Identity Headwear, Pattonsburg, MO
NAFTA–TAA–03646; Sea Gull Lighting Products, Inc., Philadelphia, PA
NAFTA–TAA–03669; Mineral Ridge Resources, Inc., Silver Peak, NV
NAFTA–TAA–03507; Oxford Automotive, Argos, IN
NAFTA–TAA–03605; Kellogg Co., South Operations Plant, Battle Creek, MI
NAFTA–TAA–03630; Allied Signal Aerospace, Environmental Control Systems Div., Ocala, FL
NAFTA–TAA–03587; Chevron Chemical Corp., Orange, TX
NAFTA–TAA–03638; A,B; Fox Point Sportswear, Inc., Merrill, WI, Bruce, WI and Ironwood, MI
NAFTA–TAA–03556; Appleton Paper, Inc., Newton Falls Mill, Newton Falls, NY
NAFTA–TAA–03598; Phillips-Joanna, Ladd, IL
NAFTA–TAA–03530; Deluxe Corp., Financial Services Div., Springfield, MA
NAFTA–TAA–03547; Outboard Marine Corp., Milwaukee, WI.
NAFTA–TAA–03317; Weathervane Window, Inc., Brighton, MI
NAFTA–TAA–03508; Louisiana Pacific Corp., Ketchikan Pulp Co., Ketchiken Pulp Div., Ketchikan, AK
NAFTA–TAA–03694; Noblesville Casting, Inc., Noblesville, IN
NAFTA–TAA–03681; Smiley Container Plant, Russell Stover Candies, Inc., Poplar Bluff, MO

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–3680; Sause Bros./Southern Oegon Marine, Inc., Coos Bay, OR
NAFTA–TAA–03671; Southeast Stevedoring Corp., Port of Metlakatla, AK
NAFTA–TAA–03529; Cerplex, Corvallis, OR
NAFTA–TAA–03670; PacifiCorp., Shareholder Services and Investor Relations Dept., Portland, OR

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–03708; Wheat Montana Farms, Bakery and Warehouse, Three Forks, MT

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–03656; Bailey Creation, York, AL: November 30, 1998.
NAFTA–TAA–03542; Mobius, Inc., Eugene, OR: October 25, 1998.
NAFTA–TAA–03641; Thomas Bradford Whirt Co., Huntingdon, TN: December 23, 1998.
NAFTA–TAA–03703; Humpty Dumpty Potato Chips Co., Inc., Scarborough, ME: January 25, 1999.
NAFTA–TAA–03636; Standard-Cooper Automotive, Gaylord, MI: December 21, 1998.
NAFTA–TAA–03705; Thaw Corp., Snow Creek Div., Wenatchee, WA: January 28, 1999.
NAFTA–TAA–03654; Porta Systems Corp., North Hills Electronics, Glen Cove, NY: December 22, 1998.

NAFTA–TAA–03517; Georgia Pacific Corp., Superwood Div., Bemidji, MN: October 13, 1998.
NAFTA–TAA–03575; Asarco, Inc., Leadville, CO: November 10, 1998.
NAFTA–TAA–03446; Iron Horse Productions, Inc., Port Huron, MI: September 15, 1998.
NAFTA–TAA–03672; Miller International, Inc., Rocky Mountain Clothing Co., Rocky Ford, Co: January 14, 1999.
NAFTA–TAA–03660; Sony Electronics, Inc., Frackville, PA: January 6, 1999
NAFTA–TAA–03725; Ochoco Lumber Co; d/b/a Malheur Lumber Co., John Day, OR: February 8, 1999.
NAFTA–TAA–03666; Otis Elevator Co., Bloomington, IN: January 7, 1999.
NAFTA–TAA–03677; American Timber, Olney, MT: January 14, 1999.
NAFTA–TAA–03679; The Nordic Group, LLC, Hubbard, OR: January 14, 1999.
NAFTA–TAA–03698; The Nordic Group, LLC, Vancouver, WA: January 25, 1999.
NAFTA–TAA–03767; ISA Cutting Room Services, El Paso, TX: February 16, 1999.

I hereby certify that the aforementioned determinations were issued during the month of February and March, 2000. Copies of these determinations were available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address;

Dated: March 8, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance

[FR Doc. 00–6659 Filed 3–16–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

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 with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the proposed two year extension of the Employment Service Complaint Referral Record, ETA–8429 and the Services to Migrant and Seasonal Farm Workers Report, ETA–5148 from the current end date of September 30, 2000 to a new end date of September 30, 2002.

A copy of the previously approved information collection request (ICR) can be obtained by contacting the office 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 16, 2000.

ADDRESSES: Eric Johnson, Office of Workforce Security, Office of Career Transition Assistance, 200 Constitution Avenue NW., Room S–4321, Washington, DC 20210, (202–219–0316—not a toll free number) and internet address: *ejohnson@doleta gov* and/or Fax: (202–219–8506).

SUPPLEMENTARY INFORMATION:

I. Background.

As part of the settlement in the case of NAACP v. Secretary of Labor (Civil Action No. 2010–72, U.S.D.C.), the U.S. Department of Labor (DOL) negotiated with the plaintiffs a series of regulations published June 10, 1980. Employment and Training Administration (ETA) regulations at 20 CFR 651, 653 and 658 under the Wagner-Peyser Act, as amended by the Workforce Investment Act of 1998, set forth the role and responsibilities of the United States Employment Service (USES) and the State Employment Security Agencies (SESAs) regarding compliance of said regulations.

In compliance with 20 CFR 653.109, DOL establishing record keeping requirements to allow for the efficient and effective monitoring of SESAs regulatory compliance.

The ETA Form 8429, Employment Service Complaint Referral Record, is used to collect and document all individual complaints filed under the Employment Service complaint system.

The ETA Form 5148, Services to Migrant and Seasonal Farm Workers Report, is used to collect data which are primarily used to monitor and to measure the extent and effectiveness of Employment Service (ES) services to migrant and seasonal farm workers as a high priority target group for ES services.

II. Review Focus

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.

III. Current Actions

This is a request for OMB approval under the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A) to extend collection of the Employment Service Complaint Referral Record, ETA–8429 and the Services to Migrant and Seasonal Farm Workers Report, ETA–5148 from a current end date of September 30, 2000 to a new end date of September 30, 2002.

Type of Review: Extension without charge.

Agency: Employment and Training Administration.

Title: Employment Service Complaint Referral Record, ETA–8429, Services to Migrant and Seasonal Farm Workers Report, ETA–5148.

OMB Number: 1205–0039.

Frequency: Quarterly and on occasion, respectively.

Affected Public: State governments.

Total Respondents: 208.

Estimated Cost Per Respondent: No cost to respondent.

Estimated Burden Hours: 5530.

Complaint Log Maintenance

1. Record keeping
   Number of record-keepers 168
   Annual hours per record-keeper 6.3
   Record-keepers Hours 1,059
2. Processing ETA 8429

Annual number of forms 2,520
Minutes per form 8
Processing hours 327

Outreach Log

1. Record keeping
   Number of record-keepers—150
   Annual hours per record-keeper—26
   Record-keepers hours—3,900
2. Data Collection/Reporting ETA—5148
   Annual number of reports—208
   Minutes per report—70
   Record keeping hours—244

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 14, 2000.

Grace A. Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 00–6660 Filed 3–16–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Notice of Addition to the Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce an addition to the annual list of labor surplus ares.

DATES: This addition to the annual list of labor surplus areas is effective February 1, 2000.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, USES, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4464, Attention: TEESS, Washington, D.C. 20210. Telephone: 202–219–5185, ext. 129.

SUPPLEMENTARY INFORMATION: The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on October 15, 1999 (64 FR 55969).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The area listed below has been classified by the Assistant Secretary as a labor surplus area pursuant to 20 CFR 654.5(b) effective February 1, 2000.

Signed at Washington, D.C. on January 31, 2000.

Raymond L. Bramucci,

Assistant Secretary.

ADDITION TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[February 1, 2000]

Labor surplus area	Civil jurisdiction included
Illinois: DeWitt County	DeWitt County.

[FR Doc. 00–6657 Filed 3–16–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and superseded decisions thereto, contain on expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR part 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office entitled ''General Wage Determinations Issued

Under the Davis-Bacon and Related Acts'' are listed by Volume and States:

Volume V

Texas
TX000121 (Mar. 17, 2000)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Jersey
NJ000007 (Feb. 11, 2000)

Volume II

Delaware
DE000004 (Feb. 11, 2000)
DE000005 (Feb. 11, 2000)
DE000009 (Feb. 11, 2000)
Pennsylvania
PA000001 (Feb. 11, 2000)
PA000002 (Feb. 11, 2000)
PA000003 (Feb. 11, 2000)
PA000004 (Feb. 11, 2000)
PA000013 (Feb. 11, 2000)
PA000017 (Feb. 11, 2000)
PA000018 (Feb. 11, 2000)
PA000020 (Feb. 11, 2000)
PA000032 (Feb. 11, 2000)
PA000038 (Feb. 11, 2000)
PA000041 (Feb. 11, 2000)
PA000042 (Feb. 11, 2000)
PA000065 (Feb. 11, 2000)

Volume III

Florida
FL000001 (Feb. 11, 2000)

Volume IV

Illinois
IL000019 (Feb. 11, 2000)
Michigan
MI000030 (Feb. 11, 2000)
MI000031 (Feb. 11, 2000)
MI000062 (Feb. 11, 2000)
MI000073 (Feb. 11, 2000)
MI000077 (Feb. 11, 2000)
MI000083 (Feb. 11, 2000)
MI000084 (Feb. 11, 2000)

Volume V

Iowa
IA000015 (Feb. 11, 2000)
IA000079 (Feb. 11, 2000)
Kansas
KS000015 (Feb. 11, 2000)
KS000018 (Feb. 11, 2000)
KS000019 (Feb. 11, 2000)
KS000020 (Feb. 11, 2000)
KS000021 (Feb. 11, 2000)
Texas
TX000007 (Feb. 11, 2000)
TX000013 (Feb. 11, 2000)
TX000014 (Feb. 11, 2000)
TX000033 (Feb. 11, 2000)
TX000034 (Feb. 11, 2000)
TX000037 (Feb. 11, 2000)
TX000060 (Feb. 11, 2000)
TX000061 (Feb. 11, 2000)
TX000103 (Feb. 11, 2000)
TX000104 (Feb. 11, 2000)

Volume VI

Colorado
CO000001 (Feb. 11, 2000)
CO000005 (Feb. 11, 2000)
CO000006 (Feb. 11, 2000)
CO000007 (Feb. 11, 2000)
CO000008 (Feb. 11, 2000)
CO000009 (Feb. 11, 2000)
CO000014 (Feb. 11, 2000)
CO000016 (Feb. 11, 2000)
CO000021 (Feb. 11, 2000)
CO000022 (Feb. 11, 2000)
CO000023 (Feb. 11, 2000)
CO000024 (Feb. 11, 2000)
CO000025 (Feb. 11, 2000)
Wyoming
WY000009 (Feb. 11, 2000)

Volume VII

California
CA000029 (Feb. 11, 2000)
Nevada
NV000003 (Feb. 11, 2000)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 9th day of March, 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–6251 Filed 3–16–00; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation, Crystal River Unit 3; Notice of Consideration of Approval of Application Regarding Proposed Acquisition by CP&L Holdings, Inc. of Florida Progress Corporation and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under Title 10, Code of Federal Regulations (10 CFR), Section 50.80, approving the indirect transfer of Facility Operating License No. DPR–72 for Crystal River Unit 3 (CR–3), to the extent currently held by Florida Power Corporation (FPC). The indirect transfer would be to a proposed new holding company, Carolina Power and Light (CP&L) Holdings, Inc. (Holdings).

According to an application for approval filed by FPC dated January 31, 2000, FPC is requesting the consent of the Commission to the indirect transfer of the CR–3 operating license that will occur under a proposed share exchange transaction between Florida Progress Corporation (Progress) and Holdings. Holdings is being formed by CP&L as part of an internal CP&L reorganization. Upon consummating the share exchange transaction, where Holdings will acquire all of the outstanding shares of Progress, Progress will become a wholly owned subsidiary of Holdings. FPC, which owns a 91.7806 percent interest in CR–3, and which will remain a wholly owned subsidiary of Progress, will become an indirect, wholly owned subsidiary of Holdings upon completion of the transaction. FPC will retain its existing ownership interest in CR–3, continue to hold the CR–3 operating license, and remain the licensed operator of CR–3 after the share exchange transaction. No direct transfer of the license will occur. No physical changes to the facility or operational changes are being proposed in the application.

Pursuant to 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. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the underlying transaction effecting the indirect transfer will not affect the qualifications of the holder of the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By April 6, 2000, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon R. Alexander Glenn, Director, Regulatory Counsel Group (MAC–BT15A), Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733–4042, Voice (727) 820–5587, FAX (727) 820–5519, and e-mail *Robert.A.Glenn@FPC.COM;* Steven Carr, Associate General Counsel, Legal Department, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602–1551, Voice (919) 546–4161, Fax (919) 546–3805, and e-mail *steven.carr@cplc.com;* the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, e-mail address for license transfer cases only: OGCLT@NRC.GOV; and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by April 17, 2000, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated January 31, 2000, 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 7th day of March 2000.

For the Nuclear Regulatory Commission.

L.A. Wiens,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–6632 Filed 3–16–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Northeast Nuclear Energy Company; Notice of Consideration of Issuance of Amendment to Facility Operating License 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–65, issued to Northeast Nuclear Energy Company (NNECO/the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

The proposed amendment would change Technical Specifications 3.3.2.1, ''Instrumentation—Engineered Safety Feature Actuation System Instrumentation; ''3.3.3.1, ''Instrumentation—Monitoring Instrumentation—Radiation Monitoring''; 3.7.6.1, ''Plant Systems—Control Room Emergency Ventilation System;'' 3.9.3.1, ''Refueling Operations—Decay Time''; 3.9.4, ''Refueling Operations—Containment Penetrations''; 3.9.9, ''Refueling Operations—Containment Radiation Monitoring''; 3.9.10, ''Refueling Operations—Containment Purge Valve Isolation System''; 3.9.11, ''Refueling Operations—Water Level—Reactor Vessel''; 3.9.13, ''Refueling Operations—Storage Pool Radiation Monitoring''; 3.9.14, ''Refueling Operations—Storage Pool Area Ventilation System—Fuel Movement''; 3.9.15, ''Refueling Operations—Storage Pool Area Ventilation System—Fuel Storage''; 3.9.16.1, ''Refueling Operations—Shielded Cask''; 3.9.16.2, ''Refueling Operations—Shielded Cask;'' 3.9.17, ''Refueling Operations—Movement of Fuel in Spent Fuel Pool''; and 3.19.2, ''Refueling Operations—Spent Fuel Pool—Storage Pattern.'' The Index pages and Bases for these Technical Specifications will be modified to reflect these changes. In addition, the changes will also be made to the Final Safety Analysis Report to reflect the revised fuel handling and cask drop accident analysis.

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.

By April 17, 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.

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. Cucco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 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).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated December 14, 1999, 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 7th day of March 2000.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–6633 Filed 3–16–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Company, Point Beach Nuclear Plant, Units 1 and 2; Notice of Withdrawal of Application for Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Wisconsin Electric Power Company (the licensee) to withdraw its July 30, 1998, application for proposed amendments to Facility Operating License Nos. DPR–24 and DPR–27 for the Point Beach Nuclear Plant, Units 1 and 2, located in Two Rivers, Wisconsin.

The proposed amendment would have revised the Technical Specifications to more clearly define the requirements for service water system operability.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 30, 1998 (63 FR 71976). However, by letter dated December 21, 1999, the licensee withdrew the proposed change and submitted a new amendment request, which superceded the July 30, 1998, request.

For further details with respect to this action, see the application for amendment dated July 30, 1998, and the licensee's letter dated December 21, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 13th day of March 2000.

For the Nuclear Regulatory Commission.

Beth A. Wetzel,

Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–6631 Filed 3–16–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste Revised

The agenda for the 118th meeting of the Advisory Committee on Nuclear Waste (ACNW) scheduled to be held on March 27–29, 2000, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland, has been revised to include a discussion on: Uranium Plume Attenuation—Representatives from the NRC Office of Research will present results from a historical case analysis of the transport of uranium. Mechanisms controlling retardation of radionuclides by common soil minerals will be presented. The discussion of the DOE-NRC technical exchange on the resolution of key technical issues (on March 28) has been canceled.

All other items pertaining to this meeting remain the same as published in the **Federal Register** on Thursday, March 9, 2000 (65 FR 12595).

For further information contact: Mr. Richard K. Major, Special Assistant, ACNW (Telephone 301/415–7366), between 8 a.m. and 5 p.m. EST.

Dated: March 13, 2000.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 00–6635 Filed 3–16–00; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on April 5–7, 2000, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, October 14, 1999 (64 FR 55787).

Wednesday, April 5, 2000

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:30 A.M.: Spent Fuel Pool Accident Risk for Decommissioning Plants (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final report of a technical study associated with the spent fuel pool accident risk for decommissioning plants, public comments received on the proposed report, and the staff's resolution of public comments.

10:45 A.M.–12:15 P.M.: Proposed Research Plan for Digital Instrumentation and Control (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed research plan for digital instrumentation and control.

1:15 P.M.–2:45 P.M.: Proposed White Paper on Development of Risk-Based Performance Indicators (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed white paper on development of risk-based performance indicators.

3 P.M.–4 P.M.: Human Performance Program (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the revised version of the human performance program.

4 P.M.–5 P.M.: Break and Preparation of Draft ACRS Reports (Open)—Cognizant ACRS members will prepare draft reports for consideration by the full Committee.

5 P.M.–7 P.M. : Discussion of Proposed ACRS Reports (Open)—The Committee will discuss a proposed ACRS report on matters considered during this meeting. In addition, the Committee will discuss a proposed ACRS report on the revision of the Commission's Safety Goal Policy Statement for Reactors as well as an ACRS/ACNW joint report on Defense-in-Depth in a Risk-Informed Regulatory Process.

Thursday, April 6, 2000

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–9:45 A.M.: Special Studies for Risk-Based Analysis of Reactor Operating Experience (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding special studies of the staff associated with the risk-based analysis of reactor operating experience.

10 A.M.–11:15 A.M.: Operating Event at Indian Point Unit 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the findings and recommendations of the Augmented Inspection Team, which investigated the reactor trip and partial loss of AC power event that occurred at Indian Point Unit 2 on August 31, 1999.

11:15 A.M.–11:45 A.M.: Reports of the Materials and Metallurgy and Thermal-Hydraulic Phenomena Subcommittees (Open)—The Committee will hear reports by the Chairmen of the ACRS Subcommittees on Materials and Metallurgy and on Thermal-Hydraulic Phenomena regarding the status of activities associated with the development of a revised Pressurized Thermal Shock Screening Criterion.

1 P.M.–1:15 P.M.: Future ACRS Activities (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings.

1:15 P.M.–1:45 P.M.: Report of the Planning and Procedures Subcommittee (Open)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business.

1:45 P.M.–2 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

2 P.M.–3 P.M.: Break and Preparation of Draft ACRS Reports (Open)—Cognizant ACRS members will prepare draft reports for consideration by the full Committee.

3 P.M.–7 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, April 7, 2000

8:30 A.M.–2 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2 P.M.–2:30 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1999 (64 FR 52353). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted

only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Mr. Sam Duraiswamy prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. Sam Duraiswamy if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Mr. Sam Duraiswamy (telephone 301/415–7364), between 7:30 a.m. and 4:15 p.m., EST.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EST, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: March 13, 2000.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 00–6634 Filed 3–16–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Amendment to a System of Records

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice to amend a system of records.

SUMMARY: OPM proposes to amend a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This notice is required under the Privacy Act whenever an agency establishes or revises one of its systems of records (5 U.S.C. 552a(e)(4)).

DATES: This amendment will be effective without further notice April 26, 2000, unless comments are received that result in any changes.

ADDRESSES: Send written comments to Mary Beth Smith-Toomey, Office of the Chief Information Officer, Office of Personnel Management, 1900 E Street NW., Room 5415, Washington, DC 20415–7900.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–8358.

SUPPLEMENTARY INFORMATION: This notice updates OPM/Internal-3, Security Officer Control Files, by adding a database tracking system for investigative reports. This tracking system will provide data on pending and completed schedules, types of investigations, position sensitivity levels, clearances granted and issues developed.

U.S. Office of Personnel Management.

Janice R. Lachance

Director.

OPM/INTERNAL–3

SYSTEM NAME:

Security Officer Control Files

SYSTEM LOCATION:

U.S. Office of Personnel Management, Office of Contracting and Administrative Services, 1900 E Street NW., Washington, DC 20415–7100

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on active, inactive and pending OPM employees and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system contain date of birth; social security number; classification as to position sensitivity; types and dates of investigations; investigative reports, including those from Federal law enforcement agencies, Department of Defense and internal inquiries; dates and levels of clearances; names of agencies and the reasons why they were provided clearance information on OPM employees and contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS OR AMENDMENTS:

Executive Orders 10450 and 12958.

PURPOSE:

These records are used exclusively by OPM Security Officers and the employees of other security offices to assist them in controlling position sensitivity and personnel clearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses 1, 3, 5 and 6, of the Prefatory Statement at the beginning of OPM's system notices (60 FR 63075, effective January 17, 1996) apply to the records maintained within the system. The routine uses listed below are specific to this system of records only.

a. To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request related to issuing a security clearance or conducting a security or suitability investigation of an individual. Only information that is relevant and necessary to the requesting agency's decision on the matter will be released.

b. To verify a security clearance in response to an inquiry from a security office of an agency in the executive legislative, or judicial branch, or the District of Columbia Government. Also, to provide OPM employees and contractors access to classified data or areas, when their official duties require such access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and in an automated data base.

RETRIEVABILITY:

These records are retrieved by name, social security number, and date of birth of the individual on whom they are maintained.

SAFEGUARDS:

The disks and file folders are stored in fire-resistant safes contained within a secured area, in lockable metal file cabinets, or in secured rooms. The file folders do not leave the Security Office.

RETENTION AND DISPOSAL:

The Security Office automated data files are retained for five years after the individual leaves OPM. After five years the files are erased. The security folders are destroyed 90 days after the employee leave or contractor stop working for OPM.

SYSTEM MANAGER(S) AND ADDRESS:

Facility Services Division, Security Office, Office of Contracting and Administrative Services, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–7100.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them should contact the system manager indicated. Individuals must furnish the following for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social security number.

Record Access Procedures: Individuals wishing to request access to records about them should contact the system manager indicated. Individuals must furnish the following for their records to be located and identified.

a. Full name.

b. Date of birth.

c. Social security number.

An individual requesting access must also follow the OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

Note: Individuals must request access to background investigations through the Privacy Act regulations of the agency for which the investigation was conducted. Requests for background investigations maintained in the Security Office file will be denied.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated. Individuals must furnish the following for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social security number.

Individuals requesting amendment must also follow the OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individuals to whom the records applies.

b. OPM's investigative files maintained by Investigations Service.

c. Employment information maintained by OPM's Director of Personnel or regional personnel offices.

d. OPM Officials.

e. Federal law enforcement agencies, Department of Defense, and through external and internal inquiries.

[FR Doc. 00–6627 Filed 3–16–00; 8:45 am]

BILLING CODE 6325–01–P

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221 (c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning April 1, 2000, shall be at the rate of 26½ cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning April 1, 2000, 37.2 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 62.8 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: March 1, 2000.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 00–6595 Filed 3–16–00; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (NYFIX, Inc., Common Stock, Par Value $.001 per Share) File No. 1–12292

March 10, 2000.

NYFIX, Inc. (''Company''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d [2] thereunder, to withdraw the security described above (''Security'') from listing and registration on the American Stock Exchange LLC (''Amex'').

The Security has been listed and registered on the Amex pursuant to Section 12(b) [3] of the Act. On March 3, 2000, the Company Filed a Registration State on Form 8–A with the Commission pursuant to Section 12(g) of the Act,[4] and on March 6, 2000, the Security became designated for quotation and began trading as a National Market Security on the Nasdaq Stock Market, Inc. (''Nasdaq''). The Company believes it will be able to achieve better exposure and a more liquid market for its Security on the Nasdaq.

The Company has stated that it has complied with the Rules of the Amex governing the withdrawal of its Security from listing and registration on the Amex and that the Amex in turn has indicated that it will not oppose such withdrawal.

The Company's application relates solely to the withdrawal of the Security from listing and registration on the Amex and shall have no effect upon the Security's continued designation for quotation and trading on the Nasdaq. By reason of Section 12(g) of the Act [5] and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports with the Commission required by Section 13 of the Act.[6]

Any interested person may, on or before March 31, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] *Id.*

[6] 15 U.S.C. 78m.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–6606 Filed 3–16–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–10869]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Unique Mobility, Inc., Common Stock, $.01 Par Value)

March 9, 2000.

Unique Mobility, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d)[2] promulgated thereunder, to withdraw the security described above (''Security'') from listing and registration on the Boston Stock Exchange, Incorporated (''BSE'' or ''Exchange'').

In its application the Company stated that the Security, in addition to being listed on the BSE, has been listed and trades on the American Stock Exchange LLC (''Amex'') and other stock exchanges. The Security has traded simultaneously on the BSE and the Amex since July 13, 1994.

In making the determination to withdraw its Security from listing and registration on the BSE, the Company considered the direct and indirect costs and expenses arising from maintaining listings for its Security on the BSE and Amex simultaneously. In view of the fact that most of the trading in the Security occurs on the Amex, the Company feels that the expenses associated with maintaining its listing on the BSE are justifiable, and that such listing has not appreciably enhanced the trading market for the Security.

The Company has stated that it has complied with the rules of the BSE governing the withdrawal of its Security from listing and registration on the Exchange, and that the Exchange has in turn indicated that it will not oppose such withdrawal.

The Company's application relates solely to the withdrawal of the Security from listing and registration on the BSE and shall have no effect upon its continued listing and registration on the Amex or any other national securities exchange on which it is currently listed and registered. By reason of Section 12(b)[3] of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file periodic and other reports required by Section 13[4] of the Act with the Commission.

Any interested person may, on or before March 30, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–6665 Filed 3–16–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–4251 / March 10, 2000, File No. 4–430]

Order Extending the Deadline for Compliance With Portions of the Commission's January 28, 2000, Order Directing the Exchanges and the National Association of Securities Dealers, Inc. To Submit a Decimalization Implementation Plan Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934

On January 28, 2000, the Securities and Exchange Commission (''Commission'') issued an order requiring the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc, the Cincinnati Stock Exchange, Inc., the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. (collectively, the ''Participants'')[1] to take certain, specific steps necessary to facilitate an orderly transition to decimal pricing in United States securities markets (the ''Decimals Order'').[2] The Decimals Order prescribed a timetable for the Participants to complete the required steps. The two earliest deadlines set by the Decimals Order require the Participants to submit jointly by March 13, 2000 a Decimals Implementation Plan, and each Participant to submit by March 28, 2000 proposed rule changes necessary to implement the Decimals Implementation Plan.

Shortly before the March 13 deadline, the NASD announced that it would be unable to begin implementing decimal pricing on July 3, 2000, as required by the Decimals Order. The NASD's announcement necessarily has consequences for the Decimals Implementation Plan being prepared by the Participants. As the Decimals Order emphasized, because of complex technical and other issues relating to the ways in which United States securities markets and related systems are linked, ''it is imperative that all market participants convert to decimals in a coordinated manner.''[3]

The Commission therefore deems it appropriate and in the public interest to extend until April 14, 2000 the deadline for the Participants to submit jointly a Decimals Implementation Plan required by the Decimals Order. The Commission further deems it appropriate and in the public interest to extend until April 28, 2000 the deadline for each of the Participants to submit the proposed rule changes necessary to implement the Decimals Implementation Plan.

Accordingly, *it is hereby ordered* that the deadline for the Participants to submit the Decimals Implementation Plan required by the Decimals Order is extended until April 14, 2000.

It is hereby further ordered that the deadline for the Participants to submit the proposed rule changes necessary to implement the Decimals Implementation Plan is extended until April 28, 2000.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6608 Filed 3–16–00; 8:45 am]

BILLING CODE 8010–01–M

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[7] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d)

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78m.

[5] 17 CFR 200.30–3(a)(1)

[1] Since the date of the Decimals Order, the Commission has approved the registration of the International Securities Exchange (''ISE'') as a national securities exchange. Release No. 34–42455. Accordingly, the Commission hereby includes ISE within the term ''Participants'' as used in this Order.

[2] Release No. 34–42360 (Jan. 28, 2000), 65 FR 5003 (February 2, 2000).

[3] *Id.* at 8.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42515; File No. SR–NASD–00–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Extension of the Effective Date of Phase Three of Order Audit Trail System Rules

March 10, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4, thereunder,[2] notice is hereby given that on March 9, 2000, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASDR'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDR. The NASDR has designated this proposal as one constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDR proposes to amend NASD Rule 6957 to extend the effective date of the implementation of Phase Three of the Order Audit Trail System (''OATS'') Rules from July 31, 2000 to October 31, 2000. The text of the proposed rule change is available at the NASD and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASDR included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASDR has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 6, 1998, the Commission approved the NASD's OATS Rules 6950 through 6957.[4] OATS provides a substantially enhanced body of information regarding orders and transactions that improves the NASDR's ability to conduct surveillance and investigations of member firms for violations of Association rules. In addition, OATS is intended to fulfill one of the undertakings contained in the order issued by the Commission relating to the settlement of an enforcement action against the NASD for failure to adequately enforce its rules.[5] Pursuant to the SEC Order, OATS was required, at a minimum, to: (1) Provide an accurate, time-sequenced record of orders and transactions, beginning with the receipt of an order at the first point of contact between the broker/dealer and the customer or counterparty and further documenting the life of the order through the process of execution, and (2) provide for market-wide synchronization of clocks used in connection with the audit trail.[6]

In general, OATS imposes obligations on member firms to record in electronic form and to report to the NASDR certain information with respect to orders originated, received, transmitted, modified, canceled, or executed (''reportable events'') by NASD members relating to equity securities traded on The Nasdaq Stock Market, Inc. (''Nasdaq''). This information is integrated with quote information and transaction information reported to the Automated Confirmation Transaction Service (''ACT'')[7] to provide the Association with an accurate, time-sequenced record of orders and other transactions.

The effective dates for OATS requirements are set forth in NASD Rule 6957, which provides for different phases of implementation. All members were required to synchronize their computer system clocks and all mechanical clocks that record times for regulatory purposes by August 7, 1998, and July 1, 1999, respectively. In addition, the implementation schedule required that electronic orders received at the trading department of a member that is a market maker in the subject securities and those received by electronic communications networks (''ECNs'') be entered into OATS as of March 1, 1999 (''Phase One''). Not all information relating to electronic orders received by market makers was required to be reported to OATS during Phase One. Information items relating to all electronic orders, however, was required to be reported to OATS by August 1, 1999 (''Phase Two'').

Under the current implementation schedule, the OATS rules will apply to all manual orders on July 31, 2000 (''Phase Three''). With respect to manual orders and all orders received by ECNs, however, the data required to be electronically recorded and transmitted to the OATS is limited to information that is expected to be readily available at the trading desk.[8]

Since the implementation of OATS, NASDR has been closely reviewing OATS activities with the goal of identifying ways in which to improve OATS and enhance the effectiveness of OATS as a regulatory tool. In this regard, NASDR is considering certain changes to OATS that it believes will enhance NASDR's automated surveillance for compliance with trading and market making rules such as the NASD's Limit Order Protection Interpretation, the SEC's Order Execution Rules and a member firm's best execution obligations.

Several of these enhancements that the staff is considering would change the requirements that will become effective as part of Phase Three under current OATS rules. To provide NASDR

[4] *See* Securities Exchange Act Release No. 39729, 63 FR 12559 (March 13, 1998) (order approving File No. SR–NASD–97–56).

[5] *See* In the Matter of the National Association of Securities Dealers, Inc., Securities Exchange Act Release No. 37538, August 8, 1996; Administrative Proceeding File No. 3–9056 (''SEC Order'').

[6] *Id.*

[7] ACT is an automated system owned and operated by Nasdaq that captures transaction information in real-time.

[8] Specifically, with respect to manual orders, information item (18) (type of account for which the order is submitted) of NASD Rule 6954(b) would be required to be reported only to the extent that such information item is available. Information items (4) (identification of any department or the identification number of any terminal where an order is received) and (5) (identification of the department of the member originating an order) of Rule 6954(b) and (1) (recordkeeping requirements for orders transmitted to another department within the member) specified in Rule 6954(c) would not be required to be recorded and reported with respect to manual orders. In addition, information items (4) (identification of any department or identification number of any terminal where an order is received), (5) (the identification of the department of the member that originates the order), (9) (the designation of the order as a short sale), (14) (any request by a customer that an order not be displayed or that a block size order be displayed, pursuant to Rule 11Ac1–4(c)), (17) (the identification of the order as related to a Program trade or an Index Arbitrage Trade), and (18) (the type of account for which the order is submitted) specified in Rule 6954(b) would not be required to be recorded and reported by ECNs receiving orders either electronically or manually.

adequate time to fully analyze and consider these changes and determine whether further proposed rule changes are appropriate, the NASDR is proposing that the effective date of Phase Three implementation be extended from July 31, 2000 to October 31, 2000. In addition, the NASDR believes this extension is particularly important in light of the increased constraints on member technology and systems due to other impending regulatory initiatives, such as decimalization.

2. Statutory Basis

The NASDR believes the proposed rule change is consistent with Section 15A(b)(6) of the Act,[9] which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASDR believes that extending the effective date of Phase Three implementation of OATS will provide NASDR adequate time to fully analyze and consider certain potential enhancements to OATS and determine whether further proposed rule changes are appropriate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASDR does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Association as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act.[10] Consequently, because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and does not become operative until 30 days after the date on which it was filed, and because NASDR provided the Commission with written notice of its intent to file the proposed rule change prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the NASD. All submissions should refer to File No. SR–NASD–00–09 and should be submitted by April 7, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6607 Filed 3–16–00; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78o–3(b)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 200.30–3–(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No.: 09/09–5370]

Notice of Surrender of License

Notice is hereby given that Astar Capital Corporation, located at 9537 E. Gidley Street, Temple City, CA 91780, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Astar Capital Corp. was licensed by the Small Business Administration on 11/06/86.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was acted on this date, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: March 10, 2000.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 00–6695 Filed 3–16–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3245 (Amendment #1)]

State of West Virginia

In accordance with notices received from the Federal Emergency Management Agency on March 8, 2000, the above-numbered Declaration is hereby amended to include Preston, Randolph, Taylor, and Tucker Counties in the State of West Virginia as a disaster area due to damages caused by flooding, severe storms, and landslides. This Declaration is further amended to establish the incident period for this disaster as beginning on February 18, 2000 and continuing through February 22, 2000.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Grant, Pendleton, and Pocahontas Counties in West Virginia, and Garrett County, Maryland. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

The economic injury number for the State of Maryland is 9G9200.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is April 28, 2000 and for economic injury the deadline is November 28, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: March 10, 2000.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 00–6697 Filed 3–16–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Washington, D.C. District Advisory Council; Public Meeting

The U.S. Small Business Administration Washington, D.C. District Advisory Council, located in the metropolitan area of Washington, D.C., will hold a public meeting from 9:00 a.m.–11:00 a.m., Wednesday, April 26, 2000, at Creative Associates, Inc., 5301 Wisconsin Avenue, N.W., Suite 700, Washington, D.C., to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Anita L. Irving, Public Information Officer, U.S. Small Business Administration, 1110 Vermont Avenue, N.W., Suite 900, (P.O. Box 34500), Washington, DC 20043–4500; telephone 202–606–4000, ext. 275.

Bettie Baca,

Counselor to the Administrator/Public Liaison.

[FR Doc. 00–6696 Filed 3–16–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3257]

Fine Arts Committee; Notice of Meeting

The Fine Arts Committee of the Department of State will meet on Saturday, April 29, 2000 at 9:30 a.m. in the John Quincy Adams State Drawing Room. The meeting will last until approximately 11:00 a.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in October 1999 and the announcement of gifts of furnishings as well as financial contributions from January 1 through December 31, 1999. Public access to the Department of State is strictly controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Monday, April 24, 2000, telephone (202) 647–1990 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: March 13, 2000.

Gail F. Serfaty,

Vice Chairman, Fine Arts Committee, Department of State.

[FR Doc. 00–6681 Filed 3–16–00; 8:45 am]

BILLING CODE 4710–38–U

DEPARTMENT OF STATE

[Public Notice No. 3235]

Advisory Committee on International Law Notice of Committee Renewal

The Department of State has renewed the Charter of the Advisory Committee on International Law. This advisory committee will continue to obtain the views and advice of a cross-section of the country's outstanding members of the legal profession on significant issues of international law.

The committee's consideration of legal issues in the conduct of our foreign affairs provides a unique contribution to the creation and promotion of U.S. foreign policy. The Under Secretary for Management has determined that the committee is necessary and in the public interest.

The committee consists of former Legal Advisers of the Department of State and not more than twenty individuals appointed by the Legal Adviser of the Department of State. The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with section 10(d) of the FACA, 5 U.S.C. 552b(c)(1) and (4), that a meeting or a portion of the meeting should be closed to the public. Notice of each meeting will be provided for publication in the **Federal Register** as far in advance as possible prior to the meeting.

For further information, please call: John R. Crook, Assistant Legal Adviser for United Nations Affairs, (202 647–2767.

Dated: March 13, 2000.

John R. Crook,

Assistant Legal Adviser for United Nations Affairs; Executive Director, Advisory Committee on International Law, U.S. Department of State.

[FR Doc. 00–6680 Filed 3–16–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held Tuesday, April 18, 2000, from 10 a.m.–12 p.m. at the Department of Transportation, 400 7th Street, SW., Room 4438–4440, Washington, DC.

The agenda for the meeting is as follows:

— Advocacy
— DOT DBE Program
— Small Business Programs
— Outreach
— Financial Services

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Office of Small and Disadvantaged Business Utilization, Minority Business Resource Center by 4:00 p.m. on Monday, April 10, 2000. Information pertaining to the meeting may be obtained from Mrs. Marie A. Hendricks, Office of Small and Disadvantaged Business Utilization, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366–1930 or (800) 532–1169. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on March 13, 2000.

Luz A. Hopewell,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 00–6682 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–7053]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. The meeting will be open to the public.

DATES: CTAC will meet on Wednesday, April 12, 2000, from 9:00 am to 3:30 pm. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 30, 2000. Requests to have a copy of your material distributed to each member of the committee or subcommittee should reach the Coast Guard on or before April 3, 2000.

ADDRESSES: CTAC will meet at Coast Guard Headquarters, room 2415, 2100

Second Street SW., Washington, DC. Send written material and requests to make oral presentations to Ms. Sara S. Ju, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second, Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Commander Robert F. Corbin, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting (Tentative)

Chemical Transportation Advisory Committee (CTAC)

The tentative agenda includes the following:

(1) Establishment of a new Subcommittee to identify and develop recommended response standards for marine chemical incidents.

(2) Reestablishment of the 46 CFR Part 151 Subcommittee to revalidate previous Subcommittee recommendations.

(3) New Prevention Through People Subcommittee initiatives.

(4) Information on the revised CHRIS manual.

(5) Roles and Responsibilities of a Marine Chemist.

(6) Status report on the Tank Barge Certificate of Inspection Pilot Program.

(7) Updates on Coast Guard regulatory projects and current International Maritime organization (IMO) initiatives relative to the chemical transportation industry.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than March 30, 2000. Written material for distribution at the meeting should reach the Coast Guard no later than April 3, 2000. If you would like a copy of your material distributed to each member of the Committee in advance of the meeting, please submit 25 copies to the Executive Director no later than April 3, 2000.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: March 13, 2000.

Howard L. Hime,

Director of Standards (Acting), Marine Safety and Protection.

[FR Doc. 00–6704 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Instructions for Continued Airworthiness: Focused Inspection of Safety Critical Turbine Engine Parts at Piece-Part Opportunity

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of draft Advisory Circular (AC) No. 33.4–2, Instructions for Continued Airworthiness: Focused Inspection of Safety Critical Turbine Engine Parts at Piece-Part Opportunity.

DATES: Comments must be received on or before May 16, 2000.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA, 01803–5299.

FOR FURTHER INFORMATION CONTACT: Mark Liptak, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (781) 238–7749, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT** or by downloading the draft AC from the following Internet website: www.faa.gov/avr/air/acs/draftach.htm. Interested persons are invited to comment on the proposed AC and to submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

This proposed AC provides guidance and acceptable methods, but not the only methods, that may be used to demonstrate compliance with the requirements of 14 CFR 33.4, Instructions for Continued Airworthiness (ICA), relating to focused inspections of safety critical turbine engine parts. Analysis of ten years of transport aircraft accident and incident data shows that the leading turbine engine unsafe condition is the uncontained failure of safety critical parts. The failure of safety critical parts can present a significant hazard to an aircraft by releasing fragments that can penetrate the cabin or fuel tanks, damage control surfaces, or sever flammable fluid or hydraulic lines. To reduce the occurrence of these incidents, parts and part features most critical to safety should be subjected to focused inspections at piece-part opportunities, using methods that detect flaws that could lead to failure.

(Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.)

Issued in Burlington, Massachusetts, on March 9, 2000.

David A. Downey,

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

[FR Doc. 00–6700 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

One-Year Runway Incursion Information and Evaluation Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: General statement of policy.

SUMMARY: This document announces a one-year program to gather information from airmen who are involved in runway incursions and to evaluate that information in an effort to determine the root causes of such events. The document also states the FAA's policy concerning enforcement-related incentives that will be offered to airmen to encourage them to participate in the program and the FAA's policy concerning the use for enforcement purposes of information provided by airmen under the program.

DATES: *Effective date:* March 17, 2000. *Expiration Date:* The Runway Incursion Information and Evaluation Program expires on March 19, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Cusimano, AFS–200, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8166.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the number of runway incursions has increased significantly. As a result, the Administrator has identified as a high priority the implementation of several initiatives aimed at reducing or eliminating accidents or incidents attributable to runway incursions. These initiatives ''include efforts that address pilot familiarity with airports, navigation and communications improvements, pilot/controller memory and attention, controller skill development, compliance with FAA regulations by pilots and controllers, and improved dissemination of safety/security-related information.'' (1998 Airport Surface Operations Safety Action Plan, page 3). (Available on the Internet at http://www.faa.gov/ats/ato/ato102/files/actionplan/index.html).

A runway incursion is defined as ''any occurrence at an airport involving an aircraft, vehicle, person, or object on the ground that creates a collision hazard or results in loss of separation withan aircraft taking off, intending to take off, landing, or intending to land.'' (FAA Order 8020.11A, Chapter 1, Paragraph 5). Runway incursions are grouped into four categories: Pilot Deviations, Operational Errors, Operational Deviations, and Vehicle or Pedestrian Deviations. Pilot deviations are the leading category of runway incursions, increasing by 38 percent from 1997 to 1998. An analysis of runway incursion data indicates runway incursions most likely to cause accidents generally occur at complex, high volume airports. (1998 Airport Surface Operations Safety Action Plan, page 3). The data also show there is a high incidence of runway incursions involving general aviation pilots that often result from misunderstood controller instructions, confusion, disorientation, and/or inattention. *Id.* Because runway incursions can involve and affect such a wide cross section of pilot skill levels and airport operations, the FAA has concluded that runway incursion prevention measures must be as broad in scope as possible.

One-Year Runway Incursion Information and Evaluation Program (RIIEP)

The Administrator has set a goal to reduce runway incursions by 15 percent in calendar year 2000. To help achieve this goal, the FAA is developing programs designed to reduce pilot deviations through enhanced education and training of pilots and crewmembers, and to gather and evaluate more data on the causes of runway incursions.

To assist with the development of a comprehensive compliance program for airport surface operations, the FAA is implementing a one-year program through which it seeks to gain information about runway incursions by interviewing airmen involved in such events.* While the FAA is immediately aware through the Air Traffic Service of the occurrence of a runway incursion, oftentimes the FAA knows little about why the incursion happened and the factors or events that may have led to it. The FAA believes, that given certain assurances under the RIIEP, airmen who are involved in runway incursion may be willing to share with FAA inspectors valuable safety information about those incursions. This information may help the FAA to determine root causes of runway incursions and lead to the development of effective corrective actions to help reduce or eliminate this problem.

Under the RIIEP, each regional Flight Standards Division manager will establish a group of regional aviation safety inspectors (operations) who will serve as a Flight Standards Incursion Team (FSIT) and will coordinate National Runway Safety Program (NRSP) activities at the regional level. The FSIT will be responsible for coordinating the activities of FAA field inspectors who will interview the airman involved in a runway incursion during normal working hours as soon as practicable after the incursion occurs. The field inspectors will report in writing the results of an interview to the FSIT. The FSIT will review the written report of the interview and forward the report to the national coordinator for NRSP in the Flight Standards Service, Headquarters.

Field inspectors will advise airmen that their participation in the interview process is voluntary. The interviews may be conducted in person, or by telephone. Questions that might be asked of airmen during the interview include the following:

- Were the airport signage, lighting, and markings adequate or were they a contributing factor to the runway incursion?
- What were the lighting conditions when the runway incursion occurred?
- Was the airman familiar with the airport layout?
- Were there language problems that contributed to the runway incursion?
- What was the airman's experience in operations at tower operated/high density airports?
- What does the airman believe caused the runway incursion?
- What would have helped to prevent the runway incursion from happening?

Enforcement Policy

The FAA through the Air Traffic Service ordinarily is immediately aware when a runway incursion occurs. Oftentimes, the Air Traffic Service's report of a pilot deviation or a vehicle or pedestrian deviation associated with a runway incursion will result in the opening of an enforcement investigative report for an alleged regulatory violation(s) and either legal enforcement action (certificate action or civil penalty action) or administrative action (letter of correction or warning notice) being taken against the airman involved.

To encourage participation in the RIIEP, the FAA has decided to offer certain assurances to airmen regarding enforcement action that typically would be taken for an alleged violation resulting from a runway incursion. Under the RIIEP, if an airman cooperates in answering questions that will assist in identifying the cause of the runway incursion, the FAA ordinarily does not expect to take punitive legal enforcement action (*i.e.,* civil penalty action or a fixed period of suspension) against him or her for an alleged violation that may result from the incursion, provided the alleged violation does not appear to be intentional or to involve criminal conduct, and the runway incursion did not result in an accident.

In certain cases, the FAA may determine an airman should complete corrective action to help preclude the recurrence of a runway incursion, or should at least be warned that his or her conduct was allegedly in violation of subtitle VII of Title 49 of the U.S. Code or the Federal Aviation Regulations. In these cases, the FAA will issue an appropriate administrative action to the airman.

If alleged violation(s) resulting from the runway incursion or the circumstances surrounding the runway incursion demonstrate, or raise a question of, a lack of qualification of the airman, then the FAA will proceed with appropriate remedial action, which

* The RIIEP does not apply to foreign airmen involved in runway incursions.

might include reexamination and/or certificate revocation or certificate suspension pending reexamination.

The FAA recognizes airmen will have concerns the information they provide under this program will be used by the FAA to take enforcement actions against them. The FAA, however, does not expect to use information provided by airmen during interviews conducted by FAA inspectors under the RIIEP in any FAA punitive legal enforcement action.

The RIIEP will be in effect for one year beginning the date of publication of this notice.

Issued in Washington, DC on March 13, 2000.

Jane F. Garvey,

Administrator.

[FR Doc. 00–6683 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Luis Munoz Marin International Airport, San Juan, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Luis Munoz Marin International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 17, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, FL 32822–5024.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Virgilio Acevedo, P.E., Assistant Executive Director for Engineering, Planning and Development of the Puerto Rico Ports Authority at the following address: P.O. Box 362829, San Juan, Puerto Rico 00936–2829.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Puerto Rico Ports Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ilia Quinones, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, FL 32822–5024, 407–812–6331 extension 30. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Luis Munoz Marin International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 13, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Puerto Rico Ports Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 14, 2000.

The following is a brief overview of the application.

PFC Application No.: 00–04–C–00–SJU.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 2002.

Proposed charge expiration date: January 1, 2011.

Total estimated net PFC revenue: $101,154,000.

Brief description of proposed project(s):

Development of Utilities Master Plan, SJU
Preliminary Engineering Dual Midfield Taxiway, SJU
EA for Improving the Runway Safety Area Rwy 26, SJU
Y2K Improvements to 107 Access Control, SJU
Acquire Two Runway Sweepers, SJU
Design & Install Terminal/Airfield Signs, SJU
Design and Build an ARFF Facility, SJU
Construct Dual Mid-Field Twy, SJU
Construct Standard Safety Area RWY 26, SJU
Design Extension TWY Sierra, SJU
Master Plan (ALP), SIG
Design/Construction Apron Expansion, X63
Installation of AWOS, BQN
Relocation of Taxiway A, BQN
Preliminary Engineering Rwy Reconstruction, BQN
Final Design Rwy Reconstruction, BQN
Reconstruct Rwy, BQN
Y2K Improvement to 107 access control, BQN
Obstruction Removal; Treshold Relocation, VQS
Install Airport Signage (Design/Construct.), PSE
Acquire. Jaws of Life & Safety Equipment, PSE
Y2K Improvements 107 access control, PSE
Acquire. Rwy Sweeper, PSE
Install Loading Bridges, PSE
Reconstruct Twy Light System, PSE
Improve Rwy 12 Safety Area, PSE
Reconstruct Terminal Apron, PSE
Reconstruct Rwy & Twy Connectors, PSE
Widen Rwy, Construct Apron, Extend Twy, CPX
Cargo Access Road, SJU

Construct New GA facilities, SJU

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: NONE.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Puerto Rico Ports Authority.

Issued in Orlando, Florida on March 13, 2000.

John W. Reynolds, Jr.,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 00–6701 Filed 3–16–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket Nos. AB–33 (Sub–No. 147X) and AB–406 (Sub–No. 11X)]

Union Pacific Railroad Company—Abandonment Exemption—in McPherson and Saline Counties, KS and Central Kansas Railway Limited Liability Company—Discontinuance of Service Exemption—in McPherson and Saline Counties, KS

Union Pacific Railroad Company (UP) and Central Kansas Railway Limited Liability Company (CKR) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for UP to abandon and CKR to discontinue service over: (1) A 4.6-mile line of railroad known as the Hoisington Subdivision between milepost 491.20 near Bridgeport, KS, and milepost 495.80 near Lindsborg, KS; (2) a 10.25-mile line of railroad known as the McPherson Subdivision between milepost 534.75, near Bridgeport and milepost 545.00 near Sid, KS. Additionally, as part of the exemption, CKR also seeks to discontinue its incidental overhead trackage rights over a 6.30-mile portion of UP's trackage between milepost 545.00 near Sid, and milepost 551.30 at

Salina, KS.[1] All involved line segments are located in McPherson and Saline Counties, KS. The lines traverses United States Postal Service Zip Codes 67401, 67416, and 67456.

UP and CKR have certified that: (1) No local traffic has moved over the lines for at least 2 years; (2) there has been no overhead traffic on the lines during the past 2 years; (3) no formal complaint filed by a user of rail service on the lines (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the lines either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment*— Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 16, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 27, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 6, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representatives: James P. Gatlin, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179–0001; and Karl Morell, Ball Janik LLP, 1455 F St., NW, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP and CKR have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 22, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by March 17, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided March 9, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–6570 Filed 3–16–00; 8:45 am]

BILLING CODE 4915–00–P

[1] CKR was authorized to lease and operate approximately 170.7 miles of UP's rail line in addition to the incidental overhead trackage rights that it acquired in *Central Kansas Railway, L.L.C.—Lease Exemption—Union Pacific Railroad Company,* STB Finance Docket No. 33470 (STB served Oct. 9, 1997).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9003

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9003, Additional Questions to be Completed by All Applicants for Permanent Residence in the United States.

DATES: Written comments should be received on or before May 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Additional Questions to be Completed by All Applicants for Permanent Residence in the United States.

OMB Number: 1545–1065.

Form Number: 9003.

Abstract: Internal Revenue Code section 6039E requires that applicants for permanent residence in the United States must give information regarding their last three years tax history with their applications or face a possible $500 penalty. Form 9003 is used for this purpose.

Current Actions: There are no changes being made to Form 9003 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 933,000.

Estimated Time Per Respondent: 5 min.

Estimated Total Annual Burden Hours: 77,750.

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: March 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–6577 Filed 3–16–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the 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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request By Fiduciary For Reissue of United States Savings Bonds/Notes.

DATES: Written comments should be received on or before May 19, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Request By Fiduciary For Reissue Of United States Savings Bonds/Notes.

OMB Number: 1535–0012.

Form Number: PD F 1455.

Abstract: The information is requested to support a request for reissue by the fiduciary of a decedent's estate.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 72,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 36,000.

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.

Dated: March 13, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–6618 Filed 3–16–00; 8:45 am]

BILLING CODE 4810–39–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Burea of the Public Debt, Department of the 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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request For Reissue of United States Savings Bonds/Notes in The Name of a Person or Persons Other Than The Owner (Including Legal Guardian, Custodian for a Minor Under a Statue, etc.).

DATES: Written comments should be received on or before May 19, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Request For Reissue of United States Savings Bonds/Notes In The Name Of A Person Or Persons Other Than The Owner (Including Legal Guardian, Custodian For A Minor Under a Statue, etc.).

OMB Number: 1535–0025.

Form Number: PD F 3360.

Abstract: The information is used to support a request by the owner to reissue the savings bonds/notes in the name of another person.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 8,350.

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.

Dated: March 13, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–6619 Filed 3–16–00; 8:45 am]

BILLING CODE 4810–39–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the 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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Disposition Of Retirement Plan and/or Individual Retirement Bonds Without Administration Of Deceased Owner's Estate.

DATES: Written comments should be received on or before May 19, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Application For Disposition Of Retirement Plan and/or Individual Retirement Bonds Without Administration Of Deceased Owner's Estate.

OMB Number: 1535–0032.

Form Number: PD F 3565.

Abstract: The information is used to support a request for disposition by the heirs of deceased owners or Retirement Plan and/or Individual Retirement bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 17.

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.

Dated: March 13, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–6620 Filed 3–16–00; 8:45 am]

BILLING CODE 4810–39–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the 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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Creditor's Consent To Disposition Of United States Securities And Related Checks Without Administration Of Deceased Owner's Estate.

DATES: Written comments should be received on or before May 19, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Creditor's Consent To Disposition Of United States Securities And Related Checks Without Administration Of Deceased Owner's Estate.

OMB Number: 1535–0055.

Form Number: PD F 1050.

Abstract: The information is requested to obtain a creditor's consent to dispose of savings bonds/notes in settlement of a deceased owner's estate without administration.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 3,000

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 300.

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.

Dated: March 13, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–6621 Filed 3–16–00; 8:45 am]

BILLING CODE 4810–39–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the 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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Order For Series EE and Series I U.S. Savings Bonds, and Order For Series EE and Series I U.S. Savings Bonds To Be Registered In Name Of Fiduciary.

DATES: Written comments should be received on or before May 19, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Order For Series EE U.S. Savings Bonds, Order For Series I U.S. Savings Bonds, Order For Series EE U.S. Savings Bonds To Be Registered In Name of Fiduciary, and Order for Series I U.S. Savings Bonds To Be Registered In Name of Fiduciary.

OMB Number: 1535–0084.

Form Number: PD F 5263 and 5263–1 and PD F 5374 and 5374–1.

Abstract: The information is requested from the purchaser to issue Series EE/I Savings Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 830,000.

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.

Dated: March 13, 2000

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–6622 Filed 3–16–00; 8:45 am]

BILLING CODE 4810–39–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the 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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Certificate of Ownership of United States Bearer Securities.

DATES: Written comments should be received on or before May 19, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Ownership of United States Bearer Securities.

OMB Number: 1535–0102.

Form Number: PD F 1071.

Abstract: The information is requested to establish ownership and support a request for payment.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 500.

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.

Dated: March 13, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–6623 Filed 3–16–00; 8:45 am]

BILLING CODE 4810–39–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Issue Of United States Mortgage Guaranty Insurance Company Tax And Loss Bonds.

DATES: Written comments should be received on or before May 19, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION: *Title:* Application For Issue Of United States Mortgage Guaranty Insurance Company Tax and Loss Bonds.

Form Number: PD F 3871

Abstract: The information is used to establish and maintain Tax and Loss Bond Accounts.

Current Actions: The current collection is used to establish Tax and Loss Bond Accounts. The additional information will allow for Direct Deposit (ACH) for payments.

Type of Review: New

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 80

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 20.

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.

Dated: March 13, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–6624 Filed 3–16–00; 8:45 am]

BILLING CODE 4810–39–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0178]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine a claimant's continuing eligibility for education benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 16, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0178'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Monthly Certification of On-the-Job and Apprenticeship Training, VA Form 22–6553d. (NOTE: A reference to VA Form 22–6553d also includes VA Form 22–6553d–1 unless otherwise specified. VA Form 22–6553d–1 contains the same information as VA Form 22–6553d.)

OMB Control Number: 2900–0178.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by trainees and employers to report the number of hours worked in on-the-job training programs and apprenticeships, and to report terminations of training in such programs. VA uses the information to determine whether a trainee's education benefits are to be continued, changed or terminated, and the effective date of such action. VA is authorized to pay education benefits to veterans and other eligible persons pursuing approved programs not leading to a standard college degree under Title 38, U.S.C., Chapters 32 and 35, Title 10, U.S.C., Chapter 1606, and Public Law 96–342, Section 903. Benefits are authorized

monthly based upon the number of hours worked by the trainee and verified by the training establishment. Unscheduled terminations result in termination of the award of benefits. Reduction of hours worked to less than a full-time work schedule results in reduction of benefits. The form is completed by the trainee and the training establishment to report to VA the number of hours worked and/or to report the date of termination.

Affected Public: Individuals or households, business or other for-profit, not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 15,975 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 10,650.

Number of Responses Annually: 95,850

Dated: February 16, 2000.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–6645 Filed 3–16–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Education, Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Education, authorized by 38 U.S.C. 3692, will be held on April 3 and April 4, 2000. The meeting will take place at the offices of Servicemembers Opportunity Colleges, 1307 New York Avenue, Washington, DC, 9 a.m. to 4 p.m. on Monday, April 3, and from 9 a.m. to 12 p.m. Tuesday, April 4. The purpose of the Committee is to assist in the evaluation of existing programs and services, and recommend needed programs and services. The focus of this meeting will be ''Partnership for Veterans' Education'', increasing GI Bill benefits for the 21st century, and increasing the access to Department of Veteran Affairs Regional Processing Offices by colleges.

The meeting will be open to the public. Those wishing to attend should contact Mr. Bill Susling, Education Policy and Program Administration, (phone 202–273–7187) prior to March 28, 2000.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 9 a.m. Tuesday, April 4, 2000.

Dated: March 9, 2000.

By direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–6644 Filed 3–16–00; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Women Veterans will be held on March 21–23, 2000, at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC. All meetings will be held in conference room 230.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by the Department of Veterans Affairs designed to meet such needs. The Committee will make recommendations to the Secretary regarding such activities.

All sessions will be open to the public. Those who plan to attend should contact Ms. Maryanne Carson, Department of Veterans Affairs, Center for Women Veterans, 810 Vermont Avenue, NW, Washington, DC 20420, at (202) 273–6193. A tentative agenda follows:

Tuesday, March 21

8 a.m.
- Welcome and Opening Remarks
- New Member Orientation
- Dr. Linda Schwartz, Chair

8:30 a.m.
- The Honorable Togo D. West, Jr.
- Secretary of Veterans Affairs
- Presentation of Appointment Certificates

9 a.m.
- Review: October 1999 Minutes
- Chair's Update
- Dr. Linda Schwartz

9:30 a.m.
- Ethics Briefing
- Mr. Jeffrey Green, Office of the General Counsel

10:30 a.m.
- Break

11 a.m.
- Briefing: Veterans Benefits Administration
- Ms. Nora Egan, Deputy Under Secretary
- Mr. Robert Epley, Director, Compensation and Pension Service

12 p.m.
- Lunch

1:30 p.m.
- Briefing: Veterans Health Administration
- Ms. Carole Turner, Director, Women Veterans' Health Programs

2:30 p.m.
- Briefing: VA Homeless Initiative for Women Veterans
- Ms. Joan Furey, Director, Center for Women Veterans

3:15 p.m.
- Break

3:45 p.m.
- General Discussion: Summit 2000
- Joan A. Furey, Director, Center for Women Veterans

5 p.m.
- Adjourn

Wednesday, March 22

8:30 a.m.
- Briefing: Native American Issues
- Ms. Connie Evans

9:30 a.m.
- Site Visit Reports: Dr. Linda Schwartz, Chair
- Tampa/Bay Pines: Doug Russell
- Fayetteville: Doug Russell
- Washington, DC: Joy Ilem, Karen Ray, Lory Manning
- Houston: Bertha Cruz, Lois Johns
- Wichita: Sherry Blede
- Leavenworth: Sherry Blede

11 a.m.
- Break

11:15 a.m.
- Video—Female Anatomy: Diseases of the Breast
- VBN Satellite Broadcast

12 p.m.
- Lunch

1:30 p.m.
- General Discussion: 2000 Committee Report
- Letter to Secretary: delay because of Summit
- Committee Assignments
- Linda Schwartz, Chairperson

2 p.m.
- Subcommittee Meetings

3:30 p.m.
- Break

4 p.m.
- Full Committee—Subcommittee Reports

5 p.m.
- Adjourn

Thursday, March 23

9 a.m.
- General Discussion 2000 Report

10 a.m.
- General Discussion
- New Business
- Next Meeting (after Summit)

11:30 a.m.
- Break

1 p.m.
- Adjourn

Dated: March 13, 2000.

By direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–6643 Filed 3–16–00; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Friday,
March 17, 2000

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 57

Livestock and Grain Market News Branch: Livestock Mandatory Reporting; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 57

[No. LS–99–18]

RIN 0581–AB64

Livestock and Grain Market News Branch: Livestock Mandatory Reporting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and invitation for comment.

SUMMARY: This proposed rule would establish a mandatory program of reporting information regarding the marketing of cattle, swine, lambs, and products of such livestock under the ''Livestock Mandatory Reporting Act of 1999.'' This proposed rule requires the reporting of market information by certain livestock packers, and livestock product processors and importers who annually slaughter an average of 125,000 cattle or 100,000 swine, or slaughter or process an average of 75,000 lambs. Importers who annually import an average of 5,000 metric tons of lamb are also required to report. These entities would be required to report the details of all transactions involving purchases of livestock and of domestic and imported lamb carcasses and imported lamb cuts, and the details of all transactions involving domestic and export sales of boxed beef cuts including branded product, sales of domestic and imported boxed lamb cuts including branded product, purchases of imported boxed lamb cuts including branded product, and lamb carcasses to the Agricultural Marketing Service (AMS). This program is intended to provide information on pricing, contracting for purchase, and supply and demand conditions for livestock, livestock production, and livestock products, that can be readily understood by producers, packers, and other market participants.

DATES: Written comments on this proposed rule must be received on or before April 17, 2000, and will be considered before the rule is made final. The AMS has requested and received approval from the Office of Management and Budget for a 30-day comment period on the information collection and recordkeeping requirements of this proposed rule. Accordingly, comments on the information collection and recordkeeping requirements (see Paperwork Reduction Act section of this action) must be received on or before April 17, 2000.

ADDRESSES: Send two copies of comments to John E. Van Dyke, Chief, Livestock and Grain Market News Branch, Docket No. LS–99–18, Room 2619–S; 1400 Independence Avenue; SW., Washington, D.C. 20250–0252. Comments may also be sent by fax to (202) 690–3732, by electronic mail to: john.vandyke@usda.gov, or filed via an on-line form through the AMS website at: http://www.ams.usda.gov/lsg/mprcomment.htm. State that your comments refer to Docket No. LS–99–18. Comments received may be inspected at the above location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays, or over the AMS website at: *http://www.ams.usda.gov/lsg/price.htm.*

Comments sent to the above location that specifically pertain to the information collection and recordkeeping requirements of this action should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: John E. Van Dyke, Chief, Livestock and Grain Market News Branch at (202) 720–6231, fax (202) 690–3732, or e-mail john.vandyke@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Market News

The current voluntary market news program for livestock is authorized under the provisions of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). In the Agricultural Marketing Act of 1946, Congress declared that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential. Furthermore, it is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. Agricultural products, capable of being produced in great abundance, must be marketed in an orderly manner and efficiently distributed. Some of the objectives of the Agricultural Marketing Act of 1946 are to improve marketing methods, reduce distribution costs, and narrow the price spread between the producer and consumer. Under the 1946 Act, the Market News Program provides for the collection and dissemination of information to facilitate the orderly and efficient marketing of agricultural products while aiding in the maintenance of farm income. Market News provides all market participants with the information necessary to make intelligent and informed marketing decisions.

Market News relies upon voluntary cooperation from the livestock, red meat, grain, and wool industry. In addition, Market News maintains voluntary working agreements with many States to cooperatively collect and disseminate market information. Market News reporters collect information daily by telephone, including talking directly with producers, packers, feedlot operators, retailers, distributors, brokers, and other industry participants. Reporters are on site at major auctions and terminal markets, gathering market information first hand. Regular trips are made to observe livestock in feedlots, on farms, ranches, and in packer holding pens. Meat packing and processing facilities are visited to observe current industry practices and conditions. Reporters attend industry meetings, seminars, and trade shows to keep abreast of the latest information. The information collected by reporters is included in reports that are available to all interested parties. These reports provide data on cattle, hog, sheep, and lamb sales, carlot meat sales of boxed beef, lamb, veal, and pork cuts, weekly wool and mohair sales, and grain and feed sales. Currently, there are a total of 800 individual reports which are released by Market News. Each day, the livestock and red meat industry uses these reports in conducting their business. Further, a wide range of users outside of and peripheral to the livestock and red meat industry depend on the information provided in these reports, including Federal and State governmental agencies, foreign governmental agencies, academia, analysts, and news media.

The Livestock Mandatory Reporting Act of 1999 (Act) was enacted into law on October 22, 1999 (Pub. L. 106–78; 113 Stat. 1188; 7 U.S.C. 1635–1636h) as an amendment to the Agriculture Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). The Act provides for the mandatory reporting of market information by Federally inspected livestock processing plants which have slaughtered an average number of livestock during the immediately preceding 5 calendar years (125,000 for cattle and 100,000 for swine), including any processing plant that did not slaughter during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the plant's capacity. For entities that did not slaughter during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins

operations the AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

The Act gives the Secretary the latitude to provide for the reporting of lamb information. The Agricultural Marketing Service (AMS) is proposing in these regulations to require reporting of market information by Federally inspected lamb processing plants who have slaughtered an average of 75,000 head of lambs or processed an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years. Additionally, a lamb processing plant that did not slaughter an average of 75,000 lambs or process an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years will be required to report information if the Secretary determines the processing plant should be considered a packer based on its capacity. It is proposed that an importer of lamb that, for any calendar year, imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years report such lamb information as specified in these proposed regulations. Additionally, an importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years will be required to report information if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

These packers and importers would be required to report the details of all transactions involving purchases of livestock (cattle, swine, and lambs), lamb carcasses and lamb cuts, and the details of all transactions involving domestic and export sales of boxed beef cuts including branded product, sales of boxed lamb cuts, including branded product, and lamb carcasses to AMS. This information would be reported to AMS according to the schedule established by the Act and these regulations with purchases of swine reported three times each day, purchases of cattle and lambs reported twice each day, domestic and export sales of boxed beef cuts including branded boxed beef cuts reported twice each day, sales and purchases of lamb carcasses and boxed lamb cuts, including branded boxed lamb cuts, to be reported once daily, purchases of imported lamb carcasses, and sales and purchases of imported lamb cuts once weekly.

In some instances, mandatory reporting will provide new information which has never been reported under the existing voluntary reporting program. AMS anticipates that this information will provide the basis for newly published market news reports not previously provided for under voluntary reporting, including reports covering the prior day swine market, forward contract and formula marketing arrangement cattle purchases, packer-owned cattle and sheep information, sales and purchases of imported boxed lamb cuts, including branded product; purchases of imported lamb carcasses; and live lamb premiums and discounts. In other instances, mandatory reporting will provide information which is already being provided under voluntary reporting. This would include packer direct purchases of slaughter cattle, packer sales of boxed beef and lamb cuts including branded boxed cuts, packer sales of lamb carcasses, and packer negotiated purchases of swine. AMS anticipates that, in such cases, the market reports reflecting this information will continue to be published but the basis of the market reports will become mandatory information. Lastly, many voluntary-based market news reports will not be affected by mandatory reporting, including reports covering livestock auction sales, packer sales of pork cuts and byproducts, and grain trading.

Initially, AMS expects that mandatory information will be reflected in market news reports on a national level. AMS will start with the issuance of national reports to ensure the confidentiality is preserved regarding the identity of persons, including parties to a contract, and proprietary business information. In time, when and where possible, these reports may be further refined and subdivided to reflect regional and, possibly, statewide markets. AMS anticipates that it would provide notice in the **Federal Register** and opportunity for public comment in such an instance. Again, refinement and subdivision of reports will be made only where the confidentiality can be preserved regarding the identity of persons, including parties to a contract, and proprietary business information. In order to effectively address the statistical disclosure issues surrounding reporting of data elements below the national level, AMS will consult with appropriate experts in the field of statistical disclosure limitation during program development. During program development, AMS will also include industry participants in discussions regarding confidentiality issues surrounding data aggregation and reporting.

The program developed to collect and manage data received from those entities required to report will ensure security of data transmission and storage, and confidentiality of information that is maintained by AMS. During program development, AMS will include industry participants, as well as technical experts, in discussions regarding issues surrounding data security and confidentiality.

In all cases, AMS intends to continue to publish a mix of existing voluntary market reports along with the proposed mandatory market reports where duplication and inferential disclosure (disclosing information in such a way that the identity of a respondent can be inferred) is not an issue. Any duplication will be resolved with the discontinuation of the voluntary report version.

The Livestock Mandatory Reporting Act of 1999 (Act)

The Act establishes a program of information regarding the marketing of cattle, swine, lambs and products of such livestock. AMS is responsible for implementing the mandatory reporting of market information on livestock and livestock products, which is contained in Sections 211 through 256 of the Act. The Sections on mandatory reporting of livestock are divided into five Chapters. Chapter 1 and Chapter 2, Definitions and Administration, respectively, apply to all species of livestock and livestock products required to be reported. Chapters 3, 4, and 5 apply to beef, swine, and lamb, respectively, and except for lamb, establish the requirements for mandatory reporting. AMS is proposing regulations in this rulemaking to implement these sections of the Act.

The Act also directs the Secretary to encourage continued voluntary reporting by packers to which these mandatory reporting requirements do not apply. Other Agencies in the Department are responsible for implementing the remaining sections of the Act. These sections include the following provisions. Section 257 of the Act provides for the compilation and monthly publication of retail prices of beef, pork, lamb, chicken, turkey and veal and the initiation of a meat price spreads report. The Act also contains Related Beef Reporting Provisions, Sections 921 through 924 which provides for export certificates for meat and meat food products, and obtain information on imports of beef, beef variety meats, and cattle. Related Swine Reporting Provisions, Sections 931 through 934 calls for improving the hogs and pigs inventory report, the collection

of information on barrow and gilt slaughter, and the conduct of an average trim loss correlation study and preparation of report. Swine Packer Marketing Contracts, Sections 221 and 222 require the establishment and maintenance of a library or catalogue of swine packer marketing contracts offered to producers and a monthly report of contracted swine numbers.

Cattle

The Act requires that a cattle packer whose Federally inspected plant slaughtered an average of at least 125,000 cattle per year for the preceding 5 calendar years or did not slaughter cattle during the preceding 5 calendar years but is considered a packer based on plant capacity as determined by the Secretary, report market information to the Secretary. They are required to report the prices for each type of cattle purchase, categorized to clearly delineate imported from domestic market purchases, negotiated purchase, formula marketing arrangement, and forward contract, the quantity of cattle, categorized to clearly delineate imported from domestic market purchases, purchased on a live weight basis and a carcass basis, the weight, the quality grade, and premiums and discounts. This information would be reported twice a day not later than 10:00 a.m. and 2:00 p.m. Central Time. The Secretary will issue reports to the public of this information at least three times each day.

The Act further requires that a packer report marketing information not later than 9 a.m. Central Time on the first reporting day of each week for cattle bought by the type of purchase for the prior week. In addition, packers must report weekly information on the first reporting day not later than 9 a.m. Central Time for cattle purchased on a formula or contract marketing arrangement and slaughtered the prior week. The Secretary will issue a public report not later than 10 a.m. Central Time on the first reporting day of the current slaughter week.

The Act also mandates that the packer report information on boxed beef cut sales to the Secretary at least twice each reporting day not less frequently than once before and once after 12:00 noon Central Time. This information includes the price per hundredweight, the quantity in each lot of boxed beef cuts sold, information regarding the characteristics of each lot (i.e., domestic vs. export sale, USDA Quality Grade, etc.), the type of beef cut and the trim specification. The Secretary will report this information to the public twice each reporting day.

Swine

The Act requires that a swine packer whose Federally inspected plant slaughtered an average of at least 100,000 swine per year for the preceding 5 calendar years or did not slaughter swine during the preceding 5 calendar years but is considered a packer based on plant capacity as determined by the Secretary, report market information to the Secretary.

The packer must report to the Secretary not later than 7:00 a.m. Central Time information on all swine purchased, priced, or slaughtered on the prior business day. The packer must report all purchasing data including the number of swine purchased, swine scheduled for delivery and the base price and purchase data for slaughtered swine for which a price has been established. The information also includes all slaughter data by class for the total number of swine slaughtered including information concerning the net price, average net price, lowest net price, highest net price, average carcass weight, average sort loss, average backfat, average lean percentage, and total slaughter quantity. When a packer reports the average lean percentage and whenever the packer changes the manner in which the average lean percentage is calculated, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary will convert to the carcass measurements or lean percentage of the swine of the individual packer to correlate to a common percent lean measurement. Additionally, the information to be reported includes packer purchase commitments, which shall be equal to the number of swine scheduled for delivery to a packer for slaughter each of the next 14 calendar days.

The Secretary will publish the information in a prior day report not later than 8:00 a.m. Central Time on the reporting day on which the information is received from the packer.

The Act also requires packers to report to the Secretary in the morning not later than 10:00 a.m. Central Time and in the afternoon not later than 2:00 p.m. Central Time each reporting day. The information to be reported is the same for the morning and afternoon reports and includes an estimate of (1) the total number of swine purchased by each method of pricing, (2) the total number of swine purchased up until the time of reporting, and (3) the base price paid for all negotiated purchases of market hogs and the base price paid for each type of purchase of market hogs other than through a negotiated purchase. The Secretary will make the morning report available to the public not later than 11:00 a.m. Central Time and the afternoon report at 3:00 p.m. Central Time on each reporting day.

The Secretary will compile and issue a weekly noncarcass merit premium report on the first reporting day of the week not later than 5:00 p.m. Central Time. This report is prepared from information furnished to the Secretary by packers who must report not later than 4:00 p.m. Central Time on the first reporting day of the week. The information required includes each category of standard noncarcass merit premiums and the amount in dollars per hundred pounds of carcass weight paid to producers by the packer.

Further, the Act provides that the Secretary review the information required to be reported by packers at least once very two years. Also, the Act directs the Secretary to promulgate regulations that specify additional information to be reported by packers if the Secretary determines information currently reported does not accurately reflect the methods by which swine are valued or priced, or account for the fact that packers that slaughter a significant majority of the swine produced in the United States no longer use backfat or lean percentage factors as indicators of price.

Lamb

The Act gives the Secretary the authority to establish a mandatory lamb price reporting program that will provide timely, accurate, and reliable market information. The Secretary proposes to establish a mandatory lamb price reporting program.

The Act does not specify the requirements for establishing a mandatory lamb price reporting program as it does for cattle and swine. Accordingly, AMS proposes to establish a mandatory lamb price reporting program based upon its extensive knowledge of the lamb industry and market news reporting of lamb. The Agency proposes the following requirements for a mandatory lamb price reporting program.

A lamb packer whose Federally inspected plant slaughtered or processed an average of at least the equivalent of 75,000 lambs each year for the preceding 5 calendar years would report to the Secretary twice daily the price of each type of lamb purchase, negotiated purchase, formula marketing arrangements, forward contract, quantity of lamb purchased on live

weight or carcass weight, a range and average estimated live weights, quality grade, premiums and discounts, state of origin, and estimated dressing percentage. The Secretary would issue a report to the public on this information not less than twice each day.

Lamb packers would be required to report to the Secretary on a weekly basis on the first reporting day of the week information from the prior week. This information would include the quantity and certain carcass characteristics of lambs purchased through a negotiated purchase, formula marketing arrangement or forward contract that were slaughtered, the quantity and carcass characteristics of packer owned lamb that were slaughtered. Reported information would include, by type of purchase, the quantity of lamb purchased on live weight and carcass weight basis that were slaughtered, the quality grade, premiums and discounts paid, dressing percentage, and shrink factor. In addition, a lamb packer would be required to report the quantity and basis level for forward contracts, the range and average of intended premiums and discounts, and the expected slaughter date.

The Secretary would make available to the public the information on the first reporting day of the current slaughter week.

Packers would report information on daily transactions of carcass lamb each reporting day and sales of boxed lamb cuts each reporting day. For transactions of carcass lamb, the information would include prices for sales, the type of sale, the branded product characteristics, the quantity of each sale, the USDA grade, trim specification, weight range, and delivery date. For sales of boxed lamb cuts, the packer would report the same information plus the quantity of boxes of each cut and the weight range of each cut. The Secretary will issue to the public a report on carcass lamb sales and boxed lamb cut sales once each reporting day.

For any calendar year, a lamb importer who imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years would report to the Secretary weekly the prices paid for imported lamb carcasses and boxed lamb cuts, and the prices received for imported lamb cuts sold on the domestic market. Additionally, an importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years would also be required to report the above information, if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

Lamb importers would be required to report weekly, prices paid for imported lamb carcasses during the prior week including the type of purchase, the quantity of each transaction, the estimated weight range of the carcasses, the product delivery date, and the product nation of origin. Lamb importers would be required to report weekly, prices paid for boxed lamb cuts during the prior week including the quantity of each transaction, the type of purchase, the cut of lamb, the trim specification, branded product characteristics, the cut weight range, the product delivery date, and the product nation of origin. Finally, lamb importers would be required to report weekly, prices received for sales of imported boxed lamb cuts sold on the domestic market during the prior week including the quantity of each transaction, the type of sale, the branded product characteristics, the cut of lamb, the trim specification, the cut weight range, the product delivery date, and the product nation of origin.

Other Provisions of the Act Involving Administration

The administrative provisions of the Act set forth the requirements for maintaining confidentiality regarding the packer reporting of proprietary information and lists the conditions under which Federal employees can release such information. These administrative provisions also establish that the Secretary can make necessary adjustments in the information reported by packers and take action to verify the information reported, and directs the Secretary to report and publish reports by electronic means to the maximum extent practical. The Act provides for what constitutes violations of the Act, such as failure to report the required information on time or failure to report accurate information.

The section on enforcement establishes a civil penalty—$10,000—for each violation and provides for the Secretary's issuance of cease and desist orders. This section also provides for notice and hearing of violations before the Secretary, judicial review, issuance of an injunction or restraining order, and establishes a civil penalty for failure to obey a cease and desist order.

The fees section directs the Secretary to not charge or assess fees for the submission, reporting, receipt, availability, or access to published reports or information collected through this program.

The section on recordkeeping requires each packer to make available to the Secretary on request for 2 years the original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock and livestock products, as well as such records or other information that is necessary or appropriate to verify the accuracy of information required to be reported. Also, the Act provides that reporting entities would not be required to report new or additional information that they do not generally have available or maintain, or the provisions of which would be unduly burdensome.

Further, the Act provides that the Secretary may suspend any requirement if the Secretary determines that the application of the requirement would be inconsistent with the Act.

Proposed Rule, New Part 57 of Title 7

This proposed rule would establish and add a new Part 57 to Title 7 of the Code of Federal Regulations, implementing the mandatory livestock reporting provisions of the Act. Accordingly, these regulations include appropriate definitions; a description of which entities would be required to report market information; a description of what information they would report, when they would report, and how they would report; a description of what information the Secretary would make available to the public and when this information would be made available; an explanation of what records would be required to be maintained and made available to the Secretary.

General Provisions

Part 57 would implement the provisions of the Act. Subpart A of Part 57, General Provisions, covers those requirements pertinent to all aspects of mandatory reporting. Section 57.10 details how packers and importers would be required to report information and how reporting will be handled over weekends and holidays. Electronic reporting would be required for all information collection. Electronic reporting would involve the transfer of data from a packer's or importer's existing electronic recordkeeping system to a centrally located AMS electronic database. The packer or importer would be required to organize the information in an AMS-approved format before electronically transmitting the information to AMS.

Once the required information has been entered into the AMS database, it would be aggregated and processed into various market reports which would be released according to the daily and

weekly time schedule set forth in these proposed regulations.

Section 57.11 identifies the recordkeeping requirements imposed by the Act and these regulations on packers and importers. Reporting packers and importers would be required to maintain and to make available the original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock. In addition, they would be required to maintain such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under these regulations. All of the above mentioned paperwork must be maintained by packers and importers for at least 2 years. Further, packers would be required to maintain a record of the time of day a lot of cattle, swine, or lambs was purchased, either before 10:00 a.m. Central Time, between 10:00 a.m. and 2:00 p.m. Central Time, and after 2:00 p.m. Central Time. However, to allow packers and importers time to collect, assemble and submit the information to AMS by the prescribed deadlines, all covered transactions up to within one half hour of the specified reporting times would be reported.

Lastly, under Subpart A, Section 57.20 establishes general definitions of terms used throughout the regulations which would be applicable to all subparts.

Cattle

Subpart B of Part 57 states what is required to be reported in the cattle and boxed beef sectors. Section 57.100 establishes definitions of cattle terms used in Subpart B including the definition of packer which identifies which entities would be required to report under this proposed rule. In any calendar year, the term cattle packer includes any Federally inspected cattle plant which slaughtered an average of 125,000 head of cattle a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter cattle during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on its capacity.

For entities that did not slaughter cattle during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations the AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

Section 57.101 discusses the daily reporting requirement for live cattle transactions including what information would be reported, when it would be reported, and when it would be published. Cattle plants covered under the rule would report the details of their cattle purchases twice each day to AMS (once by 10:00 a.m. Central Time, and once by 2:00 p.m. Central Time) and would include all covered transactions made up to within one half hour of the specified reporting time. Packers completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. The Secretary would publish the information not less than three times each day. Section 57.102 discusses the same types of requirements for weekly live cattle reporting. Packers would be required to report information regarding the prior slaughter week on the first reporting day of each week by 8:00 a.m. Central Time. This information would be published by the Secretary on the same day by 10:00 a.m. Central Time. Finally under Subpart B, Section 57.103 details the information required to be reported concerning sales of boxed beef cuts including what would be reported, when it would be reported, and when it would be published. Cattle plants producing boxed beef cuts would be required to report their domestic and export sales of boxed beef cuts including branded boxed beef cuts to AMS twice each reporting day, once by 10:00 a.m. Central Time and once by 2:00 p.m. Central Time, including all covered transactions made up to within one half hour of the specified reporting time. Cattle plants completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. This information would be published twice each day by the Secretary. These plants would be required to reference the USDA's Livestock and Seed Program Institutional Meat Purchase Specifications (IMPS), Fresh Beef Series 100.

Swine

Subpart C of Part 57 lists the requirements of swine reporting beginning with Section 57.200 which establishes definitions for terms used throughout the subpart including the definition of packer which identifies which entities would be covered under the regulations. In any calendar year, the term swine packer includes any Federally inspected swine plant which slaughtered an average of 100,000 head of swine a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter swine during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on its capacity.

For entities that did not slaughter swine during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, the AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

Section 57.201 discusses the daily reporting requirement for live hog transactions including what information would be reported, when it would be reported, and when it would be published.

Swine packers required to report under this rule would report the details of their swine purchases three times each day including a prior day report not later than 7:00 a.m. Central Time, a morning report not later than 10:00 a.m. Central Time, and an afternoon report not later than 2:00 p.m. Central Time, including all covered transactions made up to within one half hour of each specified reporting time. Packers completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. This information would be published by the Secretary each reporting day not later than 8:00 a.m. Central Time, 11:00 a.m. Central Time, and 3:00 p.m. Central Time, respectively. Section 57.202 details the requirements for reporting weekly swine information to AMS including what would be reported, when it would be reported, and when it would be published. On the first reporting day of each week, not later than 4:00 p.m. Central Time, packers would be required to report information on noncarcass merit premiums used and paid to producers during the prior slaughter week by category. This information would be published on the first reporting day of each week not later than 5:00 p.m. Central Time.

Lamb

Subpart D of Part 57 covers the mandatory reporting of lambs. The Act gives the Secretary the authority to establish a mandatory lamb price reporting program but does not set forth the requirements. AMS proposes to

establish a mandatory lamb price reporting program.

Section 57.300 provides definitions for terms used throughout Subpart D including definitions for packer and for importer which identifies which entities would be required to report under this proposed rule. For any calendar year, the term lamb packers includes any Federally inspected lamb plant which slaughtered or processed the equivalent of an average of 75,000 head of lambs a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the capacity of the processing plant.

For entities that did not slaughter lambs during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations the AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

For any calendar year, the term lamb importer includes any importer that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years. Additionally, for any calendar year, the term importer includes any lamb importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

For importers of lamb carcasses and cuts, AMS will annually review import lamb volume data obtained from the United States Customs Service to determine which importers are required to report imported lamb carcasses and boxed lamb cut purchase information and boxed lamb cut sales information under these regulations.

Entities covered under the 75,000 per year provision represent nearly all lamb packers and processors which currently contribute to voluntary reporting. The lamb packer definition varies from that of the cattle and swine definitions in that it includes entities that process as well as slaughter. The trading of lamb carcasses continues to be a mainstay of the industry and many of the major processors of lamb carcasses into boxed lamb cuts do not slaughter but, rather, purchase carcasses from slaughterers. The 75,000 head per year provision for both slaughterers and processors was included to ensure more comprehensive coverage of the lamb carcass and boxed lamb cut markets, similar to what is currently being reported under voluntary reporting.

Because imported products comprise 31% of the U.S. market, lamb importers were included for more complete information on lamb meat products being imported into the U.S., including the types, quantities, and prices of these products.

Section 57.301 covers the daily reporting requirements for live lamb transactions including what would be reported, when it would be reported, and when it would be published. Lamb plants covered under the rule would report the details of their live lamb purchases twice each day to AMS, to include all covered transactions made up to within one half hour of the specified reporting time. Lamb plants completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. The Secretary would publish this information not less than twice each day. Section 57.302 covers the same type of information for weekly reporting of live lamb transactions. Packers would be required to report information regarding the prior slaughter week on the first reporting day of each week to be published by the Secretary on the same day. Finally, Section 57.303 covers the reporting requirements for transactions of domestic and imported lamb carcasses and boxed lamb cuts including what would be reported, when it would be reported, and when it would be published. Packers would be required to report details of their domestic transactions of carcass lambs once each day and the Secretary would publish the information once each day. Packers would be required to report details of their domestic sales of boxed lamb cuts, including branded product. This information would be published once each day. These plants would be required to reference the USDA's Livestock and Seed Program Institutional Meat Purchase Specifications (IMPS), Fresh Lamb and Mutton Series 200.

Importers of lamb carcasses would be required to report the required information of their prior week imported lamb carcass purchases on the first reporting day of each week to be published by the Secretary on the same day. Importers of boxed lamb cuts would be required to report the required information of their prior week imported boxed lamb cut purchases including branded product on the first reporting day of each week to be published by the Secretary on the same day. Additionally, importers of boxed lamb cuts would be required to report details of their prior week sales of imported boxed lamb cuts on the domestic market including branded product on the first reporting day of each week to be published by the Secretary on the same day.

OMB Control Numbers

Lastly, Subpart E of Part 57 covers the OMB control numbers for the information collection requirements listed in Subparts B through D of Part 57. All required information must be reported to AMS in a standardized format. The standardized format is embodied in 16 OMB-approved data collection forms. Copies of these 16 forms are included in Appendices at the end of this rule. Cattle packers would utilize six of these forms (Appendix A) when reporting information to AMS including two for daily cattle reporting, three for weekly cattle reporting, and one for daily boxed beef cuts reporting. Swine packers would utilize three forms (Appendix B), two for daily reporting of swine purchases and one for weekly reporting of non-carcass merit premium information. Lamb packers would utilize seven of these forms (Appendix C) when reporting information to AMS including two for daily lamb reporting, three for weekly lamb reporting, one for daily and weekly boxed lamb cuts reporting and one for daily and weekly lamb carcass reporting. Lamb importers would utilize two of these forms when reporting information to AMS including one for reporting weekly imported lamb carcass and one for reporting weekly imported boxed lamb cut purchases and sales.

Executive Order 12866

Although not economically significant, this rule has been determined to be significant for the purposes of Executive Order 12866, and therefore, has been reviewed by the Office of Management and Budget (OMB). Regulations must be designed in the most cost-effective manner possible to obtain the regulatory objective while imposing the least burden on society. AMS has prepared a Regulatory Impact Assessment (RIA) consisting of a statement of the need for the proposed action, an examination of alternative approaches, and an analysis of the benefits and costs. A complete analysis of the number of affected entities and the required volume of reporting is discussed under the Paperwork Reduction Act section following this section.

Need for Proposed Action

As stated in the background section, currently, packers are not required to report prices or the terms of sale for the animals they buy from producers. Rather, AMS collects information on daily sales and price information from packers and others on a voluntary basis. However, in recent years more animals are now being transacted under marketing arrangements where neither the arrangements nor the final purchase prices are publicly disclosed. While some of these marketing arrangements are using publicly reported prices as a base, many use the base price plus a premium and a premium/discount schedule depending upon the quality of the carcass. Current market price reports do not capture these pricing mechanisms.

Likewise, importers of lamb carcasses and cuts are not required to report purchases and sales of such imported products.

In recent years, the livestock industry has undergone fundamental changes due to economies of size at both the producer and packer level. These changes are reflected in the structure and marketing practices used today. Today, four firms slaughter about 80 percent of all fed cattle, about 55 percent of all hogs, and about 80 percent of all lambs. On the producer side, about 105 feedlots account for about 39 percent of feedlot cattle marketings, the remaining 104,000 feedlots account for 61 percent of the marketings. About 2,005 hog operations control about 47 percent of the hog inventory and the remaining 90,000 farms hold 53 percent. To assure the packers consistent quantities and quality of animals, many of the larger producers, often at a premium price, will enter into private marketing agreements with the packers. The packer is assured of larger lots, scheduled delivery, and consistent quality animals yielding meat with characteristics desired by consumers. The producer gets a higher price than in the traditional open markets and reduced transaction costs.

Rather than buy and sell on the open market, many large slaughtering firms increasingly feed their own animals or utilize private marketing arrangements, such as forward contracts, formula pricing, and exclusive purchase agreements—for which prices and terms of sale are not publicly disclosed. The procurement methods make it difficult for producers, particularly smaller ones, who utilize open cash markets or wish to consider alternative marketing arrangements, to determine the actual purchase prices of livestock.

Most major packers provide information daily to Market News on cash prices and total numbers of livestock involved in transactions. This does not provide full coverage of animals purchased. Market News estimates that 60–65 percent of all slaughter steer and heifer transactions, 25 percent of slaughter hog transactions, and 60 percent of all slaughter lamb transactions are reported daily through the voluntary process. The remaining 35–40 percent of cattle transactions, 75 percent of the hog transactions, and 40 percent of the lamb transactions, which are not reported voluntarily, represent private marketing arrangements. As private marketing agreements become more prevalent, the number of reported transactions will further shrink and the accuracy and completeness of the information for U.S. marketings will erode.

Various groups have asked for mandatory price reporting of livestock products, arguing that fewer publicly reported marketing arrangements make it difficult for producers to determine the actual prevailing purchase prices of livestock. The pressure for mandatory reporting has steadily increased in recent years, though prior attempts to pass mandatory reporting legislation have been unsuccessful, largely due to a lack of broad, unified support from the industry. Over the past couple of years, reported price levels for cattle, hogs, and lambs have run below the 5-year average leading some to argue that it was due to market forces of supply and demand or lower quality animals in the cash market. In the fall of 1998, slaughter plants operated at full capacity and reported cash hog prices reached a 30 year low. During this period, producers and policy officials were looking for accurate and timely market information to guide their decisions. A true hog price picture eluded them as a large amount of unreported transactions kept market news from being able to report the actual purchase price of hogs.

Private marketing arrangements or otherwise coordinated agreements between hog producers and slaughter plants are increasingly the norm. As a result, spot-market demand for slaughter hogs is greatly influenced by slaughter capacity utilization. When the available supply of slaughter hogs exceeds the designed plant capacity, slaughter costs rise as packers turn to overtime labor. To compensate for sharply higher labor costs, slaughter plants lower their bids for slaughter hogs on the public cash markets. This reduces demand for the uncontracted supply of slaughter hogs and is reflected in sharply lower spot market cash prices. This was the situation in late 1998.

Many market participants were no longer able to obtain the actual purchase prices of hogs on which to base their marketing decisions. Even the large farm producers were unable to evaluate contracts because of the unknown premium/discount schedules, which may be different in each marketing agreement. These circumstances helped to galvanize industry support for mandatory reporting and industry groups worked throughout the latter half of 1999 to fashion a mandatory reporting proposal.

During the same time period, the General Accounting Office (GAO) was requested by members of Congress to conduct a study on USDA's pork price reporting system. The study found that USDA's current methods for reporting farm and retail prices did not accurately reflect actual prices for all methods of purchase. During periods of plentiful hog supplies, packers frequently pay a lower price for hogs procured through the spot market than those procured by contract. However, the study did point out spot market hogs are of generally lower quality and more variable in weight and availability which may explain why packers are willing to pay a premium for a stable flow of hogs with consistent quality and weights.

Ultimately, Congress passed the Livestock Mandatory Reporting Act of 1999 (Act) which seeks to provide more transparency in the price discovery process and, thereby, to encourage competition in the marketplace for livestock and livestock products. By mandating reporting, the Act seeks to provide more market information to all market participants. These proposed regulations would implement the Act. It would require packers to provide to Market News the terms of all their livestock purchases, including those obtained through private marketing arrangements. Moreover, it would require processors of boxed beef and lamb cuts, breakers of lamb carcasses, and importers of lamb carcasses and boxed lamb cuts to report all transactions.

In some instances, mandatory reporting will provide new information which has never been reported under the existing voluntary reporting program. AMS anticipates that this information will provide the basis for newly published market news reports not previously provided for under voluntary reporting, including reports covering the prior day swine market, forward contract and formula marketing arrangement cattle purchases, packer-owned cattle and sheep information,

sales and purchases of imported boxed lamb cuts, including branded product; purchases of imported lamb carcasses; and live lamb premiums and discounts. In other instances, mandatory reporting will provide information which is already being provided under voluntary reporting. This would include packer direct purchases of slaughter cattle, packer sales of boxed beef and lamb cuts including branded boxed cuts, packer sales of lamb carcasses, and packer negotiated purchases of swine. AMS anticipates that, in such cases, the market reports reflecting this information will continue to be published but the basis of the market reports will become mandatory information. Lastly, many voluntary-based market news reports will not be affected by mandatory reporting, including reports covering livestock auction sales, packer sales of pork cuts and byproducts, and grain trading. Collectively, the new mandatory information and the current voluntary information will provide more transparency in the price discovery process and, thereby, encourage competition in the marketplace for livestock and livestock products.

Alternatives

As required by E.O. 12866, various methods were considered by which the objectives of the rule could be accomplished. Most private marketing reporting services rely on basic AMS livestock prices and organize the data in a particular way for a client. Further, the Act directs the Secretary to, the maximum extent practicable, provide for the reporting and publishing of information by electronic means. However, in developing these proposed regulations AMS did consider other means by which the objectives of this proposed rule could be accomplished, including reporting the required information by telephone, facsimile, and regular mail. AMS believes these alternatives are not capable of meeting the program objectives, especially timely reporting. The Act prescribes specific times that reporting entities must report to AMS. Similarly, the Act prescribes specific times for publication of a report by AMS. AMS believes electronic submission to be the only method capable of allowing for AMS to collect, aggregate and publish reports while complying with the specific time-frames set forth in the Act. AMS believes it would not be possible for the Agency to receive information over the telephone, facsimile or regular mail and then transcribe the information into electronic format before aggregating and publishing the information while still complying with the publication time-frames set forth in the Act. However, AMS may provide for an exception to electronic reporting in emergencies or in cases when an alternative is agreeable to AMS and the reporting entity. The major cost of complying with this proposed rule involves the information collection and reporting process. The information collection and reporting process is explained in the Summary of Costs Section and is referenced in Section 57.10(f) Reporting Methods. We are inviting comments concerning both the potential cost burden and methods for expediting information collection. In particular, we are interested in any costs not discussed in the analysis and any additional electronic reporting methods that may provide greater cost efficiencies to the industry as a whole. A complete discussion of the cost analysis can be found in the summary of costs section.

Summary of Benefits

Many producers contend that they cannot obtain the market information needed to easily and quickly compare marketing possibilities available from different packers. This information is needed for producers to devise a marketing strategy that obtains the best possible prices for their livestock. Private advisory services would be able to provide a more in depth analysis to clients about alternative marketing strategies. In addition, producers selling under a private marketing agreement need benchmark prices and terms to evaluate their particular agreement to assure an equitable price for their livestock. Furthermore, the growth of private marketing arrangements in the red meat industry and declining participation in the public markets make it difficult for producers to determine prevailing market prices. Mandatory reporting would require packers to provide USDA all terms of their marketing contracts.

The implementation of this proposed rule would improve the price and supply reporting services of the USDA. In addition, participants in the marketplace for livestock and livestock products would be able to easily monitor price and market conditions. The price discovery process would become more transparent ensuring equal market information access for all participants. The increased transparency would more clearly transmit market signals about qualities first buyers demand thereby rewarding producers who produce animals that yield the meat consumers desire with a higher price. The increase in the quantity and quality of available market information would encourage competition in the marketplace while providing participants with the ability to make more informed marketing decisions.

Although quantities and prices of production inputs are obtained by surveys and production costs are derived, the question remains as to how to value the output in a complex marketing environment. Producers would benefit from the increase in information brought about by mandatory reporting by being able to consider more detailed market reports and previously unavailable data on non-cash market livestock procurements. These reports would better reflect the overall supply and demand situation of the marketplace and would allow producers to better determine prevailing market prices, conditions, and arrangements pertinent to the marketing process.

Summary of Costs

The proposed regulations have been designed to achieve the regulatory objectives in as cost-effective manner as possible. To the extent practicable, they draw upon current industry practices in order to minimize the burden to the industry. The regulatory objective is to increase the amount of information available to participants in the marketplace for livestock and livestock products by mandating reporting of market information by certain members of the industry. Methods of accomplishing the required information collection in the most timely manner while minimizing the opportunity for errors and maximizing existing systems and processes were contemplated. Electronic transfer of data from the reporting entity to the Agency was chosen as the least cost reporting method to accomplish all of the objectives of mandatory information collection.

AMS considered other alternatives for firms lacking electronic data transfer capabilities, such as faxing the required information to a Market News office for hand data entry. This was rejected because of the costs to both the respondent and to AMS, the amount of time required with this alternative is unworkable given the short time-frames required for public dissemination. However, there would be an exception in emergencies or in cases when an alternative method is agreeable to AMS and the reporting entity.

Electronic data transmission of information is accomplished using an interface with an existing electronic record keeping system. In most cases, the information packers and importers

are required to report already exists in internal computerized record keeping systems. Packers and importers would provide for the translation of the information from their existing electronic recordkeeping system into the required AMS standardized format. Once accomplished, the information would be electronically transmitted to AMS where it would be automatically loaded into an AMS database. We estimate that the cost in terms of time and money for this alternative is in the initial creation of the interface. We estimate that the creation of this interface by in-house computer personnel would require an industry average of 15 hours per respondent. Further, we estimate the cost per hour to average $50.00 for a total cost, on average, of $750.00. Those companies not having in-house computer personnel would incur such costs as are necessary to bring in outside computer programmers to accomplish the task. The Agency would estimate this cost to be from $750.00 to $1,000.00.

The respondent reporting costs vary widely by species and the size of lots purchased. Section 251 (c) General Provisions Reporting by Packers requires packers to report all information required under this subtitle on an individual lot basis. Therefore, larger lots bought by the larger packers would result in a lower reporting cost per head slaughtered. Respondent reporting costs of cattle packers are estimated to be $7,420 per plant, $5,308 for hog packers, $6,042 for sheep slaughtering plants, and $2,404 for lamb importers. Using 1998 federally inspected slaughter data; the cost per animal slaughtered would decline as slaughter volume increased. The smaller cattle packers would have the highest reporting cost per head slaughter, while the largest hog slaughtering firms would have the lowest. Based on a preliminary analysis by specie, cost for cattle would be 0.012 dollars per head, swine 0.002 dollars per head, sheep 0.013 dollars per head, and lamb importers 0.097 dollars per metric ton. Comments on costs are requested, particularly as they relate to size of operation are being sought. See Table 1 Respondent Cost.

TABLE 1.—RESPONDENT COST

Size Group	Plants	Head (1,000)	Respondent cost dollars	Cost per head dollars
Respondent cost per head slaughtered, Cattle 1998				
1–124,999 (Exempted)	746	3480.4	0	0
125,000–199,999	7	1,365.5	50,449	0.036945
200,000–299,999	11	2,695.8	79,277	0.029408
300,000–499,999	8	3,335.6	57,656	0.017285
500,000–999,999	9	5,856.6	64,863	0.011075
1,000,000–1,499,999	11	13,245.7	79,277	0.005985
1,500,000+	3	4,673.6	21,621	0.004626
Total (Subject to regulation)	49	31,172.8	353,143	0.011329
Respondent cost per head slaughtered, Hogs 1998				
1–99,999 (Exempted)	704	3,526.9	0	0
100,000–249,999	12	2,006.1	39,936	0.019907
250,000–499,999	4	1,367.7	13,312	0.009733
500,000–999,999	5	3,304.7	16,640	0.005035
1,000,000–1,499,999	3	4,396.5	9,984	0.002271
1,500,000–1,999,999	7	12,469.3	23,296	0.001868
2,000,000–2,999,999	11	24,333.3	36,608	0.001504
3,000,000–3,999,999	4	14,403.2	13,312	0.000924
4,000,000+	7	33,074.6	23,296	0.000704
Total (Subject to regulation)	53	95,355.4	176,384	0.001850
Respondent cost per head slaughtered, Sheep, 1998				
1–74,999 (Exempted)	548	594.2	0	0
75,000–499,999	6	1,614.3	29,232	0.018108
500,000+	2	1,448.8	9,744	0.006726
Total (Subject to regulation)	8	3063.1	38,976	0.012724
Respondent cost per metric ton (MT) imported, Lamb and mutton, 1998				
Size Group	Importers	Metric tons imported	Respondent cost dollars	Cost per ton dollars
Under 5,000 MT (Exempted)	371	6,684.3	0	0
5,000 MT and over	5	26,738.4	2,600	0.097238429
Total (Subject to regulation)	5	26,738.4	2,600	0.097238429

In addition to these costs to packers for submitting information, the mandatory price reporting program will cost approximately $4.7 million in FY 2000 and $5.9 million in FY 2001. In order to implement the program in FY 2000, AMS is hiring additional staff, issuing regulations, and setting up an electronic database to capture data and

develop reports to begin in July. The 56 staff years required to administer and produce high quality mandatory price reports include reporters, auditors, clerical personnel, and computer specialists. These employees will be located in three AMS offices located across the country. Salary-related costs in FY 2001 are estimated at $3.5 million. Other costs include approximately $600 thousand for travel and transportation; $600 thousand for miscellaneous costs such as office space, utilities, communications costs, printing, reimbursements to cooperating States, training, and office supplies; $200 thousand for equipment, including computers, software, and licenses; and $1 million for a computer systems contract to develop the database required to manage the data.

Executive Order 12988

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have retroactive effect. States and political divisions of States are specifically preempted by section 259 of the Act from imposing requirements in addition to, or inconsistent with, any requirements of the Act with respect to the submission or publication of information on the prices and quantities of livestock or livestock products. Further, the Act does not restrict or modify the authority of the Secretary to administer or enforce the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.); administer, enforce, or collect voluntary reports under the Act or any other laws; or access documentary evidence as provided under sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50). There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Civil Rights Review

AMS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, sex, national origin, religion, age, disability, or marital or family status. This included those persons who are employees of those entities required to participate and those individuals who wish to use information collected by this proposed mandatory program of information regarding the marketing of cattle, swine, lambs, and products of such livestock. This proposed rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this proposed program would not exclude from participation any persons or groups, deny any persons or groups the benefits of the program, or subject any persons or groups to discrimination.

Executive Order 13132

This proposed rule has been reviewed under Executive Order 13132, Federalism. This Order directs agencies to construe, in regulations and otherwise, a Federal statute to preempt State law only when the statute contains an expressed preemption provision. This proposed rule is required by the Livestock Mandatory Reporting Act of 1999. Section 259 of the Act, Federal Preemption, states, ''In order to achieve the goals, purposes, and objectives of this title on a nationwide basis and to avoid potentially conflicting State laws that could impede the goals, purposes, or objectives of this title, no State or political subdivision of a State may impose a requirement that is in addition to, or inconsistent with, any requirement of this subtitle with respect to the submission or reporting of information, or the publication of such information, on the prices and quantities of livestock or livestock products.

For a number of years, States have operated programs of voluntary market reporting of livestock and livestock products. Many of these programs have been operated in conjunction with the USDA through Federal-State agreements. Under these agreements, the USDA and the States work cooperatively to gather and disseminate information on the livestock markets within the State. Until now, all of these programs have been based on voluntary reporting of market information. The Act and these proposed regulations are not intended to have an effect on any voluntary market reporting programs currently being operated by the States.

However, recently, several States have enacted legislation mandating, to various degrees, the reporting of market information on transactions of cattle, swine, and lambs conducted within that particular State. Currently, this includes the States of Iowa, Minnesota, Missouri, Nebraska, and South Dakota. Of these, only Minnesota and South Dakota are collecting mandated market information.

Section 259 of the Act, preempts States from imposing mandatory reporting requirements that are in addition to or inconsistent with any requirement of this proposed rule with respect to the collection and publication of information on the prices and quantities of livestock and livestock products. This preemption clause would affect all mandatory reporting programs currently in effect by the States and the implementation of any mandatory reporting programs currently developed, in the process of being developed, or that may be developed at a later date.

With regard to consultation with States, AMS has made sure that the States are aware of the Act and AMS has engaged in formal and informal discussions regarding the implications of Federal livestock mandatory reporting with those States which either currently have mandatory reporting programs or are in the process of developing mandatory reporting programs. Further, States and local jurisdictions are expressly invited to comment on this proposal as it relates to the operation of State livestock and livestock products reporting programs.

Regulatory Flexibility Act

In General

This proposed rule has been reviewed under the requirements of the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*). The purpose of the RFA is to consider the economic impact of a proposed rule on small business entities. Alternatives, which would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the marketplace, have been evaluated. Regulatory action should be appropriate to the scale of the businesses subject to the action. The proposed collection of information is necessary for the proper performance of the functions of AMS concerning the mandatory reporting of livestock information. The Livestock Mandatory Reporting Act of 1999 requires AMS to collect and publish livestock market information. The required information is only available directly from those entities required to report under the Act and by these proposed regulations and exists nowhere else. Therefore, this proposed rule does not duplicate market information reasonably accessible to the Agency.

In formulating this proposed rule, particular consideration was given to reducing the burden on entities while still achieving the objectives of the proposed regulation. Accordingly, thresholds were set which defined those entities which would be required to report information on purchases of live cattle, swine, lambs, lamb carcasses, and boxed lamb cuts including branded product, as well as information on domestic and export sales of boxed beef cuts including branded product, and sales of lamb carcasses, boxed lamb cuts

including branded product, and imported boxed lamb cuts including branded product.

In any calendar year, only Federally inspected cattle plants which slaughtered an average of 125,000 head of cattle a year for the immediately preceding 5 calendar years are required to report. Additionally, any cattle plant that did not slaughter cattle during the immediately preceding 5 calendar years would be required to report if the Secretary determines that the plant should be considered a packer based on its capacity. For entities that did not slaughter cattle during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations the AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations. This accounts for approximately 49 out of 795 cattle plants or 6.2% of all Federally inspected cattle plants.

For any calendar year, any Federally inspected swine plant which slaughtered an average of 100,000 head of swine a year for the immediately preceding 5 calendar years would be required to report information. Additionally, any swine plant that did not slaughter swine during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the capacity of the processing plant would be required to report. This accounts for approximately 50 out of 757 swine plants or 6.6% of all Federally inspected swine plants.

In any calendar year, Federally inspected lamb plants which slaughtered the equivalent of an average of 75,000 head of lambs a year for the immediately preceding 5 calendar years would be considered a packer and required to report. A packer includes a processing plant that purchases and processes an average of 75,000 lamb carcasses annually rather than slaughter live lambs. Additionally, any processing plant that did not slaughter an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the capacity of the processing plant would be required to report.

For any calendar year, lamb importers that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years would be required to report. Additionally, lamb importers that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on the volume of lamb imports would be required to report. Some lamb plants may also be importers. This accounts for approximately 16 out of 556 lamb plants and importers or 2.9% of all Federally inspected lamb plants and importers.

Fully 93.8% of all cattle, 93.4% of all swine, and 97.1% of all lamb plants in the U.S. would be exempted by this proposed rule from reporting information.

Accordingly, we also have prepared an initial regulatory flexibility analysis. The RFA compares the size of meat packing plants to the Standard Industrial Code (SIC) to determine the percentage of small businesses within the meat packing industry. Under these size standards, meat packing companies with 500 or less employees are considered small business entities.

Objectives and Legal Basis

The objective of this proposed rule is to improve the price and supply reporting services of the Department of Agriculture in order to encourage competition in the marketplace for livestock and livestock products by increasing the amount of information available to participants. This is accomplished through the establishment of a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock as specifically directed by the Act and these proposed regulations, as described in detail in the background section.

Estimated Number of Small Businesses

This proposed rule provides for the mandatory reporting of market information by livestock packers who for any calendar year have slaughtered a certain number of livestock during the immediately preceding 5 calendar years. This number is 125,000 head per year for cattle and 100,000 head per year for swine. Lamb plants required to report include those that for any calendar year slaughter or process the equivalent of 75,000 head per year during the immediately preceding 5 calendar years. Additionally, for any calendar year lamb importers that imported an average of 5,000 metric tons of lamb meat products per calendar year during the immediately preceding 5 calendar years are also required to report details of their purchases. For cattle and swine processing plants that have not slaughtered livestock during the immediately preceding 5 calendar years are also required to report if the Secretary determines that the plants should be considered packers based on their capacity. Additionally, lamb packers and lamb meat processors and importers that did not slaughter or process the equivalent of 75,000 head per year or import 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years would be required to report if the Secretary determines that they should be considered an importer based on their volume of lamb imports.

These packers and importers would be required to report the details of all transactions involving purchases of livestock, of lamb carcasses, and of import lamb carcasses and boxed lamb cuts including branded boxed lamb cuts; and the details of all transactions involving domestic and export sales of boxed beef cuts including branded product, and sales of domestic boxed lamb cuts including branded product, imported boxed lamb cuts including branded product and lamb carcasses to AMS. Cattle and swine information would be reported to AMS according to the schedule directed by the Act and these proposed regulations with purchases of swine reported three times each day, purchases of cattle twice each day, and sales of domestic and exported boxed beef cuts, including branded product, reported twice each day. Lamb information would be reported to AMS according to the schedule mandated by these proposed regulations with purchases of lambs reported twice each day and sales and purchases of lamb carcasses reported once each day. Previous week purchases of imported lamb carcasses and boxed lamb cuts including branded boxed lamb cuts would be reported once weekly on the first reporting day of the week and sales of imported boxed lamb cuts including branded boxed lamb cuts would be reported once weekly on the first reporting day of the week.

The SIC size standard classifies a small business in the meat packing industry as a company with less than 500 employees. Although it is common in the red meat industry for larger companies to own several plants, some of which may employ less than 500 people, those companies and lamb importers with a total slaughter plant employment at all locations of less than 500 are considered to be small businesses for the purposes of this proposed rule even though individual plants are mandated to report as provided by the Act and these proposed regulations.

For any calendar year, Federally inspected beef plants required to report

include those that slaughtered an average of 125,000 head per year during the immediately preceding 5 calendar years. Also included are processing plants that did not slaughter cattle during the immediately preceding 5 calendar years but are determined to be a packer by the Secretary based on the capacity of the processing plant. By this definition, approximately 30 individual beef packing companies representing 49 individual plants would be required to report information to AMS. Based on the SBA size standard, 10 of these 30 beef packing companies would be considered small businesses, representing 10 plants that would be required to report. The figure of 49 plants required to report represents 6.2% of the cattle plants in the U.S. The remaining 93.8% of cattle plants, nearly all estimated to qualify as small business, are exempt from mandatory reporting.

For any calendar year, Federally inspected pork plants required to report include those that slaughtered an average of 100,000 head per year during the immediately preceding 5 calendar years. Also included are processing plants that did not slaughter swine during the immediately preceding 5 calendar years but are determined to be a packer by the Secretary based on the capacity of the processing plant. By this definition, approximately 29 individual pork packing companies representing a total of 50 individual plants, would be required to report information to AMS. Based on the SBA size standard, 15 of these 29 pork packing companies would be considered small businesses, representing 15 individual plants that would be required to report. The figure of 50 plants required to report represents 6.6% of the swine plants in the U.S. The remaining 93.4% of swine plants, nearly all estimated to qualify as small business, are exempt from mandatory reporting.

For any calendar year, lamb packers required to report include those that slaughtered or processed the equivalent of 75,000 head per year during each of the immediately preceding 5 calendar years. Also included are processing plants that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years but are determined to be a packer by the Secretary based on the capacity of the processing plant. For any calendar year, an importer that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years would be required to report. Additionally, a lamb importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on the volume of lamb imports, would also be required to report. By this definition, 16 individual companies including importers representing a total of 14 plants, would be required to report information. Based on the SBA size standard, all 14 of these lamb plants would be considered small businesses with none employing more than 500 people. The figure of 14 plants required to report represents 2.9% of the lamb plants in the U.S. Nearly all of the remaining 97.1% of lamb plants are estimated to qualify as small businesses and are exempt from mandatory reporting.

Projected Reporting

This proposed rule requires the reporting of specific market information regarding the buying and selling of livestock and livestock products. The information would be reported to AMS by electronic means. Electronic reporting would involve the transfer of data from a packer's or importer's electronic recordkeeping system to a centrally located AMS electronic database. The packer or importer would be required to organize the information in an AMS-approved format before electronically transmitting the information to AMS.

Once the required information has been entered into the AMS database, it would be aggregated and processed into various market reports which would be released according to the daily and weekly time schedule set forth in these proposed regulations.

Information regarding the specific characteristics of each reported sale must be supplied by lot without aggregation. In order to adequately describe and categorize each transaction, as many as fifteen separate pieces of information are required to be reported. This information includes price, head count, weight, quality grade, and yield grade. The frequency respondents are required to report is 1 to 3 times each reporting day depending on the species and type of information required.

In 1999, an average of 700,000 cattle were slaughtered each week. Beef plants identified as small businesses contributed an estimated 7,000 head per day, on average, to this weekly slaughter with each business contributing an estimated 700 head per day on average based upon publicly available information. At a maximum, if each of these 700 cattle were purchased in lots of one head each and 15 pieces of information were required for each purchase, as many as 10,500 individual pieces of information would have to be reported by each small beef packing plant each reporting day. In addition, each of the small beef packing plants is required to report all domestic and export sales of boxed beef cuts including branded product. On average, each of these small entities slaughters an estimated 700 head per day. Since most beef carcasses are usually fabricated at the point of slaughter, each of these small beef packers would be processing about 700 beef cattle into boxed beef cuts each day. Normally, boxed beef cut sales average about 200 boxes per transaction and each head of cattle equals 7 boxes. This would represent 25 separate transactions which, if 15 pieces of information were required per transaction, would translate into 375 pieces of information reported by each small beef packing business producing boxed beef each business day. AMS estimates the total annual burden on each small cattle packer and boxed beef processing entity to be $7,420, including $5,590 for annual costs associated with electronically submitting data and $1,830 for the storage and maintenance of electronic files that were submitted to AMS.

This figure was calculated by estimating the time required to complete the necessary data submission and factoring by the number of times reporting is required per day for an estimated total of 260 reporting days in a year (see Paperwork Reduction Act section for a complete, detailed discussion).

On average each week in 1999, 1.9 million swine were slaughtered. Pork plants identified as small businesses contributed an estimated 17,000 head per day to this weekly slaughter with each business contributing on average an estimated 1,125 head per day, based on publicly available figures. If each of these head were purchased in lots of one head each and 15 pieces of information were required for each purchase, 16,875 pieces of information would have to be reported by each small pork packing plant per day.

Using the same methodology as described above for cattle, AMS estimates the total annual burden on each small swine packing entities to be $5,308, including $3,478 for annual costs associated with electronically submitting data and $1,830 for the storage and maintenance of electronic files that were submitted to AMS. This estimate does not include costs associated with reporting sales of pork

products which would not be required to be reported.

Sheep slaughter in 1999 averaged 70,000 head per week. All lamb plants contributing to this weekly slaughter are identified as small businesses. On average, these lamb plants each slaughtered an estimated 2,200 head per day, based on publicly available information. If each of these lambs were purchased one at a time and 15 pieces of information were required for each transaction, 33,000 pieces of information would have to be reported by each small lamb packing plant. In addition, all lamb plants processing the equivalent of 75,000 lambs per year during each of the immediately preceding 5 calendar years, which are required to report, qualify as small businesses. These plants would be required by regulation to report information on their sales of boxed lamb cuts. It is estimated that negotiated sales comprise the majority of all boxed lamb cut sales. Based on publicly available information, lamb plants processing lamb into boxed lamb cuts, on average, process the equivalent of an estimated 1,200 head per day. It is normal business practice that these lamb cuts are sold in units averaging between 25–150 boxes per transaction, representing about 8–50 head of lambs (about 3 boxes per head). At 1,200 head per day, there could be as many as 150 transactions per day per reporting packer. Assuming that each of these 150 transactions required 15 pieces of information per transaction, 2,250 pieces of information would have to be reported by each small lamb packing plant.

In any calendar year, importers of lamb meat products that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years would be required to report the details of their purchases and sales of boxed lamb cuts including branded product and their purchases of lamb carcasses to AMS on a weekly basis. Additionally, in any calendar year, lamb importers that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on the volume of lamb imports would be required to report the above information. AMS estimates that each of the 5 importers required to report import, on average, 180 metric tons of lamb products per week. AMS estimates that the majority of these imports are contracted over a period of time, usually from 3–6 months, possibly as much as 12 months. Price would normally be negotiated at the time the contract was entered into along with the particular cut of lamb and the volume. During the time the contract is in effect, prices would not be expected to change from week to week but quantities might. Assuming that an average importer would purchase an average of 10 different cut styles, each at a single price, from an average of 2 suppliers, AMS estimates that the weekly reporting burden for each importer would include information for up to 20 different transactions. Each transaction would require 7 pieces of information including, price, quantity, cut, trim, weight, delivery date, and nation of origin, for a total of 140 separate pieces of information.

AMS estimates the total annual burden on each small lamb packer would be $6,042 including $4,212 for annual costs associated with electronically submitting data and $1,830 for the storage and maintenance of electronic files that were submitted to AMS.

AMS estimates the total annual burden on each small importer of lamb to be $2,404 including $574 for annual cost associated with electronically submitting data and $1,830 for storage and maintenance of electronic files that were submitted to AMS.

Normally, few packers buy livestock or livestock products in one head or one head equivalent lots. Similarly, few importers buy imported carcasses or imported lamb cuts in less than carlot volumes. Therefore, the estimated reporting burden described here would reflect the maximum reporting burden on small businesses.

Projected Recordkeeping

Each packer and importer required to report information to the Secretary must maintain such records as are necessary to verify the accuracy of the information provided to AMS. This includes information regarding price, class, head count, weight, quality grade, yield grade, and other factors necessary to adequately describe each transaction. These records are already kept by the industry. Reporting packers and importers are required by these proposed regulations to maintain and to make available the original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock. Reporting packers and importers are also required to maintain copies of the information provided to AMS. All of the above-mentioned paperwork must be kept for at least 2 years. Packers and importers are not required to report any other new or additional information that they do not generally have available or maintain. Further, they would not be required to keep any information that would prove unduly burdensome to maintain. The paperwork burden that would be imposed on the packers and importers is further discussed in the section entitled Paperwork Reduction Act that follows.

In addition, we have not identified any relevant Federal rules that are currently in effect that duplicate, overlap, or conflict with this rule. AMS will continue to report market information collected through its voluntary market reporting program provided the collection of such information does not duplicate the information collection requirements of this proposed rule.

Professional skills required for recordkeeping under this proposed rule would not be different than those already employed by the reporting entities. Reporting would be accomplished using computers or similar electronic means. AMS believes the skills needed to maintain such systems are already in place in those small businesses affected by this proposed rule. Comments are requested on the extent to which employees of these small businesses already possess the skills required to report and maintain recordkeeping systems.

Alternatives

This proposed rule as directed by the Act requires cattle and swine packing plants of a certain size to report information to the Secretary at prescribed times throughout the day and week. Further, lamb slaughter and processing plants and lamb importers of a certain size are required by these proposed regulations to report information to the Secretary at prescribed times throughout the day and week. These proposed regulations already exempt many small businesses by the establishment of daily slaughter, processing, and import capacity thresholds. Based on figures published by the National Agricultural Statistics Service (NASS), there were 795 cattle, 757 swine, and 556 lamb Federally inspected slaughter plants operating in the U.S. at the end of 1998. AMS estimates that approximately 49 cattle plants would be required to report information (6.2% of all Federally inspected cattle plants), 50 swine plants would be required to report information (6.6% of all Federally inspected swine plants), and 16 lamb packers and importers would be required to report

information (1.9% of all Federally inspected lamb plants and 1.3% of all lamb importers). Therefore, fully 93.8% of all cattle plants, 93.4% of all swine plants, and 98.1% of all lamb packers and 98.7% of lamb importers would not be required to report.

AMS recognizes that a major economic impact of this proposed rule on those small entities required to report involves the manner in which information must be reported to the Secretary. However, in developing these proposed regulations AMS did consider other means by which the objectives of this proposed rule could be accomplished, including reporting the required information by telephone, facsimile and regular mail. AMS believes these alternatives are not capable of meeting the program objectives, especially timely reporting. The Act prescribes specific times that reporting entities must report to AMS. Similarly, the Act prescribes specific times for publication of a report by AMS. AMS believes electronic submission to be the only method capable of allowing for AMS to collect, aggregate and publish reports while complying with the specific time-frames set forth in the Act. AMS believes it would not be possible for the Agency to receive information over the telephone, facsimile or regular mail and then transcribe the information into electronic format before aggregating and publishing the information while still complying with the publication time-frames set forth in the Act. However, AMS may provide for an exception to electronic reporting in emergencies or in cases when an alternative is agreeable to AMS and the reporting entity.

AMS cannot envision an alternative to the proposed method of data transmission that would be less burdensome to small businesses. Therefore, AMS is expressly seeking comment from those small businesses covered by this proposed rule regarding the burden imposed on them by this program. Specifically, AMS is seeking comments on the reporting format, including alternatives from small businesses that would be less burdensome. AMS will work actively with those small businesses required to report to minimize the burden on them to the maximum extent practicable.

Paperwork Reduction Act

This proposed rule contains recordkeeping and submission requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35). In accordance with 5 CFR Part 1320, we include the description of the reporting and recordkeeping requirements and an estimate of the annual burden on packers required to report information under this proposed rule. Because there is insufficient time for a normal clearance procedure, AMS has requested emergency processing and received temporary approval from OMB for the use of the information collection and recordkeeping requirements that we propose to use to implement the mandatory livestock reporting program on an expedited basis.

Title: Livestock Mandatory Reporting Act of 1999.

OMB Number: 0581–0186.

Expiration Date of Assessment: July 31, 2000.

Type of Request: Extension.

Abstract: The information collection and recordkeeping requirements in this regulation would be essential to establishing and implementing a mandatory program of livestock and livestock products reporting. Based on the information available, AMS estimates that there would be 49 beef packer plants, 50 pork packer plants, 11 lamb packer plants and 5 lamb importers that would be required to report market information under this proposed rule. These companies have similar recordkeeping systems and business operation practices and conduct their operations in a similar manner. AMS believes that all of the information required under this proposed rule can be collected from existing materials and systems and that these materials and systems can be adapted to satisfy the proposed forms. The PRA also requires AMS to measure the recordkeeping burden. Under this proposed rule, each packer and importer required to report must maintain and make available upon request for 2 years, such records as would be necessary to verify the accuracy of the information required to be reported. These records include original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock. Under this proposed rule, the electronic data files which the packers would be required to utilize when submitting information to AMS would have to be maintained as these files provide the best record of compliance. The recordkeeping burden includes the amount of time needed to store and maintain records. AMS estimates that, since records of original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock are stored and maintained as a matter of normal business practice by these companies for a period in excess of 2 years, additional annual costs would be nominal. AMS estimates the annual cost per respondent for the storage of the electronic data files which were submitted to AMS in compliance with the reporting provisions of this proposed rule to be $1,830.00. This estimate includes the cost of electronic data storage media, backup electronic data storage media, and backup software required to maintain an estimated annual electronic recordkeeping and backup burden of 42 megabytes, on average, per respondent. In addition, this estimate includes the cost per employee to maintain such records which is estimated to average 70 hours per year at $20.00 per hour for a total salary component cost of $1,400.00 per year. AMS welcomes any additional information from the industry regarding such costs.

In this proposed rule, information collection requirements include the submission of the required information on a daily and weekly basis in the standard format provided in the following forms: (1) Live Cattle Daily Report (Current Established Prices), (2) Live Cattle Daily Report (Committed and Delivered Cattle), (3) Live Cattle Weekly Report (Forward Contract and Packer-Owned), (4) Live Cattle Weekly Report (Formula Purchases), (5) Cattle Premiums and Discounts Weekly Report, (6) Boxed Beef Daily Report, (7) Swine Prior Day Report, (8) Swine Daily Report, (9) Swine Noncarcass Merit Premium Weekly Report, (10) Live Lamb Daily Report (Current Established Prices), (11) Live Lamb Daily Report (Committed and Delivered Lambs), (12) Live Lamb Weekly Report (Packer-Owned), (13) Live Lamb Weekly Report (Formula and Forward Contract Purchases), (14) Lamb Premiums and Discounts Weekly Report, (15) Boxed Lamb Report, and (16) Lamb Carcass Report. Copies of these 16 forms are included in Appendices at the end of this rule. Cattle packers would utilize six of these forms (Appendix A) when reporting information to AMS including two for daily cattle reporting, three for weekly cattle reporting, and one for daily boxed beef cuts reporting. Swine packers would utilize three forms (Appendix B), two for daily reporting of swine purchases and one for weekly reporting of non-carcass merit premium information. Lamb packers would utilize seven of these forms (Appendix

C) when reporting information to AMS including two for daily lamb reporting, three for weekly lamb reporting, one for daily and weekly boxed lamb cuts reporting and one for daily and weekly lamb carcass reporting. Lamb importers would utilize two of these forms when reporting information to AMS including one for reporting weekly imported lamb carcass and one for reporting weekly imported boxed lamb cut purchases and sales.

These information collection requirements have been designed to minimize disruption to the normal business practices of the affected entities. Each of these forms requires the minimal amount of information necessary to properly describe each reportable transaction, as required under this proposed rule. The number of forms is a result of an attempt to reduce the complexity of each form.

1. Live Cattle Daily Report (Current Established Prices): Form LS–113.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 49 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 4,332 hours.

Total Cost: $86,640.

2. Live Cattle Daily Report (Committed and Delivered Cattle): Form LS–114.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 49 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 4,332 hours.

Total Cost: $86,640.

3. Live Cattle Weekly Report (Forward Contract and Packer-Owned): Form LS–115.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 49 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 637 hours.

Total Cost: $12,740.

4. Live Cattle Weekly Report (Formula Purchases): Form LS–116.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 49 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 637 hours.

Total Cost: $12,740.

5. Cattle Premiums and Discounts Weekly Report: Form LS–117.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .08 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 49 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 204 hours.

Total Cost: $4,080.

6. Boxed Beef Daily Report: Form LS–126.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .125 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on domestic and export boxed beef cut sales to the Secretary.

Estimated Number of Respondents: 49 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 3,185 hours.

Total Cost: $63,700.

7. Swine Prior Day Report: Form LS–118.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live swine purchases to the Secretary.

Estimated Number of Respondents: 50 plants.

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days).

Estimated Total Annual Burden on Respondents: 3,250 hours.

Total Cost: $65,000.

8. Swine Daily Report: Form LS–119.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live swine purchases to the Secretary.

Estimated Number of Respondents: 50 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 4,420 hours.

Total Cost: $88,400.

9. Swine Noncarcass Merit Premium Weekly Report: Form LS–120.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live swine purchases to the Secretary.

Estimated Number of Respondents: 50 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 650 hours.

Total Cost: $13,000.

10. Live Lamb Daily Report (Current Established Prices): Form LS–121.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 8 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 707 hours.

Total Cost: $14,140.

11. Live Lamb Daily Report (Committed and Delivered Lambs): Form LS–122.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 8 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 707 hours.

Total Cost: $14,140.

12. Live Lamb Weekly Report (Packer-Owned): Form LS–123.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 8 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 104 hours.

Total Cost: $2,080.

13. Live Lamb Weekly Report (Formula and Forward Contract Purchases): Form LS–124.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 8 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 104 hours.

Total Cost: $2,080.

14. Lamb Premiums and Discounts Weekly Report: Form LS–125.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .08 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 8 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 33 hours.

Total Cost: $660.

15. Boxed Lamb Report: Form LS–128.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .167 hours per electronically submitted response.

Respondents: Packer processing plants and importers required to report information on boxed lamb cut purchases and sales to the Secretary.

Estimated Number of Respondents: 14 entities (including 1 entity that both processes and imports).

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days) for domestic packing plants; 52 (1 per week for 52 weeks) for importers.

Estimated Total Annual Burden on Respondents: 434 hours for domestic packing plants and 43 hours for importers.

Total Cost: $8,680 for domestic packing plants and $860.00 for importers for a total of $9,540.00.

16. Lamb Carcass Report: Form LS–129.

Estimate of Burden: Public reporting burden for collection of information is estimated to be .167 hours per electronically submitted response.

Respondents: Packer processing plants and importers required to report information on lamb carcass purchases and sales to the Secretary.

Estimated Number of Respondents: 12 entities (including 1 entity that both slaughters and imports).

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days) for domestic packing plants; 52 (1 per week for 52 weeks) for importers.

Estimated Total Annual Burden on Respondents: 347 hours for domestic packing plants and 43 hours for importers.

Total Cost: $6,940 for domestic packing plants and $860.00 for importers for a total of $7,800.00.

Estimated Total Annual Burden on Respondents by Species:

Live Cattle and Boxed Beef: $363,560 including $273,890 for annual costs associated with electronically submitted responses (13,327 annual hours @ $20.00 per hour plus initial electronic data transfer setup costs of $7,350 consisting of 147 annual hours at $50 per hour) and $89,670 for the storage and maintenance of electronic files that were submitted to AMS.

Live Swine: $265,400 including $173,900 for annual costs associated with electronically submitted responses (8,320 annual hours @ $20.00 per hour plus initial electronic data transfer setup costs of $7,500 consisting of 150 annual hours at $50 per hour) and $91,500 for the storage and maintenance of electronic files that were submitted to AMS.

Live Lambs, Boxed Lamb, and Lamb Carcasses: $82,120 including $52,840 for annual costs associated with electronically submitted responses (2,522 annual hours @ $20.00 per hour plus initial electronic data transfer setup costs of $2,400 consisting of 48 annual hours at $50 per hour) and $29,280 for the storage and maintenance of electronic files that were submitted to AMS.

AMS is soliciting comments from all interested parties concerning the information collection and recordkeeping requirements contained in this proposed rule. Comments are specifically invited on the following: (1) The accuracy of the agency's burden estimate of the proposed collection of information including the validity of the methodology and assumptions used; (2) ways to minimize the burden of the collection of information on those who would be required to respond, including through the use of appropriate electronic collection methods; (3) whether the proposed collection of information is sufficient or necessary for the proper performance of the functions of the agency as mandated by the Act; and (4) ways to enhance the quality, utility, and clarity of the information to be collected. Comments concerning the information collection and recordkeeping requirements contained in this action should reference OMB number 0581–0186 together with the date and page number of this issue of the **Federal Register** and should be sent in duplicate to John E. Van Dyke, Chief, Livestock and Grain Market News Branch, Docket No. LS–99–18, Room 2619–S; 1400 Independence Avenue; SW., Washington, D.C. 20250–0252. Comments may also be sent by fax to (202) 690–3732, by electronic mail to: john.vandyke@usda.gov, or filed via an on-line form through the AMS website at: http://www.ams.usda.gov/lsg/mprcomment.htm. State that your comments refer to Docket No. LS–99–18. Comments received may be inspected at the above location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays, or over the AMS website at: *http://www.ams.usda.gov/lsg/price.htm.*

Comments sent to the above location should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. All responses to this action will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

A 30-day comment period is provided for interested persons to comment on this proposed rule. The 30-day period is deemed appropriate in order to provide a sufficient amount of time to comment while conforming, as closely as possible, to the time-frames contemplated by the Act.

List of Subjects in 7 CFR Part 57

Cattle, Hogs, Lamb, Livestock, Sheep.

For the reasons set forth in the preamble, it is proposed that Chapter I of Title 7 of the CFR be amended by adding Part 57 to read as follows:

PART 57—LIVESTOCK MANDATORY REPORTING

Subpart A—General Provisions

Sec.
57.10 General administrative provisions.
57.11 Recordkeeping.
57.20 Definitions.

Subpart B—Cattle Reporting

57.100 Definitions.
57.101 Mandatory daily reporting for live cattle.
57.102 Mandatory weekly reporting for live cattle.
57.103 Mandatory reporting of boxed beef sales.

Subpart C—Swine Reporting.

57.200 Definitions.
57.201 General reporting provisions.
57.202 Mandatory daily reporting for swine.
57.203 Mandatory weekly reporting for swine.

Subpart D—Lamb Reporting

57.300 Definitions.
57.301 Mandatory daily reporting for lambs.
57.302 Mandatory weekly reporting for lambs.
57.303 Mandatory roporting of lamb carcasses and boxed lamb.

Subpart E—OMB Control Number

57.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 1621 et seq.

Subpart A—General Provisions

§ 57.10 General administrative provisions.

(a) *Reporting by Packers and Importers.* A packer or importer shall report all information required under this part on an individual lot basis.

(b) *Reporting Schedule.* Whenever a packer or importer is required to report information on transactions of livestock and livestock products under this part by a set time, all covered transactions up to within one half hour of the reporting deadline shall be reported. Transactions completed during the one half hour prior to the previous reporting time, but not reported in the previous report, shall be reported at the next scheduled reporting time.

(c) *Regional reporting and aggregation.* The Secretary shall make information obtained under this part available to the public only in a manner that:

(1) Ensures that the information is published on a national and a regional or statewide basis as the Secretary determines to be appropriate;

(2) Ensures that the identity of a reporting person or the entity which they represent is not disclosed; and

(3) Market information reported to the Secretary by packers and importers shall be aggregated in such a manner that the market reports issued will not disclose the identity of persons, packers and importers, including parties to a contract and packer's and importer's proprietary information.

(d) *Adjustments.* Prior to the publication of any information required under this part, the Secretary may make reasonable adjustments in information reported by packers and importers to reflect price aberrations or other unusual or unique occurrences that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants.

(e) *Reporting of activities on weekends and holidays.* Livestock and livestock products committed to a packer, or importer, or purchased, sold, or slaughtered by a packer or importer on a weekend day or holiday shall be reported to the Secretary in accordance with the provisions of this part and reported by the Secretary on the immediately following reporting day. A packer shall not be required to report such actions more than once on the immediately following reporting day.

(f) *Reporting methods.* Whenever information is required to be reported under this part, it shall be reported by electronic means and shall adhere to a standardized format established by the Secretary to achieve the objectives of this part, except in emergencies or in cases when an alternative method is agreeable to the entity required to report and AMS.

§ 57.11 Recordkeeping.

(a) *In general.* Each packer or importer required to report information to the Secretary under the Act and this part shall maintain for 2 years and make available to the Secretary the following information on request:

(1) The original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock or livestock products; and

(2) Such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under the Act and this part.

(b) *Purchases of livestock and sales of boxed beef cuts.* A record of a purchase of a lot of cattle, a unit of boxed beef cuts, a lot of swine, or a lot of lambs by a packer shall evidence whether the purchase occurred:

(1) Before 10:00 a.m. Central Time;

(2) Between 10:00 a.m. and 2:00 p.m. Central Time; or

(3) After 2:00 p.m. Central Time.

(c) *Purchases and sales of domestic and imported lamb carcasses and cuts.* A record of a purchase or sale by a packer of lamb carcasses and cuts, or by an importer of lamb carcasses and cuts shall evidence time and date the purchase or sale occurred.

(d) *Reporting sales of boxed beef cuts and sales and purchases of lamb carcasses and cuts.*

(1) Beef packers must report all sales of boxed beef cuts by the applicable Institutional Meat Purchase Specification (IMPS), Fresh Beef Series 100 item number or by the packer's cut and trim specifications.

(2) Lamb packers and importers must report all sales and purchases of boxed lamb carcasses and cuts by the applicable IMPS, Fresh Lamb and Mutton Series 200 item number or by the packer's and importer's cut and trim specifications.

(3) You may obtain a copy of IMPS Fresh Beef Series 100 and Fresh Lamb and Mutton Series 200 from U.S. Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program, Livestock and Meat Standardization Branch, Room 2603 South Building STOP 0254, PO Box 96456 Washington, D.C. 20090–6456. You may inspect a copy of the above in Room 2603, South Building, 14th and Independence Ave., SW, Washington, D.C. 20250, or at the office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C. 20488.

§ 57.20 Definitions.

The following definitions apply to this part:

Base price. The term 'base price' means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of hot carcass weight.

Basis level. The term 'basis level' means the agreed on adjustment to a future price to establish the final price paid for livestock.

Committed. The term 'committed' means the agreement between a buyer and seller to schedule livestock for delivery at some date.

Current slaughter week. The term 'current slaughter week' means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.

Discount. The term 'discount' means the adjustment, expressed in dollars per hundred pounds, subtracted from the base price due to weight, quality grade, yield grade, livestock class, dark cutting, breed, or dressing percentage.

F.O.B. The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer (F.O.B. Plant or F.O.B. Feedlot).

Livestock. The term 'livestock' means cattle, swine, and lambs.

Lot. The term 'lot' means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller.

Marketing. The term 'marketing' means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

Negotiated purchase. The term 'negotiated purchase' means a cash or spot market purchase by a packer of livestock from a producer under which the base price for the livestock is determined by seller-buyer interaction and agreement on a delivery day, and the livestock are scheduled for delivery to the packer not more than 14 days after the date on which the livestock are committed to the packer.

Negotiated sale. The term 'negotiated sale' means a cash or spot market sale by a producer of livestock to a packer under which the base price for the livestock is determined by seller-buyer interaction and agreement on a delivery day and the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer. When used in reference to sales of boxed meat cuts and carcasses the term 'negotiated sale' means a cash or spot market sale by a processor of boxed meat cuts or carcasses to a buyer of boxed meat cuts or carcasses under which the base price for the boxed meat cuts or carcasses is determined by seller-buyer interaction and agreement on a day.

Premium. The term 'premium' means the adjustment, expressed in dollars per hundred pounds, added to the base price due to weight, quality grade, yield grade, livestock class, and breed.

Priced. The term 'priced' means the actual determination of a price either through buyer-seller interaction and agreement or as the result of a formula marketing arrangement or forward contract.

Prior slaughter week. The term 'prior slaughter week' means the Monday through Sunday prior to a reporting day.

Producer. The term 'producer' means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

Purchased. The term 'purchased' means the agreement on a price, or the method for calculating a price, determined through buyer-seller interaction and agreement.

Reporting day. The term 'reporting day' means a day on which a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer; the Secretary is required to make such information available to the public; and the Department of Agriculture is open to conduct business.

Secretary. The term 'Secretary' means the Secretary of Agriculture of the United States or any other officer or employee of the Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Secretary's stead.

State. The term 'State' means each of the 50 States.

Subpart B—Cattle Reporting

§ 57.100 Definitions.

The following definitions apply to this part:

Branded. The term 'branded' means boxed beef cuts which are marketed based on a distinctive characteristic or combination of characteristics. These characteristics are categorized by quality grade (including ungraded or no-roll), trim specification, weight, breed, and packaging.

Carcass characteristics. The term 'carcass characteristics' means those traits pertinent to the proper categorization of live cattle including the estimated average live weight in pounds, the estimated percentage of cattle of a quality grade of Choice or better, and an estimate of the cattle dressing percentage.

Cattle committed. The term 'cattle committed' means cattle that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the cattle.

Cattle type. The term 'cattle type' means the following types of cattle purchased for slaughter:

(1) Fed steers;

(2) Fed heifers;

(3) Fed Holsteins and other fed dairy steers and heifers;

(4) Cows; and

(5) Bulls.

Formula marketing arrangement. The term 'formula marketing arrangement' means the advance commitment of cattle for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date. When used in reference to boxed beef, the term 'formula marketing arrangement' means the advance commitment of boxed beef by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

Forward contract. The term 'forward contract' means an agreement for the purchase of cattle, executed in advance of slaughter, under which the base price is established by reference to prices quoted on the Chicago Mercantile Exchange, or other comparable publicly available prices. When used in reference to boxed beef, the term 'forward contract' means an agreement for the sale of boxed beef, executed in advance of manufacture, under which the base price is established by reference to publicly available quoted prices.

Packer. The term 'packer' means any person engaged in the business of buying cattle in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from cattle for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term 'packer' includes only a Federally inspected cattle processing plant that slaughtered an average of 125,000 head of cattle per year during the immediately preceding 5 calendar years. Additionally, in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant should be considered a packer under this subpart after considering its capacity.

Packer-owned cattle. The term 'packer-owned cattle' means cattle that a packer owns for at least 14 days immediately before slaughter.

Prices for cattle. The term 'prices for cattle' includes the price per hundredweight; the purchase type; the quantity on a live and a dressed weight basis; the range and estimated live weights; the estimated percentage of cattle of a quality grade Choice or better; any premiums or discounts associated with weight, quality grade, yield grade, or type of cattle; cattle State of origin; expected date of slaughter; estimated cattle dressing percentage; and price basis as F.O.B. feedlot or delivered at the plant.

Terms of trade. The term 'terms of trade' means, with respect to the purchase of cattle for slaughter:

(1) Whether a packer provided any financing agreement or arrangement with regard to the cattle;

(2) Whether the delivery terms specified the location of the producer or the location of the packer's plant;

(3) Whether the producer is able to unilaterally specify the date and time during the business day of the packer that the cattle are to be delivered for slaughter; and

(4) The percentage of cattle purchased by a packer as a negotiated purchase that are delivered to the plant for slaughter more than 7 days, but fewer than 14 days, after the earlier of either the date on which the cattle were committed to the packer, the date on which the cattle were purchased by the packer, or the date on which the cattle were priced by the packer.

Type of purchase. The term 'type of purchase' with respect to cattle, means a negotiated purchase, a formula market arrangement, and a forward contract.

Type of sale. The term 'type of sale' with respect to boxed beef, means a negotiated sale, a formula market arrangement, and a forward contract.

§ 57.101 Mandatory daily reporting for live cattle.

(a) *In general.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least two times each reporting day not later than 10:00 a.m. Central Time and not later than 2:00 p.m. Central Time the following information for each cattle type, inclusive since the last reporting, categorized to clearly delineate domestic from imported market purchases as described in (57.10(b).

(1) The prices for cattle (per hundredweight) established on that day, categorized by:

(i) The type of purchase;

(ii) The quantity of cattle purchased on a live weight basis;

(iii) The quantity of cattle purchased on a dressed weight basis;

(iv) A range and average of estimated live weights of cattle purchased;

(v) An estimate of the percentage of the cattle purchased that were of a quality grade of Choice or better; and

(vi) Any premiums or discounts associated with weight, quality grade, yield grade, or type of purchase.

(2) The quantity of cattle delivered to the packer (quoted in numbers of head) on that day, categorized by:

(i) The type of purchase;

(ii) The quantity of cattle delivered on a live basis; and

(iii) The quantity of cattle delivered on a dressed basis.

(3) The quantity of cattle committed to the packer (quoted in numbers of head) as of that day, categorized by the type of purchase, quantity of cattle to be delivered on a live basis, and the quantity of cattle to be delivered on a dressed basis.

(4) The terms of trade regarding the cattle, as applicable.

(b) *Publication.* The Secretary shall make the information available to the public not less frequently than three times each reporting day.

§ 57.102 Mandatory weekly reporting for live cattle.

(a) *In general.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information applicable to the prior slaughter week, categorized to clearly delineate domestic from imported market purchases:

(1) The quantity of cattle purchased through forward contracts that were slaughtered;

(2) The quantity of cattle delivered under a formula marketing arrangement that were slaughtered;

(3) The quantity and carcass characteristics of packer-owned cattle that were slaughtered; and

(4) The quantity, basis level, and delivery month for all cattle purchased through forward contracts.

(b) *Premiums and discounts.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the range and average of intended premiums and discounts (associated with weight, quality grade, yield grade, or type of cattle) that are expected to be in effect for the current slaughter week.

(c) *Formula purchases.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, by 8:00 a.m. Central Time, the following information for cattle purchased through a formula marketing arrangement and slaughtered during the prior slaughter week, categorized to clearly delineate domestic from imported market purchases:

(1) The quantity (quoted in both numbers of head and pounds) of cattle;

(2) The weighted average price paid for a carcass, including applicable premiums and discounts;

(3) The range of premiums and discounts paid;

(4) The weighted average of premiums and discounts paid;

(5) The range of prices paid;

(6) The aggregate weighted average price paid for a carcass; and

(7) The terms of trade regarding the cattle, as applicable.

(d) *Publication.* The Secretary shall make available to the public the information obtained under paragraphs (a), (b), and (c) of this section on the first reporting day of the current slaughter by 10:00 a.m. Central Time.

§ 57.103 Mandatory reporting of boxed beef sales.

(a) *Daily reporting.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (once by 10:00 a.m. Central Time, and once by 2:00 p.m. Central Time) the following information on total boxed beef domestic and export sales established on that day inclusive since the last reporting as described in § 57.10(b):

(1) The price for each lot of each boxed beef sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of each sale, quoted by number of boxes sold; and

(3) The information regarding the characteristics of each sale is as follows:

(i) The type of sale;

(ii) The branded product characteristics, if applicable;

(iii) The grade of beef (USDA Choice or better, Select, or ungraded no-roll product);

(iv) The cut of beef, referencing the USDA's Livestock and Seed Program Institutional Meat Purchase Specifications (IMPS), Fresh Beef Series 100, when applicable;

(v) The trim specification;

(vi) The weight range of the cut;

(vii) The number of boxes;

(viii) The product weight;

(ix) The product delivery period;

(x) The product manufacture date;

(xi) The product buyer and delivery location; and

(xii) The beef type (steer/heifer, dairy steer/heifer, or cow).

(b) *Publication.* The Secretary shall make available to the public the information obtained under paragraph (a) of this section not less frequently than twice each reporting day.

Subpart C—Swine Reporting

§ 57.200 Definitions.

The following definitions apply to this subpart:

Affiliate. The term 'affiliate', with respect to a packer, means:

(1) A person that directly or indirectly owns, controls, or holds with power to

vote, 5 percent or more of the outstanding voting securities of the packer;

(2) A person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the packer; and

(3) A person that directly or indirectly controls, or is controlled by or under common control with, the packer.

Applicable reporting period. The term 'applicable reporting period' means the period of time prescribed by the prior day report, the morning report, and the afternoon report, as provided in § 57.202.

Average backfat. The term 'average backfat' means the average of the backfat thickness (in inches) measured between the third and fourth from the last ribs, 7 centimeters from the carcass split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the swine slaughtered during the applicable reporting period.

Average carcass weight. The term 'average carcass weight' means the weight obtained by dividing the total carcass weight of the swine slaughtered at the packing plant during the applicable reporting period by the number of these same swine.

Average lean percentage. The term 'average lean percentage' means the value equal to the average percentage of the carcass weight comprised of lean meat for the swine slaughtered during the applicable reporting period. Whenever the packer changes the manner in which the average lean percentage is calculated, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert either to the carcass measurements or lean percentage of the swine of the individual packer to correlate to a common percent lean measurement; and the total slaughter quantity, which shall be equal to the total number of swine slaughtered during the applicable reporting period, including all types of purchases and packer-owned swine.

Average net price. The term 'average net price' means the quotient (stated per hundred pounds of carcass weight of swine) obtained by dividing the total amount paid for the swine slaughtered at a packing plant during the applicable reporting period (including all premiums and less all discounts) by the total carcass weight of the swine (in hundred pound increments). The average net price includes any sum deducted from the price (per hundredweight) paid to a producer that reflects the repayment of a balance owed by the producer to the packer, or the accumulation of a balance to later be repaid by the packer to the producer, less all discounts.

Average sort loss. The term 'average sort loss' means the average discount (in dollars per hundred pounds carcass weight) for swine slaughtered during the applicable reporting period, resulting from the fact that the swine did not fall within the individual packer's established carcass weight range or lot variation range.

Barrow. The term 'barrow' means a neutered male swine, with the neutering performed before the swine reached sexual maturity.

Base market hog. The term 'base market hog' means a hog for which no discounts are subtracted from and no premiums are added to the base price.

Boars. The term 'boar' means a sexually-intact male swine.

Bred female swine. The term 'bred female swine' means any female swine, whether a sow or gilt, that has been mated or inseminated, or has been confirmed, to be pregnant.

Formula price. The term 'formula price' means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

Gilt. The term 'gilt' means a young female swine that has not produced a litter.

Highest net price. The term 'highest net price' means the highest net price paid for a single lot or group of swine slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of swine.

Hog Class. The term 'hog class' means, as applicable, barrows or gilts; sows; or boars or stags.

Lowest net price. The term 'lowest net price' means the lowest net price paid for a single lot or group of swine slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of swine.

Net price. The term 'net price' means the total amount paid by a packer to producers (including all premiums, less all discounts) per hundred pounds of carcass weight of swine delivered at the plant. The total amount paid shall include any sum deducted from the price (per hundredweight) paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer. The total amount paid shall exclude any sum earlier paid to a producer that must be repaid to the packer.

Noncarcass merit premium. The term 'noncarcass merit premium' means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

Other market formula purchase. The term 'other market formula purchase' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on any market other than the market for swine, pork, or a pork product. The term 'other market formula purchase' includes a formula purchase in a case which the price formula is based on 1 or more futures or options contracts.

Other purchase arrangement. The term 'other purchase arrangement' means a purchase of swine by a packer that is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase; and does not involve packer-owned swine.

Packer. The term 'packer' means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term 'packer' includes only a Federally inspected swine processing plant that slaughtered an average of 100,000 head of swine per year during the immediately preceding 5 calendar years. Additionally, in the case of a swine processing plant that did not slaughter swine during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant should be considered a packer under this subpart after considering its capacity.

Packer-owned swine. The term 'packer-owned swine' means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.

Packer-sold swine. The term 'packer-sold swine' means the swine that are owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and sold for slaughter to another packer.

Pork. The term 'pork' means the meat of a porcine animal.

Pork product. The term 'pork product' means a product or byproduct produced or processed in whole or in part from pork.

Purchase data. The term 'purchase data' means all of the applicable data, including weight (if purchased live), for all swine purchased during the applicable reporting period, regardless of the expected delivery date of the swine, reported by:

(1) Hog class;

(2) Type of purchase; and

(3) Packer-owned swine.

Slaughter data. The term 'slaughter data' means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of whether the price of the swine was negotiated or otherwise determined, reported by:

(1) Hog class;

(2) Type of purchase; and

(3) Packer-owned swine.

Sow. The term 'sow' means an adult female swine that has produced 1 or more litters.

Stag. The term 'stag' means a male swine that was neutered after reaching sexual maturity.

Swine. The term 'swine' means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

Swine or pork market formula purchase. The term 'swine or pork market formula purchase' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

Type of purchase. The term 'type of purchase', with respect to swine, means:

(1) A negotiated purchase;

(2) Other market formula purchase;

(3) A swine or pork market formula purchase; and

(4) Other purchase arrangement.

§ 57.201 General Reporting Provisions.

(a) *Packer-owned swine.* Information required under this section for packer-owned swine shall include quantity and carcass characteristics, but not price.

(b) *Packer-sold swine.* If information regarding the type of purchase is required under this section, the information shall be reported according to the numbers and percentages of each type of purchase:

(1) Packer-sold swine; and

(2) All other swine.

§ 57.202 Mandatory Daily Reporting for Swine.

(a) *Prior day report.* The corporate officers or officially designated representatives of each packer shall report to the Secretary for each business day of the packer not later than 7:00 a.m. Central Time on each reporting day information regarding all swine purchased, priced, or slaughtered during the prior business day of the packer as specified in § 57.10(b):

(1) All purchase data including the total number of swine purchased and swine scheduled for delivery; and the base price and purchase data for slaughtered swine for which a price has been established.

(2) The following slaughter data for the total number of swine slaughtered:

(i) Information concerning the net price;

(ii) Information concerning the average net price;

(iii) Information concerning the lowest net price;

(iv) Information concerning the highest net price;

(v) The average carcass weight;

(vi) The average sort loss;

(vii) The average backfat;

(viii) The average lean percentage; and

(ix) Total quantity slaughtered.

(3) Packer purchase commitments, which shall be equal to the number of swine scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(4) *Publication.* The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 8:00 a.m. Central Time on the reporting day on which the information is received from the packer.

(b) *Morning report.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day as described in § 57.10(b):

(1) The packer's best estimate of the total number of swine, packer-owned swine, and packer-sold swine expected to be purchased throughout the reporting day through each type of purchase;

(2) The total number of swine, packer-owned swine, and packer-sold swine purchased up to that time of the reporting day through each type of purchase;

(3) The base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(4) The base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis. The packer shall report information on such purchases on the first reporting day or scheduled reporting time on a reporting day after the price has been determined.

(5) *Publication.* The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11:00 a.m. Central Time, on each reporting day.

(c) *Afternoon report.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary not later than 2:00 p.m. Central Time each reporting day as described in § 57.10(b):

(1) The packer's best estimate of the total number of swine, packer-owned swine, and packer-sold swine expected to be purchased throughout the reporting day through each type of purchase;

(2) The total number of swine, packer-owned swine, packer-sold swine purchased up to that time of the reporting day through each type of purchase;

(3) The base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(4) The base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis. The packer shall report information on such purchases on the first reporting day or scheduled reporting time on a reporting day after the price has been determined.

(5) *Publication.* The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.

§ 57.203 Mandatory Weekly Reporting for Swine.

(a) *Weekly noncarcass merit premium report.* Not later than 4:00 p.m. Central Time in accordance with § 57.10(b) on the first reporting day of each week, the corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary a noncarcass merit premium report that lists:

(1) Each category of standard noncarcass merit premiums used by the packer in the prior slaughter week; and

(2) The dollar value (in dollars per hundred pounds of carcass weight) paid to producers by the packer, by category.

(b) *Premium list.* A packer shall maintain and make available to a producer, on request, a current listing of the dollar values (per hundred pounds of carcass weight) of each noncarcass merit premium used by the packer during the current or the prior slaughter week.

(c) *Publication.* The Secretary shall publish the information obtained under this subsection as soon as practicable, but not later than 5:00 p.m. Central Time, on the first reporting day of each week.

Subpart D—Lamb Reporting

§ 57.300 Definitions.

The following definitions apply to this subpart:

Branded. The term 'branded' means boxed lamb cuts which are marketed based on a distinctive characteristic or combination of characteristics. These characteristics are categorized by quality grade (including ungraded or no-roll), trim specification, weight, breed, and packaging.

Formula marketing arrangement. The term 'formula marketing arrangement' means the advance commitment of lambs for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date. When used in reference to boxed lamb, the term 'formula marketing arrangement' means the advance commitment of boxed lamb cuts for delivery by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

Forward contract. The term 'forward contact' means an agreement for the purchase of lambs, executed in advance of slaughter, under which the base price is established by reference to publicly available prices. When used in reference to boxed lamb, the term 'forward contract means' an agreement for the sale of boxed lamb cuts, executed in advance of manufacture, under which the base price is established by reference to publicly available quoted prices.

Importer. The term 'importer' means any person engaged in the business of importing meat products from lambs for sale or shipment in commerce. For any calendar year, the term includes only those that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years. Additionally, the term includes those that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years, if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

Lambs committed. The term 'lambs committed' means lambs that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the lambs.

Packer. The term 'packer' means any person engaged in the business of buying lambs in commerce for purposes of slaughter, of manufacturing or preparing meat products from lambs for sale or shipment in commerce, or of marketing meats or meat products from lambs in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term includes only a Federally inspected lamb processing plant which slaughtered or processed the equivalent of an average of 75,000 head of lambs per year during the immediately preceding 5 calendar years. Additionally, the term includes a lamb processing plant that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity.

Packer-owned lambs. The term 'packer-owned lambs' means lambs that a packer owns for at least 14 days immediately before slaughter.

Terms of trade. The term 'terms of trade' includes, with respect to the purchase of lambs for slaughter:

(1) Whether a packer provided any financing agreement or arrangement with regard to the lambs;

(2) Whether the delivery terms specified the location of the producer or the location of the packer's plant;

(3) Whether the producer is able to unilaterally specify the date and time during the business day of the packer that the lambs are to be delivered for slaughter; and

(4) The percentage of lambs purchased by a packer as a negotiated purchase that are delivered to the plant for slaughter more than 7 days, but fewer than 14 days, after the earlier of either the date on which the lambs were committed to the packer, the date on which the lambs were purchased by the packer, or the date on which the lambs were priced by the packer.

Type of purchase. The term 'type of purchase' means a negotiated purchase, a formula market arrangement, and a forward contract.

Type of sale. The term 'type of sale' with respect to boxed lamb, means a negotiated sale, a formula market arrangement, and a forward contract.

§ 57.301 Mandatory daily reporting for lambs.

(a) In General. The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day not later than 10:00 a.m. Central Time and not later than 2:00 p.m. Central Time the following information for lamb, categorized to clearly delineate domestic from imported market purchases as described in § 57.10(b):

(1) The prices for lambs (per hundredweight) established on that day, categorized by:

(i) The type of purchase;

(ii) The quantity of lambs purchased on a live weight basis;

(iii) The quantity of lambs purchased on a dressed weight basis;

(iv) A range and average of estimated live weights of lambs purchased;

(v) An estimate of the percentage of the lambs purchased that were of a quality grade of Choice or better;

(vi) Any premiums or discounts associated with weight, quality grade, or yield grade;

(vii) Lamb State of origin;

(viii) Slaughter plant destination;

(ix) Expected date of slaughter; and

(x) Estimated lamb dressing percentage.

(2) The quantity of lambs delivered to the packer (quoted in numbers of head) on that day, categorized by the quantity of lambs delivered on a live basis and the quantity of lambs delivered on a dressed basis.

(3) The quantity of lambs committed to the packer (quoted in numbers of head) as of that day, categorized by the quantity of lambs to be delivered on a live basis and the quantity of lambs to be delivered on a dressed basis.

(4) The terms of trade regarding the lambs, as applicable.

(b) *Publication.* The Secretary shall make the information available to the public not less than twice each reporting day.

§ 57.302 Mandatory Weekly Reporting for Lambs.

(a) *In general.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information applicable to the prior slaughter week categorized to clearly delineate domestic from imported market purchases:

(1) The quantity of lambs purchased through forward contracts that were slaughtered.

(2) The quantity of lambs delivered under a formula marketing arrangement that were slaughtered.

(3) The quantity and carcass characteristics of packer-owned lambs that were slaughtered, including:

(i) The quantity of lambs purchased on a live weight basis;

(ii) The quantity of lambs purchased on a dressed weight basis;

(iii) A range and average of estimated live weights of lambs purchased;

(iv) An estimate of the percentage of the lambs purchased that were of a quality grade of Choice or better;

(v) Lamb State of origin;

(vi) Estimated lamb dressing percentage;

(vii) Price basis as F.O.B. or delivered; and

(viii) Shrink factor.

(4) The quantity, basis level, and delivery month for all lambs purchased through forward contracts.

(5) The range and average of intended premiums and discounts (associated with weight, quality grade, or yield grade) that are expected to be in effect for the current slaughter week.

(b) *Premiums and discounts.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information applicable to the current slaughter week. The range and average of intended premiums and discounts associated with weight, quality grade, or yield grade, categorized to clearly delineate domestic from imported purchases.

(c) *Formula purchases.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary on the first reporting day of each week, not later than 9 a.m. Central Time, the following information for lambs purchased through a formula marketing arrangement and slaughtered during the prior week:

(1) The quantity (quoted in both numbers of head and pounds) of lambs;

(2) The weighted average price paid for a carcass, including applicable premiums and discounts, associated with weight, quality grade, or yield grade;

(3) The range of premiums and discounts, associated with weight, quality grade, or yield grade, paid;

(4) The weighted average of premiums and discounts, associated with weight, quality grade, or yield grade, paid;

(5) The actual premium and discount paid by carcass characteristic;

(6) The range of prices paid;

(7) The aggregate weighted average price paid for a carcass;

(8) The terms of trade regarding the lambs, as applicable; and

(9) The quantity, basis level, and delivery month for all lamb purchased.

(d) *Forward contract purchases.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary on the first reporting day of each week, not later than 9 a.m. Central Time, the following information for lambs purchased through a forward contract arrangement and slaughtered during the prior week:

(1) The quantity (quoted in both numbers of head and pounds) of lambs;

(2) The weighted average price paid for a carcass, including applicable premiums and discounts, associated with weight, quality grade, or yield grade;

(3) The range of premiums and discounts, associated with weight, quality grade, or yield grade, paid;

(4) The weighted average of premiums and discounts, associated with weight, quality grade, or yield grade, paid;

(5) The actual premium and discount paid by carcass characteristic;

(6) The range of prices paid;

(7) The aggregate weighted average price paid for a carcass;

(8) The terms of trade regarding the lambs, as applicable; and

(9) The quantity, basis level, and delivery month for all lamb purchased.

(e) *Publication.* The Secretary shall make available to the public the information obtained under paragraphs (a), (b), (c), and (d) of this section on the first reporting day of the current slaughter week.

§ 57.303 Mandatory reporting of lamb carcasses and boxed lamb.

(a) *Daily reporting of domestic lamb carcass transactions.* The corporate officers or officially designated representatives of each packer shall report to the Secretary each reporting day the following information on total domestic lamb carcass transactions not later than 3:00 p.m. Central Time in accordance with § 57.10(b):

(1) The price for each lot of each lamb carcass transaction, quoted in dollars per hundredweight on an F.O.B. plant basis;

(2) The quantity for each lot of each transaction, quoted by number of carcasses sold or bought; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of sale;

(ii) The U.S.D.A. quality grade of lamb;

(iii) The trim specification or U.S.D.A. yield grade;

(iv) The estimated weight range of the carcasses;

(v) The product delivery date;

(vi) The product manufacture date; and

(vii) The product buyer and delivery location.

(b) *Daily reporting of domestic boxed lamb sales.* The corporate officers or officially designated representatives of each packer shall report to the Secretary each reporting day the following information on domestic total boxed lamb cut sales not later than 2:30 p.m. Central Time as described in § 57.10(b):

(1) The price for each lot of each boxed lamb cut sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of each sale, quoted by number of boxes or product weight sold; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of sale;

(ii) The branded product characteristics, if applicable;

(iii) The U.S.D.A. quality grade of lamb;

(iv) The cut of lamb, referencing the USDA's Livestock and Seed Program Institutional Meat Purchase Specifications (IMPS), Fresh Lamb and Mutton Series 200;

(v) The cut or trim specification or U.S.D.A. yield grade;

(vi) The weight range of the cut;

(vii) The product delivery period;

(viii) The product manufacture date; and

(ix) The product buyer and delivery location.

(c) *Weekly reporting of imported lamb carcass purchases.* The corporate officers or officially designated representatives of each lamb importer shall report to the Secretary on the first reporting day of each week the following information applicable to the prior week for imported lamb carcass purchases not later than 10:00 a.m. Central Time:

(1) The price for each lot of each lamb carcass transaction, quoted in dollars per hundredweight on an F.O.B. Ex-Dock basis;

(2) The quantity for each lot of each transaction, quoted by number of carcasses bought; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of purchase;

(ii) The estimated weight range of the carcasses;

(iii) The product delivery date; and

(iv) The product country of origin.

(d) *Weekly reporting of imported boxed lamb purchases.* The corporate officers or officially designated representatives of each lamb importer shall report to the Secretary on the first reporting day of each week the following information applicable to the prior week for imported boxed lamb cut purchases not later than 10:00 a.m. Central Time:

(1) The price for each lot of each boxed lamb cut purchase, quoted in dollars per hundredweight on an F.O.B. Ex-Dock basis;

(2) The quantity for each lot of each transaction, quoted by number of boxes or product weight bought; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of purchase;

(ii) The branded product characteristics, if applicable;

(iii) The cut of lamb;

(iv) The trim specification;

(v) The weight range of the cut;

(vi) The product delivery period; and

(vii) The product country of origin.

(e) *Weekly reporting of imported boxed lamb sales.* The corporate officers or officially designated representatives of each lamb importer shall report to the Secretary on the first reporting day of each week the following information applicable to the prior week for imported boxed lamb cut sales not later than 10:00 a.m. Central Time:

(1) The price for each lot of each boxed lamb cut sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of each transaction, quoted by number of boxes or product weight bought; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of sale;

(ii) The branded product characteristics, if applicable;

(iii) The cut of lamb;

(iv) The trim specification;

(v) The weight range of the cut;

(vi) The product delivery period; and

(vii) The product country of origin.

(f) *Publication.* The Secretary shall make available to the public the information required to be reported under paragraphs (a) and (b) of this section not less frequently than once each reporting day and the information required to be reported under paragraphs (c), (d), and (e) of this section on the first reporting day of the current slaughter week.

Subpart E—OMB Control Number

§ 57.400 OMB Control Number Assigned Pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements of this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581–0186.

Dated: March 9, 2000.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

Note: The following Appendices will not appear in the Code of Federal Regulations.

Appendix A.—Cattle Mandatory Reporting Forms

The following 6 forms referenced in Subpart B Part 57 would be used by persons required to report electronically transmitted mandatory market information on domestic and import sales and purchases of live cattle and boxed beef to the Agricultural Marketing Service.

Cattle

LS–113 Live Cattle Daily Report (Current Established Prices)

LS–114 Live Cattle Daily Report (Committed and Delivered Cattle)

LS–115 Live Cattle Weekly Report (Forward Contract and Packer-Owned)

LS–116 Live Cattle Weekly Report (Formula Purchases)

LS–117 Cattle Premiums and Discounts Weekly Report

LS–126 Boxed Beef Daily Report

Appendix B.—Swine Mandatory Reporting Forms

The following 3 forms referenced in Subpart C of Part 57 would be used by persons required to report electronically transmitted mandatory market information on domestic and import sales and purchases of live swine to the Agricultural Marketing Service.

Swine

LS–118 Swine Prior Day Report

LS–119 Swine Daily Report

LS–120 Swine Noncarcass Merit Premium Weekly Report

Appendix C.—Lamb Mandatory Reporting Forms

The following 7 forms referenced in Subpart D of Part 57 would be used by persons required to report electronically transmitted mandatory market information on domestic and import sales and purchases of live lamb and boxed lamb to the Agricultural Marketing Service.

Lamb

LS–121 Live Lamb Daily Report (Current Established Prices)

LS–122 Live Lamb Daily Report (Committed and Delivered Lambs)

LS–123 Live Lamb Weekly Report (Packer-Owned)

LS–124 Live Lamb Weekly Report (Formula and Forward Contract Purchase)

LS–125 Lamb Premiums and Discounts Report

LS–128 Boxed Lamb Report

LS–129 Lamb Carcass Report

BILLING CODE 3410–02–P

Appendix A

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB NO. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE CATTLE DAILY REPORT
(Current Established Prices)

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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REPORTING DATE: ____/____/____

REPORTING TIME: ☐ 10:00 A.M. ☐ 2:00 P.M.

PAGE _____ OF _____

1. COMPANY NAME
2. PLANT LOCATION
3. PLANT ADDRESS
4. CONTACT NAME
5. PHONE NO. *(Include Area Code)*

6. PURCHASE TYPE	7. CLASS	8. MAJORITY GRADE
1 = NEGOTIATED	M = MIXED STEER/HEIFER	1 = PRIME
2 = NEGOTIATED *(Auction/Terminal)*	S = STEER	2 = CHOICE
3 = FORMULA MARKETING ARRANGEMENT	H = HEIFER	3 = SELECT
4 = FORWARD CONTRACT	D = DAIRYBRED STEER/HEIFER	4 = STANDARD
	CD = DAIRY COW	5 = CUTTER/CANNER 90%
	CB = BEEF COW	6 = BONER 85%
	B = BULL	7 = BREAKER 75%
	O = OTHER	8 = BULL 92%

LOT ID (9)	DOMESTIC (D) OR IMPORTED (I) (10)	PURCHASE TYPE (11)	CLASS (12)	BASIS *(L = Live D = Drsd)* (13)	SHIP *1 = FOB 2 = Divd.* (14)	HEAD COUNT (15)	WEIGHT RANGE *(Pounds)* (16)	ESTIMATED AVERAGE WEIGHT *(Pounds)* (17)	PRICE *($/cwt)* (18)	% CHOICE OR BETTER (19)	MAJORITY GRADE (20)	ESTIMATED DRESSING PERCENTAGE (21)	ORIGIN *(2-letter State abbr.)* (22)	SLAUGHTER DATE *(mm/dd/yy)* (23)	PREMIUMS AND DISCOUNTS PAID: WEIGHT (24)	QUALITY (25)	CUTABILITY (26)	OTHER (27)

LS-113 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB No. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE CATTLE DAILY REPORT
(Committed and Delivered Cattle)

REPORTING DATE: _____/_____/_____

REPORTING TIME: ☐ 10:00 A.M. ☐ 2:00 P.M.

PAGE _____ OF _____

NOTE: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

1. COMPANY NAME
2. PLANT LOCATION
3. PLANT ADDRESS
4. CONTACT NAME
5. TELEPHONE NO. *(Include Area Code)*

CLASS
M = MIXED STEER/HEIFER
S = STEER
H = HEIFER
CD = DAIRY COW
CB = BEEF COW
B = BULL
O = OTHER

LOT ID (6)	D = DELIVERED C = COMMITTED (7)	CLASS (8)	HEAD COUNT LIVE BASIS (9)	HEAD COUNT DRESSED BASIS (10)	CATTLE ORIGIN *(2-letter State abbr.)* (11)	TERMS OF TRADE: DID PACKER PROVIDE FINANCING AGREEMENT OR ARRANGEMENT WITH REGARDS TO CATTLE? (Y = YES; N = NO) (12)	TERMS OF TRADE: DO DELIVERY TERMS SPECIFY LOCATION OF PRODUCER OR LOCATION OF PACKER'S PLANT? (1 = PRODUCER 2 = PACKER (13)	TERMS OF TRADE: CAN PRODUCER UNILATERALLY SPECIFY DATE AND TIME CATTLE ARE TO BE DELIVERED FOR SLAUGHTER? (Y = YES; N = NO) (14)	TERMS OF TRADE: NUMBER OF NEGOTIATED PURCHASED CATTLE TO BE DLVD. FOR SLAUGHTER <7 AND <14 DAYS FROM COMMITTED, PURCHASED, OR PRICED DATE. (15)

LS-114 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB No. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE CATTLE WEEKLY REPORT
(Forward Contract and Packer-Owned)

PRIOR WEEK ENDED: _____/_____/_____

PAGE _____ OF _____

NOTE: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

6. SLAUGHTERED CATTLE QUANTITY *(Cattle slaughtered during the prior week)*

	HEAD COUNT	
	DOMESTIC	IMPORTED
FORWARD CONTRACT CATTLE:		
FORMULA MARKETING ARRANGEMENT CATTLE:		

PACKER-OWNED CATTLE							FORWARD CONTRACT CATTLE PURCHASED *(Cattle purchased during the prior week)*		
DOMESTIC (D) OR IMPORTED (I) (7)	HEAD COUNT (8)	ESTIMATED LIVE WEIGHT RANGE (9)	ESTIMATED AVERAGE LIVE WEIGHT (10)	ORIGIN *(2-Letter State abbr.)* (11)	ESTIMATED % QUALITY GRADE CHOICE OR BETTER (12)	ESTIMATED DRESSING PERCENTAGE (13)	HEAD COUNT (14)	BASIS LEVEL *($/cwt)* (15)	DELIVERY MONTH (16)

LS-115 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB NO. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

LIVE CATTLE WEEKLY REPORT
(Formula Purchases)

PRIOR WEEK ENDING: _____/_____/_____

PAGE _____ OF _____

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. PHONE NO. (*Include Area Code*)

6. TERMS OF TRADE

1 = PACKER PROVIDED FINANCING ARRANGEMENT OR AGREEMENT WITH REGARDS TO CATTLE (Y = Yes; N = No)

2 = DELIVERY TERMS SPECIFY LOCATION OF PRODUCER (1) OR OF PLANT (2)

3 = PRODUCER SPECIFIED DATE AND TIME OF DELIVERY AND SLAUGHTER (Y = Yes, N = No)

FORMULA MARKETING ARRANGEMENT CATTLE SLAUGHTERED

LOT ID	DOMESTIC (D) OR IMPORTED (I)	HEAD COUNT	TOTAL POUNDS	WEIGHTED AVERAGE CARCASS PRICE	RANGE OF PRICES PAID	WEIGHTED AVERAGE AGGREGATE PRICE	PREMIUMS AND DISCOUNTS PAID		TERMS OF TRADE (See above)		
							RANGE	WEIGHTED AVERAGE	1 Y OR N	2 1 OR 2	3 Y OR N

LS-116 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.* **FORM APPROVED.** - OMB No. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

CATTLE PREMIUMS AND DISCOUNTS WEEKLY REPORT

INTENTIONS FOR WEEK BEGINNING:

_____/_____/_____

NOTE: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

PREMIUM/DISCOUNT		RANGE	AVERAGE
QUALITY CHARACTERISTICS			
PRIME			
CHOICE			
SELECT			
STANDARD			
AVG. CHOICE OR BETTER			
DAIRY-TYPE			
BULLOCK/STAG			
HARDBONE			
DARK CUTTER			
OTHER *(Describe)*			
CUTABILITY CHARACTERISTICS			
GRADE	FAT COVER*		
1.0 - 2.0	<.1"		
2.0 - 2.5	<.2"		
2.5 - 3.0	<.4"		
3.0 - 3.5	<.6"		
3.5 - 4.0	<.8"		
4.0 - 5.0	<1.2"		
5.0/UP	>1.2"		
Other *(Describe)*			
WEIGHT CHARACTERISTICS			
400-500 LBS.			
500-550 LBS.			
550-600 LBS.			
600-900 LBS.			
900-950 LBS.			
950-1000 LBS.			
OVER 1000 LBS.			
OTHER *(Describe)*			
OTHER *(Describe)*			

*If yield grades are not available, yield differentials may be based on fat at 12th rib using a constant of average ribeye area and muscling for carcass weight and KPH. Superior or inferior muscling may adjust lean yield.

LS-117 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB NO. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

BOXED BEEF DAILY REPORT

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 8 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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REPORTING DATE: ____/____/____

REPORTING TIME: ☐ 10:00 A.M. ☐ 2:00 P.M.

PAGE _____ OF _____

1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. PHONE NO. *(Include Area Code)*

6. DELIVERY CODE	8. CLASS CODE	9. GRADE CODE	10. BRANDED CODE	11. TRIM CODE
1 = 0-21 DAYS	M = MIXED STEER/HEIFER	1 = PRIME	1 = QUALITY	1 = 3/4" AVG; 1" MAX
2 = 22-60 DAYS	S = STEER	2 = CHOICE	2 = TRIM	2 = 1/4" AVG; 1/2" MAX
3 = 61-90 DAYS	H = HEIFER	3 = CERTIFIED	3 = WEIGHT	3 = 1/8" AVG; 1/4" MAX
4 = 91/UP DAYS	D = DAIRYBRED STEER/HEIFER	4 = SELECT	4 = BREED	4 = PRACTICALLY FREE; 1/8' MAX
7. TYPE OF SALE	MC = MIXED STEER/HEIFER/COW	5 = OTHER	5 = PACKAGING	5 = PEELED/DENUDED; 1/8" MAX
1 = NEGOTIATED	CD = DAIRY COW	6 = CUTTER/CANNER 90%		6 = PEELED/DENUDED SURFACE
2 = FORMULA MARKETING ARRANGEMENT	CB = BEEF COW	7 = BONER 85%		MEMBRANE REMOVED; 1/8" MAX
3 = FORWARD CONTRACT	B = BULL	8 = BREAKER 75%		
	O = OTHER	9 = BULL 92%		

DOMESTIC (D) OR EXPORT (E) (12)	CUT DATE *(mm/dd/yy)* (13)	TYPE OF SALE (14)	DELIVERY PERIOD CODE (15)	CLASS CODE (16)	USDA GRADE CODE (17)	BRANDED CODE (18)	BEEF CUT *(Reference Institutional Meat Purchase Specification (IMPS) Number)* (19)	TRIM SPEC CODE (20)	WEIGHT *L = Light H = Heavy M = Mixed* (21)	BOX COUNT *(or Weight for cows only)* (22)	FOB PLANT BASIS PRICE *($/cwt)* (23)	BUYER (24)	DESTINATION (25)

LS-126 (02-00)

Appendix B

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FORM APPROVED. - OMB No. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

SWINE PRIOR DAY REPORT

NOTE: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

REPORTING DATE: _____/_____/_____

PAGE _____ OF _____

1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

6. PACKER PURCHASE COMMITTMENTS ***(Swine scheduled for delivery each of next 14 days by head count)***

DAY 1:	DAY 5:	DAY 9:	DAY 13:
DAY 2:	DAY 6:	DAY 10:	DAY 14:
DAY 3:	DAY 7:	DAY 11:	
DAY 4:	DAY 8:	DAY 12:	

7. PURCHASED SWINE DATA

1 = NEGOTIATED
2 = NEGOTIATED (auction/terminal)
3 = FORMULA MARKETING ARRANGEMENT
4 = FORWARD CONTRACT

8. SLAUGHTERED SWINE SLAUGHTER DATA ***(Swine Slaughtered and Priced)***

BARROWS/GILTS BY PURCHASE TYPE	HEAD COUNT	NET PRICE	AVG. NET PRICE	LOWEST NET PRICE	HIGHEST NET PRICE	AVG. LIVE WEIGHT	AVG. CARCASS WEIGHT	AVG. SORT LOSS	AVG. BACKFAT	AVG. LEAN %
NEGOTIATED										
NEGOTIATED (AUCTION/TERMINAL)										
FORMULA MARKETING ARRANGEMENT										
FORWARD CONTRACT										
PACKER-OWNED										
PACKER SOLD										

SOWS BY PURCHASE TYPE	HEAD COUNT	NET PRICE	AVG. NET PRICE	LOWEST NET PRICE	HIGHEST NET PRICE	AVG. LIVE WEIGHT	AVG. CARCASS WEIGHT	AVG. SORT LOSS	AVG. BACKFAT	
NEGOTIATED										
NEGOTIATED (AUCTION/TERMINAL)										
FORMULA MARKETING ARRANGEMENT										
FORWARD CONTRACT										
PACKER-OWNED										
PACKER SOLD										

BOARS/STAGS BY PURCHASE TYPE	HEAD COUNT	NET PRICE	AVG. NET PRICE	LOWEST NET PRICE	HIGHEST NET PRICE	AVG. LIVE WEIGHT	AVG. CARCASS WEIGHT	AVG. SORT LOSS	AVG. BACKFAT	
NEGOTIATED										
NEGOTIATED (AUCTION/TERMINAL)										
FORMULA MARKETING ARRANGEMENT										
FORWARD CONTRACT										
PACKER-OWNED										
PACKER SOLD										

9. PURCHASED SWINE DATA

BARROWS/GILTS BY PURCHASE TYPE	BASE PRICE ($/CWT.)	TOTAL HEAD OF SWINE PURCHASED	LIVE WEIGHT
NEGOTIATED			
NEGOTIATED (AUCTION/TERMINAL)			
FORMULA MARKETING ARRANGEMENT			
FORWARD CONTRACT			
PACKER-OWNED			
PACKER SOLD			

SOWS BY PURCHASE TYPE	BASE PRICE ($/CWT.)	TOTAL HEAD OF SWINE PURCHASED	LIVE WEIGHT
NEGOTIATED			
NEGOTIATED (AUCTION/TERMINAL)			
FORMULA MARKETING ARRANGEMENT			
FORWARD CONTRACT			
PACKER-OWNED			
PACKER SOLD			

BOARS/STAGS BY PURCHASE TYPE	BASE PRICE ($/CWT.)	TOTAL HEAD OF SWINE PURCHASED	LIVE WEIGHT
NEGOTIATED			
NEGOTIATED (AUCTION/TERMINAL)			
FORMULA MARKETING ARRANGEMENT			
FORWARD CONTRACT			
PACKER-OWNED			
PACKER SOLD			

LS-118 (02-00)

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USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

SWINE DAILY REPORT

REPORTING DATE: ____/____/____

REPORTING TIME: ☐ 10:00 A.M. ☐ 2:00 P.M.

PAGE ____ OF ____

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1. COMPANY NAME
2. PLANT LOCATION
3. PLANT ADDRESS
4. CONTACT NAME
5. TELEPHONE NO. *(Include Area Code)*

PURCHASE TYPE	CLASS
1 = NEGOTIATED	BG = BARROWS/GILTS
2 = NEGOTIATED (auction/terminal)	S = SOWS
3 = FORMULA MARKETING ARRANGEMENT	B = BOARS/STAGS
4 = FORWARD CONTRACT	

SLAUGHTER SWINE DATA

LOT ID (6)	PURCHASE TYPE (7)	CLASS (8)	HEAD COUNT (9)	BASE PRICE *($/cwt)* (10)	ORIGIN *(2-letter State abbr.)* (12)

13. SWINE PURCHASES FOR TODAY

	ESTIMATED NUMBER OF HEAD	ACTUAL NUMBER OF HEAD
PACKER-OWNED SWINE	=	
BREAKDOWN BY PURCHASE TYPE:		
NEGOTIATED	=	
NEGOTIATED (auction/terminal)	=	
FORMULA MARKETING ARRANGEMENT	=	
TOTAL ESTIMATE	=	

REMARKS

LS-119 (02-00)

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USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

SWINE NONCARCASS MERIT PREMIUM WEEKLY REPORT

PRIOR SLAUGHTER WEEK ENDED:

_____/_____/_____

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1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

MERIT PREMIUM	RANGE	AVERAGE
NONCARCASS MERIT CATEGORY		
VOLUME		
TRANSPORT		
ACQUISITION		
DELIVERY TIMING		
OTHER *(Describe)*		

LS-120 (02-00)

Appendix C

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FORM APPROVED. - OMB NO. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE LAMB DAILY REPORT
(Current Established Prices)

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REPORTING DATE: ____/____/____

REPORTING TIME: ☐ 10:00 A.M. ☐ 2:00 P.M.

PAGE _____ OF _____

1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. PHONE NO. *(Include Area Code)*

6. PURCHASE TYPE	7. MAJORITY GRADE	8. PELT
1 = NEGOTIATED	1 = PRIME	1 = WOOLED
2 = NEGOTIATED *(auction/terminal)*	2 = CHOICE	2 = #1 FALL SHORN
3 = FORMULA MARKETING ARRANGEMENT	3 = GOOD	3 = #2
4 = FORWARD CONTRACT	4 = UTILITY	4 = #3-4
	5 = CULL	

LOT ID (9)	PURCHASE TYPE (10)	DOMESTIC (D) OR IMPORTED (I) (11)	BASIS *(L = Live D = Drsd)* (12)	SHIP *1 = FOB 2 = Dlvd.* (13)	HEAD COUNT (14)	WEIGHT RANGE *(Pounds)* (15)	ESTIMATED AVERAGE WEIGHT *(Pounds)* (16)	PRICE *($/cwt)* (17)	% CHOICE OR BETTER (18)	MAJORITY GRADE (19)	ESTIMATED DRESSING PERCENTAGE (20)	ORIGIN *(2-letter State abbr.)* (21)	DELIVERY DATE *(mm/dd/yy)* (22)	PELT (23)	PREMIUMS AND DISCOUNTS PAID: WEIGHT (24)	QUALITY (25)	YIELD (26)	OTHER (27)

LS-121 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB No. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE LAMB DAILY REPORT
(Committed and Delivered Lambs)

REPORTING DATE: ____/____/____

REPORTING TIME: ☐ 10:00 A.M. ☐ 2:00 P.M.

PAGE ____ OF ____

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1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

LOT ID	D = DELIVERED C = COMMITTED	HEAD COUNT		LAMB ORIGIN *(2-letter State abbr.)*	TERMS OF TRADE			
		LIVE BASIS	DRESSED BASIS		DID PACKER PROVIDE FINANCING AGREEMENT OR ARRANGEMENT WITH REGARDS TO LAMBS? (Y = YES; N = NO)	DO DELIVERY TERMS SPECIFY LOCATION OF PRODUCER OR LOCATION OF PACKER'S PLANT? (1 = PRODUCER 2 = PACKER	CAN PRODUCER UNILATERALLY SPECIFY DATE AND TIME LAMBS ARE TO BE DELIVERED FOR SLAUGHTER? (Y = YES; N = NO)	NUMBER OF NEGOTIATED PURCHASED LAMBS TO BE DLVD. FOR SLAUGHTER <7 AND <14 DAYS FROM COMMITTED, PURCHASED, OR PRICED DATE.
(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)

LS-122 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB No. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE LAMB WEEKLY REPORT
(Packer-Owned)

PRIOR WEEK ENDED: _____/_____/_____

PAGE _____ OF _____

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1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

PACKER-OWNED LAMBS

HEAD COUNT (6)	ESTIMATED LIVE WEIGHT RANGE (7)	ESTIMATED AVERAGE LIVE WEIGHT (8)	ORIGIN *(2-Letter State abbr.)* (9)	ESTIMATED % QUALITY GRADE CHOICE OR BETTER (10)	ESTIMATED DRESSING PERCENTAGE (11)

LS-123 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.*

FORM APPROVED. - OMB NO. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE LAMB WEEKLY REPORT
(Formula and Forward Contract Purchases)

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PRIOR WEEK ENDING: _____/_____/_____

PAGE _____ OF _____

1. COMPANY NAME
2. PLANT LOCATION
3. PLANT ADDRESS
4. CONTACT NAME
5. PHONE NO. *(Include Area Code)*

6. TERMS OF TRADE

1 = PACKER PROVIDED FINANCING ARRANGEMENT OR AGREEMENT WITH REGARDS TO LAMBS (Y = Yes; N = No)

2 = DELIVERY TERMS SPECIFY LOCATION OF PRODUCER (1) OR OF PLANT (2)

3 = PRODUCER SPECIFIED DATE AND TIME OF DELIVERY AND SLAUGHTER (Y = Yes, N = No)

7. SLAUGHTERED LAMB QUANTITY
(Slaughtered during prior week)

	HEAD OUNT	
	DOMESTIC	IMPORTED
FORWARD CONTRACT LAMBS:		
FORMULA MARKETING ARANGEMENT LAMBS:		

8. FORMULA MARKETING ARRANGEMENT AND FORWARD CONTRACT LAMBS SLAUGHTERED									9. FORMULA LAMBS PURCHASED *(Purchased during prior week)*			10. FORWARD CONTRACT LAMBS PURCHASED *(Purchased during prior week)*			11. TERMS OF TRADE (See above)		
							PREMIUMS AND DISCOUNTS PAID										
LOT ID	FORMULA = 1 FORWARD CONTRACT = 2	HEAD COUNT	TOTAL POUNDS	WEIGHTED AVERAGE CARCASS PRICE	RANGE OF PRICES PAID	WEIGHTED AVERAGE AGGREGATE CARCASS PRICE	RANGE	WEIGHTED AVERAGE	HEAD COUNT	BASIC LEVEL ($/CWT)	DELIVERY MONTH	HEAD COUNT	BASIC LEVEL ($/CWT)	DELIVERY MONTH	1 Y OR N	2 1 OR 2	3 Y OR N

LS-124 (02-00)

REPRODUCE LOCALLY. *Include form number and date on all reproductions.* **FORM APPROVED.** - OMB No. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LAMB PREMIUMS AND DISCOUNTS WEEKLY REPORT

INTENTIONS FOR WEEK BEGINNING: _____/_____/_____

NOTE: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

1. COMPANY NAME

2. PLANT LOCATION

3. PLANT NAME

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

PREMIUM/DISCOUNT		RANGE	AVERAGE
QUALITY CHARACTERISTICS			
PRIME			
CHOICE			
GOOD			
STANDARD			
CHOICE YG 2 OR BETTER			
BUCKY			
YEARLING OR OLDER			
OTHER *(Describe)*			
CUTABILITY CHARACTERISTICS			
GRADE	FAT COVER*		
1.0 - 2.0	<.16"		
2.0 - 3.0	<.26"		
3.0 - 4.0	<.36"		
4.0 - 5.0	<.46"		
5.0/UP	>.46"		
Other *(Describe)*			
WEIGHT CHARACTERISTICS			
UNDER 45 LBS.			
45-50 LBS.			
55-65 LBS.			
65-75 LBS.			
75-85 LBS.			
OVER 85 LBS.			
OTHER *(Describe)*			
PELTS			
WOOLED			
#1 FALL SHORN			
#2			
#3-4			
OTHER *(Describe)*			
OTHER *(Describe)*			

* If yield grades are not available, yield differentials may be based on fat at 12th rib using a constant of average ribeye area and muscling for carcass weight and KPH. Superior or inferior muscling may adjust lean yield.

LS-125 (02-00)

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FORM APPROVED. - OMB NO. 0581-0186

USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

BOXED LAMB REPORT

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REPORTING DATE: ____/____/____

PAGE ____ OF ____

1. COMPANY NAME
2. PLANT LOCATION
3. PLANT ADDRESS
4. CONTACT NAME
5. PHONE NO. *(Include Area Code)*

6. DELIVERY CODE	7. TYPE OF SALE/PURCHASE	8. BRANDED CODE	9. GRADE CODE	10. TRIM CODE
1 = 0-21 DAYS	1 = NEGOTIATED	1 = QUALITY	1 = PRIME	1 = 3/4" AVG; 1" MAX
2 = 22-60 DAYS	2 = FORMULA MARKETING ARRANGEMENT	2 = TRIM	2 = CHOICE	2 = 1/4" AVG; 1/2" MAX
3 = 61-90 DAYS	3 = FORWARD CONTRACT	3 = WEIGHT	3 = PRIME/CHOICE	3 = 1/8" AVG; 1/4" MAX
4 = 91/UP DAYS		4 = BREED	4 = CERTIFIED	4 = PRACTICALLY FREE; 1/8" MAX
		5 = PACKAGING	5 = GOOD	5 = PEELED/DENUDED; 1/8" MAX
			6 = UTILITY	6 = PEELED/DENUDED SURFACE
			7 = CULL	MEMBRANE REMOVED; 1/8" MAX
			8 = UNGRADED	

DOMESTIC (D) OR IMPORT (I) (11)	TYPE OF SALE/PURCHASE (12)	CUT DATE *(mm/dd/yy)* (13)	DELIVERY PERIOD CODE (14)	1 = FRESH 2 = FROZEN (15)	USDA GRADE CODE (16)	BRANDED CODE (17)	LAMB CUT *(Reference Institutional Meat Purchase Specifications (IMPS) Number)* (18)	TRIM SPEC CODE (19)	WEIGHT *L = Light H = Heavy M = Mixed* (20)	BOX COUNT OR PRODUCT WEIGHT (21)	FOB PLANT OR FOB EX-DOCK BASIS PRICE *($/cwt)* (22)	NATION OF ORIGIN (23)	BUYER (24)	DESTINATION (25)

LS-128 (02-00)

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USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LAMB CARCASS REPORT

REPORTING DATE: _____/_____/_____

PAGE _____ OF _____

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1. COMPANY NAME

2. PLANT LOCATION

3. PLANT ADDRESS

4. CONTACT NAME

5. TELEPHONE NO. *(Include Area Code)*

GRADE CODE
1 = PRIME
2 = CHOICE
3 = PRIME/CHOICE
4 = CERTIFIED
5 = GOOD
6 = UTILITY
7 = CULL
8 = UNGRADED

DOMESTIC (D) OR IMPORT (I) (6)	TYPE OF SALE/PURCHASE 1 = NEGOTIATED; 2 = FORMULA MARKETING ARRANGEMENT; 3 = FORWARD CONTRACT (7)	PRICE *($/cwt)* FOB PLANT DOM. EX-DOCK IMP. (8)	NUMBER OF CARCASSES (9)	USDA GRADE CODE (10)	YIELD GRADE (11)	ESTIMATED WEIGHT RANGE (12)	DELIVERY DATE *(mm/dd/yy)* (13)	MANUFACTURED DATE *(mm/dd/yy)* (14)	NATION OF ORIGIN (15)	BUYER (16)	DELIVERY DESTINATION (17)

LS-129 (02-00)

[FR Doc. 00–6322 Filed 2–14–00; 8:45 am]

BILLING CODE 3410–02–C

Federal Register

Friday,
March 17, 2000

Part III

Department of Housing and Urban Development

Fiscal Year 2000 Funding Availability for the Assisted Living Conversion Program (ALCP) for Section 202 Projects; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4581–N–01]

Fiscal Year 2000 Notice of Funding Availability for the Assisted Living Conversion Program (ALCP) for Section 202 Projects

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This NOFA announces the FY 2000 funding available for conversions of units within existing Section 202 projects into licensed Assisted Living Facilities (ALFs).

Purpose of the Program. The purpose of this program is to provide the owners/borrowers of Section 202, 202/8 and 202 Project Rental Assistance Contract (PRAC) projects designed for the elderly with a grant to allow conversion of some or all of the units in these housing projects into ALFs serving frail elderly, as defined in Section 232(B)(6) of the National Housing Act.

Available Funds. $50 million for Section 202 conversions to ALFs.

Eligible Applicants. Only owners/borrowers of eligible developments (as described in Section III of this NOFA) may apply for and become the recipient of a grant.

Application Due Date. July 17, 2000.

Match. None required.

ADDITIONAL INFORMATION:

I. Application Due Date, Application Kits, and Technical Assistance

Application Due Date. Your completed application (one original and four copies) is due on or before 6:00 pm, local time, on July 17, 2000, at the address shown below:

Addresses for Submitting Applications. The official place for receipt of your application is ONLY in the designated lead Multifamily Hub in the HUD State Office.

You must ALSO send one copy of your application to the Office of Portfolio Management, Room 6160, ATTN: ALCP Staff, HUD Building, 451 Seventh Street, SW, Washington, DC 20410

Submit an original and three copies of the ALCP application to the lead HUD Multifamily Hub, as designated in Section II of this NOFA, with jurisdiction over your development.

Appendix A to this NOFA lists the four (4) lead Multifamily Hubs with the Program Centers under them, to facilitate applicants knowing the correct location to send the application. Appendix B to this NOFA consists of a list of the four (4) lead HUD Housing Multifamily Hubs designated to receive ALCP applications, with addresses and phone numbers.

Application Submission Procedures. Mailed Applications. If your application is mailed, your application will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received by the appropriate HUD Multifamily Hub on or within ten (10) days of the application due date.

Applications Sent by Overnight/Express Mail Delivery. If your application is sent by overnight delivery or express mail, your application will be considered timely filed if received at the Multifamily Hub before or on the application due date, or upon submission of documentary evidence that the application was placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications. If your application is hand carried, the application will be accepted by a Multifamily Hub between 8:45 a.m. and 5:15 p.m., local time, Monday through Friday (except on designated national holidays, *e.g.*, Memorial Day (5/31/00) and Independence day (7/4/00)). On the application due date, applications will be accepted at the Hub up to 6:00 p.m. local time. This deadline is firm.

For Application Kits, Further Information, and Technical Assistance. For Application Kits. You may obtain an ALCP application kit and supplemental information by calling either the Multifamily Housing Clearinghouse at (voice) 1–800–MULTI–70 (1–800–685–8470). There is a separate application kit for service coordination information (which is necessary for those needing to enhance or add service coordination per Section III(A)(14) of this NOFA). Please make sure to provide your name, address (including zip code), and telephone number (including area code). The application kit is also available on the Internet through the HUD web site at http://www.hud.gov.

For Further Information and Technical Assistance. You should contact the lead Multifamily Hub where you will be mailing your ALCP Application. (Please refer to Hub telephone numbers in Appendix B.)

You also may contact Aretha Williams, Housing Project Manager, Office of Business Products, Room 6138, at (202)–708–2866 x2480, for questions regarding the physical conversion of the ALF. Ms. Williams can be reached, also by e:mail, at ''aretha__m.__williams@hud.gov''. For questions about management of the ALF and coordination with agencies of the Department of Health and Human Services and other third parties, you may contact Jerry Nachison, Senior Housing Project Manager, Office of Portfolio Management, Room 6168 at (202)–708–3730 x2485. Mr. Nachison may be reached also by e:mail at ''jerold__s.__nachison@hud.gov''. Both Ms. Williams and Mr. Nachison are located at the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410 (neither of the telephone numbers are toll free).

If you have a hearing or speech impairment, you may access either telephone number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

II. Amount Allocated

This NOFA makes available $50,000,000 for the physical conversion of section 202 projects or portions of projects to ALFs. The FY 2000 funding is in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, for the fiscal year ending September 30, 2000 (Pub.L. 106–74, 113 Stat. 1047, approved October 20, 1999).

Under the ALCP, the 18 HUD Multifamily Hubs are grouped into four geographic areas, so that the amount of fair-shared grant funds will be sufficient to enable reasonable competition, and insure projects of feasible size and quality.

The four geographic areas and the lead Hub under the ALCP for each are:

The lead Hub for the *East* Geographic Area is Buffalo (the other Hubs which feed into Buffalo for the ALCP are Boston, New York, Philadelphia, and Baltimore).

The lead Hub for the *South* Geographic Area is Greensboro (the other Hubs which feed into Greensboro for the ALCP are Atlanta, Jacksonville, and Fort Worth).

The lead Hub for the *Central* Geographic Area is Kansas City (the other Hubs which feed into Kansas City for the ALCP are Chicago, Columbus, Detroit, and Minneapolis).

The lead Hub for the *West* Geographic Area is San Francisco (the other Hubs which feed into San Francisco for the ALCP are Seattle, Los Angeles and Denver).

The allocation formula used for the ALCP reflects demographic characteristics of age and incidence of frailty that would be expected for program participants. The Fiscal Year (FY) 2000 formula consists of three data

elements from the 1990 decennial census:

(1) The number of non-institutional elderly population aged 55 years or older with a self-care limitation,

(2) The number of non-institutional elderly population aged 75 or older with a mobility limitation, and,

(3) The number of the non-institutional elderly population aged 75 or older with both a mobility limitation and a self-care limitation.

The data were taken from the 1990 Census Special Tabulation on Aging, STP–14, sponsored by the Administration on Aging, U.S. Department of Health and Human Services.

A mobility limitation is defined as a health condition that has lasted for six (6) or more months, making it difficult for the person to go outside the home alone. This includes outside activities such as shopping or visiting the doctor's office. A self-care limitation is defined as a health care limitation that has lasted for six (6) months or more which makes it difficult for the person to take care of his/her own personal needs such as dressing, bathing, or getting around in the home.

A fair share factor for each state was developed by taking the sum of the three elements within each state as a percentage of the sum of the three elements for the total United States. The resulting percentage for each state was then adjusted to reflect the relative difference in the cost of providing housing among the states. The total of the grant funds available ($50 million) was multiplied by the adjusted fair share percentage for each state, and the resulting funds for each state were totaled for each of the four geographic areas.

The ALCP grant funds fair share allocations for the four geographic areas are shown below:

FISCAL YEAR ALLOCATION 2000 FOR THE ASSISTED LIVING CONVERSION PROGRAM (ALCP)

Area	Grant authority
East	$14,760,882
South	14,567,452
Central	11,989,455
West	8,682,211
	50,000,000

III. Program Description; Eligible and Ineligible Applicants, Developments, and Activities

(A) Program Description

Assisted living facilities are designed to accommodate frail elderly and people with disabilities who can live independently but need assistance with activities of daily living (*e.g.*, assistance with eating bathing, grooming, dressing and home management activities. ALFs must provide support services such as personal care, transportation, meals, housekeeping, and laundry. Frail elderly person means an individual 62 years of age or older who is unable to perform at least three activities of daily living (ADLs) as defined by the regulations for HUD's Section 202 Program (Supportive Housing for the Elderly) at 24 CFR 891.205.

Assisted living is defined in section 232(b)(6) of the National Housing Act (12 U.S.C. 1715w). The ALCP provides funding for the physical costs of converting some or all of the units of a section 202 development into an ALF, including the unit configuration, common and services space and any necessary remodeling, consistent with HUD or the State's statute/regulations (whichever is more stringent).

Typical funding will cover basic physical conversion of existing project units, common and services space. There must be sufficient community space to accommodate a central kitchen or dining facility, lounges, recreation and other multiple-areas available to all residents of the Section 202 projects, or office/staff spaces in the ALF. When food is prepared at an off-site location, the preparation area of the facility must be of sufficient size to allow for the installation of a full kitchen, if necessary. You must provide supportive services for the residents either directly or through a third party. Your application must include a firm commitment for the supportive services to be offered within the ALF as part of the application. You may charge assisted living residents for meals and/or service fees. Residents may contract with third party agencies directly for nursing, therapy or other services not offered by the ALF.

(B) Program Requirements

The following program requirements apply:

(1) Your ALF facility must be licensed and regulated by the State (or if there is no State law providing such licensing and regulation, by the municipality or other subdivision in which the facility is located). Each assisted living unit must include its own kitchen, bathroom, living/dining area (1 bedroom unit) or bedroom/living/dining area (efficiency unit) and must meet the state and/or local licensing, building, zoning and other requirements for an ALF.

(2) Your ALF must be available to qualified elderly and persons with disabilities, consistent with the rules and payment plans of the State, who need and want the supportive services in order to remain independent and avoid premature institutionalization.

(3) Your ALF's residents are section 202 tenants and must comply with the requirements applicable thereto. Thus, you cannot charge additional rent over what is charged to residents in the non-ALF portion of the section 202 project. All admissions to the ALF must be through the section 202 project admissions office. However, persons accepted into the ALF also must sign an ALF admissions agreement which shall be an addendum to the section 202 lease.

(4) At a minimum, your ALF must provide room, board (as defined in Section III(A)(6)) of this NOFA) and continuous protective oversight (CPO). CPO involves a range of activities and services that may include such things as awareness by management and staff of the occupant's condition and location as well as an ability to intervene in a crisis for dependent and relatively independent occupants on a 24-hour basis. The two occupant groups in an ALF are:

(a) *Independent Occupants:* Awareness by management and staff of the occupant's condition and whereabouts as well as the availability of assistance for the occupants as needed.

(b) *Dependent occupants:* Supervision of nutrition, assistance with medication and continuous responsibility for the occupants' welfare.

(5) Anyone moving into an ALF unit must agree to accept as a condition of occupancy the board and services required for the purpose of complying with state and local law and regulation. *However, occupancy in an ALF unit may not be conditioned on receipt of other services or board not required by state or local requirements.*

(6) Your ALF must offer three meals per day to each resident.

(a) Residents in old section 202 (''SH'') projects (those approved before 1972) which may not have kitchens in their units must take such meals as required by their mandatory meals agreement, or by the state's mandated requirements if more stringent (*e.g.*, 2 meals, 2 snacks daily).

(b) Residents whose apartments have kitchens must take at least the number of meals a day provided by the facility, per their mandatory meals requirement, or as required by state or local rules, if more stringent. If the facility does not have a mandatory meals plan, then state and local rules govern.

In either case, ALF management must coordinate meals requirements with the needs of residents who are out part of the day, *e.g.*, in day care. The meals program may not be operated at a profit by the owner/borrower.

(7) Your ALF's operation must be part of the section 202 owner/borrower's management organization. Some or all of its functions may be contracted out. The ALF must predicate its budget on a two-tiered structure under which board and supportive service income and expenses must be maintained separately and independently from the regular income and expenses of the section 202 project. The two components of ALF costs are:

(a) Charges/payment for board, which may be on a sliding scale or any other equitable fee system; and

(b) Charges/payment for necessary supportive services, which may include a combination of resident fees, Medicaid and/or other third party payments.

(8) Priority admissions for ALF units is as follows:

(a) Current residents desiring an ALF unit and meeting the program requirements (no resident can be required to accept an ALF unit).

(b) Qualified individuals or families needing ALF services who are already on the section 202 project's waiting list;

(c) Qualified individuals or families in the community needing ALF services wanting to be added to the project's waiting list; and

Note: Qualified physically disabled non-elderly persons needing assisted living services are eligible to occupy these units on the same basis as elderly persons.

(9) The management of the section 202 project must set up a separate waiting list for ALF units. ALF units must be for eligible Section 202 residents who meet the admissions/discharge requirements as established for assisted living by State and local licensing, or HUD frailty requirements under 24 CFR 891.205 if more stringent.

(10) Costs of meals and supportive services are NOT covered by this HUD grant.

These items must be paid for through other sources, *e.g.*, a mix of resident fees and/or third party providers. Evidence of third party commitment(s) must be included as part of the application. (See Section IV(B) of this NOFA.) The assisted living supportive services program must promote independence and provide personal care assistance based on individual needs in a home-like environment (see Section VI(B)(8)(b) through (c) of this NOFA).

(11) Upon receipt of a grant under this program, all owner/borrowers participating in the ALCP must provide a Declaration of Restrictive Covenants (DRC), which will be recorded with the land, to retain the low income character of the housing, and to maintain the project (including the ALF), as a moderate, low, or very low income facility (as appropriate) for at least 20 years beyond the current 40-to-50 year term of the Section 202 mortgage loan or capital advance.

(12) In addition to the physical costs of the conversion (see Section VI(B)(5) of this NOFA), the grant will pay for reasonable legal, architectural and consultant fees, and temporary relocation costs for current tenants if they must vacate their unit while conversion work is underway (normal temporary relocation costs include increases in rent, reconnection of telephones, moving costs and appropriate out-of-pocket expenses).

(13) This program does NOT allow permanent displacement of any resident living in the project at the time the application was submitted to HUD.

(14) The ALCP requires service coordination responsible for linking the ALF to services in the community which are available to low income persons. All section 202 projects funded under this NOFA must have sufficient service coordination in place, or request additional funds if appropriate, to ensure that services meeting licensing requirements are available to ALF residents on an ongoing basis. Service coordination must be described in the application (see Section VI(B)(8)(b) through (c) of this NOFA). If you need to enhance an existing service coordination program or add one where it does not exist, you must apply for funding through the Service Coordinator NOFA, published elsewhere in this edition of the **Federal Register**, and attach a copy of the Form HUD 424M so indicating the request to the ALCP application. Alternatively, you may show evidence that funding for the enhanced service coordination is provided by other sources and indicate such funding on the HUD Form 424M which is exhibit 10(c) of your ALF application. If you are funded under this NOFA and requested new or enhanced service coordination in this application, you will be funded first under the service coordinator NOFA.

In addition to above requirements, the following applicable guidelines are stated:

(a) The ALF must be staffed either directly or through coordination with local agencies, depending on state regulations or local requirements. These may also serve non-ALF residents of the project on a time available and appropriate fee basis.

(b) The ALF may cater to the special needs of residents depending on the condition or diagnosis, such as Alzheimer's disease. If it does so, the design/environment of such facilities must accommodate those needs, *e.g.*, dementia special care unit. However, the ALF CANNOT provide a service it is not licensed by the State or locality to provide.

Note 1: Owners of section 202/PRAC projects are reminded that they may include a PRAC payment of up to $15/unit/month consistent with 24 CFR 891.225(b)(2) to cover part of the cost of meals and/or supportive services for frail elderly residents, including residents of the ALF.

Note 2: Training for ALF staff is an eligible project cost under existing operating procedures.

For further information on ALFs, please refer to Handbook 4600.1, CHG–1, ''Mortgage Insurance for Residential Care Facilities,'' Chapter 13. This Handbook and recent ALF program Notices are accessible through HUDCLIPS on HUD's web site. The URL for the HUDCLIPS Database Selection Screen is http://www.hudclips.org/subscriber/cgi/legis.cgi. These notices are in the Handbooks and Notices—Housing Notices database. Enter only the number without the letter prefix (*e.g.*, 99–16) in the ''Document number'' to retrieve the program notice.

For further guidance on service coordinators, please refer to Handbook 4381.5 REV–2, CHANGE–2, Chapter 8, ''The Management Agent's Handbook,'' which is also available through the HUDCLIPS database.

(C) Eligible Applicants

Only owner/borrower corporations defined in 24 CFR part 278 as it existed before April 1, 1995 (those section 202 projects funded before 1972), and in 24 CFR 891.200 and 891.500 (those section 202 projects funded from 1976 onward) are eligible for funding. To be eligible, owner/borrowers of any Section 202, 202/8 or Section 202/PRAC development must meet the following criteria:

(1) Must be in compliance with your Loan Agreement, Capital Advance Agreement, Regulatory Agreement, Housing Assistance Payment contract, Project Rental Assistance Contract, Rent Supplement or LMSA contract, or any other HUD grant or contract.

(2) Must be in compliance with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). See Section V(B) of this NOFA for further explanation.

Note: If your eligibility status changes during the course of the grant term, making

it ineligible to receive the grant (*e.g.*, prepayment of mortgage, sale/TPA of property, or opting out of a Section 8 Housing Assistance payment (HAP) contract), HUD retains the right to terminate the grant and recover funds made available through this NOFA.

(D) Eligible Developments

Section 202, 202/8 and 202/PRAC developments for the elderly that have been in occupancy for no less than five years since the date of the HUD–2485 Form ''permission to occupy'' permit and have completed Final Closing. Your project must:

(1) Meet HUD's Uniform Physical Conditions Standards at 24 CFR part 5, subpart G. Meeting these standards as described, means that the project, based on the most recent Real Estate Assessment center (REAC) physical inspection report and responses thereto, must have a ''satisfactory'' rating as evidenced by a score of 60 or better or an approved and on schedule repair plan for developments scoring less than 60. Additionally, the project must have no uncorrected and outstanding Exigent Health and Safety violations. Finally, the project must not have on file a management review with a rating of ''minimally satisfactory'' or ''unsatisfactory'' with open and unresolved findings.

(2) Have a residual receipts account separate from the Reserve for Replacement account, or agree to establish this account as a condition for getting the award(s).

(E) Ineligible Applicants

(1) Owners of Section 202 developments designed specifically for people with disabilities.

(2) Owners of Section 232 developments and any other project insured by one or more sections of the National Housing Act.

(3) Owners of Section 202/236 developments. These are section 202 projects which were converted to section 236 mortgage insurance during their development phase in the early 1970s.

(4) Property management companies and agents of property management companies.

(F) Eligible Conversion Activities

Eligible activities are:

(1) Retrofitting to meet Section 504 accessibility requirements, minimum property standards for accessibility and/or building codes and health and safety standards for ALFs in that jurisdiction. Examples are items such as addition of:

(a) Sprinkler systems;

(b) An elevator or upgrades thereto;

(c) Lighting upgrades;

(d) Major physical or mechanical systems of projects necessary to meet local code or assisted living requirements;

(e) Upgrading to accessible units for the ALF with moveable cabinetry, accessible appliances, sinks, bathroom and kitchen fixtures, closets, hardware and grab bars, widening of doors, *etc.*

(f) Upgrades to safety and emergency alert systems;

(g) Addition of hallway railings; and,

(h) Medication storage and work stations;

(2) Retrofitting to add, modify and/or outfit common space, office or related space for ALF staff including a service coordinator and file security, and/or a central kitchen/dining facility to support the ALF function (*e.g.*, outfit lounge/common space/dining furniture, kitchen equipment for cooking/serving and dishware).

(3) Retrofitting to upgrade a regular unit to an accessible unit for a person/family with disabilities who is being displaced from an accessible unit in the portion of the project that is being converted to the ALF, where such unit is not available.

(4) Temporary relocation; and,

(5) Consultant, architectural and legal fees.

(G) Ineligible Activities

You may not use funds available through this NOFA to:

(1) Add additional dwelling units to the existing project;

(2) Pay the costs of any of the necessary direct supportive services needed to operate the ALF;

(3) Purchase or lease additional land;

(4) Rehabilitate (see definition at 24 CFR 891.105) the project for needs unrelated directly to the conversion of units and common space for assisted living;

(5) Use the ALCP to reduce the number of accessible units in the project that are not part of the ALF and currently occupied by people with disabilities who need the features of an accessible unit;

(6) Permanently relocate any resident out of the project; and,

(7) Increase the management fee.

IV. Program Requirements

Each applicant must comply with the following requirements:

(A) Statutory, Regulatory and Other Program Requirements.

You must comply with all section 202 program statutory requirement (see Section 202 of the Housing Act of 1959 as amended) and regulatory requirements (see 24 CFR part 891) and statutory requirements under Section 232(b)(6). Please note that all ALCP projects must conform to the 500-year flood plain limitation (See Section VIII of this NOFA.) Construction of ALCP units is considered a ''critical action'' for purposes of the flood plain requirement.

Excess Residual Receipts (over $500/unit) and Reserve for Replacement (R4R) funds (over $1000/unit) in Project Accounts that are not approved for another use at the time of application to HUD under this NOFA are considered available funds and must be applied towards the cost of conversion activities. Before making this determination, however, HUD staff will consider the extent of repair/replacement needs indicated in the most recent REAC physical inspection and not yet approved and any ongoing commitments such as non-grant-based service coordinator or other funding, where existing, deduct the estimated costs of such items from the R4R and residual receipts balances to determine the extent of available residual receipts and R4R funds for the ALCP.

If funded, you must also file a HUD Form-2530 for all construction contractors, architects, consultants, and service provider organizations under direct contract with you that will be engaged under this NOFA and comply with all state and local licensing, zoning and building code requirements.

(B) Meals and Supportive Services

You must develop and submit a Supportive Services Plan (SSP) for the services and coordination of the supportive services which will be offered in the ALF to the appropriate State or local organization(s) which are expected to provide those supportive services. (See Section VI(B)(8) of this NOFA below, for the information which must be in the SSP.) You must submit one copy of your SSP to each appropriate state or local service funding organizations well in advance of the application deadline, for appropriate review. The state or local funding organization(s) must return the SSP to you with appropriate comments and indication of funding commitment, which you will then include with the application you submit to HUD.

You must ALSO submit the application to the appropriate organization(s) which license ALFs in your jurisdiction. The licensing agency(ies) must approve your plan, and must also certify that the ALF and the proposed supportive services identified in your SSP, is consistent with local statute and regulations and well

designed to serve the needs of the frail elderly and people with disabilities who will reside in the ALF portion of your project.

Finally, you must also submit an agreement to pursue appropriate ALF licensing in a timely manner.

(C) Minimum Size Limits for an ALF

An ALF must be economically feasible. Consistent with HUD Handbook 4600.1, CHG–1, the minimum size for an ALF is five units.

(D) Economic Opportunities for Low and Very Low-Income Persons (Section 3).

You must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low Income Persons), and its implementing regulations at 24 CFR part 135. You must ensure that training, employment and other economic opportunities shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low and very low income persons and including people with disabilities.

(E) Compliance with Fair Housing and Civil Rights Laws

If you, the applicant (a) have been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) are the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) have received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, your application will not be evaluated under this NOFA if, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department before the application deadline, HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(F) Additional Nondiscrimination Requirements

As you will be converting some of your project to an ALF, you should note that 24 CFR 891.120(b) requires you to meet all accessibility requirements. Additionally, you must comply with the section 504 regulations at 24 CFR part 8, the Americans with Disabilities Act and the regulations at 24 CFR part 36, as applicable.

V. Application Selection Process

(A) Review for Curable Deficiencies.

You should ensure that your application is complete before submitting it to HUD.

HUD will screen all applications received by the deadline for curable deficiencies. With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. *Examples* of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the appropriate HUD field office will notify you in writing by describing the clarification or technical deficiency. You must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the GMC within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or Federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or Federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding. The following is a list of the deficiencies that will be considered curable in ALCP applications:

Exhibits

(1) *(a) Articles of Incorporation, or certification of Articles of Incorporation

*(b) By-laws, or certification of by-laws

(c) Exhibit 3—Evidence of occupancy for at least five years

(d) Exhibit 5(c)—Original project plans

(e) Exhibit 5(h)—Relocation

(f) Exhibit 7 —Evidence of Permissive Zoning

(g) Exhibit 8(h)—Support Letters from Governmental Agencies that License ALFs

(10) *Certifications and Forms*

(a) Standard Form 424, Application for Federal Assistance

(b) Standard Form 424D, Assurances Construction Programs

(c) Form HUD 424M, Federal Assistance Funding Matrix

(d) Form HUD–50070, Drug-free Workplace

(e) Form HUD–50071, Payments to Influence Federal Transactions and Standard Form-LLL, Disclosure of Lobbying Activities

(f) Form HUD 2880, Applicant/Recipient Disclosure/Update Report, including Social Security and Employment Identification numbers

(g) Form HUD–2992, Certification Regarding Debarment and Suspension,

(h) Form HUD–2991, Certification of Consistency with the Consolidated Plan (Plan), for the Jurisdiction in Which the Proposed ALF will be located.

(i) Executive Order 12372 Certification, a certification that you have submitted a copy of your application, if required, to the State agency (single point of contact) for State review in accordance with Executive Order 12372.

(j) Certification of Residual Receipts Account

(k) Conflict of Interest Certification

(l) Certification for ALF

(m) Combined Certification

The HUD Office will notify you in writing if your application is missing any of the exhibits listed above and you will be given 14 days from the date of receipt of the HUD notification to submit the information required to cure the noted deficiencies. The exhibits listed in items 1(a)+(b), above, must be dated on or before the application deadline date. If not so dated the application will be rejected.

After the completeness review, HUD Field Office staff will review your application to determine whether the application meets the Field Office threshold requirements listed below. Only if your application meets all the threshold requirements is it eligible to be rated and ranked.

(B) Field Office Threshold Review

In order to pass threshold, you must:

(1) Be in compliance with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a), and as

noted earlier in this NOFA under Sections III(B)(2) and IV(E).

(2) Additionally, HUD will also reject your application if the SSP and/or commitment and support letter(s) from the appropriate funding organizations and the appropriate licensing agency(ies): (i) are not submitted with your application; (ii) indicate that the ALF units, facilities, meals and supportive services to be provided are not designed to meet the special needs of the residents who will reside in the ALF as defined in this NOFA, (iii) do not show commitment for funding the meals and supportive services proposed; or (iv) indicate that the project as proposed will not meet the licensing requirements of the appropriate State/local agency(ies).

(C) Rating Panels

The Office of Housing's Multifamily Hubs will establish review panels to rate all eligible applications that have passed threshold, using Rating Factors 1–5. The panels may include knowledgeable persons not currently employed by HUD.

(D) Rating of Applications

HUD staff teams will review and rate ALCP applications in accordance with the Ranking and Selection procedures (see Section V(E) of this NOFA below). All applications will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, it will be rated according to the rating selection factors in Section V(F) of this NOFA. HUD reserves the right to reduce the cost of the application if any proposed components are ineligible or if the cost of items is not deemed reasonable.

HUD will *NOT* reject an ALCP application based on technical review without notifying you of that rejection with all the reasons for the rejection, and providing you an opportunity to appeal. As discussed above, you will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the Multifamily Hub where the applications were sent originally. HUD staff make a determination on an appeal before finalizing selection recommendations.

(E) Ranking and Selection Procedures

Applications submitted in response to this NOFA that are eligible, pass threshold and have a total score of 60 points (or more) are eligible for ranking and selection.

(1) Hub staff teams will be established for ALCP review in each geographic area to do the application ratings (see Section V(D) above). See list of lead Hubs in Section II of this NOFA.

After the team's application ratings are finalized, the teams will place all rated applications from within that geographic area in rank order.

(2) From within this rank order, Hub staff teams in each of the four geographic areas will select the highest ranking applications from within that geographic area in order, without regard to which Hub the application was submitted (see Section II of this NOFA) that can be funded from within the dollars available.

(3) After making the initial selections, however, HUD may use any residual funds in each geographic area to select the next rank-ordered application by reducing the dollars requested by no more than 10 percent (10%) and reducing the number of units proposed, but in no case reducing the number of units below the financial threshold feasibility of five ALF units.

(4) Funds remaining after these processes are completed will be returned to HUD Headquarters. HUD will use these funds to restore units to any project reduced as a result of using the residual grant funds in a geographic area. Secondly, HUD will use these funds for selecting one or more additional applications based on field office rating and rankings, beginning with the highest rated application nationwide. Only one application will be selected per geographic area from the national residual amount. If there are no approvable applications in other geographic areas, the process will begin again with the selection of the next highest rated application nationwide. This process will continue until all approvable applications are selected using the available remaining funds. If there is a tie score between two or more applications, and there are insufficient residual funds to cover all tied applications, HUD Headquarters staff will choose the winning application(s) by lottery and/or reduction of grant requests consistent with Section VI(E)(3) or (4) of this NOFA, above.

(F) Factors For Award Used To Evaluate and Rate Applications

HUD will rate ALCP applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements identified in Section VI(B) of this NOFA, below. The maximum number of points an application may receive under this program is 100.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (15 Points)

This factor addresses your capacity to carry out the conversion in a timely, cost-conscious and effective manner. It also reviews your experience with the supportive services which the ALF intends to provide to elderly residents, especially in such areas as meals, 24-hour staffing and on-site health care. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(4)(c), (5)(a), (8)(i), and (2)(d) of this NOFA.

In rating this factor, HUD will consider the extent to which your application demonstrates your ability to carry out a successful conversion of the project and to implement the plan to deliver the supportive services on a long term basis, considering the following:

(1) (7 points) The practicality of your plan and timetable to carry out the physical conversion of the development to the ALF.

(2) (8 points) Your past experience in providing or arranging for supportive services either on or off site for those who are frail. Examples are: Meals delivered to apartment of resident or in a congregate setting (1 point), arranging for or providing personal care (2 points), providing 24-hour staffing (1 point), providing or making available on-site preventive health care (2 points) and other support services (1 point).

Rating Factor 2: Need/Extent of the Problem (25 Points)

This factor addresses the extent to which the conversion is needed by the categories of elderly persons and persons with disabilities that the ALF is intended to serve (very low income elderly persons and people with disabilities who have limitations in three or more activities of daily living). The application must provide evidence of current needs among project residents and needs of potential residents in the housing market area for such persons including economic and demographic information on very-low income frail elderly and people with disabilities and information on current assisted living resources in the market area.

The factor also addresses your inability to fund the repairs or conversion activities from existing financial resources. In making this determination, HUD will consider project financial information. The Department will also review more favorably those applications which establish a connection between the proposed ALF and the community's

Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(1)(a) through (b), (2)(a) and (9)(a) through (c) of the NOFA. In evaluating this factor, HUD will consider:

(1) (10 points) The need for assisted living among the elderly and disabled residents of the project taking into consideration those currently in need and the depth of future needs given aging in place.

(2) (5 points) The need for assisted living among very-low income elderly persons and people with disabilities in the housing market area.

(3) (10 points) Insufficient funding for any needed conversion work, as evidenced by the project's financial statements and specifically the lack of excess reserve for replacement dollars (R4R) and residual receipts. If the available R4R and residual receipts are less than 10% of the total funds needed—10 points; if the available R4R and residual receipts are 10–50% of need = 5 points; and, if the available R4R and residual receipts are 51% or more of the total funds of needed = 0 points).

Rating Factor 3: Soundness of Approach (25 Points). This factor is rated by HUD Headquarters

This factor addresses the quality and effectiveness of your proposal in addressing the proposed conversion, effectiveness of service coordination and management planning and the meals and supportive services which the ALF intends to provide. There must be a relationship between the proposed activities, the project's and the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(5)(b) and (c), and (7) and (B)(8))(a) through (e) and (g) and (h) of this NOFA.

In evaluating this factor, HUD will consider the following:

(1) (7 points) The extent to which the proposed ALF design will meet the special physical needs of frail elderly or disabled persons expected to be served at reasonable cost (consider that ALF design = meets needs = 7 points; ALF design partially meets needs = 3 points; and ALF design does not meet needs = 0 points).

(2) (7 points) The extent to which the ALF's proposed management and operational plan ensures that the provision of both meals and supportive services planned will be accomplished over time. (Consider ALF design/management plan = meets needs of management operations, for 7 points; ALF design/management plan partially meets needs of management operations, for 3 points; and ALF design/management plan does not meet needs of management operations, for 0 points.)

(3) (5 points) The extent to which the proposed supportive services meet the identified needs of the anticipated frail elderly and disabled residents (consider Yes = 5 points; partially meets needs = 3 points; and, does not meet needs = 0 points); and

(4) (5 points) The extent to which the service coordination function is addressed and explained as onsite and sufficient, onsite and augmented or new, and addresses the ongoing procurement of needed services for the residents of the ALF (does meet = 5 points, partially meets = 3 points, does not meet = 0 points).

(5) (1 point) The extent to which there is an operating philosophy which promotes the autonomy and independence of the frail elderly persons it is intended to serve (is fully addressed = 1 point, no or not addressed = 0 points).

Rating Factor 4: Leveraging Resources (30 Points).

This factor addresses your ability to secure other community resources which can be combined with HUD's grant funds to achieve program purposes. For the ALCP to succeed, you *MUST* generate local funding for the necessary supportive services to operate the ALF. HUD also encourages local funding for some of necessary conversion work, or other work needed in the project (*e.g.,* general modernization) which is *NOT* specifically linked to the ALF).

Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(5)(g), (B)(6) and (B)(8)(f) of this NOFA.

(1) (25 points) The extent to which there are commitments for the funding needed for the meals and the supportive services planned for the ALF and that the total cost of the estimated budget of the ALF is covered. Consider 90% or more commitment for the total budget with no more than 10% general support = 25 points; 80–89.9% or more commitment for the total budget with no more than 20% general support = 17 points; 65–79.9% firm commitment with no more than 35% general support = 12 points; 40–64.9% firm commitment for the total budget with no more than 60% general commitment = 7 points; less than 40% firm commitment for the total budget with no more than 60% general support = 0 points.

(2) (3 points) The extent of local organizations' support which is firmly committed to providing at least 50 percent of the total cost of ALF conversion (consider 50% or more = 3 points, 20–49.9% = 2 points, and under 20% = 0 points).

(3) (2 points) The extent of local organizational support which is firmly committed to providing funds for additional repair or retrofit necessary for the project NOT specifically directed to activities eligible under this NOFA (consider yes = 1 point, no = 0 points).

Rating Factor 5: Comprehensiveness and Coordination (5 Points).

This factor addresses the extent to which you have evidenced general support for conversion by participating in your community's Consolidated Planning Process, involving the residents in the planning and are working toward addressing the need in a holistic and comprehensive manner through linkages with other activities in the community. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(2)(b) through (d) of this NOFA.

(1) (3 points) The involvement of project residents or their representatives, in the development of the ALCP application, and your intent to involve residents, in the development and operation of the project and in relocation planning (Minus one (−1) point if not addressed);

(2) (1 point) The extent to which you demonstrated that you have been actively involved (or if not currently active, the steps you will take to become actively involved) in your community's Consolidated Planning/AI processes to identify and address a need/problem that is related in whole or part, directly or indirectly to the proposed project;

(3) (1 point) The extent to which you developed linkages with other activities, programs or projects related to the proposed project to coordinate your activities so solutions are holistic and comprehensive.

VI. Application Submission Requirements

(A) Application—General

Your application must include all of the information, materials, forms, and exhibits listed in Section VI(B). In cases

where your (i) articles of incorporation and (ii) by-laws have NOT changed since the project was originally approved by HUD, self-certification to that effect—that the documents on file with HUD are current—is sufficient. Items in Section VI(B) for which self-certification of currency is possible are denoted by a ''**''.

In addition to this relief of paperwork burden in preparing applications, you will not have to submit certain new/recent information and exhibits you have previously prepared. See individual item descriptions, below to identify such items. An example of such an item may be the FY 1999 Annual Financial Statement.

(B) General Application Requirements

(1) Evidence that you are a private nonprofit organization or nonprofit consumer cooperative and have the legal ability to operate an AFL program, per the following:

(a) Articles of Incorporation, constitution, or other organizational documents, or self-certification of these documents, if there has been no change in the Articles since they were originally filed by HUD;**

(b) By-laws, or self-certification of by-laws, if there has been no change in the by-laws since they were originally filed with HUD;**

(2) A description of your community ties and established linkages.

(a) A description of your links to the community at large and to the minority and elderly communities in particular; and

(b) A description of your efforts to involve elderly persons, including minority elderly persons and persons with disabilities in:

(i) The development of the application,

(ii) The development of the ALF operating philosophy,

(iii) Review of the application; and

(iv) Your intent to involve elderly persons in the operation of the project or not.

Also, demonstrate that you made the application available to the residents of the project (in their language(s)) AND requested and considered comments from them (in their language(s)).

(c) A description of your involvement in your community's *Consolidated Planning and Analysis of Impediments to Fair Housing (AI)* processes including:

(i) An identification of the lead/facilitating agency(ies) that organizes/administers the processes;

(ii) A listing of the Consolidated Plan/AI issue areas in which you participate;

(iii) The level of your participation in the processes, including active involvement with any neighborhood-based organizations, associations, or any committees that support programs and activities that enhance projects or the lives of residents of the projects, such as the one proposed in your application.

If you are not currently active, describe the specific steps you will take to become active in the Consolidated Planning and AI processes. (Consult the local HUD Office for the identification of the Consolidated Plan community process for the appropriate area.)

(d) A description of the linkages that you have developed with other related activities, programs or projects in order that the development of the project provides a comprehensive and holistic solution to the needs of the target population.

(3) Evidence of your project being in occupancy for at least five years as of the date of application to HUD. This evidence must be submitted by all applicants whose section 202 identifying number has an ''EE'' as digits 4 & 5, *i.e.*, xxx–EExxx, OR any ''EH'' project, *i.e.*, xxx–EHxxx, that was converted to PRAC.

(4) A market analysis of the need for the proposed ALF units, including information from both the project and the housing market, containing:

(a) Evidence of need for the ALF by current project residents:

(i) A description of the demographic characteristics of the elderly residents currently living in the project, including the current number of residents, distribution of residents by age and sex, an estimate of the number of residents with frailties/limitations in activities of daily living and an estimate of the number of residents in need of assisted living services.

(ii) A description of the services which are currently available to the residents and/or provided on or off-site and what services are lacking;

(b) Evidence of the need for ALF units by very low income elderly and disabled households in the market area; a description of the trend in elderly and disabled population and household change; data on the demographic characteristics of the very low income elderly in need of assisted living services (age, race, sex, household size and tenure) and extent of residents with frailty/limitations in existed federally-assisted housing for the elderly (HUD and Rural Housing Service): And an estimate of the very low income elderly and disabled in need of assisted living taking into consideration any available state or local data.

(c) A description of the extent, types and availability and cost of alternate care and services locally, such as: Home health care, adult day care, housekeeping services, meals programs, visiting nurses, on-call transportation services, health care and providers of supportive services who address the needs of the local low income population.

(d) A description of how information in the community's Analysis of Impediments to Fair Housing Choice was used in documenting the need for the ALF (covering items in Section VI(B)(4)(a) and (b) of this NOFA).

(5) A description of the physical ALF conversion, including the following:

(a) How you propose to carry out the physical conversion (including a timetable and relocation planning).

(b) A short narrative stating the number of units, special design features, community and office space/storage, dining and kitchen facility and staff space and the physical relationship to the rest of the 202 project. Also, you must describe how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over at least the next 10 years.

(c) A copy of the original plans for all units and other areas of the development which will be included in the conversion.

(d) A description of the conversion must clearly address the following accessibility issues: All door openings must have a minimum clear opening of 32″; and, All bathrooms and kitchens must be accessible to and functional for persons in wheelchairs, according to the ''Uniform Federal Accessibility Standards.''.

(e) Architectural sketches of the conversion to a scale of inch to one foot that indicate the following:

(i) All doors being widened;

(ii) Typical kitchen and bathroom reconfiguration: show all wheelchair clearances, wall reinforcing, grab bars and elevations of counters and work surfaces;

(iii) Bedroom/living/dining area modification, if needed;

(iv) Any reconfigured common space;

(v) Added/reconfigured office and storage space;

(vi) Monitoring stations, and

(vii) The kitchen and dining facility.

All architectural modifications must meet section 504 and ADA requirements as appropriate.

(f) A budget showing at least estimated costs for materials, supplies, fixtures and labor for each of the items listed in Section VI(B)(5)(e), items i through vii, above.

(g) Include firm commitment letters with specific dollar amounts from appropriate organization(s) for

conversion needs (within the scope of the ALF conversion NOFA) which will be supported by non-HUD funding.

(h) A description of any relocation of current tenants including a statement that:

(i) Indicates the estimated cost of temporary relocation payments and other related services.

(ii) Identifies the staff organization that will carry out the relocation activities; and

(iii) Identifies all tenants that will have to be temporarily moved to another unit within the development OR from the development during the period that the physical conversion of the project is under way.

Note: If any of the relocation costs will be funded from sources other than the ALCP grant, you must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (*i.e.,* cost of conversion, temporary relocation, service coordinator and other project costs).

(6) A description of any retrofit or renovation which will be done at the project (with third party funds) that is separate and distinct from the ALF conversion. With such description, attach firm commitment letters from third party organizations in specific dollar amounts which will cover the cost of any work outside the scope of this NOFA.

(7) Evidence of permissive zoning, showing that the modifications to include the ALF into the project as proposed are permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for your belief that the proposed action will be completed successfully within six months of the date of grant award by HUD. *e.g.,* a summary of the results of any requests for rezoning and/or the procedures for obtaining special or conditional use permits on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies, *etc.*);

(8) A supportive services plan (SSP), a copy of which must be submitted to the appropriate state and/or local agency as instructed in Section IV(C) of this NOFA. For those applicants needing to contact state Medicaid offices, a list of them may be accessed on the Internet at ''www.hcfa.gov/medicaid/scon1.htm''. The fifth character from the end is the numeral ''1'', not the letter ''l'' that includes:

(a) A description of the supportive services needed for the frail elderly the ALF is expected to serve. This must include at least (i) meals and such other supportive services required locally or by the State, and (ii) such optional services or care to be offered on an ''as needed'' basis.

Examples of both mandatory and optional services (which will vary from state to state) are: two meals and two snacks or three mails daily; 24-hour protective oversight; personal care; housekeeping services; personal counseling and transportation.

(b) A description of how you will provide the supportive services to those who are frail and have disabilities (*i.e.,* on or off-site or combination of on or off-site), including an explanation of *how* the service coordination role will facilitate the adequate provision of such services to ALF residents, and how the services will meet the identified needs of the residents.

(c) A description of how the operation of your ALF will work. Address (i) general operating procedures, (ii) ALF philosophy and how it will promote the autonomy and independence of the frail elderly and persons with disabilities, (iii) what will the service coordination function will do and the extent to which it is existing, augmented or new, (iv) ALF staff training plans, and (v) the degree to which and *how* the ALF will relate to the day-to-day operations of the rest of the Section 202 project.

(d) The monthly individual rate for board and supportive services for the ALF listing the total fee and components of the total fee for the items required by State or local licensing AND list the appropriate rate for any optional services the you plan to offer to the ALF residents. Provide an estimate of the total annual costs of the required board and supportive services you expect to provide and an estimate of the amount of optional services you expect to provide.

(e) List who will pay for the board and supportive services, *e.g.,* $__ for meals by sponsor, $__ for housekeeping services by city government; $__ for personal care by State Department of Health; $__ for __ by state __ program; $__ in fees by tenants; and, $__ by __.

The amounts and commitments from both tenants and/or providers must equal the estimated amounts necessary to cover the monthly rates for the number of people expected to be served. If you include tenant fees in the proposal, list and show any proposed scaling mechanism. All amounts committed/collected must equal the annualized cost of the monthly rates calculated by the expected percentage of units filled.

(f) A support/commitment letter from *EACH* listed proposed funding source per paragraph (e), above, for the planned meals and supportive services listed in the application. The letter must cover the total planned annual commitment (and multiyear amount total, if different), length of time for the commitment, and the amounts payable for each service covered by the provider/paying organization. There must be a letter from *EACH* participating organization listed in Section VI(B)(8)(e) of this NOFA, above.

(g) A support letter from *EACH* governmental agency(ies) which provides licensing for ALFs in that jurisdiction.

(h) A description of your relevant experience in arranging for and/or delivering supportive services to frail residents. The description should include any supportive services facilities owned/operated; your past or current involvement in any project-based programs that demonstrates your management capabilities. The description should include data on the facilities and specific meals and/or supportive services provided on a regular basis, the racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the services.

Note: If a funds request for service coordination for the ALF and/or the whole project is included as part of this application, the Form HUD–424M, indicating the dollars requested must be attached as Exhibit 10(c). Do NOT attach the whole service coordinator application.

(9) A description of your project's resources:

(a) A copy of the most recent project Repair and Replacement (R4R) account statement, and an R4R analysis showing plans for its use over the next five years, and any approvals received from the HUD field office to date.

(b) A copy of the most recent Residual Receipts Account statement. Indicate any approvals for the use of such receipts from the field office for over $500/unit.

(c) Annual Financial Statement (AFS). If your FY 2000 AFS was due to REAC more than 120 days BEFORE the due date for this application, in the interest of reducing work burden, only include the date that it was sent to REAC. If the AFS was due to REAC 120 days or less from the due date of this application, you MUST include a paper copy.

(10) *Forms, Certifications and Resolutions.* The following exhibits, forms, certifications and assurances are required:

(a) *Standard Form 424, Application for Federal Assistance* and indication of

whether you are delinquent on any federal debt.

(b) *Standard Form 424D, Assurances, Construction Programs*

(c) *Form HUD 424M, Federal Assistance Funding Matrix.*

(d) *Form HUD–50070, Drug-free Workplace.* Certification to provide a drug-free workplace.

(e) *Form HUD–50071, Payments to Influence Federal Transactions and Standard Form-LLL, Disclosure of Lobbying Activities.* Certification of whether any of the funds received will be used to influence any federal transactions and disclosure of these activities, if applicable.

(f) *Form-HUD 2880, Applicant/Recipient Disclosure/Update Report, including Social Security and Employment Identification numbers.* A disclosure of assistance from other government sources received in connection with the project.

(g) *Certification Regarding Debarment and Suspension (HUD–2992) (24 CFR 24.510).*

(h) *Form HUD–2991, Certification of Consistency with the Consolidated Plan (Plan),* for the jurisdiction in which the proposed ALF will be located. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the State, or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized top use an abbreviated strategy, and if it is willing to prepare such a Plan.

All certifications must be made by the public official responsible for submitting the plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth herein.

The Plan regulations are published in 24 CFR part 91.

(i) *Executive Order 12372 Certification.* A certification that you have submitted a copy of your application, if required, to the State agency (single point of contact) for State review in accordance with Executive order 12372.

(j) *Certification of Residual Receipts Account.* If you do not have an existing residual receipts account you must agree to set up one as soon as there is surplus cash available, as a condition of getting this grant award.

(k) *A certified Board Resolution that no officer or director of the Owner/borrower or Sponsor has or will have any financial interest in any contract with the Owner* or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title, and the beginning and ending dates of each person's term.

(l) *Certification for ALF.* Certification that you agree to apply for an ALF license with due diligence and in a timely fashion (and that the conversion will NOT be a nursing home or an Intermediate Care facility).

(m) *Owner/borrower's Combined Certifications.*

(i) A certification of compliance with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act, the Age Discrimination Act of 1975, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135, the affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108, and other applicable Federal, State and local laws prohibiting discrimination and promoting equal opportunity including affirmatively furthering fair housing, and other certifications listed in the application.

(ii) Certification of Compliance with section 232 of the National Housing Act, as applicable, the Uniform Federal Accessibility Standards (24 CFR 40.7), section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100, and the Americans with Disabilities Act of 1990 for all portions of the development physically affected by this proposal;

(iii) *Davis-Bacon.* Certification of compliance with the Davis-Bacon requirements and the Contract Work Hours and Safety Standards Act as applied to this program. While it has been determined that Davis-Bacon does not apply statutorily to the ALCP, the Department has administratively determined that Davis-Bacon standards and overtime rates in accordance with the Contract-Work Hours and Safety Standards Act will be adhered to in any ALCP conversion grant in which the total cost of the physical conversion to an ALF (and including any additional renovation work undertaken at the same time) is $500,000 or more (this includes ALCP grant funds, owner funds, or any third party funds loaned or granted in support of the conversion or other renovation for the project associated with this grant), AND in which the ALF portion of the project is 12 units or more.

VII. Environmental Requirements

Your ALCP application is subject to the National Environmental Policy Act of 1969 and applicable related Federal environmental authorities. (See 24 CFR part 50, as applicable.) An environmental review will be completed before the award of any grant under this program. Pursuant to 24 CFR Part 55, ALCP projects are critical actions for purposes of floodplain management review.

VIII. Findings and Certifications

(A) Paperwork Reduction Act

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once approved, will be published in the **Federal Register**. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance number for this program is 14.157.

(C) Executive Order 13132, Federalism

This notice does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled ''Federalism''). This notice invites only applications from 202 developments for assisted living conversion grants.

(D) Prohibition Against Lobbying Activities

You, the applicant, are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. You are required to certify, using the certification found at Appendix A to 24 CFR part 87, that you will not, and have not, used appropriated funds for any prohibited lobbying activities.

In addition, you must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts. Tribes and tribally designated housing entities (TDHEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but tribes and TDHEs established under State law are not excluded from the statute's coverage.

(E) Section 102 of the HUD Reform Act; Documentation and Public Access Requirements

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 5.

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR 4.7 provide that HUD will publish a notice in the **Federal Register** on at least a quarterly basis to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to section 102(a) of the HUD Reform Act; or

(ii) Assistance that is provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(F) Section 103 of the HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition must confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

(G) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the national Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

IX. Authority

The Section 202 Supportive Housing for the Elderly Program is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended. The Assisted Living Conversion Program is authorized by Title V, section 522 of the FY 2000 Departments of Veteran's Affairs, HUD and Independent Agencies Appropriations Act, 2000 (12 U.S.C. 1701q–2).

Dated: March 13, 2000.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commission.

Appendix A—Instructions for Application Submission to the Proper Hub

(a) Applicants required to submit applications to the Buffalo Hub are normally serviced by the Boston, Hartford, Manchester, Providence, New York, Buffalo, Philadelphia, Charleston, Newark, Philadelphia, Pittsburgh, Baltimore, Washington, DC, and Richmond Field Offices.

(b) Applicants required to submit applications to the Greensboro Hub are normally serviced by the Greensboro, Columbia, Atlanta, Caribbean, Knoxville, Louisville, Nashville, Jacksonville, Miami, Jackson, Ft. Worth, Albuquerque, Dallas, Houston, Little Rock, New Orleans, San Antonio, and Shreveport Field Offices.

(c) Applicants required to submit applications to the Kansas City Hub are normally serviced by the Cincinnati, Cleveland, Columbus, Chicago, Indianapolis, Detroit, Grand Rapids, Des Moines, Kansas City, Oklahoma City, Omaha, St. Louis, Tulsa, Milwaukee and Minneapolis Field Offices.

(d) Applicants required to submit applications to the San Francisco Hub are normally serviced by Denver, Los Angeles, San Diego, San Francisco, Honolulu, Las Vegas, Phoenix, Sacramento, Anchorage, Portland, Seattle and Spokane Field Offices.

Appendix B—HUD Field Office List for Mailing ALCP Applications

Note: The first line of the mailing address for all offices is Department of Housing and Urban Development. Telephone numbers listed are not toll-free.

HUD—Buffalo Hub

Buffalo Office,

Fifth Floor, Lafayette Court, 465 Main Street, Buffalo, NY 14203–1780, (716) 551–5755, TTY Number: (716) 551–5787.

HUD—Greensboro Hub

Greensboro Office

Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407–3707, (336) 547–4000, TTY Number: (336) 547–4055.

HUD—Great Plains

Kansas City Office

Room 200, Gateway Tower II, 400 State Avenue, Kansas City, KS 66101–2406, OFC Phone: (913) 551–5462, FAX: (913) 551–6972.

HUD—San Francisco Hub

San Francisco Office

Phillip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102–3448, (415) 436–6550, TTY Number: (415) 436–6594.

[FR Doc. 00–6572 Filed 3–14–00; 8:45 am]

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Federal Register

Friday,
March 17, 2000

Part IV

Department of Housing and Urban Development

Fiscal Year 2000; Notice of Funding Availability for Service Coordinators in Multifamily Housing; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4582–N–01]

Fiscal Year 2000 Notice of Funding Availability for Service Coordinators in Multifamily Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This NOFA announces the FY 2000 funding available for the Service Coordinator Program in multifamily housing.

Purpose of the Program. The purpose of this Service Coordinator program is to allow multifamily housing owners to assist elderly residents and residents with disabilities to obtain needed supportive services from the community, in order to enable them to continue living as independently as possible in their apartments.

Available Funds. Approximately $25 million.

Eligible Applicants. Only owners of eligible developments may apply for and become the recipient of grant funds. Property management companies may administer grant programs but are not eligible applicants. See Section III for more detailed eligibility criteria.

Application Deadline. July 17, 2000.

Match. None.

Additional Information

I. Application Due Date, Application Kits, and Technical Assistance

Application Due Date. The application due date is July 17, 2000.

Number of copies. Submit three completed applications (an original and two copies). See the following paragraphs for specific procedures governing the form of application submissions (e.g., mailed applications, express mail, overnight delivery, or hand carried).

Addresses for Submitting Applications. Submit your application (original and two copies) to the HUD Field Office with jurisdiction over your development. The Appendix contains a list of the HUD Field Offices with addresses and phone numbers. Address your application to the Multifamily HUB or Multifamily Program Center Director in the appropriate Field Office. You should not submit any copies of your applications to HUD Headquarters.

Application Submission Procedures. Mailed Applications. Applications will be considered timely filed if postmarked on or before 12 midnight on the application due date and received by the designated HUD Office on or within *ten (10) days* of the application due date.

Applications Sent by Overnight/ Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications. Hand carried applications to HUD Field offices will be accepted during normal business hours before the application due date. On the application due date, business hours will be extended to 6 pm local time.

For Application Kits, Further Information, and Technical Assistance. For Application Kits. You may obtain an application kit and supplemental information by calling either the Multifamily Housing Clearinghouse at (voice) 1–800–MULTI–70 (1–800–685–8470) or (TTY) 1–800–483–2209 or HUD's Direct Distribution Center at 1–800–767–7468. When requesting the application kit, please refer to the Service Coordinator Program. Please make sure to provide your name, address (including zip code), and telephone number (including area code). The application kit will also be available on the Internet through the HUD web site at http://www.hud.gov.

For Further Information and Technical Assistance. The Multifamily Housing Resident Initiatives Specialist or Service Coordinator contact person in your local HUD Field Office can answer most of the questions you have regarding this NOFA and your application kit. Please refer to Field Office telephone numbers in the Appendix. If you are an owner of a Section 515 development, contact the Multifamily HUB or Multifamily Program Center in the HUD Field Office that normally provides asset management to that development. If you have a general question that the Field staff are unable to answer, please call Carissa Janis, Housing Project Manager, Office of Portfolio Management, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6176, Washington, DC 20410; (202) 708–3944, extension 2484. (This number is not toll free). If you are hearing or speech impaired, you may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

II. Amount Allocated

This NOFA makes available approximately $25,000,000 in FY 2000 funding from the $50 million provided in the Housing for Special Populations account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub.L. 106–74, 113 Stat. 1047, approved October 20, 1999). (HUD will use the remaining $25 million appropriated this year to provide one-year extensions to expiring Service Coordinator and Congregate Housing Services Program grants.)

HUD will first fund Service Coordinator costs in applications selected to receive an Assisted Living Conversion Program (ALCP) grant award. The Department estimates that approximately $5 million will be needed to fund these programs. The actual amount will be based upon demand and the number of applications that meet threshold criteria in both the ALCP and Service Coordinator programs. HUD will set-aside the requested amount of ALCP/Service Coordinator funds prior to conducting the national lottery. Any funds not used for ALCP Service Coordinator programs will revert to the lottery to fund all other eligible applications submitted under this NOFA.

In FY 1999, HUD awarded 51 grants with the available $5 million. With approximately $20 million available this year to non-ALCP applicants, HUD expects to award approximately 200 grants in FY 2000.

Alternative Funding for Service Coordinators. Owners may request processing under Housing's Management Agent Handbook 4381.5, REVISION–2, CHANGE–2, Chapter 8. This Handbook provides procedures for requesting funding for a coordinator using residual receipts, the budget-based rent increase process, contract rents adjusted by the Annual Adjustment Factor (AAF) or the Project Rental Assistance Contract (PRAC). Section 8 approvals must be consistent with current policy. Your local HUD Field Office staff may approve budget-based funding for a Service Coordinator at any time, as long as available funds in your budget allow for this increase. You are not required to apply for these grant funds prior to seeking budget-based funding for a Service Coordinator.

III. Program Description; Eligible and Ineligible Applicants, Developments, and Activities

(A) Program Description

The Service Coordinator Program provides funding for the employment and support of service coordinators in insured and assisted housing developments that are designed for the elderly and persons with disabilities and continue to operate as such. Service coordinators help residents obtain supportive services from the community that are needed to enable independent living and aging in place.

A service coordinator is a social service staff person hired or contracted by the development's owner or management company. The coordinator is responsible for assuring that elderly residents, especially those who are frail or at risk, and those non-elderly residents with disabilities are linked to the specific supportive services they need to continue living independently in that development. All services should meet the specific desires and needs of the residents themselves. The service coordinator may not require any elderly individual or person with a disability to accept any specific supportive service(s).

You may want to review the Management Agent Handbook 4381.5 REVISION–2, CHANGE–2, Chapter 8 for further guidance on service coordinators. This Handbook and past Service Coordinator program Notices are accessible through HUDCLIPS on HUD's web site. The URL for the HUDCLIPS Database Selection Screen is http://www.hudclips.org/subscriber/cgi/legis.cgi. These notices are in the Handbooks and Notices—Housing Notices database. Enter only the number without the letter prefix (*e.g.,* 94–99) in the ''Document Number'' to retrieve the program notice.

As was the case in FY 1999, there is no minimum unit number for eligible developments. In proposing a Service Coordinator program at a small development, however, you must be careful to conform to the hiring guidelines provided in the application kit. Funding is also allowed to augment current Service Coordinator programs and to continue programs in cases where current or previous funding sources are no longer available. Please refer to Sections III.D and III.F, below.

(B) Eligible Applicants

(1) Only owners of eligible developments listed in paragraph D.1 below may apply for funding through this NOFA.

(2) If you are a Section 202 owner/borrower corporation applying for an Assisted Living Conversion Program (ALCP) grant, you may apply for new or augmented Service Coordinator costs to serve Assisted Living residents and/or all residents of your development.

(3) To be eligible, owners must meet the criteria listed below for all HUD insured and assisted developments they own:

(a) Have no outstanding HUD contract violations of a contractual or regulatory nature.

(b) You, the applicant, must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If you, the applicant (i) have been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (ii) are the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (iii) have received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, your application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(4) If your eligibility status changes during the course of the grant term, making you ineligible to receive a grant (*e.g.* due to prepayment of mortgage, sale of property, or opting out of a Section 8 Housing Assistance Payment (HAP) contract), HUD has the right to terminate your grant.

(C) Ineligible Applicants

Property management companies, area agencies on aging, and other like organizations are *not* eligible applicants for Service Coordinator funds. Such agents may prepare applications and sign application documents if they provide written authorization from the owner corporation as part of the application. In such cases, the owner corporation *must* be indicated on all forms and documents as the funding recipient.

(D) Eligible Developments

Eligible developments must meet the following criteria:

(1) Are Section 202 and 202/8, existing Section 8 project-based and moderate rehabilitation developments (including Rural Housing Service (RHS) Section 515/8 and Section 221(d)(4)), Section 221(d)(3) below-market interest rate, and 236 developments that are insured or assisted.

(2) Have frail or at-risk elderly residents and/or non-elderly residents with disabilities who together total at least 25 percent of the building's residents.

(3) Are designed for the elderly or persons with disabilities and continue to operate as such. This includes any building within a mixed-use development that was designed for occupancy by elderly persons or persons with disabilities at its inception and continues to operate as such, or consistent with title VI, subtitle D of the Housing and Community Development Act of 1992. If not so designed, a development in which the owner gives preferences in tenant selection (with HUD approval) to eligible elderly persons or persons with disabilities, for all units in that development.

(4) You have completed Final Closing.

(5) Are current in mortgage payments or are current under a workout agreement.

(6) Meet HUD's Uniform Physical Conditions Standards (codified in 24 CFR part 5, subpart G), based on the most recent physical inspection report and responses thereto, as evidenced by a score of 60 or better or an approved plan for developments scoring less than 60.

(7) Are in compliance with their regulatory agreement, HAP Contract, and other outstanding directives.

(8) Section 202 developments must have a residual receipts account separate from the Repair and Replacement account, or agree to establish this account. This requirement does not apply to Sections 8, 221(d)(3) below-market interest rate, or 236 developments.

(9) Owners using the AAF rent increase process or who are profit-motivated must provide certification that rental and other income from the development are insufficient to pay for a service coordinator.

(E) Ineligible Developments

(1) Developments not designed for the elderly or disabled or those no longer operating as such.

(2) Section 221(d)(4) developments without project-based Section 8 assistance.

(3) Section 202/811 developments with a PRAC. Owners of Section 202 PRAC developments may obtain funding by requesting an increase in their PRAC payment consistent with Handbook 4381.5 REVISION–2, CHANGE–2, Chapter 8. There is no statutory authority for service coordinators in Section 811 developments.

(F) Eligible Activities

(1) Service Coordinator Program grant funds may be used to pay for the salary, fringe benefits, and related administrative costs for employing a service coordinator. Administrative costs may include, but are not limited to, purchase of furniture, office equipment and supplies, training, quality assurance, travel, and utilities.

(2) You may use funds to augment a current Service Coordinator program, by increasing the hours of a currently employed Service Coordinator, or hiring an additional Service Coordinator or aide on a part- or full-time basis.

(3) You may use funds to continue a Service Coordinator program that has previously been funded through other sources. In your application, you must provide evidence that this funding source has already ended or will discontinue within six months following the application deadline date and that no other funding mechanism is available to continue the program. This applies only to funding sources other than the subsidy awards provided by the Department through program Notices beginning in FY 1992. HUD currently provides one-year extensions to these subsidy awards through a separate funding action.

(4) You may propose reasonable costs associated with setting up a confidential office space for the Service Coordinator. Such expenses must be one-time only administrative start-up costs. Such costs may involve acquisition, leasing, rehabilitation, or conversion of space. HUD Field Office staff must approve both the proposed costs and activity and must perform an environmental assessment on such proposed work prior to grant award.

(G) Ineligible Activities

(1) You may not use funds available through this NOFA to replace currently available funding from other sources for a service coordinator or for some other staff person who performs service coordinator functions.

(2) Owners with existing service coordinator subsidy awards may not apply for renewal or extension of those programs under this NOFA.

(3) Congregate Housing Services Program (CHSP) grantees may not use these funds to meet statutory program match requirements and may not use these funds to replace current CHSP program funds to continue the employment of a service coordinator.

(4) The cost of application preparation is not eligible.

(5) Grant funds cannot be used to increase a project's management fee.

IV. Program Requirements

These requirements apply to all activities funded under this program.

(A) *Administrative Costs.* HUD has the right to reduce the proposed costs if they appear unreasonable or inappropriate.

(B) *Term of Funded Activities.* The grant term is three years. Grants will be renewable subject to the availability of funds.

(C) *Subgrants and Subcontracting.* You may directly hire a Service Coordinator or you may contract with a qualified third party to provide this service.

(D) *Environmental Requirements.* It is anticipated that most activities under this program are categorically excluded under 24 CFR 50.19(b)(3), (4), (12), or (13). If grant funds will be used to cover the cost of any non-exempt activities, HUD will perform an environmental review, to the extent required by 24 CFR part 50, prior to grant award.

(E) *Required Certifications, Assurances, and Other Forms.* All applications for funding under the Service Coordinator Program must contain the following documents and information:

(1)(a) FY 1999 applicants' letter to use FY 1999 applications (no other documentation required) or

(b) Transmittal letter and request, using the designated format.

(2) (If applicable) Lead agency letter format.

(3) Evidence of comparable salaries in local area.

(4) If quality assurance is included in the proposed budget, a justification and explanation of how this work will be performed.

(5) A bank statement showing the current residual receipts or surplus cash balance in the development's account.

(6) (If applicable) Evidence that prior funding sources for your development's Service Coordinator program are no longer available.

(7) *Service Coordinator Certifications.* This includes certifications that you, the applicant, will comply with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and that you will affirmatively further fair housing.

(8)(a) Certification from an Independent Public Accountant or the cognizant government auditor stating that the financial management system employed by the applicant meets proscribed standards for fund control and accountability required by HUD regulations at 24 CFR parts 84 and 85.

(b) Owners applying on behalf of developments using the AAF must also provide certification from the auditor that the development's rental or other income is insufficient to pay the costs of employing a Service Coordinator.

(9) Service Coordinator Applicant Data Input Sheet.

(10) Applicant checklist.

(11) Each applicant must also submit signed copies of the following forms, assurances and certifications:

(a) Standard form (SF) 424, Application for Federal Assistance;

(b) Standard Form (SF) 424–B, Assurances for Non-construction Programs;

(c) Drug-Free Workplace Certification (HUD–50070);

(d) Certification and Disclosure Form Regarding Lobbying Activities (SF–LLL); and

(e) Applicant/Recipient Disclosure Update Report (HUD–2880).

V. Application Selection Process

(A) General

Service Coordinator Program grant funds will not be awarded through a rating and ranking process. Instead, HUD will hold one national lottery for all approvable applications forwarded from Multifamily HUB or Multifamily Program Centers (a list of these offices is found in the Appendix to this notice).

(B) Threshold Eligibility Review

(1) HUD Multifamily Field Office staff will review applications for completeness and compliance with the eligibility criteria set forth in Section III of this NOFA. Field Office staff will forward application information to Headquarters for entry into the lottery if the application was received by the deadline date, meets all eligibility criteria, proposes reasonable costs for eligible activities, and includes all technical corrections by the designated deadline date.

(2) ''Reasonable costs'' are further discussed in the application kit, but are generally those that are consistent with salaries and administrative costs of similar programs in the jurisdiction of the HUD Field Office.

(C) Service Coordinators in ALCP Projects

The Department will first fund approved Service Coordinator requests in ALCP applications selected to receive an ALCP award. HUD estimates that approximately $5 million will be needed to fund these programs. Any funds not used for ALCP Service Coordinator programs will revert to the national lottery.

(D) The Lottery

HUD staff will use a computer program to randomly select applications. HUD will fully fund as many applications as possible with the given amount of funds. If funds remain after fully funding as many applications as possible, HUD will offer to partially fund the next application chosen in the lottery, in order to use the entire allocation of funds.

VI. Application Submission Requirements

(A) FY 1999 Applicants

If your FY 1999 application was approved by the Field Office but not selected in the FY 1999 lottery and you wish to apply again this year, you may use the same application to apply for FY 2000 funds. You need not submit a new application, if no components of your proposed FY 1999 program will change. You must submit a letter to your local Field Office, by the application deadline date, stating that you would like the Field Office to approve your application for FY 2000 funding, that no part of your proposed program will change, and that the development and owner entity continue to meet all eligibility requirements. If this letter is not received by the deadline date, your FY 1999 application will not be considered for funding. The Field staff has the right to reject your FY 1999 application for FY 2000 funding, if recent circumstances cause the application to become ineligible. If you wish to change any component of your proposed FY 1999 program, you must submit a new application.

(B) Full Application Submission Requirements

(1) *Single Applications.*

(a) You may submit one application for one or more developments that your corporation owns.

(b) You may submit more than one application to a single Field Office, if you wish to increase your chances of selection in the lottery. Each application must propose a stand-alone program and the development(s) must all be located in the same Field Office jurisdiction.

(c) If you wish to apply on behalf of developments located in different Field Office jurisdictions, you must submit a separate application to each Field Office.

(2) *Joint Applications.* You may join with one or more other eligible owners to share a Service Coordinator and submit a joint application. In the past, joint applications have been used by small developments who joined together to hire and share a part or full-time Service Coordinator.

(3) *There is no maximum grant amount.* The grant amount you request must be consistent with the staffing guidelines provided in the application kit and your proposed salary must be supported by evidence of comparable salaries in your area.

(C) Application Submission Requirements for ALCP Applicants

If you are an ALCP applicant and you request new or additional Service Coordinator costs specifically for your proposed Assisted Living Program, you must submit an application containing all required documents and information listed in this NOFA. In addition, you must submit a HUD–424–M ''Federal Assistance Funding Matrix and Certifications'' with your ALCP application, which indicates the amount of funds you are requesting to cover Service Coordinator costs. HUD Field Office staff will review both applications simultaneously.

ALCP applicants must submit all the required items in the Service Coordinator application listed in Section IV(E) of this NOFA. You will submit the following standard forms as part of your ALCP application. You may provide a copy of these forms in your Service Coordinator application. If you do not provide either an original or copy of these forms, your Service Coordinator application will be incomplete.

(a) Standard form (SF) 424, Application for Federal Assistance;

(b) Drug-Free Workplace Certification (HUD–50070);

(c) Certification and Disclosure Form Regarding Lobbying Activities (SF–LLL); and

(d) Applicant/Recipient Disclosure Update Report (HUD–2880).

If you currently do not have a Service Coordinator working at the development proposed in your ALCP application and your ALCP application is selected to receive an ALCP award, HUD will fund a Service Coordinator to serve either ALCP residents only or all residents of the development dependent upon your request. If your development currently has a Service Coordinator, you may request additional hours for the Service Coordinator to serve the Assisted Living residents. If you request additional hours, you must specify the number of additional hours per week and provide an explanation based on the anticipated needs of the Assisted Living residents. Provide this explanation in your ALCP application as instructed in Section VI(C)(3)(b) of the ALCP NOFA.

If you request Service Coordinator funding to serve all residents of your development, your request can be entered into the national lottery if your ALCP application is not selected to receive an award. You will be able to indicate this request in the application materials.

Owners applying for ALCP grants may also submit separate Service Coordinator applications for entry into the lottery for other eligible developments they own and that are not included in their ALCP application.

VII. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you, however, to clarify an item in your application or to correct technical deficiencies. You should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of your response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may, however, contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. *Examples* of curable (correctable) technical deficiencies include your failure to submit the proper certifications or your failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. You must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 14 calendar days of the date of receipt of the HUD notification. If your deficiency is not corrected within this time period, HUD will reject your application as incomplete, and it will not be considered for funding.

VIII. Findings and Certifications

(A) Paperwork Reduction Act

The information collection requirements contained in this notice were submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and have been assigned OMB control number 2577–0198. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance number for this program is 14.191, Multifamily Service Coordinator Program.

(C) Executive Order 13132, Federalism

This notice does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled ''Federalism''). This notice merely invites applications from assisted housing developments for service coordinator grants. As a result, the notice is not subject to review under the Order.

(D) Prohibition Against Lobbying Activities

You, the applicant, are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. You are required to certify, using the certification found at Appendix A to 24 CFR part 87, that you will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, you must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts. Tribes and tribally designated housing entities (TDHEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but tribes and TDHEs established under State law are not excluded from the statute's coverage.

(E) Section 102 of the HUD Reform Act; Documentation and Public Access Requirements

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 5.

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR 4.7 provide that HUD will publish a notice in the **Federal Register** on at least a quarterly basis to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to section 102(a) of the HUD Reform Act; or

(ii) Assistance that is provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(F) Section 103 of the HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition must confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

(G) Environmental Impact

A Finding of No Significant Impact with respect to the environment for this rule has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

IX. Authority

Section 808 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990), as amended by sections 671, 674, 676, and 677 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), provides authority for service coordinators in multifamily assisted housing developments.

Dated: March 13, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

Appendix A.—HUD Field Office List for Mailing Service Coordinator Applications

ALABAMA

Multifamily Housing Program Center, HUD—Birmingham Office, 600 Beacon Parkway West, Rm. 300, Birmingham, AL 35209–3144, OFC Phone: (205) 290–7611, FAX: (205) 290–7632

ALASKA

Multifamily Housing Hub, HUD Seattle Office, 909 First Avenue, Suite 190, MS–0AHM, Seattle, WA 98104–1000, OFC Phone: (206) 220–5228 ext. 3250, FAX: (206) 220–5206

ARIZONA

Multifamily Housing Program Center, HUD Phoenix Office, 400 North Fifth Street, Suite 1600, Phoenix, AZ 85004–2361, OFC Phone: (602) 379–4434, FAX: (602) 379–3985

ARKANSAS

Multifamily Housing Program Center, HUD Little Rock Office, 425 West Capitol Avenue #900, Little Rock, AR 72201–3488, OFC Phone: (501) 324–5401, FAX: (501) 324–6142

CALIFORNIA

Multifamily Housing Hub, HUD—San Francisco Office, 450 Golden Gate Avenue, PO Box 36003, San Francisco, CA 94102–3448, OFC Phone: (415) 436–6505, FAX: (415) 436–8996

Los Angeles Multifamily Hub, 611 West Sixth Street, Suite 800, Los Angeles, CA 90017, OFC Phone: (213) 894–8000 x 3634, Fax: (213) 894–8255

COLORADO

Multifamily Housing Hub, HUD Denver Office, 633 17th Street, 11th Floor, Denver, CO 80202–3607, OFC Phone: (303) 672–5343, FAX: (303) 672–5153

CONNECTICUT

Multifamily Housing Program Center, HUD—Hartford Office, One Corporate Center, 19th floor, Hartford, CT 06103–3220, OFC Phone: (860) 240–4800 Ext. 3068, FAX: (860) 240–4850

DELAWARE

Multifamily Housing Hub,HUD Philadelphia Office, The Wanamaker Building, 100 Penn Square, East, Philadelphia, PA 19107–3380, OFC Phone: (215) 656–0609 Ext. 3533, FAX: (215) 656–3427

DISTRICT OF COLUMBIA

Multifamily Housing Program Center, HUD Washington, DC Office, Suite 300, 820 First Street, NE, Washington, DC 20002–4205, OFC Phone: (202) 275–9200, FAX: (202) 275–9212

FLORIDA

Multifamily Housing Hub, HUD—Jacksonville Office, 301 West Bay Street, Suite 2200, Jacksonville, FL 32202–5121, OFC Phone: (904) 232–1777 x2144, FAX: (904) 232–2731

GEORGIA

Multifamily Housing Hub, HUD—Atlanta Office, Five Points Plaza Building, 40 Marietta Street, S.W., Atlanta, Georgia 30303–2806, OFC Phone: (404) 331–4976, FAX: (404) 331–4028

HAWAII

Multifamily Housing Program Center, HUD Honolulu Office, 7 Waterfront Plaza, 500 Ala Moana Blvd. #500, Honolulu, HI 96813–4918, OFC Phone: (808) 522–8185 Ext. 244, FAX: (808) 522–8194

IDAHO

Multifamily Housing Hub, HUD Seattle Office, 909 First Avenue, Suite 190, MS–0AHM, Seattle, WA 98104–1000, OFC Phone: (206) 220–5228 ext. 3250, FAX: (206) 220–5206

ILLINOIS

Multifamily Housing Hub, HUD—Chicago Office, Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507, OFC Phone: (312) 353–6236 Ext. 2202, FAX: (312) 886–2729

INDIANA

Multifamily Housing Program Center, HUD Indianapolis Office, 151 North Delaware Street, Suite 1200, Indianapolis, IN 46204–2526, OFC Phone: (317) 226–6303, FAX: (317) 226–7308

IOWA

Multifamily Housing Program Center, HUD Des Moines Office, 210 Walnut Street, Room 239, Des Moines, IA 50309–2155, OFC Phone: (515) 284–4736, FAX: (515) 284–4743

KANSAS

Multifamily Housing Hub, HUD Kansas City Office, 400 State Avenue, Room 200, Kansas City, KS 66101–2406, OFC Phone: (913) 551–6844, FAX: (913) 551–5469

KENTUCKY

Multifamily Housing Program Center, HUD—Louisville Office, 601 West Broadway, PO Box 1044, Louisville, KY 40201–1044, OFC Phone: (502) 582–6124, FAX: (502) 582–6547

LOUISIANA

Multifamily Housing Program Center, HUD New Orleans Office, Hale Boggs Bldg.—501 Magazine Street, 9th Floor, New Orleans, LA 70130–3099, OFC Phone: (504) 589–7236, FAX: (504) 589–6834

MAINE

Multifamily Housing Program Center, HUD—Manchester Office, Norris Cotton Federal Bldg., 275 Chestnut Street, Manchester, NH 03101–2487, OFC Phone: (603) 666–7684, FAX: (603) 666–7697

MARYLAND

Multifamily Housing Hub, HUD Baltimore Office, 5th Floor, 10 South Howard Street, Baltimore, MD 21201–2505, OFC Phone: (410) 962–2520 Ext. 3474, FAX: (410) 962–1849

MASSACHUSETTS

Multifamily Housing Hub, HUD—Boston Office, O'Neil Federal Building, 10 Causeway Street, Rm. 375, Boston, MA 02222–1092, OFC Phone: (617) 565–5162, FAX: (617) 565–6557

MICHIGAN

Multifamily Housing Hub, HUD Detroit Office, 477 Michigan Avenue, Detroit, MI 48226–2592, OFC Phone: (313) 226–7900, FAX: (313) 226–5611

Multifamily Housing Program Center, HUD Grand Rapids, Trade Center Building, 50 Louis Street, N.W., Grand Rapids, MI 49503–2648, OFC Phone: (616) 456–2100, FAX: (616) 456–2191

MINNESOTA

Multifamily Housing Hub, HUD Minneapolis Office, 220 Second Street, South, Minneapolis, MN 55401–2195, OFC Phone: (612) 370–3051 Ext. 0, FAX: (612) 370–3090

MISSISSIPPI

Multifamily Housing Program Center, HUD Jackson Office—McCoy Federal Building, 100 W. Capitol Street, Room 910, Jackson, MS 39269–1096, OFC Phone: (601) 965–4738, FAX: (601) 965–4773

MISSOURI

Multifamily Housing Hub, HUD Kansas City Office, 400 State Avenue, Room 200, Kansas City, KS 66101–2406, OFC Phone: (913) 551–6844, FAX: (913) 551–5469

Multifamily Housing Program Center, HUD St. Louis Office, Robert A. Young Federal Building, 1222 Spruce Street—Third Floor, St. Louis, MO 63103–2836, OFC Phone: (314) 539–6382, FAX: (314) 539–6356

MONTANA

Multifamily Housing Hub, HUD Denver Office, 633 17th Street, 14th Floor, Denver, CO 80202–3607, OFC Phone: (303) 672–5343, FAX: (303) 672–5153

NEBRASKA

Multifamily Housing Program Center, HUD Omaha Office, 10909 Mill Valley Road, Suite 100, Omaha, NE 68154–3955, OFC Phone: (402) 492–3113, FAX: (402) 492–3184

NEVADA

Multifamily Housing Program Center, HUD Las Vegas Office, 333 N. Rancho Drive—Atrium Bldg. Suite 700, Las Vegas, NV 89106–3714, OFC Phone: (702) 388–6525, FAX: (702) 388–6244

NEW HAMPSHIRE

Multifamily Housing Program Center, HUD—Manchester Office, Norris Cotton Federal Bldg., 275 Chestnut Street, Manchester, NH 03101–2487, OFC Phone: (603) 666–7684, FAX: (603) 666–7697

NEW JERSEY

Multifamily Housing Program Center, HUD—Newark Office—13th Floor, One Newark Center, Newark, NJ 07102–5260, OFC Phone: (973) 622–7900 Ext. 3400, FAX: (973) 645–2271.

NEW MEXICO

Multifamily Housing Hub, HUD Ft. Worth Office, 801 Cherry Street, PO Box 2905, Ft.

Worth, TX 76102–2905, OFC Phone: (817) 978–5764, FAX: (817) 978–5520

NEW YORK

Multifamily Housing Hub, HUD—New York Office, 26 Federal Plaza—Room 3214, New York, NY 10278–0068, OFC Phone: (212) 264–0777 Ext. 3713, FAX: (212) 264–1277

Multifamily Housing Hub, HUD—Buffalo Office, Lafayette Court, 5th Floor, 465 Main Street, Buffalo, NY 14203–1780, OFC Phone: (716) 551–5755 Ext. 5509, FAX: (716) 551–3252

NORTH CAROLINA

Multifamily Housing Hub, HUD Greensboro Office—Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407, OFC Phone: (336) 547–4034, FAX: (336) 547–4121

NORTH DAKOTA

Multifamily Housing Hub, HUD Denver Office, 633 17th Street, 14th Floor, Denver, CO 80202–3607, OFC Phone: (303) 672–5343, FAX: (303) 672–5153

OHIO

Multifamily Housing Hub, HUD Columbus Office, 200 North High Street, Columbus, OH 43215–2499, OFC Phone: (614) 469–5737, Ext. 8111, FAX: (614) 469–2432

Multifamily Housing Program Center, HUD Cincinnati Office, 525 Vine Street, Suite 700, Cincinnati, OH 45202–3188, OFC Phone: (513) 684–2350, FAX: (513) 684–6224

Multifamily Housing Program Center, HUD Cleveland Office, 1350 Euclid Avenue, Suite 500, Cleveland, OH 44115–1815, OFC Phone: (216) 522–4058 Ext. 7000, FAX: (216) 522–4067

OKLAHOMA

Multifamily Housing Program Center, HUD Oklahoma City Office, 500 W. Main Street, Suite 400, Oklahoma City, OK 73102–2233, OFC Phone: (405) 553–7410, FAX: (405) 553–7406

OREGON

Multifamily Housing Hub, HUD Seattle Office, 909 First Avenue, Suite 190, MS–0AHM, Seattle, WA 98104–1000, OFC Phone: (206) 220–5228 ext. 3250, FAX: (206) 220–5206

PENNSYLVANIA

Multifamily Housing Hub, HUD Philadelphia Office, The Wanamaker Building, 100 Penn Square, East Philadelphia, PA 19107–3380, OFC Phone: (215) 656–0609 Ext. 3533, FAX: (215) 656–3427

Multifamily Housing Program Center, HUD Pittsburgh Office, 339 Sixth Avenue—Sixth Floor, Pittsburgh, PA 15222–2515, OFC Phone: (412) 644–6639, FAX: (412) 644–5872

PUERTO RICO

Multifamily Housing Program Center, HUD Caribbean Office, 171 Carlos E. Chardon Avenue, San Juan, PR 00918–0903, OFC Phone: (787) 766–5401, FAX: (787) 766–5522

RHODE ISLAND

Multifamily Housing Program Center, HUD—Providence Office, 10 Weybosset Street, Sixth Floor, Providence, RI 02903–2808, OFC Phone: (401) 528–5230, FAX: (401) 528–5097

SOUTH CAROLINA

Multifamily Housing Program Center, HUD Columbia Office, 1835 Assembly Street, Columbia, SC 29201–2480, OFC Phone: (803) 765–5162, FAX: (803) 253–3043,

SOUTH DAKOTA

Multifamily Housing Hub, HUD Denver Office, 633 17th Street, 14th Floor, Denver, CO 80202–3607, OFC Phone: (303) 672–5343, FAX: (303) 672–5153

TENNESSEE

Multifamily Housing Program Center, HUD—Knoxville Office, 710 Locust Street, SW, Knoxville, TN 37902–2526, OFC Phone: (423) 545–4411, FAX: (423) 545–4578

Multifamily Housing Program Center, HUD—Nashville Office, 251 Cumberland Bend Drive, Suite 200, Nashville, TN 37228–1803, OFC Phone: (615) 736–5748, FAX: (615) 736–2018

TEXAS

Multifamily Housing Hub, HUD Ft. Worth Office, 801 Cherry Street, PO Box 2905, Ft. Worth, TX 76102–2905, OFC Phone: (817) 978–5764, FAX: (817) 978–5520

Multifamily Housing Program Center, HUD Houston Office, 2211 Norfolk, #200, Houston, TX 77098–4096, OFC Phone: (713) 313–2274 Ext. 7015, FAX: (713) 313–2319

Multifamily Housing Program Center, HUD San Antonio Office, 800 Dolorosa, San Antonio, TX 78207–4563, OFC Phone: (210) 475–6831, FAX: (210) 472–6897

UTAH

Multifamily Housing Hub, HUD Denver Office, 633 17th Street, 14th Floor, Denver, CO 80202–3607, OFC Phone: (303) 672–5343, FAX: (303) 672–5153

VERMONT

Multifamily Housing Program Center, HUD—Manchester Office, Norris Cotton Federal Bldg., 275 Chestnut Street, Manchester, NH 03101–2487, OFC Phone: (603) 666–7684, FAX: (603) 666–7697

VIRGINIA

Multifamily Housing Hub, HUD Richmond Office, 3600 West Broad Street, Richmond, VA 23230–4920, OFC Phone: (804) 278–4500 Ext. 3146, FAX: (804) 278–4613

WASHINGTON

Multifamily Housing Hub, HUD Seattle Office, 909 First Avenue, Suite 190, MS–0AHM, Seattle, WA 98104–1000, OFC Phone: (206) 220–5228 Ext. 3250, FAX: (206) 220–5206

WEST VIRGINIA

Multifamily Housing Program Center, HUD—Charleston Office, 405 Capitol Street, Suite 708, Charleston, WV 25301–1795, OFC Phone: (304) 347–7000 Ext. 103, FAX: (304) 347–7050

WISCONSIN

Multifamily Housing Program Center, HUD Milwaukee Office, 310 West Wisconsin Avenue, Room 1380, Milwaukee, WI 53203–2289, OFC Phone: (414) 297–3214 Ext. 8662, FAX: (414) 297–3204

WYOMING

Multifamily Housing Hub, HUD Denver Office, 633 17th Street, 14th Floor, Denver, CO 80202–3607, OFC Phone: (303) 672–5343, FAX: (303) 672–5153

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Federal Register

Friday,
March 17, 2000

Part V

Department of Housing and Urban Development

Regulatory Waiver Requests Granted; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4512–N–04]

Notice of Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public Notice of the Granting of Regulatory Waivers from October 1, 1999 through December 31, 1999.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers it has approved. Each notice must cover the quarterly period since the most recent **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on October 1, 1999 and ending on December 31, 1999.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address is set out for the particular item, in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to *issue* the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from October 1, 1999 through December 31, 1999. Additionally, this notice contains several reports of regulatory waivers granted during September of 1999, but that were not included in HUD's **Federal Register** notice of waiver grant activity from July 1, 1999 to September 30, 1999.

For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between January 1, 2000 through March 30, 2000.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: March 13, 2000.

Andrew Cuomo,

Secretary.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development October 1, 1999 through December 31, 1999

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly before each set of waivers granted.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For Items 1 Through 3, Waivers Granted for 24 CFR Parts 50 and 1000, Contact: Bruce Knott, National Office of Native American Programs, U.S. Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80201; telephone (303) 675–1600 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

1. Regulation: 24 CFR 50.17 and 1000.20(a).

Project/Activity: White Mountain Apache Tribe; Apache Dawn Phase One project.

Nature of Requirement: HUD's regulation at 50.17 provides that the required environmental reviews must be completed before the decision points specified by the regulation. HUD's regulation at § 1000.20(a) provides that a HUD environmental review must be completed for Indian Housing Block Grant (IHBG) program activities not excluded from review under 24 CFR 50.19(b) before a recipient may commit HUD funds used in conjunction with IHBG program assisted activities.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development; Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: November 30, 1999.

Reasons Waived: A request was made by the White Mountain Apache Tribe for HUD to perform the environmental review under 24 CFR part 50 for the Apache Dawn Phase One Project. The tribally designated housing entity (TDHE) made several errors during the 24 CFR part 58 environmental review and clearance process for the project (to be financed with Section 184/Ginnie Mae collateralized tax-exempt bonds), resulting in the TDHE obligating Section 184 Loan Guarantee proceeds and Indian Housing Block Grant (IHBG) funds prior to HUD

approval of a Request for a Release of Funds and Certification. The Tribe and TDHE acted in good faith in trying to comply with HUD's environmental review and clearance process. No environmental degradation resulted from the regulatory noncompliance identified. The errors committed under 24 CFR part 58 would have delayed the bond closing resulting in the cancellation of the project.

2. Regulation: 24 CFR 50.17 and 1000.20(a).

Project/Activity: The Quileute Tribe and its housing authority were provided grant funds to develop 15 houses on the Indian reservation. Prior to the obligation of funds, the Tribe is required to complete an environmental assessment under 24 CFR part 58 or HUD is required to complete the environmental assessment under 24 CFR part 50. The Tribe elected to comply with the part 58 requirements. However, HUD discovered procedural errors during a post review of the environmental record.

Nature of Requirement: HUD's regulation at § 50.17 provides that the required environmental reviews must be completed before the decision points specified by the regulation. HUD's regulation at § 1000.20(a) provides that a HUD environmental review must be completed for Indian Housing Block Grant (IHBG) program activities not excluded from review under 24 CFR 50.19(b) before a recipient may commit HUD funds used in conjunction with IHBG program assisted activities.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development; Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: December 6, 1999.

Reason Waived: Based on the information that was provided by the Tribe, the documentation that was received by HUD, and a determination by HUD that no environmental degradation resulted from the regulatory noncompliance, HUD believed that there was good cause to waive the requirements of §§ 1000.20(a) and 50.17.

3. Regulation: 24 CFR 50.17 and 1000.20(a).

Project/Activity: The Coeur D'Alene Tribe and its housing authority were provided grant funds to develop 5 houses on the Indian reservation. Prior to the obligation of funds, the Tribe is required to complete an environmental assessment under 24 CFR part 58 or HUD is required to complete the environmental assessment under 24 CFR part 50. The Tribe elected to comply with the part 58 requirements. However, HUD discovered procedural errors during a post review of the environmental record.

Nature of Requirement: HUD's regulation at § 50.17 provides that the required environmental reviews must be completed before the decision points specified by the regulation. HUD's regulation at § 1000.20(a) provides that a HUD environmental review must be completed for Indian Housing Block Grant (IHBG) program activities not excluded from review under 24 CFR 50.19(b) before a recipient may commit HUD funds used in conjunction with IHBG program assisted activities.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development; Mr. Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: December 6, 1999.

Reason Waived: Based on the information that was submitted by the Tribe, the documentation that was received by HUD, and a determination by HUD that no environmental degradation resulted from the regulatory noncompliance, HUD believed that there was good cause to waive the requirements of §§ 1000.20(a) and 50.17.

For Items 4 Through 10, Waivers Granted for 24 CFR Parts 91, 92, 570 and 576 Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

4. Regulation: 24 CFR 91.520(a).

Project/Activity: Harris County, Texas requested a waiver of the submission deadline for the County's 1998 program year CAPER.

Nature of Requirement: HUD's regulation at 24 CFR 91.520(a) requires each grant recipient to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: October 19, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver. The County requested an extension because staff is addressing concerns raised by HUD regarding the County's data collection methods during a recent monitoring visit. This additional time helped to ensure that the data reported in the CAPER was accurate and complete.

5. Regulation: 24 CFR 91.520(a).

Project/Activity: The County of Onondaga, New York requested a waiver of the submission deadline for the County's 1998 program year CDBG Performance Annual Evaluation Report (CAPER).

Nature of Requirement: HUD's regulation at 24 CFR 91.520(a) requires each grant recipient to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: November 24, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver. The County had experienced difficulties as a result of staff illness and the installation of new computer equipment.

6. Regulation: 24 CFR 92.500(d)(1)(C).

Project/Activity: The City of Santa Monica, California requested a waiver to extend the deadline for disbursement of HOME program disaster grant funds.

Nature of Requirement: HUD's regulation at 24 CFR 92.500(d)(1)(C) requires grantees to disburse HOME program funds within five years of the time HUD makes them available.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: October 25, 1999.

Reasons Waived: The project experienced delay due to inclement weather and restrictions on site access. The loss of the funds committed to a project already under construction would constitute a hardship to the City of Santa Monica. HUD determined that there was good cause for a waiver and allowed the City until February 29, 2000 to expend its remaining HOME disaster grant funds.

7. Regulation: 24 CFR 570.200(h)(1)(i).

Project/Activity: The City of Berwyn Illinois and the Village of Palatine, Illinois requested a waiver of the requirement governing reimbursement for CDBG pre-award costs.

Nature of Requirement: HUD's Community Development Block Grant (CDBG) program regulations at 24 CFR 570.200 (h)(1)(i) provide that, before the effective date of the CDBG grant agreement, a recipient may incur costs for activities included in a Consolidated Plan Action Plan, or an amended Consolidated Plan and then reimburse itself after the grant is received.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: December 13, 1999.

Reasons Waived: The two communities that requested this waiver are new entitlements and do not have Consolidated Plans in place. In order for these communities to incur costs to carry out these activities and reimburse themselves for such costs after their CDBG grants are awarded, a waiver of 24 CFR 570.200(h)(1)(i) was necessary. HUD may waive any requirement, not specifically required by law, upon determination of good cause, if undue hardship would result from applying the requirement. It is not HUD's intention to put the financial burden for program start-up costs on local resources by prohibiting reimbursement from CDBG program funds. This could negatively impact the implementation of the City's and Village's CDBG programs and their ability to effectively carry-out activities that will benefit low- and moderate-income residents.

8. Regulation: 24 CFR 570.200(h)(1)(i).

Project/Activity: The City of Auburn, Alabama requested a waiver of the requirement governing reimbursement for CDBG pre-award costs.

Nature of Requirement: HUD's Community Development Block Grant (CDBG) program regulations at 24 CFR 570.200 (h)(1)(i) provide that, before the effective date of the CDBG grant agreement, a recipient may incur costs for activities included in a Consolidated Plan Action Plan, or an amended Consolidated Plan and then reimburse itself after the grant is received.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: December 13, 1999.

Reasons Waived: The community that requested the waiver is a new entitlement, and does not have a Consolidated Plan in place. In order for this community to incur

costs to carry out activities and reimburse itself for such costs after its grant is awarded, a waiver of 24 CFR 570.200(h)(1)(i) was necessary. HUD may waive any requirement, not specifically required by law, upon determination of good cause, if undue hardship would result from applying the requirement. It is not HUD's intention to put the financial burden for program start-up costs on local resources by prohibiting reimbursement from CDBG program funds. This could negatively impact the implementation of the City's CDBG program and its ability to effectively carry-out activities that will benefit low-and moderate-income residents.

9. Regulation: 24 CFR 576.21.

Project/Activity: The County of Onandaga, NY requested a waiver of the Emergency Shelter Grant (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: October 20, 1999.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' A letter from the County Administrator to HUD documented that other resources were being used to address homeless needs. Therefore, HUD allowed the County to expend 32.57 percent of its FY 1998 ESG funds for this expenditure category.

10. Regulation: 24 CFR 576.35(b)(2)(ii).

Project/Activity: The State of Tennessee requested a waiver of the 180-day month expenditure deadline.

Nature of Requirement: The ESG program regulation at 24 CFR 576.35(b)(2)(ii) requires State recipients using ESG funds for homeless prevention activities to expend those funds within 180 days of the date on which grant amounts were made available.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: November 2, 1999.

Reasons Waived: The State requested approval to use ESG homeless prevention funds during the first 365 days of the ESG grant term. The waiver was requested to help ensure that the State would not experience a shortfall of resources during the wintertime, when a large number of requests for assistance with rent and utility arrearages are received. HUD recognized the State's need to be able to provide assistance beyond the 180 days allowed in the regulation.

II. Regulatory Waivers Granted by the Office of Housing

For Item 11, Waiver Granted for 24 CFR Part 203, Contact:

Vance T. Morris, Director, Office of Single Family Program Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 9266, Washington, DC 20410; telephone (202) 708–2700 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

11. Regulation: 24 CFR 203.49(c).

Project/Activity: Corinthian Mortgage Corporation requested a waiver of the requirements of 24 CFR 203.49(c) to extend the initial adjustment dates for adjustable rate mortgage (ARM) loans beyond the 12 to 18 month window currently provided for in the regulation.

Nature of Requirement: The regulation requires that interest rate adjustments for ARMs must occur on an annual basis, except that the first adjustment may occur no sooner than 12 months nor later than 18 months from the date of the mortgagor's first debt service payment.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 12, 1999.

Reason Waived: Approving the waiver enabled the lender to securitize the loan and rendered no harm to the borrowers or the Department.

For Item 12: Waiver Granted for 24 CFR Part 241, Contact: Gloria Burton, Western and Atlantic Servicing Branch, Office of Portfolio Management, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 6176, Washington, DC 20410; telephone (202) 708–3944 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8391.

12. Regulation: 24 CFR 241.1069(a).

Project/Activity: Kansas City, Missouri (Hawthorne Complex—Project Numbers 084–55005, 084–55014, 084–55040, 084–41006, 084–55052). The Kansas City Multifamily Hub has requested a waiver of escrow requirements for the subject projects.

Nature of Requirement: HUD's regulations at 24 CFR part 241 require that 10% of each second mortgage loan be deposited with the second mortgage lender in Housing Quality Standards (HQS) escrows to be held for a period of 5 years from the date the loan was made as assurance of compliance by the project owner with applicable local housing codes and HUD's HQS.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Reason Waived: The Assistant Secretary granted the waiver to allow release of $540,291 from the HQS Escrow to purchase of the Hawthorne Complex, as well as 36 management needs of the property. This will allow release of a portion requisite 5-year period and preserve the long term affordability of the Hawthorne Complex.

For Items 13 Through 85, Waivers Granted for 24 CFR Part 891, Contact: Willie Spearmon, Director, Office of Business Products, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410; telephone (202) 708–3000 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

13. Regulation: 24 CFR 891.100(d).

Project/Activity: Everett Non-Profit Housing, Everett, MA, Project Number: 023–EE068/MA06–S961–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 30, 1999.

Reason Waived: The project is modest in design, and comparable in cost to similar projects. Further, the sponsor has not been able to secure all funds needed to cover the increased costs from outside sources.

14. Regulation: 24 CFR 891.100(d).

Project/Activity: Jackson Supportive Housing Development, Jackson, Mississippi, Project Number: 065–HDO19/MS26–Q971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 30, 1999.

Reason Waived: The project is modest in design, comparable in costs to other similar projects, and the Sponsors were not able to raise any additional funds nor do they have the capacity to provide the funds.

15. Regulation: 24 CFR 891.100(d) and 891.165.

Project/Activity: Mt. Zion Baptist Church, St. Louis, Missouri, Project Number: 085–EE038/MO36–S971–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 30, 1999.

Reason Waived: The sponsor/owner has taken all reasonable measures to reduce project cost by competitively bidding the project and has no other funds available to cover the shortfall in project development costs. The project was delayed due to a HUD error which required the construction contract to be competitively bid.

16. Regulation: 24 CFR 891.100(d).

Project/Activity: Reisterstown Village Senior Housing, Reisterstown, Maryland, Project Number: 052–EE025/MD06–S981–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 13, 1999.

Reason Waived: Additional funds were needed to cover increased costs caused by the local government requiring a sprinkler system.

17. Regulation: 24 CFR 891.100(d) and 891.165.

Project/Activity: East 21st Midwood Residence, Brooklyn, New York, Project Number: 012–HD052–WDD/NY36–Q961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 13, 1999.

Reason Waived: Additional funds were needed because the sponsor had exhausted all reasonable measures to reduce project shortfalls and had no other funds to cover the shortfall. The sponsor required additional time because an alternate site had to be selected by the sponsor after it lost site control of its original site.

18. Regulation: 24 CFR 891.100(d).

Project/Activity: QLS Meadows, Atlanta, Georgia, Project Number: 061–EE053/GA06S961007.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 26, 1999.

Reason Waived: The Sponsor/Owner had to acquire another site, which resulted in additional land and construction costs.

19. Regulation: 24 CFR 891.100(d) and 891.165.

Project/Activity: Tongore Pines, Oliverbridge, New York, Project Number: 012–EE193/NY36–S961–011.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: The project is modest in design, comparable in costs to other similar projects, and the owner could not raise any additional funds for this project. Additional time was needed for the owner to obtain the additional time needed for the project.

20. Regulation: 24 CFR 891.100(d).

Project/Activity: Presbyterian Village of Michigan (Brush Park), Detroit, Michigan, Project Number: 044–EE053/MI28–S971–008.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner

Date Granted: December 14, 1999.

Reason Waived: Construction costs have escalated and created shortages of materials and skilled labor in Southeast Michigan due to a construction boom. The owners have exhausted all attempts to raise the additional capital to eliminate the shortfall.

21. Regulation: 24 CFR 891.100(d).

Project/Activity: Monsignor Henry J. Reel Village II, Suffolk, New York, Project Number: 012–EE220/NY36–S971–007.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 16, 1999.

Reason Waived: The capital advance issued at the fund reservation stage did not reflect development costs within the New York metropolitan area. The Sponsor was unable to funds the necessary increase.

22. Regulation: 24 CFR 891.165.

Project/Activity: Ralston Mercy Douglass House, Philadelphia, Pa., Project Number: 034–EE061/PA26–S961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 22, 1999.

Reason Waived: Additional time was needed to review closing documents.

23. Regulation: 24 CFR 891.165.

Project/Activity: ARC Housing, Milwaukee, Wisconsin, Project Number: 075–HDO49–WDD/WI39–Q961004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 22, 1999.

Reason Waived: Additional time was needed to resolve architectural problems.

24. Regulation: 24 CFR 891.165.

Project/Activity: VOA Riverside 10, Fort Worth, Texas, Project Number: 113–HDO15–WPD/TX21–Q971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 22, 1999.

Reason Waived: The project was delayed because the owner had to find a new site due to neighborhood opposition.

25. Regulation: 24 CFR 891.165.

Project/Activity: Royale Gardens Residences, Chicago, Illinois, Project Number: 071–EE125/IL06–S961–016.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 23, 1999.

Reason Waived: Additional time was needed for the Sponsor to secure secondary financing from the City of Chicago's Department of Housing to cover additional construction costs.

26. Regulation: 24 CFR 891.165.

Project/Activity: Citrus Gardens, Orlando, Orange County, Florida, Project Number: 067–EE082/FL29–S971–008; Goodwill Industries, St. Petersburg, Florida, Project Number: 067–HDO54/FL29–Q971–008; Bethel Towers, Tallahassee, Florida, Project Number: 067–EE016/FL29–S971–002; Cape Coral Home, Cape Coral, Florida, Project Number: 066–HDO38/FL29–Q971–005; Matthew's Corner, Tampa, Project Number: 067–HDO53/FL29–Q071–007.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 1999.

Reason Waived: Citrus Gardens: Closing of the project has been delayed due to deficiencies in the firm commitment application and the owner's efforts to resolve issues with the City of Orlando. *Goodwill Industries:* The project was delayed because the owner was forced to seek an alternate site. *Bethel Towers:* Additional time was needed for the owner to resolve deficiencies in the Firm Commitment application and to identify alternate funding sources to meet a cash shortage. *Cape Coral Home:* Delays in closing the project are due to the General Contractor revising his cost. *Matthew's Corner:* Closing of this project has been delayed due to deficiencies in the Firm Commitment application and in the State's review and approval of the Owner Corporation.

27. Regulation: 24 CFR 891.165.

Project/Activity: Woodgrove Apartments, Maryville, Tennessee, Project Number: 087–HDO33/TN37–Q961–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 30, 1999.

Reason Waived: Additional time was needed for HUD to process the firm application and the Owner's Attorney to prepare the initial closing documents.

28. Regulation: 24 CFR 891.165.

Project/Activity: Riverview St. Mary's, Knoxville, Tennessee, Project Number: 087–EE030–NP–WAH/TN37–S971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 12, 1999.

Reason Waived: The Owner experienced a delay in obtaining their 501(c) tax exempt status from the IRS.

29. Regulation: 24 CFR 891.165.

Project/Activity: Summerdale Court, Clairton, Allegheny County, Pennsylvania, Project Number: 033–HDO39/PA28–Q971001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 13, 1999.

Reason Waived: The project experienced delays when the original site met neighborhood opposition and the sponsor chose to find a new site rather than contest the arguments of the neighbors.

30. Regulation: 24 CFR 891.165.

Project/Activity: Friendship Manor, Kingsport, Tennessee, Project Number: 087–EE031.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 18, 1999.

Reason Waived: HUD needed additional time to review the draft closing documents.

31. Regulation: 24 CFR 891.165.

Project/Activity: Council for the Spanish Speaking, Inc., Milwaukee, Wisconsin, Project Number: 075–EE063–WAH/WI39–S971–007

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 26, 1999.

Reason Waived: Project has been delayed due to a significant amount of neighborhood opposition.

32. Regulation: 24 CFR 891.165.

Project/Activity: Lakeland Manor, Santa Fe Springs, California, Project Number: 122–HD089–WPD–NP/CA16–Q961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: The project's delay was caused by a change of site from one city to another, problems with the coordination of civil, structural and mechanical engineering, and the addition of previously unknown electrical substation requirements.

33. Regulation: 24 CFR 891.165.

Project/Activity: Abraham Lincoln Centre, Chicago, Illinois, Project Number: 071–HDO95/IL06–Q061–010.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: Approval of the sites has taken more time than expected. The City has required the Sponsor to obtain the approval of each alderman and the aldermen have required the approval of each of the communities involved.

34. Regulation: 24 CFR 891.165.

Project/Activity: Nome Community Center, Nome, Alaska, Project Number: 176–EE012/AK06–S971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: Development of this project has been delayed by factors beyond the control of HUD and the owners.

35. Regulation: 24 CFR 891.165.

Project/Activity: Victoria Jennings Residences, Chicago, Illinois, Project Number: 071–HDO88/IL06–Q961–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: Additional time is needed for the firm commitment to be reprocessed and for the project to be initially closed.

36. Regulation: 24 CFR 891.165.

Project/Activity: ASI Dakota County, Burnsville, Minnesota, Project Number: 092–HDO44/MN46–Q971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: This project experienced delays when the site had to be subdivided due to improvements on the adjacent property.

37. Regulation: 24 CFR 891.165.

Project/Activity: Mercy Gardens, San Diego, California, Project Number: 129–HDO11–WPD–NP/CA33–Q961–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: Delays that this project has experienced in achieving a construction start have been for reasons that were beyond the Sponsor's control.

38. Regulation: 24 CFR 891.165.

Project/Activity: Mariposa Manor, Los Angeles, California, Project Number: 122–EE118/CA16–S971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: The project has been delayed due to the complications rising from the Section 106 historic Preservation Review process.

39. Regulation: 24 CFR 891.165.

Project/Activity: Webster Supportive Housing, Webster, Texas, Project Number: 114–HDO12/TX24–Q961–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: The Sponsor was denied a special use permit from the city of Webster on their original site which necessitated a search for an alternate.

40. Regulation: 24 CFR 891.165.

Project/Activity: Woodgrove Apartments, Maryville, Tennessee, Project Number: 087–HDO33.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: HUD required additional time to review the closing documents.

41. Regulation: 24 CFR 891.165.

Project/Activity: Ralston Mercy-Douglass House, Philadelphia, PA, Project Number: 034–EE061/PA26–S961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Commissioner.

Date Granted: November 9, 1999.

Reason Waived: HUD required additional time to review the initial closing documents.

42. Regulation: 24 CFR 891.165.

Project/Activity: Jackson Supportive Housing Development, Jackson, Mississippi, Project Number: 065–HDO19.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 9, 1999.

Reason Waived: The firm commitment application was delayed because construction bids obtained by the co-sponsor/owner exceeded the fund reservation and the owner needed to seek ways to lower costs and find other funds.

43. Regulation: 24 CFR 891.165.

Project/Activity: ARC Housing, Inc., Milwaukee, Wisconsin, Project Number: 075–HDO49/WI39–Q961–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: The project was delayed due to architectural problems.

44. Regulation: 24 CFR 891.165.

Project Activity: Ray Rawson Villa, Las Vegas, Nevada, Project Number: 125–HDO64–NP–WPD/NV25–Q971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: Delays occurred as the owner tried to obtain acceptable contractor bids and to secure additional secondary financing to cover cost overruns.

45. Regulation: 24 CFR 891.165.

Project/Activity: Sumac Trail Apartments, Inc., Rhinelander, Wisconsin, Project Number: 075–HDO50–CMI/WI39–Q971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that

the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: Delays occurred while the owner tried to reduce the project costs.

46. Regulation: 24 CFR 891.165.

Project Activity: Good Samaritan Housing, Fennimore, Wisconsin, Project Number: 075–EE058/WI39–S971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: Additional time was required for the owner to seek ways to reduce an up-front cash requirement.

47. Regulation: 24 CFR 891.165.

Project/Activity: ARC Housing in Milwaukee, Inc., Wauwatosa, Wisconsin, Project Number: 075–HDO53–WDD/WI39–Q971–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: Owner had to locate a new site for the project.

48. Regulation: 24 CFR 891.165.

Project/Activity: 1116 Brookview (aka St. Paul's) Toledo, Ohio, Project Number: 042–EE087–WAH/OH12–S971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: There was a need for more time to gain approval of a community unit plan and for HUD to review the closing documents.

49. Regulation: 24 CFR 891.165.

Project/Activity: Wesley Acres II, Decatur, Alabama, Project Number: 062–EE037/AL09–S971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: The previous contractor had to be terminated by the Owner. The new general contractor required time to revise the plans and specifications in order to reduce construction costs.

50. Regulation: 24 CFR 891.165.

Project/Activity: Estates II, Hattiesburg, Mississippi, Project Number: 065–EE022–CA/MS26–S971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: The project experienced unusual delays due to the local government's review process.

51. Regulation: 24 CFR 891.165.

Project/Activity: Chenango Street Apartments, Buffalo, New York, Project Number: 014–EE163/NY06–S971–019.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: Development of the project was delayed due to environmental concerns with the site.

52. Regulation: 24 CFR 891.165.

Project/Activity: Bancroft Senior Housing, Oakland, California, Project Number: 121–EE106–NP–WAH/CA39–S971–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: The project was unable to proceed to initial closing due to a HUD delay.

53. Regulation: 24 CFR 891.165.

Project/Activity: John King Senior Community, San Francisco, California, Project Number: 121 EE099–NP–WAH/CA39–S961–012.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: Delays resulted from increases in construction costs which required the owner to seek a substantial amount of additional secondary financing from the City and County, the complexity of the design, and a relocation problem that was only resolved recently by court action.

54. Regulation: 24 CFR 891.165.

Project/Activity: Clinton House, Detroit, Michigan, Project Number: 044–HDO20/MI28–Q961–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 24, 1999.

Reason Waived: The project encountered delays as it sought additional amendment funds because of a required project redesign and local government requirements.

55. Regulation: 24 CFR 891.165.

Project/Activity: Timber Ridge Group Home Northridge, California, Project Number: 122–HD103/CA16–Q971–009; Ranch House Group Home, Sylmar, California, Project Number: 122–HD104/CA16–Q971–010.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 24, 1999.

Reason Waived: The delays that this project experienced in achieving a construction start have been for reasons beyond the owner's control. Further delay was encountered because all proposed designs far exceeded the available budget and consequently the scope of the project was reevaluated.

56. Regulation: 24 CFR 891.165.

Project/Activity: Oroysom Senior Housing, Fremont, California, Project Number: 121–EE103–NP–WAH/CA39–S971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 1, 1999.

Reason Waived: The HUD field office was not able to proceed to initial closing due to HUD delay.

57. Regulation: 24 CFR 891.165.

Project/Activity: Bishop Curtis Homes, East Bridgeport, Connecticut, Project Number: 017–EE033/CT26–S971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 6, 1999.

Reason Waived: Delays have occurred as the owner aggressively sought ways to reduce project costs and to obtain additional funding from the City of Bridgeport.

58. Regulation: 24 CFR 891.165.

Project/Activity: Volunteers of America, Inc., Bath/Thomaston, Maine, Project Number: 024–EE038/MA36–S971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 6, 1999.

Reason Waived: The sponsor had to locate a new site due to the City not approving zoning on the original site. Additional time was required for HUD to review the new site.

59. Regulation: 24 CFR 891.165.

Project/Activity: Baden Supportive Housing, Baden, Pennsylvania, Project Number: 033–EE091/PA28–S971–007.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 6, 1999.

Reason Waived: A few days before closing, the General Contractor notified the owner that he could no longer build the project and the project owner had to select a new contractor.

60. Regulation: 24 CFR 891.165.

Project/Activity: Lake Street Apartments, St. Albans, Vermont, Project Number: 024–HDO25/VT36–Q971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 6, 1999.

Reason Waived: Additional time was needed for the City to complete rehabilitation of the building that will house the project.

61. Regulation: 24 CFR 891.165.

Project/Activity: Hamilton Manor, Hamilton, Alabama, Project Number: 062–HDO37/AL09–Q971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 6, 1999.

Reason Waived: The delay in initial closing is directly attributable to HUD which may necessitate reprocessing of the firm commitment application.

62. Regulation: 24 CFR 891.165.

Project/Activity: Berry Manor, Berry Alabama, Project Number: 062–HDO36/AL09–Q971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 6, 1999.

Reason Waived: The delay in initial closing is directly attributable to HUD which may necessitate reprocessing of the firm commitment application.

63. Regulation: 24 CFR 891.165.

Project/Activity: Glen Burnie Senior Housing, Baltimore, Maryland, Project Number: 052–EE022/MD06–S971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 6, 1999.

Reason Waived: The extension of time was necessary for the project to achieve an initial closing.

64. Regulation: 24 CFR 891.165.

Project/Activity: Monsignor Henry J. Reel Village II, Suffolk, New York, Project Number: 012–EE220/NY36–S971–007.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 16, 1999.

Reason Waived: Additional time was needed to process the Firm Commitment Application, which was delayed due to submission of three unacceptable appraisals.

65. Regulation: 24 CFR 891.165.

Project/Activity: Stoney Pine Apartments, Sunnyvale, California, Project Number: 121–HD063/CA39–Q971–008.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: Additional time was required to complete the firm commitment process.

66. Regulation: 24 CFR 891.165.

Project/Activity: Crockett Senior Housing, Crockett, California, Project Number: 121–EE104/CA39–S971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The project was unable to proceed to closing due to a moratorium placed on closings during the month of October.

67. Regulation: 24 CFR 891.165.

Project/Activity: Lenore Street Senior Housing, Willits, California, Project Number: 121–EE017/CA39–S971–006.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The project was unable to proceed to closing due to a moratorium placed on closings during the month of October.

68. Regulation: 24 CFR 891.165.

Project/Activity: St. Anthony Homes, Hunt Valley, Maryland, Project Number: 052–HD035/MD06–Q971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: Additional time was needed to reach initial closing.

69. Regulation: 24 CFR 891.165.

Project/Activity: Jefferson Cottage, Inc., Martinsburg, West Virginia, Project Number: 045–HD021/WV15–Q961–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The Sponsor/Owner had to resolve issues with the Jefferson County Planning Commission and also encountered significant delay in regard to subdivision approval.

70. Regulation: 24 CFR 891.165.

Project/Activity: Charles Street Village, Cotati, California, Project Number: 121–EE105/CA39–S971–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The project was unable to proceed to initial closing due to the moratorium placed on closings during the month of October.

71. Regulation: 24 CFR 891.165.

Project/Activity: Highview Unity Apartments, Inc., Charleston, West Virginia, Project Number: 045–EE010/WV15–S971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The firm commitment application was delayed due to cost concerns and a request for additional funding to cover the financial shortfall.

72. Regulation: 24 CFR 891.165.

Project/Activity: Jackson Place, Red Bluff, California Project Number: 136–HD009/CA30–Q961–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The sponsor encountered cost problems and had to seek gap funds through Community Development Block Grant funds available through the State of California.

73. Regulation: 24 CFR 891.165.

Project/Activity: ASI Dakota County, Burnsville, Minnesota, Project Number: 092–HD044/MN46–Q971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The preparation of the closing documents was delayed due to improvements on the adjacent property which encroached on the subject site and necessitated a subdivision of the site.

74. Regulation: 24 CFR 891.165.

Project/Activity: Nashville Supportive Housing, Nashville, Tennessee, Project Number: 086–HD016/TN–43–Q971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The sponsor was required to find an alternative site and had problems scheduling the rezoning hearing before the Planning Commission.

75. Regulation: 24 CFR 891.165.

Project/Activity: LaCasa Village II, Wauesha, WI Project Number: 075–EE065/WI39–S971–009.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The firm commitment processing was delayed due to the fact that the Sponsor had to negotiate with a new contractor.

76. Regulation: 24 CFR 891.165.

Project/Activity: Arc HUD III, Project Number: 032–HD017/DE26–Q961–003; St. Peter's Place, Project Number: 034–EE070/PA26–S971–002; Freedom House, Project Number: 034–HD049/PA26–Q971–001; Randolphy/Mercy-Douglass Home for the Blind, Project Number: 034–HD052/PA26–Q9771–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: HUD required additional time to review ARC HUD III's closing documents and to complete the firm commitment processing for the other three projects.

77. Regulation: 24 CFR 891.165.

Project/Activity: Venice Senior Housing, Venice, California, Project Number: 122–EE127/CA16–S971–012.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The project experienced delays due to neighborhood and community groups filing legal appeals and a pending request for additional funding from LAHD.

78. Regulation: 24 CFR 891.165.

Project/Activity: West Hamlin Unity Place, West Hamlin, West Virginia, Project Number: 045–HD026/WV15–Q971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The firm commitment application was delayed due to cost concerns and a request for additional funding to cover a financial shortfall.

79. Regulation: 24 CFR 891.165.

Project/Activity: Barbara Chappelle Manor, Grenada, Mississippi, Project Number: 065–EE018/MS26–S961–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: Additional time was needed to allow the Sponsor to resolve deficiencies in the initial closing package.

80. Regulation: 24 CFR 891.165.

Project/Activity: Connections (West Commons), Wilmington, Delaware, Project Number: 032–HD018/DE26–Q961–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: Additional time was needed to process the firm commitment application and to finalize gap financing since a new site had to be found for the project.

81. Regulation: 24 CFR 891.165.

Project/Activity: New Canaan Group Home, New Canaan, Connecticut, Project Number: 017–HD021/CT26–Q971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: Additional time needed to close the project.

82. Regulation: 24 CFR 891.165.

Project/Activity: Southbury Senior Housing, Project Number: 017-EE040/CT26-S971–008.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The Sponsor required additional time to resolve funding issues regarding unique rural site costs.

83. Regulation: 24 CFR 891.165.

Project/Activity: Interfaith Housing, Westport, CT, Project Number: 017–HD015/CT26–Q961–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: Delays occurred due to the Sponsor experiencing extreme difficulty in securing adequate properties for rehabilitation. Further, the Sponsor required additional time to conduct fund raising activities to resolve a financial shortfall.

84. Regulation: 24 CFR 891.165.

Project/Activity: Knights of Peter Claver Apartments, Tunica, Mississippi, Project Number: 065–EE020/MS26–S971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The Owner had to find another general contractor and resolve cost problems when the construction bid prices exceeded the fund reservation amount.

85. Regulation: 24 CFR 891.165.

Project/Activity: Warren Hempel Apartments, Alton, Illinois, Project Number: 072–HD102/IL06–Q971–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the national Affordable Housing Act (42 U.S.C. 8013). HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The Sponsor required additional time to resolve building permit issues with the City.

For Items 86 Through 92, Waivers Granted for 24 CFR Part 891, Contact: Jerold Nachison, Eastern and Atlantic Servicing Branch, Office of Portfolio Management, Office of Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6168, Washington, DC 20410; telephone (202) 708–3730 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

86. Regulation: 24 CFR 891.305 and 891.410(c).

Project/Activity: Omaha, Nebraska (Richland Apartments—Project Number 103–HD105). The Kansas City Multifamily Hub has requested a waiver to allow an ineligible family admitted erroneously to this Section 811 project to remain temporarily to avoid a potential hardship if the family were immediately displaced.

Nature of Requirement: The HUD regulations at 24 CFR part 891 define a disabled household as ''one or more persons at least one of whom is an adult (18 years or older) who has a disability.'' The regulations also require that an owner is to determine eligibility in selecting tenants.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 12, 1999.

Reason Waived: The Assistant Secretary granted this waiver based on the special circumstances of this case in which management did not focus on the eligibility limitations of the section 811 program. This waiver allowed the family to stay for the remaining term of their lease or one year, whichever was less. Further, the project was required to bear the costs of the family's relocation. The waiver applied solely to the subject household.

87. Regulation: 24 CFR 891.305 and 891.410(c).

Project/Activity: Greensboro, North Carolina (Morehead-Simkin Independent Living Center—Project Number 053–EE067). The Greensboro Multifamily Hub requested an age and disability waiver for the subject project to allow five households who were erroneously admitted to temporarily remain in the project.

Nature of Requirement: The HUD regulations at 24 CFR part 891 require occupancy to be limited to Very Low Income (VLI) elderly persons (*i.e.,* households composed of one or more persons at least one of whom is 62 years of age at time of initial occupancy). The regulations also require that an owner is to determine eligibility in selecting tenants.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 12, 1999.

Reason Waived: The Assistant Secretary granted a one year waiver of the regulation to allow project management to assist five households (in which no resident is near the age of 60), to relocate to another apartment and pay for moving expenses, etc. One ineligible resident is over the age of 60 and will be 61 at the end of the one year waiver period. In this case the waiver will be extended to her 62nd birthday, so that she may remain in the project. These measures are being taken to restore the project to a 202/PRAC for the elderly over time.

88. Regulation: 24 CFR 891.575 and 891.610(c).

Project/Activity: Salt Lake City, Utah (Calvary Tower—Project Number 105–EH048). The Denver Multifamily Hub has requested an age waiver for the project to assist with renting units.

Nature of Requirement: The HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (*i.e.,* households composed of one or more persons at least one of whom is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 12, 1999.

Reason Waived: The Assistant Secretary for Housing granted the waiver to raise the income ceiling for the project, which would assist in renting vacant units in the project.

89. Regulation: 24 CFR 891.575 and 891.610(c).

Project/Activity: McKee, Kentucky (McKee Manor Apartments—Project Number 083–EH043). The Atlanta Multifamily Hub has requested an age waiver for the project because of occupancy difficulties.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (*i.e.,* households composed of one or more persons at least one of whom is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 3, 1999.

Reason Waived: The Assistant Secretary for Housing granted an age waiver for this project in order to allow flexibility in attempting to rent up the vacant units which exists because of a ''soft'' housing market in the area.

90. Regulation: 24 CFR 891.575 and 891.610(c).

Project/Activity: Burkesville, Kentucky (Burkesville Manor—Project Number 083–EH153). The Atlanta Multifamily Hub has requested an age waiver for the project to assist in renting up vacant project units.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (*i.e.,* households composed of one or more persons at least one of whom is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 16, 1999.

Reason Waived: The Assistant Secretary granted the waiver for this project due to the local ''soft'' market in the area to assist in project occupancy and allow project management more flexibility in renting vacant units.

91. Regulation: 24 CFR 891.575 and 891.610(c).

Project/Activity: Racine, Wisconsin (Marian Housing Center—Project Number: 075–EH247). The Milwaukee Multifamily Program Center requested an age waiver for the subject project due to occupancy difficulties.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (*i.e.,* households composed of one or more persons at least one of whom is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The Assistant Secretary for Housing granted this waiver based on the area's ''soft'' housing market resulting in difficulty in renting remaining units. The waiver would allow project management additional flexibility in attempting to rent up vacant units.

92. Regulation: 24 CFR 891.575 and 891.610(c).

Project/Activity: North Lewisburg, Ohio (Cherry Arbors—Project Number 043–EE012). The Columbus Multifamily Hub has requested an income waiver to assist with severe vacancy problems for this 202/PRAC project.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (*i.e.,* households composed of one or more persons at least one of whom is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 22, 1999.

Reason Waived: The Assistant Secretary granted this waiver in order to allow low income elderly in addition to very low income since the project has been suffering severe vacancy problems which could lead to future foreclosure. This would assist the project in fully renting up its vacant units.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For Items 93 and 94, Waivers Granted for 24 CFR Part 982, Contact: Gerald Benoit, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone (202) 708–0477 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

93. Regulation: 24 CFR 982.303(a) and 982.503(c)(4)(ii).

Project/Activity: San Francisco Housing Authority, California; Section 8 Housing Choice Voucher Program.

Nature of Requirement: HUD's regulation at 24 CFR 982.303(a) provides for an initial voucher term of 60 days. HUD's regulation at 24 CFR 982.503(c)(4)(ii) provides that HUD will only approve an exception payment standard above 120 percent of the fair market rent (FMR) after six months from the date of HUD approval of an exception payment standard implementing 120 percent payment standards.

Granted by: Harold Lucas, Assistant Secretary for Pubic and Indian Housing.

Date Granted: December 27, 1999.

Reason Waived: Approval of the waiver was necessary to allow an initial term of six months and thereby provide a longer initial search time for families to find housing under the program in the extremely tight San Francisco rental market. The waiver also immediately increased the payment standards above 120 percent to ensure that families were not required to pay more than 40 percent of their income for rent.

94. Regulation: 24 CFR 982.312.

Project/Activity: Cumberland County Housing Authority, Pennsylvania; Section 8 Housing Choice Voucher Program.

Nature of Requirement: The regulation provides that a family may not be absent from the unit for a period of more than 180 consecutive calendar days.

Granted by: Harold Lucas, Assistant Secretary for Pubic and Indian Housing.

Date Granted: December 17, 1999.

Reason Waived: Approval of the waiver prevented further stress and hardship on a program participant that was hospitalized for an extended period of time due to complications resulting from heart transplant surgery.

For Item 95, Waiver Granted for 24 CFR Part 990, Contact: Stephen Sprague, Funding and Financial Management Division, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4216, Washington, DC 20410; telephone (202) 708–1872 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

95. Regulation: 24 CFR 990.107(f) and 990.109.

Project/Activity: Housing Authority of San Joaquin, CA.

Nature of Requirement: HUD's regulations at 24 CFR part 990 establish the policies and procedures governing the Performance Funding System (PFS). The PFS regulations at §§ 990.107(f) and 990.109 provide that the energy conservation incentive that relates to energy performance contracting applies to only PHA-paid utilities. The Housing Authority of San Joaquin has *both* PHA-paid and tenant-paid utilities.

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: October 12, 1999.

Reason Waived: A request was made to permit the Authority to benefit from energy performance contracting for developments which have tenant-paid utilities. The PHA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities. In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology for doing so. The Housing Authority of San Joaquin requested a waiver based on the same approved methodology. The waiver permits the PHA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

[FR Doc. 00–6640 Filed 3–16–00; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Friday,
March 17, 2000

Part VI

Department of Education

Bilingual Education: Field-Initiated Research Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.292B]

Bilingual Education: Field-Initiated Research Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program. The statutory authorization for this program is contained in section 7132 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 7452, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382 (October 20, 1994).

Purpose of Program: The purpose of this program is to provide grants for field-initiated research activities related to the improvement of bilingual education and special alternative instructional programs for limited English proficient (LEP) children and youth.

Eligible Applicants: Institutions of higher education, nonprofit organizations, State educational agencies, and local educational agencies that have received grants under subparts 1 or 2 of Part A (or Part A or Part B, as in effect prior to October 20, 1994) of Title VII of the ESEA within the previous five years.

Applications Available: March 17, 2000.

Deadline for Transmittal of Applications: April 17, 2000.

Deadline for Intergovernmental Review: May 16, 2000.

Available Funds: $180,000.

Estimated Range of Awards: $50,000–$70,000.

Estimated Average Size of Awards: $60,000.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99 the regulations in 34 CFR part 299, General Provisions, ESEA.

Description of Program

Funds under this program are available to carry out field-initiated research conducted by current or recent recipients of grants under subparts 1 or 2 who have received those grants within the previous five years. Research under this program may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of those students from entry in bilingual education through secondary school completion.

Priorities

Invitational Priority: The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)):

Applications that propose to focus on research that leads to answering significant questions on the assessment of academic achievement for LEP students.

Note: For further information on assessment issues, see ''High Stakes Assessment: A Research Agenda for English Language Learners,'' which is available from the National Clearinghouse for Bilingual Education, telephone—1–800–321–6223 or website at: http://www.ncbe.gwu.edu

Selection Criteria

The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

(a) *Need for the project* (5 points). (1) The Secretary considers the need for the proposed project. (2) In determining the need for the proposed project, the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance* (10 points). (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The significance of the problem or issue to be addressed by the proposed project.

(ii) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(iii) The likelihood that the proposed project will result in system change or improvement.

(iv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(c) *Quality of the project design* (50 points). (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the proposed project is based upon a specific research design, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(iii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

(iv) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(d) *Quality of project personnel* (20 points). (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(e) *Adequacy of resources* (5 points). (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The extent to which the budget is adequate to support the proposed project.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(f) *Quality of the management plan* (10 points). (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on April 28, 1999 (64 FR 22963); or you may view the latest SPOC list on the OMB Web site at the following address: http://www.whitehouse.gov/omb/grants

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department. Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.292B, U.S. Department of Education, Washington, DC 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (EST) on the date indicated in this Notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention (CFDA# 84.292B), Washington, DC 20202–4725 or

(2) Hand-deliver the original and two copies of the application by 4:30 p.m. (EST) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.292B), Room ı3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes:

(1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains the following forms and instructions, plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), a checklist for applicants, various assurances, certifications, and required documentation:

a. Instructions for the Application Narrative.

b. Additional Guidance.

c. Estimated Public Reporting Burden Statement.

d. Notice to All Applicants.

e. Checklist for Applicants.

f. Application for Federal Assistance (Standard Form 424) and instructions.

g. Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

h. Eligibility Certification.

i. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

j. Certifications Regarding: Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

k. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

l. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. This document has been marked to reflect statutory changes. See the notice published in the **Federal Register** (61 FR 1413) by the Office of Management and Budget on January 19, 1996.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application. Please mark each application as ''original'' or ''copy.'' No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Socorro Lara, U.S. Department of Education, 400 Maryland Ave., SW., Room 5086, Switzer Building, Washington, DC 20202–6510. Telephone: (202) 205–9730. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498 or in the 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.*

Program Authority: 20 U.S.C. 7452.

Dated: March 10, 2000.

Art Love,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

Estimated Public Reporting Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0547 (Exp. 04/30/2002). The time required to complete this information collection is estimated to average 145 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5086, Switzer Building, Washington, DC 20202–6510.

Application Instructions

Mandatory Page Limit for the Application Narrative

The narrative portion of the application must not exceed the equivalent of 50 pages, using the following standards:

- A pageis 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The narrative section must be paginated and should include a one-page abstract. The 50-page limit applies to the abstract, proposal narrative, charts, graphs, tables, graphics, budget narrative, position descriptions (and resumes, if included), and any appendices. The page limit does not apply to application forms, attachments to those forms, assurances, certifications, and the table of contents. The page limit applies only to item 11 and not to the other items in the Checklist for Applicants. Applications with a narrative section that exceeds the page limit will not be considered for funding. The narrative section should begin with an abstract that includes a short description of the population to be served by the project, project objectives, and planned project activities. If, to meet the page limit, you use more than one side of the page, you use a larger page, or you use a print size, spacing, or margins smaller than the standards in this notice, we will reject your application.

Selection Criteria

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Do not include resumes or curriculum vitae for project personnel; provide position descriptions instead.

Additional Guidance

Table of Contents

The application should include a table of contents listing the sections in the order required.

Budget

Budget line items must support the goals and objectives of the proposed project and must be directly related to the instructional design and all other project components.

Final Application Preparation

Use the Checklist for Applicants to verify that your application is complete. Submit three copies of the application, including an original copy containing an original signature for each form requiring the signature of the authorized representative. Do not use elaborate bindings or covers. The application package must be mailed or hand-delivered to the Application Control Center (ACC) and postmarked by the deadline date.

Submission of Application to State Educational Agency

Section 7116(a)(2) of the ESEA, 20 U.S.C. 7426(a)(2), requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment. Section 75.156 of EDGAR requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). A copy of this letter should be attached to the Project Documentation Form contained in this application package. Applicants that do not submit a copy of their application to their state educational agency in accordance with these statutory and regulatory requirements will not be considered for funding.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance Form (OMB No. 1875–0106).
2. Budget Information Form (ED Form No. 524).
3. Itemized budget for each year.
4. Assurances—Non-Construction Programs Form (SF 424B).

5. Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements Form (ED 80–0013).

6. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions Form (ED 80–0014) (if applicable).

7. Disclosure of Lobbying Activities Form (SF–LLL).

8. Copy of letter requesting SEA comment on the application.

9. Form on General Education Provisions Act (GEPA) Requirement (See section entitled NOTICE TO ALL APPLICANTS (OMB No. 1801–0004)).

10. Table of Contents.

11. Application narrative, including abstract (not to exceed 50 pages).

12. One original and two copies of the application for transmittal to the Education Department's Application Control Center.

BILLING CODE 4000–01–P

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
City State County ZIP Code + 4

Organizational Unit

2. Applicant's D-U-N-S Number

3. Catalog of Federal Domestic Assistance #: 8 4 2 9 2 B ➡ Title: Bilingual Education: Field-Initiated Research Program

4. Project Director:
Address:
City State ZIP Code + 4
Tel. #: ( ) - Fax #: ( ) -
E-Mail Address:

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)*

A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School District
I Public College or University
J Private, Non-Profit College or University
K Indian Tribe
L Individual
M Private, Profit-Making Organization
N Other *(Specify)*:

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication
☐ Construction
☐ Non-Construction

—Application
☐ Construction
☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

10. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #:
OR
b. Assurance of Compliance #:
c. IRB approval date: ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative
b. Title
c. Tel. #: ( ) - Fax #: ( ) -
d. E-Mail Address:
e. Signature of Authorized Representative Date: ___/___/___

REV. 1/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are not planned at any time during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If all the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Certification of Eligibility for Federal Assistance in Certain Programs

I understand that 34 CFR 75.60, 75.61, and 75.62 require that I make specific certifications of eligibility to the U.S. Department of Education as a condition of applying for Federal funds in certain programs and that these requirements are in addition to any other eligibility requirements that the U.S. Department of Education imposes under program regulations. Under 34 CFR 75.60 – 75.62:

I. I certify that

A. I do not owe a debt, or I am current in repaying a debt, or I am not in default (as that term is used at 34 CFR Part 668) on a debt:

1. To the Federal Government under a nonprocurement transaction (e.g., a previous loan, scholarship, grant, or cooperative agreement); or

2. For a fellowship, scholarship, stipend, discretionary grant, or loan in any program of the U.S. Department of Education that is subject to 34 CFR 75.60, 75.61, and 75.62, including:

- Federal Pell Grant Program (20 U.S.C. 1070a, et seq.);
- Federal Supplemental Educational Opportunity Grant (SEOG) Program (20 U.S.C. 1070(b), et seq.):
- State Student Incentive Grant Program (SSIG) 20 U.S.C. 1070c, et seq.);
- Federal Perkins Loan Program (20 U.S.C. 1087aa, et seq.);
- Income Contingent Direct Loan Demonstration Project (20 U.S.C. 1087a, note);
- Federal Stafford Loan Program, Federal Supplemental Loans for Students [SLS], Federal PLUS, or Federal Consolidation Loan Program (20 U.S.C. 1071, et seq.);
- Cuban Student Loan Program (20 U.S.C. 2601, et seq.);
- Robert C. Byrd Honors Scholarship Program (20 U.S.C. 1070d-31, et seq.);
- Jacob K. Javits Fellows Program (20 U.S.C. 1134h-1134l);
- Patricia Roberts Harris Fellowship Program (20 U.S.C. 1134d-1134g);
- Christa McAuliffe Fellowship Program (20 U.S.C. 1105-1105i);
- Bilingual Education Fellowship Program (20 U.S.C. 3221-3262);
- Rehabilitation Long-Term Training Program (29 U.S.C. 774(b));
- Paul Douglas Teacher Scholarship Program (20 U.S.C. 1104, et seq.);
- Law Enforcement Education Program (42 U.S.C. 3775);
- Indian Fellowship Program (29 U.S.C. 774(b));

OR

B. I have made arrangements satisfactory to the U.S. Department of Education to repay a debt as described in A.1. or A.2. (above) on which I had not been current in repaying or on which I was in default (as that term is used in 34 CFR Part 668).

II. I certify also that I have not been declared by a judge, as a condition of sentencing under section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862), ineligible to receive Federal assistance for the period of this requested funding.

I understand that providing a false certification to any of the statements above makes me liable for repayment to the U.S. Department of Education for funds received on the basis of this certification, for civil penalties, and for criminal prosecution under 18 U.S.C. 1001.

_____ _____
(Signature) (Date)

_____
(Typed or Printed Name)

Name or number of the USDE program under which this certification is being made: _____

ED 80-0016 (9/92)

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. ∋∋4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. ∋∋1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. ∋794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. ∋∋ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) ∋∋ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. ∋∋ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. ∋ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. ∋∋1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. ∋∋276a to 276a-7), the Copeland Act (40 U.S.C. ∋276c and 18 U.S.C. ∋∋874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. ∋∋ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. ∋∋1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. ∋∋7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. ∋∋1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. ∋470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. ∋∋469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. ∋∋2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. ∋∋4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, AAudits of States, Local Governments, and Non-Profit Organizations.≅

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ACertification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,≅ without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application _____ b. initial award c. post-award	**3. Report Type:** a. initial filing _____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

[FR Doc. 00–6651 Filed 3–16–00; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Friday,
March 17, 2000

Part VII

Pension Benefit Guaranty Corporation

29 CFR Part 4022 et al.

Valuation of Benefits; Use of Single Set of Assumptions for all Benefits; and Lump Sum Payment Assumptions; Final Rules

PENSION BENEFIT GUARANTY CORPORATION

29 CFR PARTS 4022, 4044, 4050

RIN 1212–AA91

Valuation of Benefits; Use of Single Set of Assumptions for all Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulations to provide for the use of a single set of valuation assumptions —those currently used by the PBGC to value benefits to be paid as annuities—for purposes of allocating assets to benefits under section 4044 of ERISA.

On the same day that it proposed this amendment, the PBGC published a notice of intent to propose rulemaking relating to the future of its lump sum interest rates. In a final rule published elsewhere in today's **Federal Register**, the PBGC is amending provisions of its regulations related to lump sum interest rates. That action is independent of today's final rule on valuation of benefits.

EFFECTIVE DATE: May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TTD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: On October 26, 1998, the PBGC published a proposal (63 FR 57229) to simplify one aspect of its valuation rules. The PBGC received no comments on the proposed rule and is adopting it without modification.

Background

When a plan terminates in a distress or involuntary termination, the PBGC values the plan's benefits in order to allocate assets to benefits in accordance with the priority categories established under section 4044 of ERISA. This valuation and allocation affect the amount of the PBGC's employer liability claim and participant benefit entitlements beyond guaranteed benefits. The PBGC also values each benefit to determine whether it is de minimis ($5,000 or less) and, therefore, payable as a lump sum under section 4022 (and, if so, in what amount).

The PBGC's regulations currently provide for the use of two sets of assumptions to value benefits for allocation purposes—one for benefits to be paid as annuities and another for benefits payable as lump sums. When the PBGC values a benefit for lump sum payment purposes—*i.e,* to determine whether the benefit is payable as a lump sum under section 4022 (and, if so, in what amount)—it uses the lump sum assumption set.

Currently, the assumptions used to value benefits (whether for allocation purposes under section 4044 or for payment purposes under section 4022) are found in part 4044 of the PBGC's regulations.

Amendment

Under the amendment in this final rule, all benefits will be valued for plan asset allocation purposes under ERISA section 4044 by using the PBGC's annuity assumptions, regardless of whether the benefit is to be paid as an annuity or is payable as a lump sum. The amendment does not change the way the PBGC values benefits for purposes of paying lump sum benefits under section 4022. The PBGC will continue to use its existing lump sum assumptions for lump sum payment purposes under section 4022 of ERISA. (See *Related action* regarding possible future changes.)

Because the assumptions the PBGC uses to value lump sums for payment purposes will no longer apply to the allocation of assets under section 4044, the amendment makes a nonsubstantive conforming change by moving the assumptions for lump sum payment purposes from Part 4044 to Part 4022. The PBGC expects that plan lump sum provisions referring to the PBGC's lump sum interest rates under Part 4044 will be interpreted as referring to the rates being moved to Part 4022. (As explained under *Related action*, while the PBGC will publish two sets of lump sum interest rates under Part 4022, the two sets will be identical until the PBGC, through rulemaking, provides otherwise.)

Finally, the PBGC is making nonsubstantive changes to the definition of ''missing participant lump sum assumptions'' and ''missing participant annuity assumptions'' in its Missing Participants regulation (Part 4050) to conform to the amendments to Parts 4022 and 4044.

Applicability

These amendments apply to any plan with a termination date on or after May 1, 2000.

Related Action

At the same time that the PBGC proposed this regulation, it published (at 63 FR 57228) a notice of intent to propose rulemaking (the ''NIPR''), addressing the future of the PBGC's lump sum interest rates under section 4022. In a final rule published elsewhere in today's **Federal Register**, the PBGC is amending provisions of its regulations related to lump sum interest rates. The amendments provide that the PBGC will publish two separate sets of lump sum rates '' one for PBGC payments and one for private-sector payments. The two sets of rates will be identical until the PBGC, through rulemaking, provides otherwise. That action is independent of today's final rule.

Compliance With Rulemaking Guidelines

The PBGC has determined that this rule is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866. The PBGC certifies that the amendment will not have a significant economic effect on a substantial number of small entities. The amendments generally affect only the valuation of *de minimis* benefits and will have an immaterial effect on liabilities associated with plan termination. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

29 CFR Part 4050

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC amends parts 4022, 4044, and 4050 of 29 CFR chapter XL as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In § 4022.7, paragraph (d) is revised to read as follows:

§ 4022.7 Benefits payable in a single installment.

* * * * *

(d) *Determination of lump sum amount.* For purposes of paragraph (b)(1)(i) through (iii) of this section, the lump sum value of a benefit shall be calculated by valuing the monthly annuity benefits payable in the form determined under § 4044.51(a) of this chapter and commencing at the time determined under § 4044.51(b) of this chapter. The actuarial assumptions used shall be those described in § 4044.52, except that—

(1) *Loading for expenses.* There shall be no adjustment to reflect the loading for expenses;

(2) *Mortality rates and interest assumptions.* The mortality rates in appendix A to this part and the interest assumptions in appendix B to this part shall apply; and

(3) *Date for determining lump sum value.* The date as of which a lump sum value is calculated is the termination date, except that in the case of a subsequent insufficiency it is the date described in section 4062(b)(1)(B) of ERISA.

Appendix to Part 4022 [Redesignated as Appendix C to Part 4022]

3. The Appendix to Part 4022 is redesignated as Appendix C to part 4022, and the heading is revised to read as follows:

Appendix C to Part 4022—Maximum Guaranteeable Monthly Benefit

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. Section 4044.52 is revised to read as follows:

§ 4044.52 Valuation of benefits.

The plan administrator shall value all benefits as of the valuation date by—

(a) Using the mortality assumptions prescribed by § 4044.53 and the interest assumptions prescribed in appendix B to this part;

(b) Using interpolation methods, where necessary, at least as accurate as linear interpolation;

(c) Using valuation formulas that accord with generally accepted actuarial principles and practices;

(d) Taking mortality into account during the deferral period of a deferred joint and survivor benefit only with respect to the participant (or other principal annuitant); and

(e) Adjusting the values to reflect loading expenses in accordance with appendix C to this part.

6. In § 4044.53, the section heading and paragraph (a) are revised to read as follows:

§ 4044.53 Mortality assumptions.

(a) *General rule.* Subject to paragraph (b) of this section (regarding certain death benefits), the plan administrator shall use the mortality factors prescribed in paragraphs (c), (d), and (e) of this section to value benefits under § 4044.52.

* * * * *

§ 4044.54 [Removed and Reserved]

7. Section 4044.54 is removed and reserved.

Appendix A to Part 4044—[Amended]

8. In appendix A to part 4044, Table 3—Lump Sum Mortality Table is redesignated as appendix A to part 4022 and the heading is revised to read as follows:

Appendix A to Part 4022—Lump Sum Mortality Rates

Appendix B to Part 4044—[Amended]

9. In appendix B to part 4044:

a. The appendix heading is revised;

b. The heading ''Table I—[Annuity Valuations]'' is removed.

The revision reads as follows:

Appendix B to Part 4044—Interest Rates Used to Value Benefits

10. In appendix B to part 4044, Table II—[Lump Sum Valuations] is redesignated as appendix B to part 4022 and the heading is revised to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates

Appendix C to Part 4044—[Amended]

11. In appendix C to part 4044, the table is amended in the third column by removing the reference ''Table I of appendix B for the valuation of annuities'' and adding the reference ''appendix B of this part for the valuation of benefits'' in its place.

PART 4050—MISSING PARTICIPANTS

12. The authority citation for part 4050 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1350.

13. In § 4050.2, the definitions of *Missing participant annuity assumptions* and *Missing participant lump sum assumptions* are revised to read as follows:

§ 4050.2 Definitions

* * * * *

Missing participant annuity assumptions means the interest rate assumptions and actuarial methods for valuing benefits under § 4044.52 of this chapter, applied—

(1) As if the deemed distribution date were the termination date;

(2) Using the mortality rates prescribed in Revenue Ruling 95–6, 1995–1 C.B. 80 (for availability, see 26 CFR 601.601(d));

(3) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter;

(4) Without making the adjustment for expenses provided for in § 4044.52(e) of this chapter; and

(5) By adding $300, as an adjustment (loading) for expenses, for each missing participant whose designated benefit without such adjustment would be greater than $5,000.

* * * * *

Missing participant lump sum assumptions means the interest rate and mortality assumptions and actuarial methods for determining the lump sum value of a benefit under § 4022.7(d) of this chapter applied—

(1) As if the deemed distribution date were the termination date; and

(2) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter.

* * * * *

Issued in Washington, DC, this 9th day of March, 2000.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 00–6646 Filed 3–16–00; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR PART 4022

RIN 1212–AA92

Lump Sum Payment Assumptions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The PBGC intends to continue to calculate and publish lump sum interest rates determined using the PBGC's current methods (or a surrogate for those rates) indefinitely. For the time being, the PBGC will continue to use

these historic rates for determining and paying de minimis lump sums. However, because many private-sector plans calculate lump-sum benefits using PBGC rates, and the PBGC wants to preserve the option of changing the way it sets the rates it uses for its own payments without affecting those private-sector calculations, the PBGC will publish two separate sets of lump sum rates—one for PBGC payments and one for private-sector payments. Initially, the two sets of rates will be identical; therefore, the change is nonsubstantive.

Sometime in the future, the PBGC, through a separate rulemaking, might change the way it sets the lump sum interest rates it uses for its own payments. If that occurs, the PBGC would continue to publish the historic rates (or a surrogate) to be used by the private sector. The PBGC cautions pension practitioners to exercise care when drafting or amending documents that refer to the lump sum interest rates used by the PBGC.

The Internal Revenue Service has informed the PBGC that a plan that refers to PBGC lump sum interest rates for purposes of calculating the amount of a distribution subject to Internal Revenue Code section 417(e)(3) and that is amended before the PBGC amends its regulations to provide lump sum interest rates for PBGC payments that are no longer identical to the lump sum interest rates for private-sector payments will not fail to satisfy the ''anti-cutback'' rules of Internal Revenue Code section 411(d)(6) merely because it is amended to clarify that the plan's reference to PBGC lump sum interest rates means the lump sum interest rates for private-sector payments.

EFFECTIVE DATE: May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TTD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Background

Each month, the PBGC publishes the interest rates it uses to determine whether the PBGC will pay a pension benefit in the form of a lump sum and, if so, the amount the PBGC will pay. Private-sector plans and annuity providers historically have relied upon the PBGC lump sum interest rates, along with appropriate mortality assumptions, to determine the minimum amount of a participant's lump sum benefit for purposes of Internal Revenue Code (Code) section 417(e)(3) and ERISA section 205(g)(3). While the law no longer requires private plans to use the PBGC lump sum interest rates, some plans continue to use them for the transition period permitted under the Code and ERISA, and some plans will choose to continue to use them indefinitely where they produce a larger distribution than the minimum benefit amount required by Code section 417(e)(3) and ERISA section 205(g)(3). In addition, many existing annuity contracts provide benefits calculated using the PBGC lump sum interest rates.

October 1998 Notice of Intent To Propose Rulemaking

In a notice of intent to propose rulemaking (63 FR 57228 (October 26, 1998)), the PBGC announced that it was considering (1) discontinuing use of its existing lump sum assumptions for payment purposes and replacing them with a modified version of its existing annuity assumptions, effective sometime after December 2000, and (2) discontinuing calculation and publication of its existing lump sum interest rates at, or sometime after, the time the PBGC discontinues their use.

None of the commenters objected to the PBGC's changing the way it sets the interest rates it uses to pay lump sums for its own purposes. However, all of the commenters asked the PBGC either to continue to calculate and publish its lump sum interest rates determined using the PBGC's current methods or to provide a surrogate rate. Many plan sponsors and plan participants stated that their plans would continue to refer to PBGC rates, noting that the plan's participants have come to rely upon those rates and the larger lump sum amounts they produce. Commenters also noted that the private sector uses the PBGC rates in other contexts, including insurance contracts purchased to satisfy plan liabilities. Some commenters felt that the PBGC should update the mortality assumptions it uses to derive its lump sum interest rates.

Separation of PBGC Rates and Private-sector Rates

For the time being, the PBGC has decided that it will not make any change in the way it sets the lump sum interest rates it uses for its own payments. However, because those rates have been derived from a mortality table that is becoming increasingly outdated, the PBGC would like to preserve the option to do so in the future.

The PBGC is concerned that any future change might create confusion and difficulties for plans that continue to refer to the PBGC lump sum interest rates. Accordingly, the PBGC is eliminating the linkage between the lump sum interest rates it uses to pay benefits and the PBGC rates the private sector relies upon. In order to eliminate this linkage, the PBGC will publish separate tables of lump sum interest rates for these distinct purposes—one table called ''Lump Sum Rates for PBGC Payments'' and another table called ''Lump Sum Rates for Private-Sector Payments.'' By publishing two sets of lump sum rates, the PBGC could change the way it sets the rates it uses for its own payments without affecting the rates used by the private sector. Because the PBGC is not at this time changing the way it sets the lump sum interest rates it uses for its own payments, the two sets of rates will initially be identical.

The PBGC will continue to publish its lump sum interest rates (in both the PBGC table and the private-sector table) for a given month on the 15th of the previous month (or, if the 15th falls on a weekend or holiday, the preceding regular workday), or as close to that date as circumstances permit.

Surrogate Rate

The PBGC is exploring whether there is a reasonable surrogate (*e.g.,* some percentage of the average yield on 30-year Treasury securities) for its historic rates. If such a surrogate exists, the PBGC might replace the historic rates with the surrogate pursuant to a separate rulemaking. The PBGC would not make such a change unless the Internal Revenue Service concludes that the use of the surrogate in lieu of the historic rates would not cause a plan to fail to satisfy the ''anti-cutback'' rules of Code section 411(d)(6).

Mortality Assumptions for Setting Interest Rates for Private-Sector Payments

The PBGC does not intend to update the mortality assumptions it uses to set its lump sum interest rates for private-sector payments; doing so would increase those interest rates and thereby reduce private-sector lump sums. This would be inconsistent with the desire of various commenters (including several who suggested the PBGC update its mortality assumptions) that the PBGC continue publishing its historical rates (or provide a substitute for those rates) because participants have come to rely upon the larger lump sum amounts these rates produce.

Possible Future Changes to Lump Sum Rates Used by the PBGC

If the PBGC in the future changes the way it sets lump sum rates for its own payments, a number of interpretation and drafting issues might arise for private sector payments. Because there is potential for confusion and misinterpretation, the PBGC cautions pension practitioners to exercise care when drafting or amending documents that refer to the PBGC lump sum interest rates. In particular, plan practitioners should avoid referring to the ''PBGC lump sum rates'' or the rates the PBGC ''uses.'' If they wish to refer to the PBGC's historical lump sum rates, they should refer to the PBGC's lump sum interest rates for private-sector payments. This reference would be to the PBGC's historical rates or a surrogate for those rates and therefore would be unaffected by any change the PBGC might make to the method it uses to determine the rates for its own lump sum payments. Alternatively, plan practitioners may refer to the PBGC's lump sum interest rates for PBGC payments. This reference would be to the rates the PBGC uses for its own lump sum payments and therefore could result in unexpected changes in plan lump sum amounts if the PBGC changes the way it sets rates for its own payments.

Anti-Cutback Issues Under Code Section 411(d)(6)

The Internal Revenue Service has informed the PBGC that a plan that refers to PBGC lump sum interest rates for purposes of calculating the amount of the distribution subject to Code section 417(e)(3) and that is amended before the PBGC amends its regulations to provide lump sum interest rates for PBGC payments that are no longer identical to the lump sum interest rates for private-sector payments will not fail to satisfy the ''anti-cutback'' rules of Code section 411(d)(6) merely because it is amended to clarify that the plan's reference to PBGC lump sum interest rates means the lump sum interest rates for private-sector payments. The Internal Revenue Service has not yet determined whether other amendments relating to PBGC lump sum interest rates would cause the plan to fail to satisfy the ''anti-cutback'' rules of Code section 411(d)(6).

Compliance With Rulemaking Guidelines

The PBGC has determined that there is good cause for dispensing with notice and comment rulemaking as unnecessary. 5 U.S.C. 553(b). This rule provides that instead of publishing one set of monthly lump sum interest rates, the PBGC will publish two sets—one for PBGC payments and one for private-sector payments. This is a nonsubstantive change because the two sets of rates will be identical until the PBGC, through rulemaking, provides otherwise.

The PBGC has determined that this rule is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this rulemaking, the Regulatory Flexibility Act does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC amends part 4022 of 29 CFR chapter XL (as amended by the PBGC's final rule published elsewhere in today's **Federal Register**) as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In § 4022.7, a new paragraph (e) is added to read as follows:

§ 4022.7 Benefits payable in a single installment.

* * * * *

(e) *Publication of lump sum rates.* The PBGC will provide two sets of lump sum interest rates as follows—

(1) In appendix B to this part, the lump sum interest rates for PBGC payments, as provided under paragraph (d)(2) of this section; and

(2) In appendix C to this part, the lump sum interest rates for private-sector payments.

Appendix B to Part 4022

3. In newly redesignated Appendix B to part 4022, the appendix heading is revised to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

Appendix C to Part 4022 [Redesignated as Appendix D to Part 4022]

4. Newly redesignated Appendix C to part 4022 is further redesignated as Appendix D to part 4022, and a new Appendix C is added to part 4022 to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
1	11–1–93	12–1–93	4.25	4.00	4.00	4.00	7	8
2	12–1–93	1–1–94	4.25	4.00	4.00	4.00	7	8
3	1–1–94	2–1–94	4.50	4.00	4.00	4.00	7	8
4	2–1–94	3–1–94	4.50	4.00	4.00	4.00	7	8
5	3–1–94	4–1–94	4.50	4.00	4.00	4.00	7	8
6	4–1–94	5–1–94	4.75	4.00	4.00	4.00	7	8
7	5–1–94	6–1–94	5.25	4.50	4.00	4.00	7	8
8	6–1–94	7–1–94	5.25	4.50	4.00	4.00	7	8
9	7–1–94	8–1–94	5.50	4.75	4.00	4.00	7	8
10	8–1–94	9–1–94	5.75	5.00	4.00	4.00	7	8

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
11	9–1–94	10–1–94	5.50	4.75	4.00	4.00	7	8
12	10–1–94	11–1–94	5.50	4.75	4.00	4.00	7	8
13	11–1–94	12–1–94	6.00	5.25	4.00	4.00	7	8
14	12–1–94	1–1–95	6.25	5.50	4.25	4.00	7	8
15	1–1–95	2–1–95	6.00	5.25	4.00	4.00	7	8
16	2–1–95	3–1–95	6.00	5.25	4.00	4.00	7	8
17	3–1–95	4–1–95	6.00	5.25	4.00	4.00	7	8
18	4–1–95	5–1–95	5.75	5.00	4.00	4.00	7	8
19	5–1–95	6–1–95	5.50	4.75	4.00	4.00	7	8
20	6–1–95	7–1–95	5.50	4.75	4.00	4.00	7	8
21	7–1–95	8–1–95	4.75	4.00	4.00	4.00	7	8
22	8–1–95	9–1–95	4.75	4.00	4.00	4.00	7	8
23	9–1–95	10–1–95	5.00	4.25	4.00	4.00	7	8
24	10–1–95	11–1–95	4.75	4.00	4.00	4.00	7	8
25	11–1–95	12–1–95	4.75	4.00	4.00	4.00	7	8
26	12–1–95	1–1–96	4.50	4.00	4.00	4.00	7	8
27	1–1–96	2–1–96	4.50	4.00	4.00	4.00	7	8
28	2–1–96	3–1–96	4.25	4.00	4.00	4.00	7	8
29	3–1–96	4–1–96	4.25	4.00	4.00	4.00	7	8
30	4–1–96	5–1–96	4.75	4.00	4.00	4.00	7	8
31	5–1–96	6–1–96	5.00	4.25	4.00	4.00	7	8
32	6–1–96	7–1–96	5.00	4.25	4.00	4.00	7	8
33	7–1–96	8–1–96	5.00	4.25	4.00	4.00	7	8
34	8–1–96	9–1–96	5.25	4.50	4.00	4.00	7	8
35	9–1–96	10–1–96	5.25	4.50	4.00	4.00	7	8
36	10–1–96	11–1–96	5.25	4.50	4.00	4.00	7	8
37	11–1–96	12–1–96	5.00	4.25	4.00	4.00	7	8
38	12–1–96	1–1–97	4.75	4.00	4.00	4.00	7	8
39	1–1–97	2–1–97	4.50	4.00	4.00	4.00	7	8
40	2–1–97	3–1–97	4.75	4.00	4.00	4.00	7	8
41	3–1–97	4–1–97	5.00	4.25	4.00	4.00	7	8
42	4–1–97	5–1–97	4.75	4.00	4.00	4.00	7	8
43	5–1–97	6–1–97	5.00	4.25	4.00	4.00	7	8
44	6–1–97	7–1–97	5.25	4.50	4.00	4.00	7	8
45	7–1–97	8–1–97	5.25	4.50	4.00	4.00	7	8
46	8–1–97	9–1–97	4.75	4.00	4.00	4.00	7	8
47	9–1–97	10–1–97	4.50	4.00	4.00	4.00	7	8
48	10–1–97	11–1–97	4.75	4.00	4.00	4.00	7	8
49	11–1–97	12–1–97	4.50	4.00	4.00	4.00	7	8
50	12–1–97	1–1–98	4.50	4.00	4.00	4.00	7	8
51	1–1–98	2–1–98	4.25	4.00	4.00	4.00	7	8
52	2–1–98	3–1–98	4.25	4.00	4.00	4.00	7	8
53	3–1–98	4–1–98	4.25	4.00	4.00	4.00	7	8
54	4–1–98	5–1–98	4.25	4.00	4.00	4.00	7	8
55	5–1–98	6–1–98	4.25	4.00	4.00	4.00	7	8
56	6–1–98	7–1–98	4.25	4.00	4.00	4.00	7	8
57	7–1–98	8–1–98	4.00	4.00	4.00	4.00	7	8
58	8–1–98	9–1–98	4.00	4.00	4.00	4.00	7	8
59	9–1–98	10–1–98	4.00	4.00	4.00	4.00	7	8
60	10–1–98	11–1–98	4.00	4.00	4.00	4.00	7	8
61	11–1–98	12–1–98	3.75	4.00	4.00	4.00	7	8
62	12–1–98	1–1–99	4.00	4.00	4.00	4.00	7	8
63	1–1–99	2–1–99	4.00	4.00	4.00	4.00	7	8
64	2–1–99	3–1–99	4.00	4.00	4.00	4.00	7	8
65	3–1–99	4–1–99	4.00	4.00	4.00	4.00	7	8
66	4–1–99	5–1–99	4.25	4.00	4.00	4.00	7	8
67	5–1–99	6–1–99	4.25	4.00	4.00	4.00	7	8
68	6–1–99	7–1–99	4.25	4.00	4.00	4.00	7	8
69	7–1–99	8–1–99	4.50	4.00	4.00	4.00	7	8
70	8–1–99	9–1–99	5.00	4.25	4.00	4.00	7	8
71	9–1–99	10–1–99	5.00	4.25	4.00	4.00	7	8
72	10–1–99	11–1–99	5.00	4.25	4.00	4.00	7	8
73	11–1–99	12–1–99	5.00	4.25	4.00	4.00	7	8
74	12–1–99	1–1–00	5.25	4.50	4.00	4.00	7	8
75	1–1–00	2–1–00	5.00	4.25	4.00	4.00	7	8
76	2–1–00	3–1–00	5.25	4.50	4.00	4.00	7	8
77	3–1–00	4–1–00	5.25	4.50	4.00	4.00	7	8
78	4–1–00	5–1–00	5.25	4.50	4.00	4.00	7	8

Issued in Washington, DC, this 9th day of March, 2000.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 00–6647 Filed 3–16–00; 8:45 am]

BILLING CODE 7708–01–P

Federal Register

Friday,
March 17, 2000

Part VIII

Oklahoma City National Memorial Trust

Rules and Regulations for Oklahoma City National Memorial; Final Rule

OKLAHOMA CITY NATIONAL MEMORIAL TRUST

36 CFR Chapter XV

Rules and Regulations for Oklahoma City National Memorial

AGENCY: Oklahoma City National Memorial Trust.

ACTION: Final rule.

SUMMARY: The Oklahoma City National Memorial Trust will adopt and enforce those rules and regulations that are applicable to the operation of the National Park System and that may be necessary and appropriate to carry out its duties and responsibilities under the Oklahoma City National Memorial Act of 1997. This rule will enable the Trust to safely and efficiently operate the Memorial by establishing general provisions, regulations for resource protection and public use, vehicles and traffic safety, and commercial and private operations. Public comment was invited on the proposed rule and was considered by the Trust in creating this final rule. No public comments were received by the Trust.

DATES: *Effective Date:* April 18, 2000.

ADDRESSES: The text of 36 CFR chapters I and XV may be viewed at the office of the Oklahoma City National Memorial Trust, One Leadership Square, Suite 150, Oklahoma City, OK 73102.

FOR FURTHER INFORMATION CONTACT: Kari Watkins, 405–235–3313.

SUPPLEMENTARY INFORMATION:

Background

The Oklahoma City National Memorial Act of 1997 (Public Law 105–58, October 9, 1997) establishes (1) the Oklahoma City National Memorial in Oklahoma City as a unit of the National Park System and (2) the Oklahoma City National Memorial Trust as a wholly owned government corporation to administer the memorial in cooperation with the Secretary of Interior in accordance with laws governing units of the National Park System. At the request of the Trust, the Secretary of Interior is required to provide, for a period not to exceed two years, personnel and technical expertise. A superintendent is assigned to coordinate National Park Service (NPS) assistance to the Trust. Also at the Trust's request, NPS is required to provide uniformed personnel to carry out day-to-day visitor service programs on a reimbursable basis.

Statutory Authority

The Oklahoma City National Memorial Trust is a wholly owned government corporation created by the Oklahoma City National Memorial Act, Public Law 105–58 (Act). Pursuant to section 4 of the Act, the Trust administers the Memorial, which is comprised of the lands, facilities, and structures within the boundaries depicted on the map referenced in the statute.

Section 6(g) of the Act enables the Trust to

> Adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary [of the Interior], to adopt and to enforce those rules and regulations that are applicable to the operation of the National Park System and that may be necessary and appropriate to carry out its duties and responsibilities under this Act.

Consistent with that authority, and in order to protect, preserve, and operate the Memorial, the Trust created this rule concerning resource protection and public use; vehicles and traffic safety; and commercial and private operations.

Title 36 of the Code of Federal Regulations (CFR) chapter I, parts 1, 2, 4, and 5 already govern the management and activities within the units of the National Park System throughout the United States. The Trust recognizes the national scope and inherent continuity of 36 CFR, its necessity within the National Park System, and therefore, adopts those regulations that are relevant and applicable to the Memorial. In an attempt to keep the regulations clear and concise, the Trust has excluded those portions of the existing regulations that are not applicable and would have no bearing on the management or protection of the Memorial.

Consultation

Prior to proposing these regulations, the Trust consulted with the Secretary of the Interior's designee, the National Park Service Director, Intermountain Region, who serves on the Trust's Board of Directors pursuant to section 6(g) of the Act. The Director, Intermountain Region facilitated the advisory process by providing direct access to officials in the National Park Service and the National Park Service Solicitor's Office.

Discussion of Comments on Proposed Rule

The Trust provided for a public comment period of 30 days on these regulations. The Proposed Rule was published in the **Federal Register** on February 16, 2000 (FR Volume 65, Number 32, Pages 8010–8011). No public comments on the proposed rules were received. Since no comments were received, no amendments were made to the proposed regulations.

Related Documents

The entire regulations and their respective environmental assessment may be found at the Trust's internet website (www.oklahoman.net/connections/memorial). A written copy of the regulations and 36 CFR is available for review at the Trust's office at One Leadership Square, Suite 150, Oklahoma City, OK 73102.

Regulatory Impact

This rulemaking does not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, prices, the environment, public health or safety, or State or local governments. These rules do not interfere with an action taken or planned by another agency or raise new legal or policy issues. In short, little or no effect on the national economy will result from adoption of this rule. Because this rule is not economically significant, it is not subject to review by the Office of Management and Budget under Executive Order 12866.

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule does not have a significant economic effect on a substantial number of small entities. This rule is not a major rule within the meaning of the Congressional Review Act, 5 U.S.C. 801 *et seq.*

Environmental Impact

The Trust prepared an Environmental Assessment (EA) in connection with the proposed version of this rule. The EA determined that the rule would not have a significant effect on the quality of the human environment because it is neither intended nor expected to change the physical status quo of the Memorial in any significant manner. The EA was prepared in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* The EA is available for public inspection at the office of the Trust, One Leadership Square, Suite 150, Oklahoma City, OK 73102 or on the Trust's internet website (www.oklahoman.net/connections/memorial).

Environmental consequences include the enhanced protection of the Memorial through the ability of the Trust's required rulemaking authority to regulate and maintain the Memorial as a unit of the National Park System. The regulations enable the Trust to adequately manage and protect the

natural, cultural, and historic resources of the Memorial as well as the safe and efficient management of the Memorial's public use. No long term adverse effects are expected on the natural or cultural environment, and constructive manage of the use of the historic Journal Record building will ensure its long-term preservation.

The memorial site is in an urban business district, and nearby buildings include two churches, business offices, the post office, federal courthouse, and a high-rise apartment complex. Adoption of the regulations would have no effect on these properties or other elements of the socioeconomic environment. There will be no disproportionately high or adverse human health or environmental effects on minority populations, low-income populations, or Indian tribes from the proposal. An alternative to adopting these regulations is the no-action alternative. This would require the Trust to adopt no regulations for the Memorial. This would result in the inefficient management of the Memorial, which would hinder the ability of the Trust to protect the visitors, their experience at the Memorial, and the natural and cultural environment. The no-action alternative is in opposition to the purpose and guidance of the Memorial's enabling legislation.

List of Subjects in 36 CFR Part 1501

Monuments and memorials.

For the reasons set forth in the preamble, a new chapter XV is established in title 36 of the Code of Federal Regulations consisting of part 1501 to read as follows:

CHAPTER XV—OKLAHOMA CITY NATIONAL MEMORIAL TRUST

PART 1501—GENERAL PROVISIONS

§ 1501.1 Cross reference to National Park Service regulations.

As permitted by the Oklahoma City National Memorial Act, the Oklahoma City National Memorial Trust (the Trust) adopts by cross reference the provisions of the National Park Service in 36 CFR chapter I as shown in the following table. The table also indicates those parts, sections, and paragraphs that the Trust has chosen to exclude from adoption.

National Park Service Regulations

36 CFR Chapter I
Excluding parts 3 and 6–199
PART 1 GENERAL PROVISIONS
§ 1.1 Purpose
§ 1.2 Applicability and Scope
§ 1.3 Penalties
Excluding paragraphs (b) and (c)
§ 1.4 Definitions
Excluding paragraph (b)
§ 1.5 Closures and public use limits
§ 1.6 Permits
§ 1.7 Public Notice
§ 1.8 Information Collection
§ 1.10 Symbolic Signs
PART 2 RESOURCE PROTECTION, PUBLIC USE AND RECREATION
Excluding §§ 2.3, 2.16, 2.19, 2.60
§ 2.1 Preservation of natural and cultural and archeological resources
§ 2.2 Wildlife Protection
Excluding paragraphs (b), (c), and (d)
§ 2.4 Weapons, traps, and nets
Excluding paragraph (a)(2)
§ 2.5 Research specimens
§ 2.10 Camping and food storage
Excluding paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), (b)(8), and (d)
§ 2.11 Picnicking
§ 2.12 Audio Disturbances
Excluding paragraph (a)(3)
§ 2.13 Fires
Excluding paragraph (c)
§ 2.14 Sanitation and refuse
Excluding paragraphs (a)(7) and (a)(9)
§ 2.15 Pets
Excluding paragraphs (b) and (e)
§ 2.17 Aircraft and air delivery
Excluding paragraph (a)(2)
§ 2.18 Snowmobiles
Excluding paragraphs (d) and (e)
§ 2.20 Skating, skateboards and similar devices
§ 2.21 Smoking
Excluding paragraph (b)
§ 2.22 Property
§ 2.23 Recreation fees
Excluding paragraph (a)
§ 2.30 Misappropriation of property and services
§ 2.31 Trespassing, tampering and vandalism
§ 2.32 Interfering with agency functions
§ 2.33 Report of injury or damage
§ 2.34 Disorderly conduct
§ 2.35 Alcoholic beverages and controlled substances
§ 2.36 Gambling
§ 2.37 Noncommercial soliciting
§ 2.38 Explosives
§ 2.50 Special events
§ 2.51 Public assemblies, meetings
§ 2.52 Sale or distribution of printed matter
§ 2.61 Residing on Federal lands
§ 2.62 Memorialization
PART 4 VEHICLES AND TRAFFIC SAFETY
§ 4.1 Applicability and scope
§ 4.2 State law applicable
§ 4.3 Authorized emergency vehicles
§ 4.4 Report of motor vehicle accident
§ 4.10 Travel on park roads and designated routes
Excluding paragraph (c)(3)
§ 4.11 Load, weight and size limits
§ 4.12 Traffic control devices
§ 4.13 Obstructing traffic
§ 4.14 Open container of alcoholic beverage
§ 4.15 Safety belts
§ 4.20 Right of way
§ 4.21 Speed limits
Excluding paragraphs (a)(2) and (a)(3)
§ 4.22 Unsafe operation
§ 4.23 Operating under the influence of alcohol or drugs
§ 4.30 Bicycles
§ 4.31 Hitchhiking
PART 5 COMMERCIAL AND PRIVATE OPERATIONS
Excluding §§ 5.4, 5.9, and 5.10
§ 5.1 Advertisements
§ 5.2 Alcoholic beverages; sale of intoxicants
Excluding paragraph (b)
§ 5.3 Business operations
§ 5.5 Commercial photography
§ 5.6 Commercial vehicles
§ 5.7 Construction of buildings or other facilities
§ 5.8 Discrimination in employment practices
§ 5.13 Nuisances
§ 5.14 Prospecting, mining, and mineral leasing

Authority: 16 U.S.C. 450ss; Pub. L. 105–58, 111 Stat. 1261.

Dated: March 14, 2000.

Robert M. Johnson,

Chairman.

[FR Doc. 00–6797 Filed 3–15–00; 2:08 pm]

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Federal Register

Friday,
March 17, 2000

Part IX

Department of State

Bureau of European Affairs

22 CFR Part 139

Miscellaneous: Irish Peace Process Cultural and Training Program; Interim Rule

22 CFR Part 41

Visas: Nonimmigrant Classes; Irish Peace Process Cultural and Training Program Visitors, Q Classification; Interim Rule

DEPARTMENT OF STATE

Bureau of European Affairs

22 CFR Part 139

[Public Notice 3258]

Miscellaneous: Irish Peace Process Cultural and Training Program

AGENCY: Bureau of European Affairs, Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule establishes a training and employment program in the United States for certain residents of Northern Ireland and designated counties of the Republic of Ireland. This new program is mandated by legislation enacted in 1998. Under the program, in each of three program years beginning in FY 2000, up to 4000 persons, inclusive of their spouses and children, who are physically resident in Northern Ireland or the designated counties in the Republic of Ireland, will be eligible to enter the United States for a maximum of three years in order to develop job skills and conflict resolution abilities in support of the Irish peace process.

DATES: This interim rule is effective March 17, 2000. The Department invites written comments which must be received no later than May 16, 2000.

ADDRESSES: Submit written comments, in duplicate, to the Director, Office for United Kingdom, Benelux and Ireland Affairs, Bureau of European Affairs, Room 4513, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Patricia Nelson, Officer for Ireland and Northern Ireland Affairs, Bureau of European Affairs, Room 4513, Department of State, Washington, D.C. 20520, Tel. (202) 647–6585.

SUPPLEMENTARY INFORMATION:

What Does This Rule Do?

This interim rule amends Subchapter N, Title 22 of the Code of Federal Regulations relating to miscellaneous matters within the purview of the Department of State by adding a new Part 139 that describes the Irish Peace Process Cultural and Training Program.

Why Is It Necessary To Establish This Program?

In the ''Irish Peace Process Cultural and Training Program Act of 1998'' (hereinafter ''IPPCTPA''), Public Law 105–319, Congress mandated that the Secretary of State and the Attorney General establish a program to allow young people from disadvantaged areas of Northern Ireland and designated counties of the Republic of Ireland suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment. Those young people would return to their homes better able to contribute toward economic regeneration and the Irish peace process. Congress required that the program promote cross-community and cross-border initiatives to build grassroots support for long-term peaceful coexistence.

What Requirements Did Congress Establish for the Program?

The ''IPPCTPA'' provides that in each of three consecutive program years beginning in FY 2000, up to 4000 residents of Northern Ireland or of six counties designated within the Republic of Ireland, inclusive of their spouses and children, may be provided nonimmigrant visas for the purpose of entering the United States temporarily (i.e., for up to thirty-six months) to develop job skills and conflict resolution abilities. Each person admitted to the program must have a residence abroad that he or she has no intention of abandoning and must otherwise be qualified to receive a United States nonimmigrant visa. The principal alien also must be under 36 years of age. The six designated counties of the Republic of Ireland are Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal. The Immigration and Naturalization Service (''INS'') is required to maintain records of the nonimmigrant status and place of residence in the United States of all persons admitted under the program and report to Congress on all those who overstay their nonimmigrant visas.

What Are the Respective Responsibilities of the Departments of State and Justice in Establishing and Running the Program?

Responsibility in the Department of State for establishing the program structure and maintaining its operation has been delegated to the Bureau of European Affairs (unless otherwise specifically stated herein, further references to the Department or to the Department of State will refer to this bureau). The INS will be the responsible agency representing the Attorney General. After extensive consultations between the Department and INS it was agreed that the Department would be responsible for: (1) The design of the program mandated by IPPCTPA; (2) the formulation of policies and procedures concerning the Irish Peace Process Cultural and Training Program (IPPCTP); (3) the selection and oversight of the Program Administrator (see discussion below); (4) coordination with other U.S. Government agencies and representatives of the governments of the Republic of Ireland and of Northern Ireland; and (5) establishment of the requirements for and approval of United States employers who will participate in the program. The INS is responsible for authorizing employment under this program. INS is also responsible for: (1) Monitoring the nonimmigrant status and residence of all participants in the United States; and (2) reporting to Congress on program participants who overstay their nonimmigrant visas, at the end of the three program years and during the three subsequent years. (See the separate rule regarding visa issuance to program participants published concurrently with this rule by the Bureau of Consular Affairs of the Department of State in Part 41 of this title and the corresponding rule of the INS published concurrently in Title 8).

How Will the Program Be Administered?

The Department and INS have agreed that the most efficient manner in which to administer the Irish Peace Process Cultural and Training Program is to select a ''Program Administrator'' from the private sector experienced in managing projects of similar scope and complexity. The Program Administrator will be responsible for the day-to-day management of the program. Consequently, this rule provides for the selection of such a Program Administrator and for the delegation of responsibilities to that Program Administrator. Logicon, Inc. has been chosen as the Program Administrator. Logicon may be reached by phone at (877) 925–7484, via the Internet at www.WalshVisa.net, via e-mail at logicon@walshvisa.net, or by mail at: Walsh Visa Program, Logicon, Inc., 1831 Wiehle Avenue, Suite 100, Reston, VA 20190–5241.

What Are the Principal Functions of the Program Administrator?

The principal functions of the Program Administrator are:

(a) Identifying job/training opportunities in designated economic sectors, and recommending to the Department employers in the United States who meet the criteria of section 139.7 and who wish to participate in the IPPCTP. Job/training opportunities will be located in a number of geographic areas across the United States,

depending on the availability of jobs, relative cost of living, support infrastructure, and other relevant factors.

(b) Making available, through electronic or other means, information about job/training openings to potential program participants and assisting them in securing job placements in the United States.

(c) Certifying in writing to a United States consular officer in the United States Embassy in Dublin or the United States Consulate General in Belfast, or to an officer of the INS, that a principal alien has been selected to participate in the IPPCTP. This certification will be used only to assist in: (1) nonimmigrant visa issuance to and adjudication of an application for admission made by the principal alien and accompanying family members, or (2) adjudicating a request made by the principal alien to change employers under the IPPCTP while in the United States.

(d) Providing pre-departure and pre-employment orientation seminars to program participants, as appropriate, and otherwise assisting participants in a smooth transition to life in the United States.

(e) Monitoring participants' compliance with Program requirements while in the United States, and verifying that participants are receiving the agreed training and skills.

(f) Cooperating with the Training and Employment Authority of the Republic of Ireland (''FAS'') and the Training and Employment Agency of Northern Ireland (''T&EA'') in all aspects of the program, including assisting participants in finding jobs in their home countries upon completion of their U.S. training.

(g) Reporting to the Department and INS on various aspects of the program and on program participants as directed. And

(h) Developing and maintaining a computerized database and website to underpin all of the above functions.

What Are the Specific Criteria for the Initial Selection of the Participants?

This rule establishes the following basic criteria for program participants. All applicants must be between 18 and 35 years of age and be physically resident in Northern Ireland or one of the border counties for at least three months prior to applying to the Program. The minimum age of 18 was selected to prevent any conflict with the employment laws of any state in the United States. The upper age limit was established by statute.

All applicants deemed eligible must also meet United States immigration/visa requirements, including being in receipt of a job offer certified by the Program Administrator, and demonstrating satisfactorily to a Consular Officer that they have a residence abroad that they have no intention of abandoning.

In addition, candidates must fall within one of the following two categories of persons.

(a) The first category consists of unemployed applicants: (1) who have been unemployed for at least 3 months, or (2) who have completed or are currently participating in a program of T&EA or of FAS, or of another publicly funded training and employment program. Persons who have recently been made redundant in their employment (i.e., lost their jobs) or received a notice of redundancy (termination of employment) may apply to the program immediately without having to wait 3 months after becoming unemployed.

(b) The second category consists of persons: (1) who are currently employed and (2) whose current employer has nominated them to participate in the program for additional training and/or job experience that will benefit both the employee and the employer upon returning to their same employment.

How Were These Criteria Developed?

The Department, in consultation with INS, FAS, and T&EA, developed the criteria. The Department believes that for the program to contribute to peace and economic regeneration, local authorities and employers ought to determine which individuals would most benefit from the training offered and, in turn, whose receipt of training would most contribute to the regenerative and peaceful goals of the IPPCTP. This rule establishes the role of the training and employment agencies in the program participant selection process.

What Types of Training Will Be Offered to the Participants?

The Department, in consultation with INS and the training and employment agencies, determined that, to be of maximum benefit to the economies of Northern Ireland and the six border counties, the program must provide a wide range of job/training opportunities in those sectors experiencing personnel or skills shortages, or in which the governments expect rapid future growth and/or new inward investment. All parties agreed the program would begin with the following sectors: hospitality and tourism; customer service; information and communications technology; pharmaceuticals; engineering; sales, marketing and promotion; agriculture/horticulture diversification; food processing; and furniture. This rule names the sectors initially identified and agreed upon and permits the selection of additional sectors or the deletion of already identified sectors upon agreement of the Department, INS, and both training and employment agencies, or of one of the agencies with respect to participants from that agency's country.

How Will Employers Be Selected for Participation in the Program?

Employers will be selected for participation in the program according to the criteria established by this rule. The criteria have been adopted to ensure that employers will offer employment and training commensurate with the goals of the program. To participate in the Irish Peace Process Cultural and Training Program, U.S. employers must:

- Provide job/training opportunities that:

(1) Correspond to one of the occupational areas identified by the governments of Northern Ireland and the Republic of Ireland, and that

(2) Include a career path comprising (1) work assignment rotations, and/or (2) training opportunities, which offer promotion potential if job performance is satisfactory.

- Offer health insurance, which, at a minimum, provides:

(1) Medical benefits of at least $50,000 per accident or illness (major medical); and

(2) A deductible not to exceed $500 per accident or illness.

- Pay participants at least the minimum wage and at the same rate as American workers doing the same or similar work.
- Agree not to petition for a change of immigration status or non-immigrant status for any participant.
- Grant permission to the Program Administrator to conduct on-site visits and take other measures necessary to verify that each employer's job/training contract is being followed.
- Notify the Program Administrator in the event of the termination of a participant from employment, or departure of the participant from the Program. And,
- Prepare a written record describing the work experience gained, and make it available to each participant.

How Is the Department of State Amending Its Regulations?

The Department is adding Part 139A in order to establish a regulation for the purpose of implementing the

requirements of the Irish Peace Process Cultural and Training Program Act of 1998 (''IPPCTPA''). The new regulation, at § 139.1, *et seq.*, sets forth the structure of a new training program, relevant definitions for the program, rules for participation in the program and responsibilities of various entities involved in the administration of the program. This regulation is being promulgated in conjunction with regulations by the INS and the Bureau of Consular Affairs of the Department of State regarding this program.

Section 139.1 explains the origin and purpose of the Irish Peace Process Cultural and Training Program (''IPPCTP'') and the general responsibility within the Department of State for establishing it.

Section 139.2 provides definitions of frequently used terms associated with the IPPCTP.

Section 139.3 establishes the specific responsibilities of the Bureau of European Affairs for formulating general policies and procedures for the IPPCTP, including the selection of a private sector Program Administrator to be responsible for the day-to-day operation of the IPPTCP.

Section 139.4 establishes the specific responsibilities of the Program Administrator.

Section 139.5 establishes participant trainee selection criteria.

Section 139.6 establishes the method by which program candidates may request acceptance into the IPPCTP.

Section 139.7 establishes criteria for the selection of United States employers wishing to participate in the IPPCTP.

Section 139.8 identifies the economic sectors in which training and employment under the IPPTCP will initially focus. This section also provides for the deletion or addition of economic sectors from or to the list.

Administrative Procedure Act

The Department is implementing this regulation as an interim rule, with a 60-day provision for post-promulgation public comments. Publication as an interim rule is based upon the ''good cause'' exceptions set forth at 5 U.S.C. sections 553(b)(3)(B) and (d)(3). The Department determined that there was not enough time to issue a proposed rule with request for comments as the Irish Peace Process Cultural and Training Program is scheduled under the relevant statutory provision to begin in FY 2000 (October 1, 1999 through September 30, 2000). Publication of this regulation as an interim rule will expedite implementation of Public Law 105–319 and allow eligible aliens to apply for and participate in this program as soon as possible in light of the statutory expiration of the program on October 1, 2005.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. section 605(b)), the Department of State has reviewed this regulation and certifies that it will not have a significant economic impact on a substantial number of small entities. Participation in the Irish Peace Process Cultural and Training Program is limited to 4,000 individuals annually for three consecutive years. The activities of the participants in the United States will take place in multiple locations and economic sectors so that no significant economic impact should occur.

Unfunded Mandates Reform Act of 1995

This rule will not include any Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, of $100 million or more, or increased expenditures by the private sector of $100 million or more. Therefore, the requirements of the Unfunded Mandates Reform Act of 1995 do not apply here.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996.

Executive Order 12866

Although exempted from Executive Order 12866, this rule has been reviewed to ensure consistency with its principles. This rule is not a ''significant regulatory action'' under the Executive Order.

Executive Orders 13132

This regulation does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

Paperwork Reduction Act

This rule involves collections of information subject to the Paperwork Reduction Act of 1995. These collections are in the process of being approved by the Office of Management and Budget.

List of Subjects in 22 CFR Part 139

Aliens, Passports and visas.

Accordingly, add 22 CFR part 139 to read as follows:

PART 139—IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM

Sec.
139.1 Purpose.
139.2 Definitions.
139.3 Responsibilities of the Department.
139.4 Responsibilities of the Program Administrator.
139.5 Qualifications required for selection as a trainee.
139.6 Requesting participation in the IPPCTP.
139.7 Qualifications for participation as an employer in the United States.
139.8 Target economic sectors.

Authority: Pub. L. 105–319, 112 Stat. 3013.

§ 139.1 Purpose.

(a) The regulations set forth in this Part implement, in part, the ''Irish Peace Process Cultural and Training Program Act of 1998 (the ''IPPCTPA''), Public Law 105–319, 112 Stat. 3013. The purpose of the IPPCTPA is to establish a program to ''allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment, so that those young people can return to their homes better able to contribute toward economic regeneration and the Irish peace process.'' This part describes the Irish Peace Process Cultural and Training Program (the ''IPPCTP'') hereby established by the Department, the procedures for its operation and the requirements for participation.

(b) The Department, in consultation with the Immigration and Naturalization Service (''INS''), will implement the program specified in the IPPCTPA by working with the relevant governmental authorities in the Republic of Ireland and in Northern Ireland to further the goals of the IPPCTPA, by selecting a Program Administrator to carry out the day-to-day operation of the IPPCTP, by approving, upon the recommendation of the Program Administrator, employers in the United States to carry out the training and employment elements of the IPPTCP and by providing general oversight of the IPPCTP.

§ 139.2 Definitions.

The following definitions apply to this part:

Accompanying family members means the spouse and minor children of the principal alien.

Applicant sponsor means FAS, T&EA, or an employer in the border counties or in Northern Ireland who has nominated

an employee to participate in the IPPCTP.

Border counties means the counties of Louth, Monaghan, Cavan, Leitrim, Sligo and Donegal in the Republic of Ireland.

FAS means the Training and Employment Authority of the Republic of Ireland.

IPPCTP means the Irish Peace Process Cultural and Training Program.

Program Administrator means the organization selected by the Department to carry out the Department's responsibilities for the day-to-day management of the IPPCTP.

Program Participant means an individual selected to participate in the IPPCTP.

T&EA means the Training and Employment Agency of Northern Ireland.

United States employer means an employer with operations in the United States that has been recommended by the Program Administrator and approved by the Department of State for participation in the IPPCTP.

§ 139.3 Responsibilities of the Department.

The Department of State retains overall authority for all IPPCTP activities, including, but not limited to:

(a) The design of the program mandated by IPPCTPA;

(b) The formulation of policies and procedures concerning the IPPCTP;

(c) The selection and oversight of the Program Administrator;

(d) Coordination with other U.S. Government agencies and representatives of the governments of the Republic of Ireland and Northern Ireland; and

(e) Establishment of the requirements for and approval of the United States employers who will participate in the program.

§ 139.4 Responsibilities of the Program Administrator.

The Program Administrator will be responsible for the following:

(a) Identifying job/training opportunities in designated economic sectors, and recommending to the Department employers in the United States who meet the criteria of § 139.7 and who wish to participate in the IPPCTP. Job/training opportunities will be located in a number of geographic areas across the United States, depending on the availability of jobs, relative cost of living, support infrastructure, and other relevant factors.

(b) Making available, through electronic or other means, information about job/training openings to potential program participants and assisting them in securing job placements in the United States.

(c) Certifying in writing to a United States consular officer in the United States Embassy in Dublin or the United States Consulate General in Belfast, or to an officer of the INS, that a principal alien has been selected to participate in the IPPCTP. This certification will be used only to assist in:

(1) Nonimmigrant visa issuance to and adjudication of an application for admission made by the principal alien and accompanying family members; or

(2) Adjudicating a request made by the principal alien to change employers under the IPPCTP while in the United States.

(d) Providing pre-departure and pre-employment orientation seminars to program participants, as appropriate, and otherwise assisting participants in a smooth transition to life in the United States.

(e) Monitoring participants' compliance with Program requirements while in the United States, and verifying that participants are receiving the agreed training and skills.

(f) Cooperating with FAS and T&EA in all aspects of the program, including assisting participants in finding jobs in their home countries upon completion of their U.S. training.

(g) Reporting to the Department and INS on various aspects of the program and on program participants as directed.

(h) Developing and maintaining a computerized database and website to underpin all of the functions in paragraphs (a) through (g) of this section.

§ 139.5 Qualifications required for selection as a trainee.

To be selected as a program participant in the IPPCTP, a person must:

(a) Be between 18 and 35 years of age; and

(b) Have been physically resident in Northern Ireland or one of the border counties for at least three months prior to applying to the Program; and

(c) Meet United States immigration/visa requirements, including being in receipt of a job offer certified by the Program Administrator, and able to demonstrate satisfactorily to a Consular Officer that he/she has a residence abroad that he/she has no intention of abandoning; and

(d)(1) Be unemployed for at least 3 months, or have completed or currently be enrolled in a training/program sponsored by T&EA or FAS, or by other such publicly funded programs, or have been made redundant in their employment (i.e., lost his/her job) or have received a notice of redundancy (termination of employment); or

(2) Be a currently employed person whose employer has nominated him/her to participate in this program for additional training or job experience that will benefit both the employee and his/her employer upon returning to the same employment.

§ 139.6 Requesting participation in the IPPCTP.

Requests for participation as a trainee in the IPPCTP must be made to FAS or T&EA in the case of § 139.5(d)(1); or, in the case of § 139.5(d)(2), directly to the Program Administrator by the prospective participant's employer.

§ 139.7 Qualifications for participation as an employer in the United States.

To participate in the Irish Peace Process Cultural and Training Program, U.S. employers must:

(a) Provide job/training opportunities that:

(1) Correspond to one of the occupational areas identified by the governments of Northern Ireland and the Republic of Ireland; and

(2) Include a career path comprising work assignment rotations, and/or training opportunities, which offer promotion potential if job performance is satisfactory.

(b) Offer health insurance, which, at a minimum, provides:

(1) Medical benefits of at least $50,000 per accident or illness (major medical); and

(2) A deductible not to exceed $500 per accident or illness.

(c) Pay participants at least the minimum wage and at the same rate as American workers doing the same or similar work.

(d) Agree not to petition for a change of immigration status or non-immigrant status for any participant.

(e) Grant permission to the Program Administrator to conduct on-site visits and take other measures necessary to verify that each employer's job/training contract is being followed.

(f) Notify the Program Administrator in the event of the termination of a participant from employment, or departure of the participant from the Program.

(g) Prepare a written record describing the work experience gained, and make it available to each participant.

§ 139.8 Target economic sectors.

(a) Job/Training under the IPPCTP will focus initially on the following economic sectors:

(1) Hospitality and tourism;

(2) Customer service;

(3) Information and communications technology;
(4) Pharmaceuticals;
(5) Engineering;
(6) Sales, marketing and promotion;
(7) Agriculture/horticulture diversification;
(8) Food processing;
(9) Furniture.
(b) Additional sectors may be added to or deleted from the list in paragraph (a) of this section upon the agreement of the Department and FAS and/or T&EA.

Dated: March 1, 2000.

Marc Grossman,

Assistant Secretary for European Affairs, Department of State.

[FR Doc. 00–6832 Filed 3–16–00; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 3259]

Visas: Nonimmigrant Classes; Irish Peace Process Cultural and Training Program Visitors, Q Classification

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule establishes procedures and requirements for the issuance of visas in a new nonimmigrant visa category, ''Q–2''. The rule also makes certain changes to existing provisions of the Code of Federal Regulations to conform to relevant ''plain language'' requirements. Visas in the new category will be issued pursuant to a program, the Irish Peace Process Cultural and Training Program (IPPCTP), established by Congress to permit young people from designated areas of Ireland and Northern Ireland to temporarily enter the United States in order to develop their job skills and conflict resolution abilities so they will be better able to contribute to the Irish peace process and the economic regeneration of their homelands. The rule will result in the issuance of up to 4,000 visas in each of three program years to qualified applicants and their dependents, beginning in FY 2000.

DATES: This interim rule is effective March 17, 2000. Written comments must be received no later than May 16, 2000.

ADDRESSES: Written comments may be submitted, in duplicate, to H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, DC 20520–0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, D.C. 20520–0106, (202) 663–1204; or e-mail: *odomhe@state.gov*.

SUPPLEMENTARY INFORMATION:

Background

What does the Irish Peace Process Cultural and Training Program Act Do?

The Irish Peace Process Cultural and Training Program Act of 1998 (''IPPCTPA''), Public Law 105–319, amended the Immigration and Nationality Act (''INA'') by creating a new nonimmigrant visa sub-category. Under the Act, section 101(a)(15)(Q) of the INA was amended by inserting ''(i)'' after the (Q) and adding the language of the Act as subpart (ii) in that section. Under this new provision, aliens 35 years or younger having a residence in Northern Ireland or in the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, or Donegal within the Republic of Ireland may be issued a visa in order to apply for entry into the United States for a period not to exceed 36 months. The purpose of this new nonimmigrant sub-category is to provide such aliens with practical training, employment, and the experience of coexistence and conflict resolution in a diverse society so that they may return to Ireland or Northern Ireland to bolster that region's economy and support the peace process.

The program envisioned in the legislation contains numerical and time limitations. The Immigration and Naturalization Service may only admit 4,000 aliens per year under this program, for a maximum of 36 months each, and only during fiscal years 2000, 2001 and 2002, as the Act provides that it is repealed on October 1, 2005. The numerical limitation includes a principal alien's spouse and minor children who may be accompanying or following to join the principal alien. As required in the IPPCTPA, for every alien admitted under the IPPCTP, the numerical limit for the H–2B category, described at INA section 214(g)(1)(B), shall be reduced by one for that fiscal year.

How Does the New Q Visa Program Differ From the Existing Q Visa Program?

Although part of the Q visa category, the new Q visa sub-category, designated Q–2 by the Department of State and INS, has important differences from the existing Q visa (which will now be referred to as the Q–1 visa). There are several obvious differences. First, only aliens aged 35 or younger may participate. Further, in order that the IPPCTP not conflict with the labor laws of any state, the Department of State and INS have determined the minimum age for participation in the program to be 18. Second, participants must have been physically resident in the designated areas for at least three months immediately preceding application to the program. Finally, the entire program is short term in nature in that participants may be initially admitted into the United States only through FY 2002.

In addition, there are other less apparent, but significant differences, some of which have been established by the Department of State and INS for the purpose of the efficient administration of the IPPCTP. First, the IPPCTPA contains no provision for a petition to INS. Therefore, none will be required. Second, much of the visa application and employment placement process will be coordinated through a program administrator selected by the Department of State in consultation with the INS. Third, the program administrator will be required to work with the Training and Employment Authority of the Republic of Ireland (FAS) and the Training and Employment Agency of Northern Ireland (T&EA) to identify and train candidates for the program.

Why Are the Participation of a Program Administrator and the Training and Employment Agencies Necessary?

The use of the program administrator is designed to make the program cohesive and efficient and to permit it to be carried out with a minimum of bureaucratic delay. The program administrator will also have the capacity to work directly with U.S. employers to identify suitable jobs for the program and to fill those jobs with eligible program candidates. In this regard, the program administrator will have the responsibility not only to work with FAS and T&EA to identify eligible candidates for participation in the program, but will also be responsible for identifying employers in the United States who can offer employment and training consistent with the goals of the program and for placing the candidates with those employers. The program administrator will also have the responsibility to monitor and assist program participants throughout their stay in the United States. The involvement of the training and employment agencies of Ireland and Northern Ireland will insure that the program meets the needs of those countries and thus, best fulfills Congressional intent.

Who Will Be the Program Administrator?

The Department of State, after consultation with INS, has selected Logicon, Inc. to be the program administrator through September 30, 2000. Logicon's Irish Peace Process Training and Cultural Program project office may be reached toll free at 1–877–(WALSHVISA) 925–7484. Logicon's mailing address is 1831 Wiehle Avenue, Suite 100, Reston, Virginia 20190–5241. Logicon has established a web site for this program. Its internet address is: *www.walshvisa.net.* is its internet address. Employers wishing to participate in the IPPCTP should contact the project office.

Program Requirements and Offerings

Who May Qualify as a Candidate for the IPPCTP?

Candidates for the IPPCTP will be selected from two categories. The first includes those who have been unemployed for at least three months, or who have completed or are currently participating in a T&EA- or FAS-sponsored training program, or other publicly funded employment/training program, or who have been made redundant (lost their job through a reduction in force) or have received a notice of redundancy. The second category includes those persons already employed and whose current employer has nominated them to participate in the program for additional training/job experience that will benefit both the employer and the employee upon that person's return to employment in Northern Ireland or the Republic of Ireland. FAS and T&EA will be responsible for the initial selection of candidates from the first category. Employers of employees in the second category may nominate the employee directly to the program administrator.

What Types of Employment and Training Will the IPPCTP Offer?

The program will focus on employment and training in occupations that will be the most beneficial to the economies of the relevant areas, as determined by the Department of State in consultation with T&EA, FAS, and the program administrator. Initially, the following sectors have been identified: hospitality and tourism; customer service; information and communications technology; pharmaceuticals; engineering; sales, marketing and promotion; agriculture/horticulture diversification; food processing, and furniture.

Obtaining a Q–2 or Q–3 Visa

Must All IPPCTP Participants Obtain a Q–2 Visa?

Every IPPCTP participant must obtain a Q–2 visa and his or her spouse and children must obtain Q–3 visas. Program participants will not be allowed to enter the United States under the Visa Waiver Pilot Program in order to participate in the IPPCTP. Except as otherwise provided in this rule, the procedures for application for a nonimmigrant visa found in Subpart J of Part 41 of 22 CFR are applicable to applications for the Q–2 and Q–3 visas.

What Are the Requirements To Obtain a Q–2 Visa?

Generally, as part of the process to gain the new Q–2 visa, after selection by FAS or T&EA or nomination by his or her current employer, an alien must be able to show to the consular officer's satisfaction that he or she meets the statutory age and residence requirements for this category, has no intention of abandoning his or her foreign residence, is qualified for the position in question, will be employed while in the United States and is not otherwise ineligible for a nonimmigrant visa. The alien must provide the information concerning selection for the program, position qualifications and employment to the consular officer in the form of a certification letter provided and approved by the program administrator. While this certification letter will be considered prima facie evidence that the alien has met the requirements for participation in the IPPCTP, before issuing a visa the consular officer still will have the responsibility to evaluate all aspects of the alien's application and the information gained at the visa interview.

What Will Be the Period of Validity of the Q–2 and Q–3 Visas?

In most cases, the visas for the principal alien and for the spouse and children will be issued for 36 months, the maximum possible period of work and training permitted under the IPPCTPA. If, however, the job to which the alien has been contracted and the planned period of training is of a duration less than 36 months, for example, or if the consular officer, at his or her discretion, determines that the visa should be issued for a shorter period of time, then the consular officer may issue the visa for the period most suitable to that particular applicant.

Where May Q–2 and Q–3 Visas Be Obtained?

Generally, according to 22 CFR 41.101(a), a nonimmigrant visa applicant may apply for a visa at either: (1) the consular office with jurisdiction over the alien's place of residence (22 CFR 41.101(a)(1)); or (2) the consular office with jurisdiction over the area of the alien's physical presence (at the consular officer's or the Department's discretion) (22 CFR 41.101(a)(1)(ii)). In the case of the Q–2 and Q–3 visa, since according to the IPPCTPA principal applicants must be resident in either Northern Ireland or one of the six designated counties of the Republic of Ireland, an alien residing in Northern Ireland or one of the six counties of the Republic of Ireland may apply at the American Consulate General at Belfast or the American Embassy at Dublin respectively. Consular officers at the Consulate General and at the Embassy also will retain the discretion to accept an application for a Q–2 visa from an applicant who is physically present in their consular district, but who is a resident of the Q–2 geographic area over which the other post has jurisdiction. However, consular officers at other consular posts will not have the discretion to accept applications from an applicant for a Q–2 or Q–3 visa who is a resident of a Q–2 geographic area, but who is physically present in their respective consular district. Amendatory language has been added to 22 CFR 41.101 to reflect this.

Interim Rule

How Is the Department of State Amending Its Regulations?

This rule amends 22 CFR 41.57 by making the existing section paragraph (a) and by adding a new paragraph (b). This change is necessary to make that section conform to the requirements of the IPPCTPA. There are also stylistic changes made to 22 CFR 41.57 that are intended solely to make it conform to the President's plain writing initiative.

The new paragraph (b) contains the visa processing aspects of the IPPCTPA. It establishes the requirements in order for a consular officer to issue a nonimmigrant visa under INA § 101(a)(15)(Q)(ii). These changes, published in conjunction with the publication of a similar rule by the Immigration and Naturalization Service, establish the procedures for an alien to obtain a visa and enter the United States in order to participate in the IPPCTP.

Paragraph (1) of the new subsection (b) states the requirements of the Q–2 visa classification, with the main focus being the certification letter received

from the designated program administrator responsible for the operation of the IPPCTP.

Paragraph (2) of new subsection (b) provides for the issuance of a letter of certification by the program administrator to the consular officer in order to verify the selection of an individual visa applicant for the IPPCTP.

Paragraph (3) of new subsection (b) allows the consular officer to suspend processing of the application in those cases where the consular officer, at the consular officer's discretion, believes or has reason to believe that the applicant is not qualified under paragraph (1) or (2).

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule, with a provision for public comments, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The Department decided that there was not enough time to issue a proposed rule with request for comments as the Irish Peace Process Cultural and Training Program is limited by law to a period that has already begun (FY 2000 through FY 2005, i.e., October 1, 1999 through September 30, 2005). Publication of this regulation as an interim rule will expedite implementation of Public Law 105–319 that is already in effect and allow eligible aliens to apply for and participate in this program as soon as possible in light of the statutory expiration of the program on October 1, 2005.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Participation in the Irish Peace Process Cultural and Training Program Act of 1998 is limited to 4,000 individuals annually for three consecutive years. The activities of the participants in the United States will take place in various locations and in a number of sectors of the economy so that no significant economic impact should occur.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department of State does not consider this rule, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements. The information collection requirement (Form OF–156) contained by reference in this rule was previously approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 41

Aliens, Applications, Nonimmigrants, Passports and visas.

Accordingly, amend 22 CFR part 41 as follows:

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

2. Amend § 41.12 in the table as follows:

a. Revise the section of law ''101(a)(15)(Q)'' for category ''Q–1'' to read ''101(a)(15)(Q)(i)'';

b. Add two new entries in alpha-numeric order to read as follows:

§ 41.12 Classification symbols.

* * * * *

NONIMMIGRANTS

Symbol	Class	Section of law
* * * * * * *		
Q–2	Irish Peace Process Program Participant	101(a)(15)(Q)(ii)
Q–3	Spouse or child of Q–2	101(a)(15)(Q)(ii)
* * * * * * *		

3. Revise § 41.57 to read as follows:

§ 41.57 International cultural exchange visitors and visitors under the Irish Peace Process Cultural and Training Program Act (IPPCTPA).

(a) *International cultural exchange visitors.* (1) *Requirements for classification under INA section 101(a)(15)(Q)(i).* A consular officer may classify an alien under the provisions of INA 101(a)(15)(Q)(i) if:

(i) The consular officer is satisfied that the alien qualifies under the provisions of that section, and

(ii) The consular officer has received official evidence of the approval by INS of a petition or the extension by INS of the period of authorized stay in such classification.

(2) *Approval of petition.* INS approval of a petition does not establish that the alien is eligible to receive a nonimmigrant visa.

(3) *Validity of visa.* The period of validity of a visa issued on the basis of this paragraph (a) must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) of this section.

(4) *Alien not entitled to Q classification.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien does not qualify under INA section 101(a)(15)(Q)(i).

(b) *Trainees under INA section 101(a)(15)(Q)(ii).* (1) *Requirements for classification under INA section 101(a)(15)(Q)(ii).* A consular officer may classify an alien under the provisions of INA section 101(a)(15)(Q)(ii) if:

(i) The consular officer is satisfied that the alien qualifies under the provisions of that section;

(ii) The consular officer has received a certification letter prepared by a program administrator charged by the Department of State in consultation with the Department of Justice with the operation of the Irish Peace Process Cultural and Training Program which states at a minimum:

(A) The name of the alien's employer in the United States;

(B) That the employment is in an occupation designated by the employment and training administration of the alien's place of residence as being most beneficial to the local economy;

(C) That the program administrator has registered the alien in the program;

(D) That the alien has been physically resident in Northern Ireland or in the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland and the length of time immediately prior to the application that the alien has claimed such place as his or her residence;

(E) The alien's date and place of birth;

(iii) If applicable, the consular officer is satisfied the alien is the spouse or child of an alien classified under INA section 101(a)(15)(Q)(ii), and is accompanying or following to join the principal alien.

(2) *Requirements for certification letter.* Before the program administrator (or its agent) may properly issue the certification letter required under paragraph (a)(1)(ii) of this section, the program administrator (or agent) must establish:

(i) Either that the alien:

(A) Has been unable to maintain regular employment for the three months prior to the date of application for participation in the program; or

(B) Has completed or is currently participating in a T&EA or FAS or other publicly funded training/employment program; or

(C) Has received a redundancy notice (notice of loss of employment by reduction in force); or

(D) If the alien is regularly employed, the alien's employer has nominated the alien to leave such employer temporarily in order to participate in the program;

(ii) That the position selected for the alien by the program administrator reasonably fits within the alien's background and experience; and

(iii) That the alien understands both the requirements for maintenance of lawful nonimmigrant status in the United States and that to qualify for visa issuance the alien must have a residence abroad that the alien has no intention of abandoning.

(3) *Aliens not entitled to such classification.* The consular officer must suspend action on the alien's application and notify the alien and the designated program administrator described in paragraph (b)(1)(ii) of this section if the consular officer knows or has reason to believe that an alien does not qualify under INA section 101(a)(15)(Q)(ii).

4. Amend § 41.101 by adding new paragraph (f) to read as follows:

§ 41.101 Place of application.

* * * * *

(f) *Q–2 nonimmigrant visas.* The American Consulate General at Belfast is designated to accept applications for the Q–2 visa from residents of the geographic area of Northern Ireland. The American Embassy at Dublin is designated to accept applications for Q–2 visas from residents of the geographic area of the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland. Notwithstanding any other provision of this section, an applicant for a Q–2 visa may not apply at any other consular post. Consular officers at the Consulate General at Belfast and at the Embassy at Dublin have discretion to accept applications for Q–2 visas from aliens who are resident in a qualifying geographic area outside of their respective consular districts, but who are physically present in their consular district.

Dated: March 2, 2000.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 00–6833 Filed 3–16–00; 8:45 am]

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Federal Register

Friday,
March 17, 2000

Part X

Department of Justice

Immigration and Naturalization Service

8 CFR Part 212 et al.

Irish Peace Process Cultural and Training Program; Interim Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212, 214, 248 and 274a

[INS No. 2000–99]

RIN 1115–AF51

Irish Peace Process Cultural and Training Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Irish Peace Process Cultural and Training Program allows visitors from Northern Ireland and certain designated counties in the Republic of Ireland to come to the United States temporarily for training, for employment, and to experience coexistence and conflict resolution in a diverse society. This rule amends the regulations of the Immigration and Naturalization Service (Service) by establishing procedures for implementing the Irish Peace Process Cultural and Training Program. This program is designed to provide a peaceful and cooperative environment in which these temporary visitors from various backgrounds can develop the necessary job skills to aid in the economic regeneration of their region.

EFFECTIVE DATE: This interim rule is effective March 17, 2000.

Comment Date: Written comments must be received on or before May 16, 2000.

ADDRESSES: Please submit written comments, *in triplicate,* to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 2000–99 on your correspondence. Comments are available for public inspection by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Donna N. Crump, Adjudications Officer, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW, Room 3214, Washington, DC 20536, telephone (202) 616–7445.

SUPPLEMENTARY INFORMATION:

Background

What is Q–2 classification?

The Q–2 classification is established to identify principal participants in the Irish Peach Process Cultural and Training Program.

How did this change in the Q classification originate?

Legislation to create the Irish Peace Process Cultural and Training Program Act of 1998 (IPPCTPA) was introduced in July 1998 by Congressman James Walsh of New York. The IPPCTPA supports the peace process by offering young people from Northern Ireland and the border counties of the Republic of Ireland who have been subjected to decades of sectarian conflict the opportunity to come to the United States temporarily to gain valuable work skills and to experience a multi-cultural environment. This program is designed to provide these young people from different communities with the necessary economic and cultural training to start the process of rebuilding a working, civil society in their home countries. On October 30, 1998, President Clinton signed into law the Irish Peace Process Cultural and Training Program Act of 1998, Pub. L. 105–319.

What Are the Provisions of the IPPCTPA?

This legislation requires that the Secretary of State and the Attorney General establish a program that permits, for each of 3 consecutive years, the annual entry of not more than 4,000 visitors from Northern Ireland and certain designated counties in the Republic of Ireland to participate in training, work, and conflict resolution activities. The participants are to be under 36 years of age and reside in designated areas which have suffered from sectarian violence and high unemployment. This program is designed to help these visitors develop job skills and conflict resolution abilities in a diverse society so that when they return home they can help contribute to the economic rejuvenation of their region and promote the peace process. This program has three consecutive program years: Fiscal Years (FYs) 2000 (October 1, 1999, through September 30, 2000), 2001 (October 1, 2000, through September 30, 2001) and 2002 (October 1, 2001, through September 30, 2002). The participating individuals may remain in the United States for up to 36 months, and spouses and minor children of the principal alien may accompany or follow-to-join the principal alien program participant. The IPPCTPA requires the Service to reduce by one the number of H–2B nonimmigrants admitted for every individual admitted under this program. On October 1, 2005, the provisions of this Public Law are repealed.

What Are the Eligibility Criteria for Participation?

The legislation provides that any resident of Northern Ireland or the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland, who is 35 years of age or younger, is eligible to apply.

Following several working meetings between officials of the U.S. Department of State (DOS), the U.S. Immigration and Naturalization Service (Service), the Training and Employment Agency of Northern Ireland (T&EA), and the Training and Employment Authority of Ireland (FAS), eligibility requirements were further defined to meet the needs of Northern Ireland and the Republic of Ireland. For participation in this program, the candidate must be physically resident in either Northern Ireland or in the designated border counties of the Republic of Ireland for at least 3 months immediately preceding application to the program and be between the ages of 18 and 35 at the time of initial admission to the United States under the program. In addition, candidates must fall within one of the following two categories of persons:

(1) The first category consists of unemployed applicants: (a) who have been unemployed for at least 3 months, or (b) who have completed or are currently participating in a program of the T&A or of FAS or another publicly funded training and employment program. In addition, persons who have recently been made redundant in their employment (i.e., lost their job) or have received a notice of redundancy (termination of employment) may apply to the program immediately without having to wait 3 months after becoming unemployed.

(2) The second category in this program consists of persons who (a) are currently employed and (b) whose current employer has nominated them to participate in the program for additional training and/or job experience that will benefit both the employee and the employer upon that person's return to his or her prior employment.

The T&EA and FAS are responsible for identifying candidates to the program from the first category. The employers of individuals in the second category may nominate employees directly to the DOS' Program Administrator.

Why does this program have age limitations?

The maximum age of 35 is stipulated in the IPPCTPA. The minimum age of 18 is needed so that there is no conflict

with child labor laws of individual U.S. States.

Do all individuals who successfully complete a training and employment program or who are recommended to the program by their employers automatically become program participants?

Nomination by the T&EA or FAS or recommendation by an employer for program participation is the first stage of the selection process. A U.S. employer, approved by the DOS, must also be willing to offer employment or training to such individuals. All candidates must then meet U.S. visa and immigration requirements. If no U.S. employer is interested in hiring a particular candidate or if any particular candidate is ineligible for either a U.S. visa or admission into the United States, then that individual is ineligible for participation in this program.

Is there any petition requirement?

There is no petition requirement for visitors under the Irish Peace Process Cultural and Training Program (IPPCTP). However, each candidate will be required to have a written certification from the DOS' Program Administrator indicating that he or she has been selected for participation in the IPPCTP prior to applying for a Q–2 visa.

How does a U.S. employer hire one of these indivduals?

A U.S. employer interested in employing and/or providing training to these candidates must be approved by the DOS in accordance with its regulations before a visa will be issued. Interested employers may contact the DOS' Program Administrator for details of the approval process. The Department of State has designated Logicon, Inc. of Northern Virginia as the Program Administrator for this program through September 30, 2000. Logicon may be reached at 1–877–925–7484 or via e-mail at logicon@walshvisa.net. Logicon's mailing address is Walsh Visa Program, Logicon, 1831 Weihle Avenue, Suite 100, Reston, Virginia 20190–5241. Logicon has established an Internet web site for this program: *www.walshvisa.net*.

Are there any restrictions on the type of employment permitted?

Employment must be in a field of endeavor that has been identified by governmental agencies in Northern Ireland and Ireland as one that will be useful to the economy of the region. The designated sectors currently include hospitality and tourism, customer service, information and communications technology, pharmaceuticals, engineering, sales, marketing and promotion, and furniture. The selection of additional sectors or the deletion of already identified sectors will occur upon the agreement of the DOS, with one or both of the training and employment agencies.

May the principal alien of this program bring family members?

The principal alien may bring his/her spouse and minor children to the United States. These family members may either travel with the principal alien to the United States or join him/her at a later date. They will be counted in the total annual number admitted to the United States under this program. The visa designation for eligible family members will be Q–3. All family members must depart the United States at the end of the principal alien's program. However, those spouses or minor children who do not wish to accompany or follow-to-join the principal alien, but desire only to briefly visit the principal alien in the United States, might wish to avail themselves of the visitors' visa waiver pilot program or obtain a visitor's visa (B–2).

Are program participants eligible for the visitor's visa waiver pilot program?

No, since the length of stay of these participants will be longer than 90 days, and thus exceeds the maximum length of stay available under the visa waiver pilot program. In addition, those individuals admitted under the visa waiver pilot program are not authorized to work. All principal aliens and any eligible family members in this program must have passports valid for the length of their U.S. stay and be issued either a Q–2 visa or a Q–3 visa prior to entering the United States. Applications for these visas may be made at either the U.S. Consulate in Belfast or at the U.S. Embassy in Dublin. These are the two posts that will be authorized to issue visas for this program.

What happens when those qualifying for participate in the program exceed the 4,000 annual admission limitation?

The DOS will be tracking the processing of Q–2 and Q–3 visas to ensure that no more than 4,000 visas are issued in each of the three program years. Should there be more candidates than visas available, those candidates without visas will have to wait until the next program year to participation in the IPPCTP.

May visitors already in the United States admitted under other nonimmigrant visa classifications change to a Q–2?

No, because visitors already in the United States would not meet one of the eligibility requirements, which stipulates that participation must be physically resident in either Northern Ireland or Ireland for at least 3 months immediately preceding application to the program.

Are family members able to work and go to school?

Family members entering the United States with a Q–3 visa under this program are not allowed to work. The spouse and minor children of the principal alien may attend school without violating their Q–3 status. Those spouses who are also principal participants and have been issued a Q–2 visa are eligible to work.

Will any documentation for employment authorization be issued?

All principal aliens will have their Forms I–94, Arrival-Departure Record, endorsed by an Immigration Inspector at the time of inspection. This endorsement will authorize their employment with a specific employer based on the certification from the DOS' Program Administrator. They will not be issued a separate employment authorization document (Form I–766).

Will the principal aliens have to pay taxes and contribute to Social Security?

The principal aliens are responsible for paying all applicable Federal, State, and local income taxes, employment and related taxes, as well as Social Security contributions on any salaries received.

How will training and conflict resolution activities be administered?

Training or conflict resolution activities offered to the principal aliens will be coordinated by the DOS' Program Administrator.

What organizations are cooperating on this program?

The DOS and the Service are working together with the T&EA and with FAS to make all potential participants aware of this program. These agencies have also encouraged nongovernmental organization to become involved.

Since the number of visas issued under this program reduces the number of H–2B visas available, what impact does the Service expect this program to have on the H–2B program?

The Service does not expect the Q–2 program to adversely affect the H–2B

program. Since the establishment of numerical limitations for the H–2B classification in Fiscal Year 1992, the numerical limitation has not been reached. Based on the past demand for the H–2B classification, the Service expects sufficient visa numbers to be available for participants in both the H–2B program and the Q–2 program for the duration of the Q–2 program.

Why does the Service not process these participants under the H–2B program?

Congress specified that the IPPCTP should have a separate nonimmigrant visa classification. In addition, some training and employment that is permissible under this program may not qualify under the H–2B program.

How will the Service track program participants or overstays?

Service regulations at 8 CFR 25.1 require the participants to inform the Service of any address changes. This will be accomplished by requiring each participant to forward Form AR–11, Alien's Change of Address Card, to the Service through the DOS Program Administrator. The arrival and departure of all visitors to and from the United States in this program will be tracked through the use of Form I–94, Arrival-Departure Record. The Service will identify overstays through this tracking system. In addition, the DOS' Program Administrator will monitor the program activities of each individual participant and will be required to inform the Service of any Q–2 or Q–3 visa holder who is no longer participating in this program and those who have completed the program but not yet departed.

What will happen if a Q–2 or Q–3 visa holder remains in the United States beyond his/her authorized period of stay?

The intent of Public Law 105–319 is for the participants to return home to contribute to the economic regeneration of their region and to promote the peace process.

Several factors will provide a strong incentive for the participants in this program to return home. First, the DOS' Program Administrator will, with the training and employment agencies in the cooperating counties, assist each participant to identify specific job opportunities in his/her home area during the course of the participant's stay in the United States. Every effort will be made to ensure a job placement before the end of each participant's U.S. program. Second, any participant who is no longer in valid nonimmigrant status and remains in the United States or who remains in the United States beyond the 36-month period of admission, risks being put into removal proceedings by the Service along with other adverse immigration consequences, including penalties described in section 212(a)(9) of the Immigration and Nationality Act (Act).

What are the Service's reporting requirements for overstays under the Q–2 program?

The legislation requires the Service to compile and submit to Congress a report on the number of aliens admitted under section 101(a)(15)(Q)(ii) of the Act who have overstayed their visas. Such reports will be submitted to Congress at the end of the third program year and for each of the succeeding 3 years.

In providing these congressional reports, the Service will require the participants and their families to adhere to the 3-year stay limitations as set forth in the legislation. Their valid program time period will expire 3 years after the date of their initial admission, *including* any time spent outside the United States during the 3-year period of authorized stay. Additionally, any participant who remains outside the United States beyond three consecutive months will not be considered in valid program status. Such an individual will have to reapply to the program, should he/she wish to resume a Q–2 program activity, and will not be readmitted on the initial Q–2 visa.

In order to provide accurate reporting, the Service will confirm its overstay data with the DOS' Program Administrator. The Service will also maintain contact throughout the program with the U.S. Consulate in Belfast and the Consular section at the U.S. Embassy in Dublin, as well as with the T&EA and FAS to verify overstays.

Explanation of changes

How is the Service amending its regulations to implement Public Law 105–319?

This rule revises the original Q nonimmigrant classification by renumbering its paragraphs in § 214.2(q) and by changing the reference of ''Q'' to ''Q–1'' and its reference to the Act. However, this redesignation in no way alters the regulations or established procedures for participating in such a program. One technical change to these regulations was also made as a result of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, 110 Stat. 3546, which recodified the deportation charge applicable to an alien who engages in unlawful employment and thereby violates his nonimmigrant status (formerly 241(a)(1)(C)(i) of the Act) at 237(a)(1)(C)(i) of the Act. In addition, an individual participating in a Q–1 program will now be referred to as an ''international cultural exchange visitor.'' The Service has removed any references to ''cultural visitor'' under the Q–1 program, as the term ''cultural visitor'' now refers to participants in both the Q–1 and Q–2 programs.

The Service is also revising the Q classification to add a paragraph addressing the new Q–2/Q–3 nonimmigrant classifications at § 214.2(q). Paragraphs have been added at 8 CFR parts 212, 248 and 274a concerning this new nonimmigrant classification.

Since no substantive changes have been made in the program to be redesignated as Q–1, written comments submitted to the Service regarding this interim rule should be confined to the implementing rules of the Q–2/Q–3 visa classifications.

The Service and the DOS are publishing simultaneously their respective rules on the Q–2 program. The two agencies have consulted with each other during the rulemaking process. (See the DOS' rules published elsewhere in this issue of the **Federal Register**.)

Good Cause Exception

The Service's implementation of this regulation as an interim rule, with a provision for post-promulgation public comments, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for issuing this regulation as an interim rule are as follows: (1) In order to provide for the addition of the new Q–2 classification, the original Q classification was renumbered and stylistic changes were made. The technical change correcting the citation to the appropriate deportation charge was necessitated by the recodification of that charge by the IIRIRA. None of these changes were substantive in nature. (2) There is not enough time to issue a proposed rule with request for comments because the initial group of IPPCTP participants is scheduled to arrive in the United States at the end of March 2000. Publication of this regulation as an interim rule will expedite implementation of Public Law 105–319 and allow eligible aliens to apply for and participate in this program as soon as possible in light of the statutory expiration of the program on October 1, 2005. Any delay in the publication of this interim rule will result in a significant delay in the start

of the program which in turn will have a severely negative impact on the success of the program given that unused numbers in one program year cannot be carried over to the next.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Participation in the IPPCTP is limited to 4,000 individuals annually for three consecutive program years. This rule does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order (E.O.) 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has therefore waived its review process under section 6(a)(3)(A).

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements. The information collection requirements (Forms I–94 and AR–11) contained in this rule were previously approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, aliens, Immigration, Passports and visas, reporting and recordkeeping.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 248

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, employment, Penalties Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 212.1 is amended by adding a new paragraph (n) to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(n) *Alien in Q–2 classification.* Notwithstanding any of the provisions of this part, an alien seeking admission as a principal according to section 101(a)(15)(Q)(ii) of the Act must be in possession of a Certification Letter issued by the Department of State's Program Administrator documenting participation in the Irish peace process cultural and training programs.

PART 214—NONIMMIGRANT CLASSES

3. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2.

4. Section 214.1 is amended by:

a. Removing the word ''and'' at the end of paragraph (a)(1)(v);

b. Removing the period at the end of paragraph (a)(1)(vi) and adding in its place a ''; and'';

c. Adding a new paragraph (a)(1)(vii);

d. Amending the table in paragraph (a)(2) by removing the entry for ''101(a)(15)(Q)'' and by adding the entries for ''101(a)(15)(Q)(i)'', ''101(a)(15)(Q)(ii)'', and ''101(a)(15)(Q)(iii)'' in proper numerical sequence;

e. Revising the heading of paragraph (b);

f. Adding a new paragraph (b)(4);

g. Revising the first sentence in paragraph (c)(1);

h. Removing the word ''or'' at the end of paragraph (c)(3)(v);

i. Removing the period at the end of paragraph (c)(3)(vi) and adding in its place a ''; or''; and by

j. Adding a new paragraph (c)(3)(vii), to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(1) * * *

(vii) Section 101(a)(15)(Q)(ii) is divided to create a (Q)(iii) for subclassification for the spouse and children of a nonimmigrant classified under section 101(a)(15)(Q)(ii) of the Act.

(2) * * *

Section	Designation
* * * * *	
101(a)(15)(Q)(i)	Q–1.
101(a)(15)(Q)(ii)	Q–2.
101(a)(15)(Q)(iii)	Q–3.
* * * * *	

* * * * *

(b) *Readmission of nonimmigrants under section 101(a)(15) (F), (J), (M), or (Q)(ii) to complete unexpired periods of previous admission or extension of stay*—* * *

* * * * *

(4) *Section 101(a)(15)(Q)(ii).* The inspecting immigration officer shall readmit for the unexpired period of stay authorized prior to the alien's departure, if the alien:

(i) Is admissible;

(ii) Is applying for readmission after an absence from the United States not exceeding 30 days solely in contiguous territory or adjacent islands;

(iii) Is in possession of a valid passport;

(iv) Presents, or is the accompanying spouse or child of an alien who presents, an Arrival-Departure Record, Form I–94, issued to the alien in connection with the previous admission or stay. The principal alien must also present a Certification Letter issued by the Department of State's Program Administrator.

(c) * * * (1) * * * An employer seeking the services of an E–1, E–2, H–1A, H–1B, H–2A, H–2B, H–3, L–1, O–1, O–2, P–1, P–2, P–3, Q–1, R–1, or TC nonimmigrant beyond the period previously granted, must petition for an extension of stay on Form I–129.* * *

* * * * *

(3) * * *

(vii) Any nonimmigrant who is classified according to section 101(a)(15)(Q)(ii) of the Act beyond a total of 3 years.

* * * * *

5. Section 214.2 is amended by:

a. Revising the heading of paragraph (q);

b. Redesignating paragraph (q)(1) as paragraph (q)(1)(iii);

c. Adding new paragraphs (q)(1)(i) and (q)(1)(ii);

d. Revising the heading of paragraphs (q)(2), (q)(5), (q)(6), and (q)(7);

e. Revising paragraph (q)(9)(i);

f. Adding two new sentences at the end of paragraph (q)(9)(ii);

g. Adding and reserving paragraphs (q)(12) through (q)(14); and by

h. Adding a new paragraph (q)(15), to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(q) *Cultural visitors*—(1)(i) *International cultural exchange visitors program.* Paragraphs (q)(2) through (q)(11) of this section provide the rules governing nonimmigrant aliens who are visiting the United States temporarily in an international cultural exchange visitors program (Q–1).

(ii) *Irish peace process cultural and training program.* Paragraph (q)(15) of this section provides the rules governing nonimmigrant aliens who are visiting the United States temporarily under the Irish peace process cultural and training program (Q–2) and their dependents (Q–3).

* * * * *

(2) *Admission of international cultural exchange visitor*—* * *

(5) *Filing of petitions for international cultural exchange visitor program*—* * *

(6) *Substitution or replacements of participants in an international cultural exchange visitor program*—* * *

(7) *Approval of petition for international cultural exchange visitor program*—* * *

* * * * *

(9) * * * (i) *General.* The petitioner shall immediately notify the appropriate Service center of any changes in the employment of a participant which would affect eligibility under section 101(a)(15)(Q)(i) of the Act.

(ii) * * * No further action or notice by the Service is necessary in the case of automatic revocation. In any other case, the Service shall follow the revocation procedures in paragraphs (q)(9) (iii) through (v) of this section.

* * * * *

(12) (Reserved)

(13) (Reserved)

(14) (Reserved)

(15) *Irish peace process cultural and training program visitors (Q–2) and their dependents (Q–3).* (i) *General.* An Irish Peace Process Cultural and Training Program (IPPCTP) visitor is a nonimmigrant alien coming to the United States temporarily to gain or upgrade work skills through training and temporary employment and to experience living in a diverse and peaceful environment.

(ii) *What are the requirements for participation?* (A) The principal alien must have been physically resident in either Northern Ireland or the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland, for at least 3 months immediately preceding application to the program and must show that he or she has no intention of abandoning this residence.

(B) The principal alien must be between the ages of 18 and 35.

(C) The principal alien must:

(*1*) Be unemployed for at least 3 months, or have completed or currently be enrolled in a training/employment program sponsored by the Training and Employment Agency of Northern Ireland (T&EA) or by the Training and Employment Authority of Ireland (FAS), or by other such publicly funded programs, or have been made redundant from employment (*i.e.,* lost their job), or have received a notice of redundancy (termination of employment); or

(*2*) Be a currently employed person whose employer has nominated him/her to participate in this program for additional training or job experience that is to benefit both the participant and his/her employer upon returning home.

(D) The principal alien must intend to come to the United States temporarily, for a period not to exceed 36 months, in order to obtain training, employment, and the experience of coexistence and conflict resolution in a diverse society.

(iii) *Are there any limitations on admissions*? (A) No more than 4,000 participants, including spouses and any minor children of principal aliens, may be admitted annually for 3 consecutive program years, beginning with FY 2000 (October 1, 1999, through September 30, 2000).

(B) For each alien admitted under section 101(a)(15)(Q)(ii) of the Act, the number of aliens admitted under section 101(a)(15)(H)(ii)(b) of the Act is reduced by one for that fiscal year or the subsequent fiscal year.

(C) This program expires on October 1, 2005.

(iv) *What are the requirements for initial admission to the United States*? (A) Principal aliens, their spouses, and minor children of principal aliens must present valid passports and either a Q–2 or Q–3 visa at the time of inspection.

(B) Initial admission for those principal and dependent aliens in this program who received their visas at either the U.S. Embassy in Dublin or the U.S. Consulate in Belfast must take place at the Service's Pre-Flight Inspection facilities at either the Shannon or Dublin airports in the Republic of Ireland.

(C) The principal alien will be required to present a Certification Letter issued by the Department of State's (DOS') Program Administrator documenting him or her as an individual selected for participation in the IPPCTP. Eligible dependents may be requested to present written documentation certifying their relationship to the principal.

(v) *May the principal alien and dependents make brief visits outside the United States*? (A) The principal alien, spouse, and any minor children of the principal alien may make brief departures, for periods not to exceed 3 consecutive months, and may be

readmitted without having to obtain a new visa. However, such periods of time spent outside the United States will not be added to the end of stay, which is not to exceed a total of 3 years from the initial date of entry of the principal alien.

(B) Those participants or dependents who remain outside the United States in excess of 3 consecutive months will not be readmitted by the Service on their initial Q–2 or Q–3 visa. Instead, any such individual and eligible dependents wishing to rejoin the program will be required to reapply to the program and be in receipt of a new Q–2 or Q–3 visa and a Certification Letter issued by the DOS' Program Administrator, prior to any subsequent admission to the United States.

(vi) *How long may a Q–2 or Q–3 visa holder remain in the United States under this program?* (A) The principal alien and any accompanying, or following-to-join, spouse or minor children of the principal alien are admitted for the duration of the principal alien's planned cultural and training program or 36 months, whichever is shorter.

(B) Those participants and eligible dependents admitted for specific periods less than 36 months may extend their period of stay through the Service so that their total period of stay is 36 months, provided the extension of stay is related to employment or training certified by the DOS' Program Administrator.

(vii) *How is employment authorized under this program?* (A) Following endorsement of his/her Form I–94, Arrival-Departure Record, by a Service officer, any principal alien admitted under section 101(a)(15)(Q)(ii) of the Act is permitted to work for an employer or employers listed on the Certification Letter issued by the DOS' Program Administrator.

(B) The accompanying spouse and minor children of the principal alien may not accept employment, unless the spouse has also been designated as a principal alien (Q–2) in this program and has been issued a Certification Letter by the DOS' Program Administrator.

(viii) *May the principal alien change employers?* Principal aliens wishing to change employers must request such a change through the DOS' Program Administrator to the Service. Following review and consideration of the request by the Service, the Service will inform the participant of the decision. The Service will grant such approval of employers only if the new employer has been approved by DOS in accordance with its regulations and such approval is communicated to the Service through the DOS' Program Administrator. If approved, the participant's Form I–94 will be annotated to show the new employer. If denied, there is no appeal under this section.

(ix) *May the principal alien hold other jobs during his/her U.S. visit?* No; any principal alien classified as an Irish peace process cultural and training program visitor may only engage in employment that has been certified by the DOS' Program Administrator and approved by the DOS or the Service as endorsed on the Form I–94. An alien who engages in unauthorized employment violates the terms of the Q-2 visa and will be considered to have violated section 237(a)(1)(C)(i) of the Act.

(x) *What happens if a principal alien loses his/her job?* A principal alien, who loses his or her job, will have 30 days from his/her last date of employment to locate appropriate employment or training, to have the job offer certified by the DOS' Program Administrator in accordance with the DOS' regulations and to have it approved by the Service. If appropriate employment or training cannot be found within this 30-day-period, the principal alien and any accompany family members will be required to depart the United States.

§ 214.2 [Amended]

6. Section 214.2 is amended in newly redesignated paragraph (q)(1)(iii) under the definition of ''Duration of program'', and in paragraph (q)(4)(iii), by revising the term ''cultural exchange program'' to read ''international cultural exchange program''.

7. Section 214.2 is amended in the newly redesignated paragraph (q)(1)(iii) under the definition ''*International cultural exchange visitor or cultural visitor''* by removing the term ''*or cultural visitor*''.

8. Section 214.2 is amended by revising the term ''a cultural visitor'' to read ''an international cultural exchange visitor'' wherever that term appears in the following paragraphs:

a. Paragraph (q)(2)(i);
b. Paragraph (q)(2)(ii);
c. Paragraph (q)(3)(iv);(D);
d. Paragraph (q)(5)(v);
e. Paragraph (q)(10); and
f. Paragraph (q)(11)(ii).

9. Section 214.2 is amended by revising the term ''cultural visitor's'' to read ''international cultural exchange visitor's'' wherever that term appears in paragraphs (q)(3)(i), (q)(3)(iii)(B); (q)(3)(iii) (C), and (q)(6).

10. Section 214.2 is amended by revising the term ''cultural visitors'' to read ''international cultural exchange visitors'' wherever that term appears in paragraphs (q)(5)(i), (q)(8)(ii).

11. Section 214.2 is amended by revising the term ''*cultural visitors*'' to read ''*international cultural exchange visitors*'' to read ''*international cultural exchange visitors''* in the heading of paragraph (q)(3)(iv).

12. Section 214.2 is amended by revising the term ''cultural visitors'' to read ''international cultural exchange visitors'' wherever that term appears in the following paragraphs:

a. Paragraph (q)(3)(iv) introductory text;
b. Paragraph (q)(4)(ii)(A);
c. Paragraph (q)(5)(iii), (q)(5)(iv), and (q)(5)(v);
d. Paragraph (q)(6); and
e. Paragraph (q)(9)(iii) (A)

13. Section 214.2 is amended by revising the reference ''section 101(a)(15)(Q)'' to read ''section 101(a)(15)(Q)(i)'' wherever that reference appears in the following paragraphs:

a. Newly redesignated paragraph (q)(1)(iii) under the definition ''*Qualified employer*''
b. Paragraph (q)(2)(ii);
c. Paragraph (q)(5)(v);
d. Paragraph (q)(7)(iii) and (q)(7)(iv);
e. Paragraph (q)(10); and
f. Paragraph (q)(11)(i).

14. Section 214.2 is amended by revised the term ''Q status'' to read ''Q-1 status'' whenever that term appears in the following paragraphs:

a. Paragraph (q)(2)(i) and (q)(2)(ii); and
b. Paragraph (q)(3)(i) and (q)(3)(ii).

15. Section 214.2 is amended by revising the term ''Q visa'' to read ''Q-1 visa'' in paragraph (q)(5)(ii); and by revising the term ''Q nonimmigrant'' to read ''Q-1 nonimmigrant'' wherever that term appears in paragraph (q)(11)(i).

16. Section 214.2 is amended by revising the reference to ''section 241(a)(1)(C)(i)'' to read ''section 237(a)(1)(C)(i)'' in paragraph (q)(11)(i).

17. Section 214.2 is amended by revising the term ''cultural visitors' '' to read ''international cultural exchange visitors' '' in paragraph (q)(4)(ii)(B).

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

18. The authority citation for part 248 continues to read to follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1187, 1258; 8 CFR part 2.

§ 248.3 [Amended]

19. In § 248.3, paragraph (a) is amended in the first sentence by

revising the reference to ''Q'' to read ''Q–1''.

20. Section 248.3 is amended by adding a new paragraph (d) and revising paragraph (e)(2) to read as follow:

§ 248.3 Application.

* * * * *

(d) *Special provisions for change of nonimmigrant classification from Q–2 classification.* Any alien classified as a Q–2 nonimmigrant, who requests a change to another nonimmigrant classification, must file Form I–539, with appropriate free, to the Nebraska Service Center. Any spouse or minor children of the principal alien who are in the United States and who are also classified as either Q–2 or Q–3 nonimmigrants may be included in the application.

(e) * * *

(2) An alien classified under sections 101(a)(15)A) or 101(a)(150(G) of the Act as a member of the immediate family of a principal alien classified under the same section, or an alien classified under sections 101(a) (15) (E), (F), (H), (I), (J), (L), (M), or (Q)(ii) of the Act as the spouse of child who accompanied or followed-to-join a principal alien who is classified under the same section, may attend school in the United States, as long as the immediate family member, spouse, or child continues to be qualified for and maintains the status under which the family member, spouse, or child is classified.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

21. The authority citation for part 274a is revised to read as follows: Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321;

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2

22. Section 274a.12 is amended by:

a. Revising paragraph (b)(15); and

b. Adding a new paragraph (c)(23), to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(b) * * *

(15) An international cultural exchange visitor (Q–1), according to § 214.2(q)(1) of this chapter. An alien may only be employed by the petitioner through whom the status was obtained;

* * * * *

(c) * * *

(23) An Irish peace process cultural and training program visitor (Q–2), pursuant to § 214.2(q)(15) of this chapter and 22 CFR 41.57 and 22 CFR part 139. An alien in this status may only accept employment with the employer listed on the Certification Letter issued by the DOS' Program Administrator.

* * * * *

Dated: March 15, 2000.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00–6818 Filed 3–16–00; 8:45 am]

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Federal Register

Vol. 65, No. 53

Friday, March 17, 2000

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FEDERAL REGISTER PAGES AND DATE, MARCH

10931–11196 1
11197–11454 2
11455–11734 3
11735–11858 6
11859–12060 7
12061–12426 8
12427–12904 9
12905–13234 10
13235–13658 13
13659–13864 14
13865–14206 15
14207–14430 16
14431–14780 17

CFR PARTS AFFECTED DURING MARCH

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.

3 CFR

Proclamations:
7276 11197
7277 11199
7278 11455
7279 11733
7280 12903

Executive Orders:
12170 (See Notice of March 13, 2000) 13863
12957 (Continued by Notice of March 13, 2000) 13863
12959 (See Notice of March 13, 2000) 13863
13059 (See Notice of March 13, 2000) 13863
13146 11201
13147 13233

Administrative Orders:
Presidential Determinations:
No. 2000-15 of February 24, 2000 10931
Notices:
March 13, 2000 13863

5 CFR

213 14431
315 14431
335 14431
792 13659

Proposed Rules:
3 14477
213 14477
315 14477

7 CFR

2 12427
205 13512
210 12429
215 12429
220 12429
225 12429
226 12429
301 11203
457 11457
761 14432
762 14432
993 12061
955 12442
1421 13865
1427 13865
1464 10933
1710 14207
1721 10933
3019 14406

Proposed Rules:
6 14478
20 11483
27 10979
28 .....10979, 12140
29 13915
57 14652
97 13917
201 12952
1140 10981
1160 14484
1205 12146
1210 14485
1306 12141
1307 12141
1309 12141
1710 12952
1717 12952
1718 12952

8 CFR

212 14774
214 14774
248 14774
278A 14774

9 CFR

78 12064

Proposed Rules:
71 11485
77 .....11485, 11912
78 11485
93 12486
98 12486
113 12151
130 12486
317 14486
318 .....14486, 14489
319 .....144867, 14489
327 14489
381 14486
590 11486

10 CFR

72 .....11458, 12444
170 11204
600 14406

Proposed Rules:
21 11488
50 11488
52 11488
54 11488
100 11488
430 14128
431 10984
960 11755
963 11755
Ch. XVIII 13700

12 CFR

5 12905
204 12916
225 .....14433, 14440
724 10933
745 10933
925 13866
950 13866
Ch. IX 13663
1510 12064

Proposed Rules:
3 12320
208 12320
225 12320
325 12320
567 12320
614 14491
620 14494
709 11250
716 10988
741 10988
1750 13251

13 CFR

Proposed Rules:
124 12955

14 CFR

25 13666
39 ..... 10934, 10937, 10938, 11204, 11459, 11859, 11861, 12071, 12072, 12073, 12075, 12077, 12080, 12081, 12082, 12084, 12085, 12460, 12462, 12463, 13668, 13871, 13875, 13877, 14207, 14209
71 ..... 11369, 11461, 11866, 12630, 12917, 12918, 14344
95 14442
97 ..... 13669, 13671, 13673
1260 14406

Proposed Rules:
25 13703
39 ..... 11006, 11505, 11940, 11942, 12489, 12957, 13251, 13919, 13921, 13923, 14216, 14218
71 ..... 12153, 12957, 13704, 13705, 13707, 14497
255 11009

15 CFR

14 14406
734 12919
738 12919
740 12919
742 12919
743 12919
744 ..... 12919, 14444
748 12919
774 ..... 12919, 13879

16 CFR

1615 12924
1616 12924
1630 12929
1631 12929
1632 12935

Proposed Rules:
307 11944
312 11947
313 11174

17 CFR

15 14452
16 14452
17 14452
1 12466
4 ..... 10939, 12938
200 12469
240 13235
242 13235

Proposed Rules:
4 ..... 11253, 12318
228 11507
229 11507
230 11507
232 11507
239 11507
240 11507
248 12354
249 11507
250 11507
259 11507
260 11507
269 11507
270 11507
274 11507

18 CFR

35 12088
157 ..... 11461, 12115

19 CFR

12 12470
24 13880
111 13880
178 13880

20 CFR

220 14458
322 14459
404 11866
416 11866

21 CFR

20 11881
101 11205
176 13675
524 13904
558 11888
640 13678
868 11464
870 11465
1301 13235
1308 13235

Proposed Rules:
101 14219
314 12154

22 CFR

22 14211
23 14211
41 14768
51 14211
139 14764
145 14406
226 14406

Proposed Rules:
22 13253

23 CFR

1340 13679

24 CFR

905 14422

Proposed Rules:
81 12632
990 11525

25 CFR

290 14461

26 CFR

1 ..... 11205, 11467, 12471
301 ..... 11211, 11215
602 ..... 11205, 11211, 11215

Proposed Rules:
1 ..... 11012, 11269
301 ..... 11271, 11272

27 CFR

4 11889
5 11889
7 11889
16 11889

Proposed Rules:
4 12490

28 CFR

70 14406

29 CFR

95 14406
4022 ..... 14752, 14753
4044 ..... 13905, 14752
4050 14752

Proposed Rules:
1614 11019
1910 ..... 11948, 13254

30 CFR

202 11467
206 ..... 11467, 14022
250 14469

Proposed Rules:
914 ..... 11950, 12492

31 CFR

103 13683

32 CFR

22 14406
32 14406
668 13906

33 CFR

95 14223
110 11892
117 ..... 11893, 12943
127 10943
140 14226
141 14226
142 14226
143 14226
144 14226
145 14226
146 14226
147 14226
154 10943
155 ..... 10943, 14470
159 10943
164 10943
167 12944
177 14223
183 10943

Proposed Rules:
100 ..... 11274, 13926, 14498
110 ..... 13926, 14498
165 ..... 13926, 14498, 14501, 14502
175 11410
177 11410
179 11410
181 11410
183 11410

34 CFR

74 14406
1100 11894

36 CFR

Ch. XV 14760
701 ..... 11735, 11736
1210 14406

Proposed Rules:
212 11680
261 11680
295 11680
1190 12493
1191 12493

37 CFR

Proposed Rules:
201 ..... 14227, 14505

38 CFR

3 12116
19 14471
20 14471
21 ..... 12117, 13893

Proposed Rules:
3 13254

39 CFR

111 12946

Proposed Rules:
20 11023
111 13258
913 14229
952 13707

40 CFR

30 14406
51 11222
52 ..... 10944, 11468, 12118, 12472, 12474, 12476, 12481, 12948, 13239, 13694, 14212
60 13242
63 11231
68 13243
86 11898
136 14344
141 11372
148 14472
180 ..... 10946, 11234, 11243, 11736, 12122, 12129
261 14472
262 12378
268 14472
271 14472
300 ..... 13697, 14475
302 14472
445 14344

Proposed Rules:
51 11024
52 ..... 11027, 11275, 11524, 12494, 12495, 12499, 12958, 13260, 13709, 14506, 14510
63 11278
81 14510
141 11372
438 11755
503 11278

42 CFR

405 13911
410 13911

Proposed Rules:
410 13082
493 14510

43 CFR

12 14406
3500 11475

45 CFR

74 14406
612 11740
613 11740

46 CFR

28 10943

30 10943
32 10943
34 10943
35 10943
38 10943
39 10943
54 10943
56 10943
58 10943
61 10943
63 10943
76 10943
77 10943
78 10943
91 11904
92 10943
95 10943
96 10943
97 10943
105 10943
108 10943
109 10943
110 10943
111 10943
114 10943
115 11904
119 10943
125 10943
132 11904
133 11904
134 11904
151 10943
153 10943
154 10943
160 10943
161 10943
162 10943
163 10943
164 10943
170 10943
174 10943
175 10943
182 10943
189 11904
190 10943
193 10943
195 10943
199 ....10943, 11904

Proposed Rules:

2 11410
10 11410
15 11410
24 11410
25 11410
26 11410
28 11410
30 11410
70 11410
90 11410
114 11410
169 11410
175 11410
188 11410
199 11410

47 CFR

1 14476
24 14213
27 12483
54 12135
73 ....11476, 11477, 11750, 13250
76 12135

Proposed Rules:

1 13933
2 14230
26 14230
27 14230
54 13933
61 13933
69 13933
73 ....11537, 11538, 11539, 11540, 11541, 11955, 12155, 13260, 13261

48 CFR

Ch. 2 14380
Ch. 5 11246
202 14397
204 14397
207 14397
208 ....14397, 14400
212 14400
222 ....14397, 14402
244 14400
247 14400
252 ....14397, 14400, 14402
1806 12484
1808 12484
1811 12484
1813 12484
1815 12484
1825 12484
1835 12484
1837 12484
1842 12484
1848 12484
1851 12484
2409 12950

Proposed Rules:

Ch. 9 13416

49 CFR

19 14406
193 10950
385 11904
571 11751
572 10961

Proposed Rules:

Ch I. 11541
40 13261
171 11028
172 11028
173 11028
174 11028
175 11028
176 11028
177 11028
178 11028
179 11028
180 11028

50 CFR

648 ....11478, 11909
660 11480
622 12136
679 ....10978, 11247, 11481, 11909, 12137, 12138, 13698

Proposed Rules:

16 11756
17 ....12155, 12181, 13262, 13935, 14513
216 11542
223 12959
224 ....12959, 13935
300 13284
600 11956
622 ....11028, 14518
648 ....11029, 11956, 14519
679 ....11756, 11973, 12500

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.

RULES GOING INTO EFFECT MARCH 17, 2000

AGRICULTURE DEPARTMENT

Farm Service Agency

Program regulations:

Real estate and chattel appraisals; regulatory streamlining; correction; published 3-17-00

COMMERCE DEPARTMENT

Export Administration Bureau

Export administration regulations:

India and Pakistan; entity list; entities removed, license policy revised, and list reformatted; published 3-17-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Critical habitat designations—

Washington, Oregon, Idaho, and California; salmon and steelhead; evolutionarily significant units; published 2-16-00

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

Salmon; published 3-3-00

DEFENSE DEPARTMENT

Collection from third party payers of reasonable costs of healthcare services; published 2-16-00

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste:

Identification and listing—

Organobromine production wastes; published 3-17-00

Solid wastes:

Storage and collection of residential, commercial, and institutional solid waste; published 12-17-99

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; published 3-17-00

FEDERAL COMMUNICATIONS COMMISSION

Organization, functions, and authority delegations:

Headquarters; address change; published 3-17-00

Radio stations; table of assignments:

New York; published 2-16-00

Oregon; published 2-16-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Keck's checker-mallow; published 2-16-00

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Irish Peace Process Cultural and Training Program; establishment; published 3-17-00

JUSTICE DEPARTMENT

Police Corps eligibility and selection criteria:

Educational expenses; timing of reimbursements; published 2-16-00

PERSONNEL MANAGEMENT OFFICE

Excepted service, career conditional employment system, and promotion and internal placement:

Veterans Employment Opportunities Act; staffing provisions; published 3-17-00

RAILROAD RETIREMENT BOARD

Railroad Retirement Act:

Disability determination; published 3-17-00

STATE DEPARTMENT

Irish Peace Process Cultural and Training Program; establishment; published 3-17-00

Visas; nonimmigrant documentation:

Irish Peace Process Cultural and Training Program; published 3-17-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 2-10-00

Cessna; published 1-27-00

TRANSPORTATION DEPARTMENT

Federal Motor Carrier Safety Administration

Motor carrier proceedings; practice rules; commercial regulations violations; published 2-16-00

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:

Appeals regulations and rules of practice—

Case docketing; published 3-17-00¶

RULES GOING INTO EFFECT MARCH 19, 2000

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Motor carriers:

Motor passenger intra-corporate family transactions; class exemption; published 2-18-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Hazelnuts grown in—

Oregon and Washington; comments due by 3-20-00; published 1-19-00

Meats, prepared meats, and meat products; grading, certification, and standards:

Federal meat grading and certification services; fee changes; comments due by 3-20-00; published 1-20-00

Olives grown in—

California; comments due by 3-20-00; published 1-19-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Ports of entry—

Dayton, OH; port designated for exportation of horses; comments due by 3-20-00; published 2-17-00

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Loan and purchase programs:

Peanuts; comments due by 3-20-00; published 2-18-00

AGRICULTURE DEPARTMENT

Farm Service Agency

Farm marketing quotas, acreage allotments, and production adjustments:

Peanuts; comments due by 3-20-00; published 2-18-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

Salmon; comments due by 3-20-00; published 3-3-00

CONSUMER PRODUCT SAFETY COMMISSION

Poison prevention packaging:

Child-resistant packaging requirements—

Household products containing low-viscosity hydrocarbons; comments due by 3-20-00; published 1-3-00

DEFENSE DEPARTMENT

Defense Logistics Agency

Privacy Act; implementation; comments due by 3-20-00; published 1-20-00

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Time-and-materials or labor-hours; comments due by 3-24-00; published 1-24-00

Privacy Act; implementation:

National Reconnaissance Office; comments due by 3-20-00; published 1-19-00

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 3-20-00; published 2-17-00

Illinois; comments due by 3-20-00; published 2-17-00

Indiana; comments due by 3-24-00; published 2-23-00

Missouri; comments due by 3-20-00; published 2-17-00

North Carolina; comments due by 3-20-00; published 2-17-00

Virginia; comments due by 3-20-00; published 2-17-00

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Ohio and Kentucky; comments due by 3-24-00; published 3-17-00

Pesticide programs:

Pesticide container and containment standards; comments due by 3-20-00; published 2-24-00

Pesticides and ground water strategy; State management plan regulation; comments due by 3-24-00; published 2-23-00

Sewage sludge; use or disposal standards:

Dioxin and dioxin-like compounds; numeric concentration limits; comments due by 3-23-00; published 3-2-00

Solid wastes:

Municipal solid waste landfill permit programs; adequacy determinations—

Tennessee; comments due by 3-24-00; published 2-23-00

Tennessee; comments due by 3-24-00; published 2-23-00

Tennessee; comments due by 3-24-00; published 2-23-00

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Georgia and South Carolina; comments due by 3-23-00; published 2-16-00

Pennsylvania and South Dakota; comments due by 3-20-00; published 3-8-00

Vermont; comments due by 3-23-00; published 2-16-00

Washington and Kentucky; comments due by 3-20-00; published 2-16-00

FEDERAL RESERVE SYSTEM

Labor relations; unfair labor practice procedures; comments due by 3-20-00; published 1-18-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Time-and-materials or labor-hours; comments due by 3-24-00; published 1-24-00

Federal property management:

Aviation, transportation, and motor vehicles—

Transportation payment and audit; comments due by 3-23-00; published 2-22-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Drug products discontinued from sale for reasons of safety or effectiveness; list; comments due by 3-20-00; published 1-4-00

Over-the-counter drugs classification as generally recognized as safe and effective and not misbranded; additional criteria and procedures; comments due by 3-22-00; published 12-20-99

Medical devices:

Premarket notification; substantially equivalent premarket notification; redacted version requirement; comments due by 3-22-00; published 12-21-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:

Inpatient Disproportionate Share (DSH) Hospital adjustment calculation—

States with section 1115 expansion waivers; change in treatment of certain Medicaid patient days; comments due by 3-20-00; published 1-20-00

Payment amount if customery charges are less than reasonable costs; comments due by 3-23-00; published 2-22-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Grants and cooperative agreements; availability, etc.:

Substance Abuse Prevention and Treatment (SAPT) block grant program—

Application deadline; comments due by 3-20-00; published 2-4-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

California tiger salamander; comments due by 3-20-00; published 1-19-00

Fish and wildlife restoration; Federal aid to States:

National Boating Infrastructure Grant Program; comments due by 3-20-00; published 1-20-00

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:

Oil values for royalty due on Indian leases; establishment; comments due by 3-20-00; published 2-28-00

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Kentucky; comments due by 3-20-00; published 2-18-00

JUSTICE DEPARTMENT

Drug Enforcement Administration

Schedules of controlled substances:

Exempt anabolic steroid products; comments due by 3-20-00; published 1-20-00

Correction; comments due by 3-20-00; published 2-2-00

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright office and procedures:

Litigation; public information; comments due by 3-21-00; published 1-21-00

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Administrative authority and policy:

Inspection of persons and personal effects on NASA property; comments due by 3-20-00; published 1-19-00

Federal Acquisition Regulation (FAR):

Time-and-materials or labor-hours; comments due by 3-24-00; published 1-24-00

NUCLEAR REGULATORY COMMISSION

Performance-based activities; high-level guidelines; comments due by 3-24-00; published 1-24-00

Radioactive material packaging and transportation:

Nuclear waste shipment; advance notification to Native American Tribes; comments due by 3-22-00; published 12-21-99

Rulemaking proceedings:

Christie, Bob; comments due by 3-22-00; published 1-12-00

PERSONNEL MANAGEMENT OFFICE

Retirement:

Nuclear materials couriers under CSRS and FERS; eligibility; comments due by 3-20-00; published 1-18-00

TRANSPORTATION DEPARTMENT

Coast Guard

Regattas and marine parades, anchorage regulations, and ports and waterways safety:

OPSAIL 2000/International Naval Review 2000; regulated areas; comments due by 3-23-00; published 2-7-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 3-20-00; published 2-2-00

Bombardier; comments due by 3-21-00; published 1-21-00

Eurocopter France; comments due by 3-20-00; published 1-20-00

Fokker; comments due by 3-20-00; published 2-17-00

Kaman Aerospace Corp.; comments due by 3-24-00; published 1-24-00

Class E airspace; comments due by 3-20-00; published 2-7-00

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Uniform Traffic Control Devices Manual—

Tourist oriented directional signs, recreation and cultural interest signs, and traffic controls for bicycle facilities; comments due by 3-24-00; published 6-24-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Rulemaking and program procedures, etc.; Regulatory Flexibility Act and plain language reviews; comments due

by 3-22-00; published 12-20-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Construction aid contribution; definition; comments due by 3-22-00; published 12-20-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (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. 3557/P.L. 106–175

To authorize the President to award a gold medal on behalf of the Congress to John Cardinal O'Connor, Archbishop of New York, in recognition of his accomplishments as a priest, a chaplain, and a humanitarian. (Mar. 5, 2000; 114 Stat. 21)

H.R. 149/P.L. 106–176

Omnibus Parks Technical Corrections Act of 2000 (Mar. 10, 2000; 114 Stat. 23)

H.R. 764/P.L. 106–177

To reduce the incidence of child abuse and neglect, and for other purposes. (Mar. 10, 2000; 114 Stat. 35)

H.R. 1883/P.L. 106–178

Iran Nonproliferation Act of 2000 (Mar. 14, 2000; 114 Stat. 38)

S. 613/P.L. 106–179

Indian Tribal Economic Development and Contract Encouragement Act of 2000 (Mar. 14, 2000; 114 Stat. 46)

Last List March 16, 2000

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