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

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

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1057]

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 is adopting on an interim basis, effective immediately, amendments to the interim rule published in the **Federal Register** on January 25, 2000, that established procedures for bank holding companies and foreign banks that operate a branch, agency, or commercial lending company in the United States to elect to become financial holding companies. The rule was promulgated on an interim basis, effective March 11, 2000, to implement provisions of the recently enacted Gramm-Leach-Bliley Act that enable bank holding companies and foreign banks that meet applicable statutory requirements to become financial holding companies and thereby engage in a broader range of financial and other activities than are permissible for bank holding companies.

As a result of its experience in processing elections under the interim rule, the Board is amending the interim rule to make three changes concerning the elections by foreign banks. First, in order to make the processing of elections by foreign banks parallel to the processing of elections filed by domestic bank holding companies, the interim rule is being amended to permit elections filed by foreign banks that meet the rule's well managed and well capitalized standards to become effective on the 31st day after filing, unless the Board finds the election ineffective or the foreign bank agrees to extend the review period. Second, in order to make the requirements for foreign banks consistent with the requirements imposed on bank holding companies, the Board is amending the interim rule to require that all U.S. depository institution subsidiaries (such as thrifts and nonbank trust companies) of electing foreign banks be well capitalized and well managed and have satisfactory or better composite and Community Reinvestment Act ratings. Third, the Board is amending the interim rule to encourage foreign banks that are chartered in countries where no other bank from that country has received a comprehensive consolidated supervision determination from the Board to use the pre-clearance process provided by the interim rule if such bank is considering making an financial holding company election. The Board also is seeking comment on whether comprehensive consolidated supervision should be required in connection with comparability determinations on capital and management. Finally, the Board is amending provisions of the interim rule applicable to bank holding companies by removing the compliance rating component from the definition of well managed for depository institutions for purposes of determining qualification as a financial holding company.

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

DATES: These amendments to the interim rule are effective on March 15, 2000. Comments on these amendments to the interim rule must be received by April 17, 2000.

ADDRESSES: Comments should refer to docket number R–1057 and should be sent 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 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Ann E. Misback, Assistant General Counsel (202/452–3788), Thomas M. Corsi, Managing Senior Counsel (202/452–3275), or Christopher W. Clubb, Senior Counsel (202/452–3904), Legal Division; for the hearing impaired only, Telecommunications Device for the Deaf (TDD), Janice Simms (202) 872–4984.

SUPPLEMENTARY INFORMATION:

Background

Title I of the Gramm-Leach-Bliley Act (Pub. L. No. 106–102, 113 Stat. 1338 (1999)) amends section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (''BHC Act'') to authorize bank holding companies and foreign banks that qualify as ''financial holding companies'' to engage in securities, insurance, and other activities that are financial in nature or incidental to a financial activity. The Gramm-Leach-Bliley Act defines a financial holding company as a bank holding company that meets certain eligibility requirements. In order for a bank holding company to become a financial holding company and be eligible to engage in the new activities authorized under the Gramm-Leach-Bliley Act, the Act requires that all depository institutions controlled by the bank holding company be well capitalized and well managed. With regard to a foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States, the Act requires the Board to apply comparable capital and management standards that give due regard to the principle of national treatment and equality of competitive opportunity.

In order to implement the provisions of the Gramm-Leach-Bliley Act governing the creation and conduct of financial holding companies, on January 19, 2000, the Board amended its Regulation Y by adding subpart I to establish procedures for bank holding companies as well as foreign banks that operate a branch, agency, or commercial lending company in the United States to elect to become financial holding companies. The Board promulgated the

rule on an interim basis, effective March 11, 2000 (65 FR 3785, January 25, 2000).

Amendments to Interim Rule

Based on its experience to date, the Board is amending the interim rule as it was issued on January 19, 2000, in order to address three issues that arose in connection with processing elections filed by foreign banks. In addition, the Board is amending the regulatory definition of well managed in the interim rule that is applicable to depository institutions for purposes of determining qualification for financial holding company status.

With respect to the foreign bank provisions, the first amendment is intended to make the processing of elections filed by foreign banks parallel to the processing of elections filed by domestic bank holding companies. Under the provisions of the interim rule as issued on January 19, 2000, an election to become a financial holding company by a foreign bank or company is not effective until the Board makes an affirmative finding that the foreign bank's capital and management meet standards comparable to those applicable to U.S. banks owned by financial holding companies. In contrast, a domestic bank holding company's election to become a financial holding company is effective within 31 days of its filing unless the Board determines that it is ineffective.

In adopting the interim rule, the Board was concerned that it would be unable to carry out its statutory responsibility to apply comparable standards to foreign banks within the constraint of a short notice process and thus adopted the review procedure described above. The Board's experience, however, in reviewing and acting on the elections filed by foreign banks that meet the standards set out in the interim rule indicates that such elections may be reviewed and comparable standards may be applied within a 31 day notice period. Accordingly, based on this experience and to accommodate concerns expressed regarding the difference in process applicable to foreign banks, the Board has decided to amend the interim rule to adopt a 31 day review process for foreign bank elections, as is currently applicable for bank holding company elections.

Under the amendment, if a foreign bank meets the rule's quantitative capital requirements, as well as the well managed standards, an election filed by that foreign bank would become effective on the 31st day after filing, unless the Board were to find the election ineffective or the foreign bank agreed to extend the review period. The Board would retain the ability to find the election ineffective because the capital is not comparable to the capital required for a U.S. bank owned by a financial holding company. In addition, the rule is being amended to allow the Board to find an election ineffective if the Board does not have sufficient information to assess whether the foreign bank meets the standards. The Board is of the view that these changes would ensure that foreign banks that meet the rule's requirements will receive treatment on the same basis as U.S. bank holding companies. If a foreign bank does not meet the rule's specified requirements, it may nevertheless file a pre-clearance request for a specific determination on the comparability of its capital and management.

The second change is intended to clarify the interim rule with respect to foreign banks that do not have a U.S. subsidiary bank, but may have other U.S. depository institution subsidiaries, such as thrifts and nonbank trust companies. As mentioned above, the Gramm-Leach-Bliley Act requires that all depository institutions controlled by a bank holding company be well capitalized and well managed in order for that bank holding company to be eligible to become a financial holding company. The interim rule as issued on January 19, 2000, required only that a foreign bank and each of its U.S. branches, agencies, and commercial lending subsidiaries be well capitalized and well managed in order for the foreign bank to be eligible to be treated as a financial holding company. In order to make the requirements for foreign banks consistent with the requirement imposed on bank holding companies, the interim rule is being amended to require that all U.S. depository institution subsidiaries of the foreign bank must be well capitalized and well managed in order for the foreign bank to be eligible to be treated as a financial holding company. As a result, the rule also is being amended to require that the foreign bank certify in any declaration filed that its U.S. depository institution subsidiaries are well capitalized and well managed.

The third change relates to the review of comprehensive consolidated supervision (''CCS'') in connection with financial holding company elections by foreign banks. Home country supervision is an important element in the determination that a bank is well managed and the Board expects that most foreign banks that elect to be treated as financial holding companies will be subject to comprehensive consolidated supervision. The interim rule permits a foreign bank or company to request a review of its qualifications to be treated as a financial holding company prior to formally filing its election. In order to facilitate the Board's review of whether the management of a foreign bank meets standards comparable to those required of a U.S. bank owned by a financial holding company, the interim rule is being amended to encourage foreign banks that have not been reviewed by the Board with respect to home country supervision and that are chartered in countries where no other bank from that country has received a CCS determination from the Board (including a determination that the home country supervisor is actively working toward a system of CCS) to use the pre-clearance process if such bank is considering making an election to be treated as a financial holding company. In addition, the Board is requesting comment on whether a foreign bank should be required to meet a CCS standard in order to be treated as a financial holding company.

The amendment to the interim rule regarding bank holding companies is a revision of the definition of well managed applicable to a depository institution for purposes of determining qualification as a financial holding company under the Gramm-Leach-Bliley Act. For this purpose, the Board initially adopted the existing Regulation Y definition of well managed. The Board's definition requires that a depository institution have at least a satisfactory composite examination rating and at least a satisfactory rating for both management and compliance. This three-part definition was initially adopted by the Board as part of its effort to determine whether a bank holding company qualifies for expedited treatment in applications processing. In that context, a bank holding company qualified for expedited processing if 80 percent of the depository institution assets of the company were well managed. In order to become and remain a financial holding company under the Gramm-Leach-Bliley Act, all of the depository institution assets of a bank holding company must be well managed.

The Gramm-Leach-Bliley Act does not address compliance ratings in determining whether an institution is well managed. Accordingly, the Board is amending its regulatory definition of ''well managed'' for purposes of determining qualification as a financial holding company to reflect the two-part test in the statute. Thus, a depository institution will be considered well

managed for this purpose if it has a satisfactory composite rating and a satisfactory rating for management.

The Board continues to believe that compliance ratings are important, and will address issues relating to compliance in other contexts. In particular, the Board and other federal banking agencies have supervisory authority to take full action against an institution if compliance issues are raised. In addition, each agency may consider compliance ratings when determining whether to approve any merger or expansion proposal involving the depository institution or the parent bank holding company of the institution.

For these reasons, the Board is amending its interim rule to remove the compliance rating component from the definition of well managed in Regulation Y for purposes of determining qualification as a financial holding company.

Regulatory Flexibility Act Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a)), the Board published an initial regulatory flexibility analysis with the interim rule on January 25, 2000. The amendments contained herein do not change that analysis.

Administrative Procedure Act

The interim rule became effective on March 11, 2000 without review of public comments. These amendments are effective March 15, 2000. 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 immediately, due to the fact that the rule sets forth procedures to implement statutory changes that became effective on March 11, 2000. The Board is seeking public comment on the interim rule until March 27, 2000, and will accept comments on the amendments until April 17, 2000. The Board will amend the rule as appropriate after reviewing the comments.

Paperwork Reduction Act

The amendments to the interim rule do not affect the collections of information outlined in the interim rule issued by the Board on January 19, 2000.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and record keeping 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(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. Section 225.2(s)(1) introductory text is revised to read as follows:

§ 225.2 Definitions.

* * * * *

(s) *Well managed*—(1) *In general.* Except as otherwise provided in this part, a company or depository institution is well managed if:

* * * * *

3. In § 225.81, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

§ 225.81 What is a financial holding company?

* * * * *

(c) *Well managed*—(1) *In general.* For purposes of this subpart, a depository institution is well managed if:

(i) At its most recent inspection or examination or subsequent review by the appropriate Federal banking agency for the depository institution, the institution received:

(A) At least a satisfactory composite rating; and

(B) At least a satisfactory rating for management; or

(ii) In the case of a depository institution that has not received an examination rating, the Board has determined, after a review of managerial and other resources of the depository institution and after consulting the appropriate Federal banking agency for the institution, that the institution is well managed.

(2) *Merged institutions.* A depository institution that results from the merger of two or more depository institutions that are well managed shall be considered to be well managed unless the Board determines otherwise after consulting with the appropriate Federal banking agency for each depository institution involved in the merger.

* * * * *

4. Sections 225.90 through 225.94 are revised to read as follows:

§ 225.90 What are the requirements for a foreign bank to be treated as a financial holding company?

(a) *Foreign banks as financial holding companies.* A foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States, and any company that owns or controls such a foreign bank, will be treated as a financial holding company if:

(1) The foreign bank, and any U.S. depository institution that is owned or controlled by the foreign bank or company, is and remains well capitalized and well managed; and

(2) The foreign bank, or the company that owns the foreign bank, has made an effective election to be treated as a financial holding company under this subpart.

(b) *Standards for ''well capitalized.''* A foreign bank will be considered ''well capitalized'' if either:

(1)(i) Its home country supervisor, as defined in § 211.21 of the Board's Regulation K (12 CFR 211.21), has adopted risk-based capital standards consistent with the Capital Accord of the Basel Committee on Banking Supervision (Basel Accord);

(ii) The foreign bank maintains a Tier 1 capital to total risk-based assets ratio of 6 percent and a total capital to total risk-based assets ratio of 10 percent, as calculated under its home country standard;

(iii) The foreign bank maintains a Tier 1 capital to total assets leverage ratio of at least 3 percent; and

(iv) The foreign bank's capital is comparable to the capital required for a U.S. bank owned by a financial holding company; or

(2) The foreign bank has obtained a determination from the Board under § 225.91(c) that the foreign bank's capital is otherwise comparable to the capital that would be required of a U.S. bank owned by a financial holding company.

(c) *Standards for ''well managed.''* A foreign bank will be considered ''well managed'' if:

(1) Each of the U.S. branches, agencies, and commercial lending subsidiaries of the foreign bank has received at least a satisfactory composite rating at its most recent assessment;

(2) The home country supervisor of the foreign bank considers the overall operations of the foreign bank to be satisfactory or better; and

(3) The management of the foreign bank meets standards comparable to those required of a U.S. bank owned by a financial holding company.

§ 225.91 How may a foreign bank elect to be treated as a financial holding company?

(a) *Filing requirement.* A foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States, or a company that owns or controls such a foreign bank, may elect to be treated as a financial holding company by filing a written declaration with the appropriate Reserve Bank.

(b) *Contents of declaration.* The declaration must:

(1) State that the foreign bank or the company elects to be treated as a financial holding company;

(2) Provide the risk-based and leverage capital ratios of the foreign bank as of the close of the most recent quarter and as of the close of the most recent audited reporting period;

(3) Certify that the foreign bank meets the standards of well capitalized set out in § 225.90(b)(1)(i), (ii) and (iii) or § 225.90(b)(2) as of the date the foreign bank or company files its election;

(4) Certify that the foreign bank is well managed as defined in § 225.90(c)(1) as of the date the foreign bank or company files its election;

(5) Certify that all U.S. depository institutions controlled by the foreign bank or company are well capitalized and well managed as of the date the foreign bank or company files its election; and

(6) Provide the capital ratios for all relevant capital measures (as defined in section 38 of the Federal Deposit Insurance Act) as of the close of the previous quarter for each U.S. depository institution controlled by the foreign bank or company.

(c) *Pre-clearance process.* Before filing an election to be treated as a financial holding company, a foreign bank or company may file a request for review of its qualifications to be treated as a financial holding company. The Board will endeavor to make a determination on such requests within 30 days of receipt. A foreign bank chartered in a country where no other bank from that country has been reviewed by the Board for comprehensive consolidated supervision under the Bank Holding Company Act or the International Banking Act is encouraged to use this process.

§ 225.92 How does an election by a foreign bank become effective?

(a) *In general.* An election described in § 225.91 is effective on the 31st day after the date that an election was received by the appropriate Federal Reserve Bank, unless the Board notifies the foreign bank or company prior to that time that:

(1) The election is ineffective; or

(2) The period is extended with the consent of the foreign bank or company making the election.

(b) *Earlier notification that an election is effective.* The Board or the appropriate Federal Reserve Bank may notify a foreign bank or company that its election to be treated as a financial holding company is effective prior to the 31st day after the election was filed with the appropriate Federal Reserve Bank. Such notification must be in writing.

(c) *Under what circumstances will the Board find an election to be ineffective?* An election to be treated as financial holding company shall not be effective if, during the period provided in paragraph (a) of this section, the Board finds that:

(1) The foreign bank certificant, or any foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States and is controlled by a foreign company certificant, is not both well capitalized and well managed;

(2) Any insured depository institution controlled by the foreign bank or company (except an institution excluded under paragraph (d) of this section) or any U.S. branch of a foreign bank that is insured by the Federal Deposit Insurance Corporation has not achieved at least a rating of ''satisfactory record of meeting community needs'' under Community Reinvestment Act at the institution's most recent examination;

(3) Any U.S. depository institution subsidiary of the foreign bank or company is not both well capitalized and well managed; or

(4) The Board does not have sufficient information to assess whether the foreign bank or company making the election meets the requirements of this subpart.

(d) *How is CRA performance of recently acquired insured depository institutions considered?* An insured depository institution will be excluded for purposes of the review of CRA ratings described in paragraph (c)(2) of this section consistent with the provisions of § 225.82(e).

(e) *Factors used in the Board's determination regarding comparability of capital and management.* In determining whether a foreign bank is well capitalized and well managed in accordance with comparable capital and management standards, the Board will give due regard to national treatment and equality of competitive opportunity. In this regard, the Board may take into account the foreign bank's composition of capital, accounting standards, long-term debt ratings, reliance on government support to meet capital requirements, the extent to which the foreign bank is subject to comprehensive consolidated supervision, and other factors that may affect analysis of capital and management. The Board will consult with the home country supervisor for the foreign bank as appropriate.

§ 225.93 What are the consequences of a foreign bank failing to continue to meet applicable capital and management requirements?

(a) *Notice by the Board.* If a foreign bank or company has made an effective election to be treated as a financial holding company under this subpart and the Board finds that the foreign bank, or any U.S. depository institution owned or controlled by the foreign bank or company, ceases to be well capitalized or well managed, the Board will notify the foreign bank or company in writing that it is not in compliance with the applicable requirement(s) for a financial holding company and identify the areas of noncompliance.

(b) *Notification by a financial holding company required.* Promptly upon becoming aware that the foreign bank, or any U.S. depository institution owned or controlled by the foreign bank or company, has ceased to be well capitalized or well managed, the foreign bank, or any company that controls such foreign bank, must notify the Board and identify the area of noncompliance.

(c) *Execution of agreement acceptable to the Board*—(1) *Agreement required; time period.* Within 45 days after receiving a notice under paragraph (a) of this section, the foreign bank or company must execute an agreement acceptable to the Board to comply with all applicable capital and management requirements.

(2) *Extension of time for executing agreement.* Upon request by a company, the Board may extend the 45-day period under paragraph (c)(1) of this section if the Board determines that granting additional time is appropriate under the circumstances. A request by a company for additional time must include an explanation of why an extension is necessary.

(3) *Agreement requirements.* An agreement required by paragraph (c)(1) of this section to correct a capital or management deficiency must:

(i) Explain the specific actions that the foreign bank or company will take to correct all areas of noncompliance;

(ii) Provide a schedule within which each action will be taken;

(iii) Provide any other information that the Board may require; and

(iv) Be acceptable to the Board.

(d) *Limitations during period of noncompliance.* Until the Board determines that a company has corrected the conditions described in a notice under paragraph (a) of this section:

(1) The Board may impose any limitations or conditions on the conduct or the U.S. activities of the foreign bank or company or any of its affiliates as the Board finds to be appropriate and consistent with the purposes of the Bank Holding Company Act; and

(2) The company and its affiliates may not engage in any new activity in the United States or acquire control or shares of any company under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)) without prior approval from the Board.

(e) *Consequences of failure to correct conditions within 180 days*—(1) *Termination of offices and divestiture.* If a foreign bank or company does not correct the conditions described in a notice under paragraph (a) of this section within 180 days of receipt of the notice or such additional time as the Board may permit, the Board may order the foreign bank or company to terminate the foreign bank's U.S. branches and agencies and divest any commercial lending companies owned or controlled by the foreign bank or company. Such divestiture must be done in accordance with the terms and conditions established by the Board.

(2) *Alternative method of complying with a divestiture order.* A foreign bank or company may comply with an order issued under paragraph (e)(1) of this section by ceasing to engage (both directly and through any subsidiary) in all activities that are not permissible for a foreign bank to conduct under sections 2(h) and 4(c) of the Bank Holding Company Act (12 U.S.C. 1841(h) and 1843(c)). The termination of activities must be done within the time period referred to in paragraph (e)(1) of this section and subject to terms and conditions acceptable to the Board.

(f) *Consultation with other Agencies.* In taking any action under this section, the Board will consult with the relevant Federal and state regulatory authorities.

§ 225.94 What are the consequences of an insured branch or depository institution failing to maintain a satisfactory or better rating under the Community Reinvestment Act?

(a) *Insured branch as an ''insured depository institution.''* A U.S. branch of a foreign bank that is insured by the Federal Deposit Insurance Corporation shall be treated as an ''insured depository institution'' for purposes of § 225.84.

(b) *Applicability.* The provisions of § 225.84, with the modifications contained in this section, shall apply to a foreign bank that operates an insured branch referred to in paragraph (a) of this section or an insured depository institution in the United States, and any company that owns or controls such a foreign bank, that has made an effective election under § 225.92 in the same manner and to the same extent as they apply to a financial holding company.

By order of the Board of Governors of the Federal Reserve System, March 15, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–6849 Filed 3–20–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 99F–0461]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyphenylene sulfone resins as articles or components of articles intended for repeated use in contact with food. This action is in response to a petition filed by Ticona.

DATES: This rule is effective March 21, 2000; submit written objections and requests for a hearing by April 20, 2000.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 19, 1999 (64 FR 13586), FDA announced that a food additive petition (FAP 9B4644) had been filed by Ticona, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in part 177 *Indirect Food Additives: Polymers* (21 CFR part 177) to provide for the safe use of polyphenylene sulfone resins as articles or components of articles intended for repeated use in contact with food.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) that the regulations in part 177 should be amended as set forth below.

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

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 9B4644 (64 FR 13586, March 19, 1999). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

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

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by April 20, 2000. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the

objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objection received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

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

2. Section 177.2500 is added to subpart C to read as follows:

§ 177.2500 Polyphenylene sulfone resins.

The polyphenylene sulfone resins (CAS Reg. No. 31833–61–1) identified in paragraph (a) of this section may be safely used as articles or components of articles intended for repeated use in contact with food, subject to the provisions of this section.

(a) *Identity*. For the purpose of this section, polyphenylene sulfone resins consist of basic resin produced by reacting polyphenylene sulfide with peracetic acid such that the finished resins meet the specifications set forth in paragraph (c) of this section. The polyphenylene sulfide used to manufacture polyphenylene sulfone is prepared by the reaction of sodium sulfide and *p*-dichlorobenzene, and has a minimum weight average molecular weight of 5,000 Daltons.

(b) *Optional adjuvant substances*. The basic polyphenylene sulfone resins identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic resins. These optional adjuvant substances may include substances permitted for such use by regulations in parts 170 through 189 of this chapter, substances generally recognized as safe in food, or substances used in accordance with a prior sanction or approval.

(c) *Specifications*. The glass transition temperature of the polymer is 360±5 °C as determined by the use of differential scanning calorimetry.

Dated: February 29, 2000.

L. Robert Lake,

Director, Office of Regulations Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–6875 Filed 3–20–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 275

[T.D. ATF–420a]

RIN 1512–AB88

Increase in Tax on Tobacco Products and Cigarette Papers and Tubes [99R–88P]

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects the revision of a section of regulations that was erroneously changed in a final rule published in the **Federal Register** of December 22, 1999, regarding the increase in tax on tobacco products and cigarette papers and tubes.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, (202) 927–8202, mdruhf@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) published a document in the **Federal Register** of December 22, 1999 (64 FR 71937). ATF erroneously revised § 275.117(b) and (c). This document corrects this error.

In rule FR Doc. 99–32605 published on December 22, 1999, on page 71944, in the second column, the instruction in paragraph 34 is removed.

Dated: March 15, 2000.

Bradley A. Buckles,

Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 00–6994 Filed 3–20–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 275

[T.D. ATF–422a]

RIN 1512–AC07

Implementation of Public Law 105–33, Section 9302, Requiring the Qualification of Tobacco Product Importers (98R–316P) and Miscellaneous Technical Amendments

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Temporary rule; correction.

SUMMARY: This document corrects the authority citation and removes three changes of a temporary rule published in the **Federal Register** of December 22, 1999, regarding qualification of tobacco product importers and miscellaneous technical amendments contained in part 275, title 27 Code of Federal Regulations (CFR).

DATES: This rule is effective March 21, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 (202–927–8210).

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) published a document in the **Federal Register** of December 22, 1999 (64 FR 71947). The authority citation for 27 CFR part 275 was incorrect in this document. Also, we erroneously removed and reserved §§ 275.39 and 275.117 and erroneously revised paragraph (a) of § 275.81. This document corrects these errors.

In rule FR Doc. 99–32600 published on December 22, 1999, make the following corrections:

On page 71948, in the second column, revise the authority citation for Part 275 to read as follows:

Authority: 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

On page 71948, in the third column, instruction paragraph 5 is removed.

On page 71949, in the first column, the instruction in paragraph 10 is corrected to read as follows:

Par. 10. [Corrected]. Paragraphs (b) and (c) introductory text of § 275.81 are revised to read as follows:

§ 275.81 Tax Payment.

* * * * *

(b) *Method of payment.* Except in the case of articles imported or brought into the United States under §§ 275.85 and 275.85a, the internal revenue tax must be determined and paid to the Port Director of Customs before the tobacco products, cigarette papers, or cigarette tubes are removed from customs custody. The tax must be paid on the basis of a return on the customs form or by authorized electronic transmission by which the tobacco products, cigarette papers, or cigarette tubes are duty and tax paid to Customs.

(c) *Required information.* When tobacco products, cigarette papers, or cigarette tubes enter the United States for consumption, or when they are removed for consumption, the importer must include on the customs form or authorized electronic transmission the following internal revenue tax information.

* * * * *

On page 71951, in the first column, instruction paragraph 21 is removed.

Dated: March 15, 2000.

Bradley A. Buckles,

Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 00–6995 Filed 3–20–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 776

RIN 0703–AA54

Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This final rule amends regulations concerning the professional conduct of attorneys practicing law under the cognizance and supervision of the Judge Advocate General of the Navy by incorporating several changes and revising the regulations. This revision will ensure the professional supervision of judge advocates, military trial and appellate military judges, and other lawyers who practice in Department of the Navy proceedings and other legal programs.

DATES: Effective March 21, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Barry J. Goehler, JAGC, U.S. Navy, 703–604–8280.

SUPPLEMENTARY INFORMATION: On July 12, 1999 (64 FR 37473), the Department of the Navy published a proposed rule to revise the rules regulating the professional conduct of attorneys practicing law under the cognizance and supervision of the Judge Advocate General of the Navy. The comment period closed September 10, 1999. Interested persons have been afforded the opportunity to participate in the making of this amendment. The only comments received were submitted by the Office of Government Ethics. In response to the comments of the Office of Government Ethics regarding conflict with or supplementation of the Standards of Ethical Conduct for Employees of the Executive Branch, the following sections of this rule were changed: 776.11; 776.24; and 776.27.

As background, the Judge Advocate General of the Navy (JAG) is responsible for the professional supervision and discipline of military trial and appellate military judges, judge advocates, and other lawyers who practice in Department of the Navy proceedings governed by the Uniform Code of Military Justice and the Manual for Courts-Martial. See, 10 U.S.C. 806, 806a, 826, 827, and Rule for Courts-Martial 109. The JAG has further responsibilities to supervise the provision of legal advice and related services in the Department of the Navy's Legal Assistance Program and such other legal programs as assigned by the Secretary of the Navy. See, 10 U.S.C. 1044; Article 0331, U.S. Navy Regulations (1990); Secretary of the Navy Instruction 5430.27A. To discharge these responsibilities, the JAG has prescribed Rules of Professional Conduct (JAG Rules) for attorneys providing legal services or otherwise practicing in proceedings under JAG cognizance and supervision. These Rules, and the procedures by which JAG investigates and resolves allegations of professional misconduct, are found at 32 CFR part 776.

By this final rule, the Department of the Navy has completely revised 32 CFR part 776. While there are numerous administrative changes in the revised text, the most significant substantive revisions are as follows:

1. The terms ''covered attorney,'' ''covered United States Government (USG) attorney,'' and ''covered non-USG attorney'' are introduced and incorporated throughout part 776. The former version of subpart B to 32 CFR part 776 used the generic term ''judge advocate'' in fashioning rules of professional conduct, with the proviso that this term applied to all other attorneys who practice under the supervision of the JAG (to include civilian attorneys defending individual clients in courts-martial or administrative separation proceedings). The new terms will define better to whom, when, and how the JAG Rules apply.

2. Addition of a specific rule prohibiting sexual relations between covered attorneys and their clients or other principals to the particular matter which is the subject of the representation. This rule is modeled, in significant part, on Rule 1.18 of the Revised Rules of Professional Conduct of the North Carolina State Bar.

3. Addition of a specific rule that requires all covered USG attorneys to remain in good standing with state licensing authorities. The rule further ensures that covered non-USG attorneys representing individual clients in court-martial or administrative separation proceedings are members in good standing with, and authorized to practice law by, the bar of a Federal court or of the bar of the highest court of a State, or a lawyer otherwise authorized by a recognized licensing authority to practice law.

4. Addition of a procedure wherein the JAG may impose an interim suspension of a covered attorney where there is probable cause to believe that the attorney has committed misconduct and poses a substantial threat of irreparable harm to clients or the orderly administration of military justice.

5. Removal of subpart D, Outside Part-Time Practice of Naval Service Attorneys. This subpart is limited in application to covered USG attorneys, and, as an internal administrative rule which does not affect the public, need not be published in the CFR. Covered USG attorneys who wish to engage in the part-time practice of law, outside of their official Department of the Navy responsibilities, must still obtain JAG approval, notice of which is contained in § 776.11 of this part. Additional information for covered USG attorneys is available in JAG Instruction 5803.1 (series).

The JAG Rules contained in subpart B of this part are based upon the American Bar Association's (ABA's) Model Rules of Professional Conduct. Like the ABA's Model Rules, each JAG Rule has accompanying commentary which explains and illustrates the meaning and purpose of the Rule. This commentary for the JAG Rules is not

reprinted in subpart B of this part. A complete version of the JAG Rules, with accompanying commentary, may be found in JAG Instruction 5803.1 (series), copies of which may be obtained from the address indicated.

Matters of Regulatory Procedure

Executive Order 12866, Regulatory Planning and Review

This rule does not meet the definition of ''significant regulatory action'' for purposes of E.O. 12866.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

List of Subjects in 32 CFR Part 776

Conflict of interests, Lawyers, Legal services, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of the Navy revises 32 CFR part 776 to read as follows:

PART 776—PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL

Subpart A—General

Sec.
776.1 Purpose.
776.2 Applicability.
776.3 Policy.
776.4 Attorney-client relationships.
776.5 Judicial conduct.
776.6 Conflict.
776.7 Reporting requirements.
776.8 Professional Responsibility Committee.
776.9 Rules Counsel.
776.10 Informal ethics advice.
776.11 Outside part-time practice of law.
776.12 Maintenance of files.
776.13–776.17 [Reserved]

Subpart B—Rules of Professional Conduct

776.18 Preamble.
776.19 Principles.
776.20 Competence.
776.21 Establishment and scope of representation.
776.22 Diligence.
776.23 Communication.
776.24 Fees.
776.25 Confidentiality of information.
776.26 Conflict of interests: General rule.
776.27 Conflict of interests: Prohibited transactions.
776.28 Conflict of interests: Former client.
776.29 Imputed disqualification: General rule.
776.30 Successive government and private employment.
776.31 Former judge or arbitrator.
776.32 Department of Navy as client.
776.33 Client under a disability.
776.34 Safekeeping property.
776.35 Declining or terminating representation.
776.36 Prohibited sexual relations.
776.37 Advisor.
776.38 Mediation.
776.39 Evaluation for use by third persons.
776.40 Meritorious claims and contentions.
776.41 Expediting litigation.
776.42 Candor and obligations toward the tribunal.
776.43 Fairness to opposing party and counsel.
776.44 Impartiality and decorum of the tribunal.
776.45 Extra-tribunal statements.
776.46 Attorney as witness.
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Authority: 10 U.S.C. 806, 806a, 826, 827; Manual for Courts-Martial, United States, 1998; U.S. Navy Regulations, 1990; Secretary of the Navy Instruction 5430.27 (series), Responsibility of the Judge Advocate General for Supervision of Certain Legal Services.

Subpart A—General

§ 776.1 Purpose.

In furtherance of the authority citations (which, if not found in local libraries, are available from the Office of the Judge Advocate General, 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard DC 20374–5066), which require the Judge Advocate General of the Navy (JAG) to supervise the performance of legal services under JAG cognizance throughout the Department of the Navy (DON), this part is promulgated:

(a) To establish Rules of Professional Conduct (subpart B of this part) for attorneys subject to this part;

(b) To establish procedures (subpart C of this part) for receiving, processing, and taking action on complaints of professional misconduct made against attorneys practicing under the supervision of JAG, whether arising from professional legal activities in DON proceedings and matters, or arising from other, non-U.S. Government related professional legal activities or personal misconduct which suggests the attorney is ethically, professionally, or morally unqualified to perform legal services within the DON; and

(c) To ensure quality legal services at all proceedings under the cognizance and supervision of the JAG.

§ 776.2 Applicability.

(a) This part defines the professional ethical obligations of, and applies to, all ''covered attorneys.''

(b) ''Covered attorneys'' include:

(1) The following U.S. Government (USG) attorneys, referred to, collectively, as ''covered USG attorneys'' throughout this part:

(i) All active-duty Navy judge advocates (designator 2500 or 2505) or Marine Corps judge advocates (MOS 4402 or 9914).

(ii) All active-duty judge advocates of other U.S. armed forces who practice law or provide legal services under the cognizance and supervision of the JAG.

(iii) All civil service and contracted civilian attorneys who practice law or perform legal services under the cognizance and supervision of the JAG.

(iv) All Reserve or Retired judge advocates of the Navy or Marine Corps (and any other U.S. armed force), who, while performing official DON duties,

practice law or provide legal services under the cognizance and supervision of the JAG.

(v) All other attorneys appointed by JAG (or the Director, Judge Advocate (JA) Division, Headquarters Marine Corps (HQMC), in Marine Corps matters) to serve in billets or to provide legal services normally provided by Navy or Marine Corps judge advocates. This policy applies to officer and enlisted reservists, to active-duty personnel, and to any other personnel who are licensed to practice law by any Federal or state authorities, but who are not members of the Judge Advocate General's Corps or who do not hold the 4402 or 9914 designation in the Marine Corps.

(2) The following non-U.S. Government attorneys, referred to, collectively, as ''covered non-USG attorneys'' throughout this part: All civilian attorneys representing individuals in any matter for which JAG is charged with supervising the provision of legal services. These matters include, but are not limited to, courts-martial, administrative separation boards or hearings, and disability evaluation proceedings.

(3) The term ''covered attorney'' does not include those civil service or civilian attorneys who practice law or perform legal services under the cognizance and supervision of the General Counsel of the Navy.

(c) Professional or personal misconduct unrelated to a covered attorney's DON activities, while normally outside the ambit of these rules, may be reviewed under procedures established in subpart C of this part and may provide the basis for decisions by the JAG regarding the covered attorney's continued qualification to provide legal services in DON matters.

(d) Although the Rules in subpart B of this part do not apply to non-attorneys, they do define the type of ethical conduct that the public and the military community have a right to expect from DON legal personnel. Covered USG attorneys who supervise non-attorney DON employees are responsible for their ethical conduct to the extent provided for in § 776.55 of this part. Accordingly, subpart B of this part shall serve as a model of ethical conduct for the following personnel when involved with the delivery of legal services under the supervision of the JAG:

(1) Navy legalmen and Marine Corps legal administrative officers, legal service specialists, and legal services reporters (stenotype);

(2) Limited duty officers (LAW);

(3) Legal interns; and

(4) Civilian support personnel including paralegals, legal secretaries, legal technicians, secretaries, court reporters, and others holding similar positions.

§ 776.3 Policy.

(a) Covered attorneys shall maintain the highest standards of professional ethical conduct. Loyalty and fidelity to the United States, to the law, to clients both institutional and individual, and to the rules and principles of professional ethical conduct set forth in subpart B of this part must come before private gain or personal interest.

(b) Whether conduct or failure to act constitutes a violation of the professional duties imposed by this part is a matter within the sole discretion of JAG or officials authorized to act for JAG. Rules contained in subpart B of this part are not substitutes for, and do not take the place of, other rules and standards governing DON personnel such as the Department of Defense Joint Ethics Regulation, the Code of Conduct, the Uniform Code of Military Justice (UCMJ), and the general precepts of ethical conduct to which all DON service members and employees are expected to adhere. Similarly, action taken per this part is not supplanted or barred by, and does not, even if the underlying misconduct is the same, supplant or bar the following action from being taken by authorized officials:

(1) Punitive or disciplinary action under the UCMJ; or

(2) Administrative action under the Manual for Courts-Martial, U.S. Navy Regulations, or under other applicable authority.

(c) Inquiries into allegations of professional misconduct will normally be held in abeyance until any related criminal investigation or proceeding is complete. However, a pending criminal investigation or proceeding does not bar the initiation or completion of a professional misconduct investigation (subpart C of this part) stemming from the same or related incidents or prevent the JAG from imposing professional disciplinary sanctions as provided for in this part.

§ 776.4 Attorney-client relationships.

(a) The executive agency to which assigned (DON in most cases) is the client served by each covered USG attorney unless detailed to represent another client by competent authority. Specific guidelines are contained in § 776.32 of this part.

(b) Covered USG attorneys will not establish attorney-client relationships with any individual unless detailed, assigned, or otherwise authorized to do so by competent authority. Wrongfully establishing an attorney-client relationship may subject the attorney to discipline administered per this part. See § 776.21 of this part.

(c) Employment of a non-USG attorney by an individual client does not alter the professional responsibilities of a covered USG attorney detailed or otherwise assigned by competent authority to represent that client.

§ 776.5 Judicial conduct.

To the extent that it does not conflict with statutes, regulations, or this part, the American Bar Association's Code of Judicial Conduct applies to all military and appellate judges and to all other covered USG attorneys performing judicial functions under JAG supervision within the DON.

§ 776.6 Conflict.

To the extent that a conflict exists between this part and the rules of other jurisdictions that regulate the professional conduct of attorneys, this part will govern the conduct of covered attorneys engaged in legal functions under JAG cognizance and supervision. Specific and significant instances of conflict between the rules contained in subpart B of this part and the rules of other jurisdictions shall be reported promptly to the Rules Counsel (see § 776.9 of this part), via the supervisory attorney. See § 776.53 of this part.

§ 776.7 Reporting requirements.

Covered USG attorneys shall report promptly to the Rules Counsel any disciplinary or administrative action, including initiation of investigation, by any licensing authority or Federal, State, or local bar, possessing the power to revoke, suspend, or in any way limit the authority to practice law in that jurisdiction, upon himself, herself, or another covered attorney. Failure to report such discipline or administrative action may subject the covered USG attorney to discipline administered per this part. See § 776.71 of this part.

§ 776.8 Professional Responsibility Committee.

(a) *Composition.* This standing committee will consist of the Assistant Judge Advocate General (AJAG) for Military Justice; the Vice Commander, Naval Legal Service Command (NLSC); the Chief Judge, Navy-Marine Corps Trial Judiciary; and in cases involving Marine Corps judge advocates, the Deputy Director, JA Division, HQMC; and such other personnel as JAG from time-to-time may appoint. A majority of the members constitutes a quorum. The Chairman of the Committee shall be the

AJAG for Military Justice. The Chairman may excuse members disqualified for cause, illness, or exigencies of military service, and may request JAG to appoint additional or alternate members on a temporary or permanent basis.

(b) *Purpose.* (1) When requested by JAG or by the Rules Counsel, the Committee will provide formal advisory opinions to JAG regarding application of rules contained in subpart B of this part to individual or hypothetical cases.

(2) On its own motion, the Committee may also issue formal advisory opinions on ethical issues of importance to the DON legal community.

(3) Upon written request, the Committee will also provide formal advisory opinions to covered attorneys about the propriety of proposed courses of action. If such requests are predicated upon full disclosure of all relevant facts, and if the Committee advises that the proposed course of conduct is not violative of subpart B of this part, then no adverse action under this part may be taken against a covered attorney who acts consistent with the Committee's advice.

(4) The Chairman will forward copies of all opinions issued by the Committee to the Rules Counsel.

(c) *Limitation.* The Committee will not normally provide ethics advice or opinions concerning professional responsibility matters (e.g., ineffective assistance of counsel, prosecutorial misconduct, etc.) that are then the subject of litigation.

§ 776.9 Rules Counsel.

Appointed by JAG to act as special assistants for the administration of this part, the Rules Counsel derive authority from JAG and, as detailed in this part, have ''by direction'' authority. The Rules Counsel shall cause opinions issued by the Professional Responsibility Committee of general interest to the DON legal community to be published in summarized, non-personal form in suitable publications. Unless another officer is appointed by JAG to act in individual cases, the following officers shall act as Rules Counsel:

(a) Director, JA Division, HQMC, for cases involving Marine Corps judge advocates, or civil service and contracted civilian attorneys who perform legal services under his cognizance; and

(b) AJAG for Civil Law, in all other cases.

§ 776.10 Informal ethics advice.

(a) *Advisors.* Covered attorneys may seek informal ethics advice either from the officers named below or from supervisory attorneys in the field. Within the Office of the JAG and HQMC, the following officials are designated to respond, either orally or in writing, to informal inquiries concerning this part in the areas of practice indicated:

(1) Head, Military Affairs/Personnel Law Branch, Administrative Law Division: administrative boards and related matters;

(2) Deputy Director, Criminal Law Division: military justice matters;

(3) Director, Legal Assistance Division: legal assistance matters;

(4) Deputy Director, JA Division, HQMC: cases involving Marine Corps judge advocates, or civil service and contracted civilian attorneys who perform legal services under the cognizance and supervision of Director, JA Division, HQMC; and

(5) Head, Standards of Conduct/Government Ethics Branch, Administrative Law Division: all other matters.

(b) *Limitation.* Informal ethics advice will not normally be provided by JAG/HQMC advisors concerning professional responsibility matters (e.g., ineffective assistance of counsel, prosecutorial misconduct) that are then the subject of litigation.

(c) *Written advice.* A request for informal advice does not relieve the requester of the obligation to comply with subpart B of this part. Although covered attorneys are encouraged to seek advice when in doubt as to their responsibilities, they remain personally accountable for their professional conduct. If, however, an attorney receives written advice on an ethical matter after full disclosure of all relevant facts and reasonably relies on such advice, no adverse action under this part will be taken against the attorney. Written advice may be sought from either a supervisory attorney or the appropriate advisor in paragraph (a) of this section. JAG is not bound by unwritten advice or by advice provided by personnel who are not supervisory attorneys or advisors. See § 776.54 of this part.

§ 776.11 Outside part-time practice of law.

A covered USG attorney's primary professional responsibility is to the client, as defined by § 776.4 of this part, and he or she is expected to ensure that representation of such client is free from conflicts of interest and otherwise conforms to the requirements of these rules and other regulations concerning the provision of legal services within the Department of the Navy. The outside practice of law, therefore, must be carefully monitored. Covered USG attorneys who wish to engage in the part-time, outside practice of law must first obtain permission from JAG. Failure to obtain permission before engaging in the outside practice of law may subject the covered USG attorney to administrative or disciplinary action, including professional sanctions administered per subpart C of this part. Covered USG attorneys may obtain further details in JAGINST 5803.1 (series). This requirement does not apply to non-USG attorneys, or to Reserve or Retired judge advocates unless serving on active-duty for more than 30 consecutive days.

§ 776.12 Maintenance of files.

Ethics complaint records shall be maintained by the Administrative Law Division, Office of the Judge Advocate General, and, in the case of Marine records, by the Judge Advocate Research and Civil Law Branch, JA Division, HQMC.

(a) Requests for access to such records should be referred to Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General (Code 13), 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard DC 20374–5066, or to Head, Judge Advocate Research and Civil Law Branch, JA Division, Headquarters Marine Corps, Washington Navy Yard DC 20380–0001, as appropriate.

(b) Local command files regarding professional responsibility complaints will not be maintained. Commanding officers and other supervisory attorneys may, however, maintain personal files but must not share their contents with others.

§§ 776.13—§ 776.17 [Reserved]

Subpart B—Rules of Professional Conduct

§ 776.18 Preamble.

(a) A covered USG attorney is a representative of clients, an officer of the legal system, an officer of the Federal Government, and a public citizen who has a special responsibility for the quality of justice and legal services provided to the DON and to individual clients. The Rules of Professional Conduct contained in this subpart govern the ethical conduct of covered attorneys practicing under the Uniform Code of Military Justice, the Manual for Courts-Martial, 10 U.S.C. 1044 (Legal Assistance), other laws of the United States, and regulations of the DON.

(b) This subpart not only addresses the professional conduct of judge advocates, but also applies to all other covered attorneys who practice under

the cognizance and supervision of the JAG. See § 776.2 of this part.

(c) All covered attorneys are subject to professional disciplinary action imposed by the JAG for violation of the Rules contained in this subpart. Action by the JAG does not prevent other Federal, State, or local bar associations or other licensing authorities from taking professional disciplinary or other administrative action for the same or similar acts.

§ 776.19 Principles.

The Rules of this subpart are based on the following principles. Interpretation of this subpart should flow from common meaning. To the extent that any ambiguity or conflict exists, this subpart should be interpreted consistent with these general principles.

(a) Covered attorneys shall:

(1) Obey the law and military regulations, and counsel clients to do so.

(2) Follow all applicable ethics rules.

(3) Protect the legal rights and interests of clients, organizational and individual.

(4) Be honest and truthful in all dealings.

(5) Not derive personal gain, except as authorized, for the performance of legal services.

(6) Maintain the integrity of the legal profession.

(b) Ethical rules should be consistent with law. If law and ethics conflict, the law prevails unless an ethical rule is constitutionally based.

(c) The military criminal justice system is a truth-finding process consistent with constitutional law.

§ 776.20 Competence.

(a) *Competence.* A covered attorney shall provide competent, diligent, and prompt representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and expeditious preparation reasonably necessary for representation. Initial determinations as to competence of a covered USG attorney for a particular assignment shall be made by a supervising attorney before case or issue assignments; however, assigned attorneys may consult with supervisors concerning competence in a particular case.

(b) [Reserved].

§ 776.21 Establishment and scope of representation.

(a) *Establishment and scope of representation:* (1) Formation of attorney-client relationships by covered USG attorneys with, and representation of, clients is permissible only when the attorney is authorized to do so by competent authority. Military Rule of Evidence 502, the Manual of the Judge Advocate General (JAG Instruction 5800.7 (series)), and the Naval Legal Service Office and Trial Service Office Manual, define when an attorney-client relationship is formed between a covered USG attorney and a client servicemember, dependent, or employee.

(2) Generally, the subject matter scope of a covered attorney's representation will be consistent with the terms of the assignment to perform specific representational or advisory duties. A covered attorney shall inform clients at the earliest opportunity of any limitations on representation and professional responsibilities of the attorney towards the client.

(3) A covered attorney shall follow the client's well-informed and lawful decisions concerning case objectives, choice of counsel, forum, pleas, whether to testify, and settlements.

(4) A covered attorney's representation of a client does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(5) A covered attorney shall not counsel or assist a client to engage in conduct that the attorney knows is criminal or fraudulent, but a covered attorney may discuss the legal and moral consequences of any proposed course of conduct with a client, and may counsel or assist a client in making a good faith effort to determine the validity, scope, meaning, or application of the law.

(b) [Reserved].

§ 776.22 Diligence.

(a) *Diligence.* A covered attorney shall act with reasonable diligence and promptness in representing a client, and shall consult with a client as soon as practicable and as often as necessary upon being assigned to the case or issue.

(b) [Reserved].

§ 776.23 Communication.

(a) *Communication:*

(1) A covered attorney shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(2) A covered attorney shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(b) [Reserved].

§ 776.24 Fees.

(a) *Fees:*

(1) A covered USG attorney shall not accept any salary, fee, compensation, or other payments or benefits, directly or indirectly, other than Government compensation, for services provided in the course of the covered USG attorney's official duties or employment.

(2) A covered USG attorney shall not accept any salary or other payments as compensation for legal services rendered, by that covered USG attorney in a private capacity, to a client who is eligible for assistance under the DON Legal Assistance Program, unless so authorized by the JAG. This rule does not apply to Reserve or Retired judge advocates not then serving on extended active-duty.

(3) A Reserve or Retired judge advocate, whether or not serving on extended active-duty, who has initially represented or interviewed a client or prospective client concerning a matter as part of the attorney's official Navy or Marine Corps duties, shall not accept any salary or other payments as compensation for services rendered to that client in a private capacity concerning the same general matter for which the client was seen in an official capacity, unless so authorized by the JAG.

(4) Covered non-USG attorneys may charge fees. Fees shall be reasonable. Factors considered in determining the reasonableness of a fee include the following:

(i) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(ii) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney;

(iii) The fee customarily charged in the locality for similar legal services;

(iv) The amount involved and the results obtained;

(v) The time limitations imposed by the client or by the circumstances;

(vi) The nature and length of the professional relationship with the client;

(vii) The experience, reputation, and ability of the attorney or attorneys performing the services; and

(viii) Whether the fee is fixed or contingent.

(5) When the covered non-USG attorney has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

(6) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter

in which a contingent fee is prohibited by paragraph (a)(7) of this section or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the covered non-USG attorney in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the covered non-USG attorney shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(7) A covered non-USG attorney shall not enter into an arrangement for, charge, or collect a contingent fee for representing an accused in a criminal case.

(8) A division of fees between covered non-USG attorneys who are not in the same firm may be made only if:

(i) The division is in proportion to the services performed by each attorney or, by written agreement with the client, each attorney assumes joint responsibility for the representation;

(ii) The client is advised of and does not object to the participation of all the attorneys involved; and

(iii) The total fee is reasonable.

(b) Paragraphs (a)(4) through (a)(8) of this section apply only to private civilian attorneys practicing in proceedings conducted under the cognizance and supervision of the JAG. The primary purposes of paragraphs (a)(4) through (a)(8) of this section are not to permit the JAG to regulate fee arrangements between civilian attorneys and their clients but to provide guidance to covered USG attorneys practicing with non-USG attorneys and to supervisory attorneys who may be asked to inquire into alleged fee irregularities. Absent paragraphs (a)(4) through (a)(8) of this section, such supervisory attorneys have no readily available standard against which to compare allegedly questionable conduct of a civilian attorney.

§ 776.25 Confidentiality of information.

(a) *Confidentiality of Information:*

(1) A covered attorney shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (a)(2) and (a)(3) of this section.

(2) A covered attorney shall reveal such information to the extent the covered attorney reasonably believes necessary to prevent the client from committing a criminal act that the covered attorney believes is likely to result in imminent death or substantial bodily harm, or significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system.

(3) A covered attorney may reveal such information to the extent the covered attorney reasonably believes necessary to establish a claim or defense on behalf of the covered attorney in a controversy between the covered attorney and the client, to establish a defense to a criminal charge or civil claim against the attorney based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the attorney's representation of the client.

(b) Conduct likely to result in the significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system include, but are not limited to: Divulging the classified location of a special operations unit such that the lives of members of the unit are placed in immediate danger; sabotaging a vessel or aircraft to the extent that the vessel or aircraft could not conduct an assigned mission, or that the vessel or aircraft and crew could be lost; and compromising the security of a weapons site such that the weapons are likely to be stolen or detonated. Paragraph (a)(2) of this section is not intended to and does not mandate the disclosure of conduct which may have a slight impact on the readiness or capability of a unit, vessel, aircraft, or weapon system. Examples of such conduct are: absence without authority from a peacetime training exercise; intentional damage to an individually assigned weapon; and intentional minor damage to military property.

§ 776.26 Conflict of interest: General rule.

(a) *Conflict of interest: General rule:*

(1) A covered attorney shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(i) The covered attorney reasonably believes the representation will not adversely affect the relationship with the other client; and

(ii) Each client consents after consultation.

(2) A covered attorney shall not represent a client if the representation of that client may be materially limited by the covered attorney's responsibilities to another client or to a third person, or by the covered attorney's own interests, unless:

(i) The covered attorney reasonably believes the representation will not be adversely affected; and

(ii) The client consents after consultation.

(3) When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

(b) *Reserve judge advocates.* These conflict of interest rules only apply when Reservists are actually drilling or on active-duty for training, or, as is the case with Retirees, on extended active-duty or when performing other duties subject to JAG supervision. Therefore, unless otherwise prohibited by criminal conflict of interest statutes, Reserve or Retired attorneys providing legal services in their civilian capacity may represent clients, or work in firms whose attorneys represent clients, with interests adverse to the United States. Reserve judge advocates who, in their civilian capacities, represent persons whose interests are adverse to the DON will provide written notification to their supervisory attorney and commanding officer, detailing their involvement in the matter. Reserve judge advocates shall refrain from undertaking any official action or representation of the DON with respect to any particular matter in which they are providing representation or services to other clients.

§ 776.27 Conflict of interests: Prohibited transactions.

(a) *Conflict of interests: Prohibited transactions.*

(1) Covered USG attorneys shall strictly adhere to current Department of Defense Ethics Regulations and shall not:

(i) Knowingly enter into any business transactions on behalf of, or adverse to, a client's interest which directly or indirectly relate to or result from the attorney-client relationship; or

(ii) Provide any financial assistance to a client or otherwise serve in a financial or proprietorial fiduciary or bailment relationship, unless otherwise specifically authorized by competent authority.

(2) No covered attorney shall:

(i) Use information relating to representation of a client to the disadvantage of the client unless the client consents after consultation, except as permitted or required by § 776.25 or § 776.42 of this part;

(ii) Prepare an instrument giving the covered attorney or a person related to

the covered attorney as parent, child, sibling, or spouse any gift from a client, including a testamentary gift, except where the client is related to the donee;

(iii) In the case of covered non-USG attorneys, accept compensation for representing a client from one other than the client unless the client consents after consultation, there is no interference with the covered attorney's independence of professional judgment or with the attorney-client relationship, and information relating to representation of a client is protected as required by § 776.25 of this part;

(iv) Negotiate any settlement on behalf of multiple clients in a single matter unless each client provides fully informed consent;

(v) Prior to the conclusion of representation of the client, make or negotiate an agreement giving a covered attorney literary or media rights for a portrayal or account based in substantial part on information relating to representation of a client;

(vi) Represent a client in a matter directly adverse to a person whom the covered attorney knows is represented by another attorney who is related as parent, child, sibling, or spouse to the covered attorney, except upon consent by the client after consultation regarding the relationship; or

(vii) Acquire a proprietary interest in the cause of action or subject matter of litigation the covered attorney is conducting for a client.

(b) [Reserved].

§ 776.28 Conflict of interest: Former client.

(a) *Conflict of interest: Former client.* A covered attorney who has represented a client in a matter shall not thereafter:

(1) Represent another person in the same or a substantially related matter in which the person's interests are materially adverse to the interests of the former client, unless the former client consents after consultation;

(2) Use information relating to the representation to the disadvantage of the former client or to the covered attorney's own advantage, except as § 776.25 or § 776.42 of this part would permit or require with respect to a client or when the information has become generally known; or

(3) Reveal information relating to the representation except as § 776.25 or § 776.42 of this part would permit or require with respect to a client.

(b) [Reserved].

§ 776.29 Imputed disqualification: General rule.

(a) *Imputed disqualification: General rule.* Covered USG attorneys working in the same military law office are not automatically disqualified from representing a client because any of them practicing alone would be prohibited from doing so by § 776.26, § 776.27, § 776.28, or § 776.38 of this part. Covered non-USG attorneys must consult their federal, state, and local bar rules governing the representation of multiple or adverse clients within the same office before such representation is initiated, as such representation may expose them to disciplinary action under the rules established by their licensing authority.

(b)(1) The circumstances of military (or Government) service may require representation of opposing sides by covered USG attorneys working in the same law office. Such representation is permissible so long as conflicts of interests are avoided and independent judgment, zealous representation, and protection of confidences are not compromised. Thus, the principle of imputed disqualification is not automatically controlling for covered USG attorneys. The knowledge, actions, and conflicts of interests of one covered USG attorney are not imputed to another simply because they operate from the same office. For example, the fact that a number of defense attorneys operate from one office and normally share clerical assistance would not prohibit them from representing co-accused at trial by court-martial. Imputed disqualification rules for non-USG attorneys are established by their individual licensing authorities and may well proscribe all attorneys from one law office from representing a co-accused, or a party with an adverse interest to an existing client, if any attorney in the same office were so prohibited.

(2) Whether a covered USG attorney is disqualified requires a functional analysis of the facts in a specific situation. The analysis should include consideration of whether the following will be compromised: Preserving attorney-client confidentiality; maintaining independence of judgment; and avoiding positions adverse to a client. See, e.g., *U.S. v. Stubbs,* 23 M.J. 188 (CMA 1987).

(3) Preserving confidentiality is a question of access to information. Access to information, in turn, is essentially a question of fact in a particular circumstance, aided by inferences, deductions, or working presumptions that reasonably may be made about the way in which covered USG attorneys work together. A covered USG attorney may have general access to files of all clients of a military law office (e.g., legal assistance attorney) and may regularly participate in discussions of their affairs; it may be inferred that such a covered USG attorney in fact is privy to all information about all the office's clients. In contrast, another covered USG attorney (e.g., military defense counsel) may have access to the files of only a limited number of clients and participate in discussion of the affairs of no other clients; in the absence of information to the contrary, it should be inferred that such a covered USG attorney in fact is privy to information about the clients actually served but not to information of other clients. Additionally, a covered USG attorney changing duty stations or changing assignments within a military office has a continuing duty to preserve confidentiality of information about a client formerly represented. See § 776.25 and § 776.28.7 of this part.

(4) Maintaining independent judgment allows a covered USG attorney to consider, recommend, and carry out any appropriate course of action for a client without regard to the covered USG attorney's personal interests or the interests of another. When such independence is lacking or unlikely, representation cannot be zealous.

(5) Another aspect of loyalty to a client is the general obligation of any attorney to decline subsequent representations involving positions adverse to a former client in substantially related matters. This obligation normally requires abstention from adverse representation by the individual covered attorney involved, but, in the military legal office, abstention is not required by other covered USG attorneys through imputed disqualification.

§ 776.30 Successive Government and private employment.

(a) *Successive Government and private employment:*

(1) Except as the law or regulations may otherwise expressly permit, a former covered USG attorney shall not represent a private client in connection with a matter in which the covered USG attorney participated personally and substantially as a public officer or employee, unless the appropriate Government agency consents after consultation. If a former covered USG attorney in a firm, partnership, or association knows that another attorney within the firm, partnership, or association is undertaking or continuing representation in such a matter:

(i) The disqualified former covered USG attorney must ensure that he or she is screened from any participation in the

matter and is apportioned no part of the fee or any other benefit therefrom; and,

(ii) Must provide written notice promptly to the appropriate Government agency to enable it to ascertain compliance with the provisions of applicable law and regulations.

(2) Except as the law or regulations may otherwise expressly permit, a former covered USG attorney, who has information known to be confidential Government information about a person which was acquired while a covered USG attorney, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. The former covered USG attorney may continue association with a firm, partnership, or association representing any such client only if the disqualified covered USG attorney is screened from any participation in the matter and is apportioned no part of the fee or any other benefit therefrom.

(3) Except as the law or regulations may otherwise expressly permit, a covered USG attorney shall not:

(i) Participate in a matter in which the covered USG attorney participated personally and substantially while in private practice or nongovernmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the covered USG attorney's stead in the matter; or,

(ii) Negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the covered USG attorney is participating personally and substantially.

(4) As used in this section, the term ''matter'' includes:

(i) Any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties, and

(ii) Any other matter covered by the conflict of interest rules of the Department of Defense, DON, or other appropriate Government agency.

(5) As used in this section, the term ''confidential Governmental information'' means information which has been obtained under Governmental authority and which, at the time this Rule is applied, the Government is prohibited by law or regulations from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

(b) [Reserved]

§ 776.31 Former judge or arbitrator.

(a) *Former judge or arbitrator:*

(1) Except as stated in paragraph (a)(3) of this section, a covered USG attorney shall not represent anyone in connection with a matter in which the covered USG attorney participated personally and substantially as a judge or other adjudicative officer, arbitrator, or law clerk to such a person, unless all parties to the proceeding consent after disclosure.

(2) A covered USG attorney shall not negotiate for employment with any person who is involved as a party or as attorney for a party in a matter in which the covered USG attorney is participating personally and substantially as a judge or other adjudicative officer. A covered USG attorney serving as law clerk to a judge, other adjudicative officer, or arbitrator may negotiate for employment with a party or attorney involved in a matter in which the clerk is participating personally and substantially, but only after the covered USG attorney has notified the judge, other adjudicative officer, or arbitrator, and been disqualified from further involvement in the matter.

(3) An arbitrator selected as a partisan of a party in a multi-member arbitration panel is not prohibited from subsequently representing that party.

(b) [Reserved].

§ 776.32 Department of the Navy as client.

(a) *Department of Navy as client:*

(1) Except when representing an individual client pursuant to paragraph (a)(6) of this section, a covered USG attorney represents the DON (or the Executive agency to which assigned) acting through its authorized officials. These officials include the heads of organizational elements within the Naval service, such as the commanders of fleets, divisions, ships and other heads of activities. When a covered USG attorney is assigned to such an organizational element and designated to provide legal services to the head of the organization, an attorney-client relationship exists between the covered attorney and the DON as represented by the head of the organization as to matters within the scope of the official business of the organization. The head of the organization may not invoke the attorney-client privilege or the rule of confidentiality for the head of the organization's own benefit but may invoke either for the benefit of the DON. In invoking either the attorney-client privilege or attorney-client confidentiality on behalf of the DON, the head of the organization is subject to being overruled by higher authority.

(2) If a covered USG attorney knows that an officer, employee, or other member associated with the organizational client is engaged in action, intends to act or refuses to act in a matter related to the representation that is either adverse to the legal interests or obligations of the DON or a violation of law which reasonably might be imputed to the Department, the covered USG attorney shall proceed as is reasonably necessary in the best interest of the Naval service. In determining how to proceed, the covered USG attorney shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the covered USG attorney's representation, the responsibility in the Naval service and the apparent motivation of the person involved, the policies of the Naval service concerning such matters, and any other relevant considerations. Any measures taken shall be designed to minimize prejudice to the interests of the Naval service and the risk of revealing information relating to the representation to persons outside the service. Such measures shall include among others:

(i) Asking for reconsideration of the matter by the acting official;

(ii) Advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the Naval service;

(iii) Referring the matter to, or seeking guidance from, higher authority in the chain of command including, if warranted by the seriousness of the matter, referral to the supervisory attorney assigned to the staff of the acting official's next superior in the chain of command; or

(iv) Advising the acting official that his or her personal legal interests are at risk and that he or she should consult counsel as there may exist a conflict of interests for the covered USG attorney, and the covered USG attorney's responsibility is to the organization.

(3) If, despite the covered USG attorney's efforts per paragraph (a)(2) of this section, the highest authority that can act concerning the matter insists upon action or refuses to act, in clear violation of law, the covered USG attorney shall terminate representation with respect to the matter in question. In no event shall the attorney participate or assist in the illegal activity. In this case, a covered USG attorney shall report such termination of representation to the attorney's supervisory attorney or attorney representing the next superior in the chain of command.

(4) In dealing with the officers, employees, or members of the Naval service a covered USG attorney shall explain the identity of the client when it is apparent that the Naval service's interests are adverse to those of the officer, employee, or member.

(5) A covered USG attorney representing the Naval service may also represent any of its officers, employees, or members, subject to the provisions of § 776.26 of this part and other applicable authority. If the DON's consent to dual representation is required by § 776.26 of this part, the consent shall be given by an appropriate official of the DON other than the individual who is to be represented.

(6) A covered USG attorney who has been duly assigned to represent an individual who is subject to disciplinary action or administrative proceedings, or to provide legal assistance to an individual, has, for those purposes, an attorney-client relationship with that individual.

(b) [Reserved].

§ 776.33 Client under a disability.

(a) *Client under a disability:*

(1) When a client's ability to make adequately considered decisions in connection with the representation is impaired, whether because of minority, mental disability, or for some other reason, the covered attorney shall, as far as reasonably possible, maintain a normal attorney-client relationship with the client.

(2) A covered attorney may seek the appointment of a guardian or take other protective action with respect to a client only when the covered attorney reasonably believes that the client cannot adequately act in the client's own interest.

(b) [Reserved].

§ 776.34 Safekeeping property.

(a) *Safekeeping property.* Covered USG attorneys shall not normally hold or safeguard property of a client or third persons in connection with representational duties. See § 776.27 of this part.

(b) [Reserved].

§ 776.35 Declining or terminating representation.

(a) *Declining or terminating representation:*

(1) Except as stated in paragraph (a)(3) of this section, a covered attorney shall not represent a client or, when representation has commenced, shall seek to withdraw from the representation of a client if:

(i) The representation will result in violation of the Rules contained in this subpart or other law or regulation;

(ii) The covered attorney's physical or mental condition materially impairs his or her ability to represent the client; or

(iii) The covered attorney is dismissed by the client.

(2) Except as stated in paragraph (a)(3) of this section, a covered attorney may seek to withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(i) The client persists in a course of action involving the covered attorney's services that the covered attorney reasonably believes is criminal or fraudulent;

(ii) The client has used the covered attorney's services to perpetrate a crime or fraud;

(iii) The client insists upon pursuing an objective that the covered attorney considers repugnant or imprudent;

(iv) In the case of covered non-USG attorneys, the representation will result in an unreasonable financial burden on the attorney or has been rendered unreasonably difficult by the client; or

(v) Other good cause for withdrawal exists.

(3) When ordered to do so by a tribunal or other competent authority, a covered attorney shall continue representation notwithstanding good cause for terminating the representation.

(4) Upon termination of representation, a covered attorney shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for assignment or employment of other counsel, and surrendering papers and property to which the client is entitled and, where a non-USG attorney provided representation, refunding any advance payment of fee that has not been earned. The covered attorney may retain papers relating to the client to the extent permitted by law.

(b) [Reserved].

§ 776.36 Prohibited Sexual Relations.

(a) *Prohibited sexual relations:*

(1) A covered attorney shall not have sexual relations with a current client. A covered attorney shall not require, demand, or solicit sexual relations with a client incident to any professional representation.

(2) A covered attorney shall not engage in sexual relations with another attorney currently representing a party whose interests are adverse to those of a client currently represented by the covered attorney.

(3) A covered attorney shall not engage in sexual relations with a judge who is presiding or who is likely to preside over any proceeding in which the covered attorney will appear in a representative capacity.

(4) A covered attorney shall not engage in sexual relations with other persons involved in the particular case, judicial or administrative proceeding, or other matter for which representation has been established, including but not limited to witnesses, victims, co-accuseds, and court-martial or board members.

(5) For purposes of this Rule, ''sexual relations'' means:

(i) Sexual intercourse; or

(ii) Any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the covered attorney for the purpose of arousing or gratifying the sexual desire of either party.

(b) [Reserved].

§ 776.37 Advisor.

(a) *Advisor.* In representing a client, a covered attorney shall exercise independent professional judgment and render candid advice. In rendering advice, a covered attorney should refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation.

(b) [Reserved].

§ 776.38 Mediation.

(a) *Mediation:*

(1) A covered attorney may act as a mediator between individuals if:

(i) The covered attorney consults with each individual concerning the implications of the mediation, including the advantages and risks involved, and the effect on the attorney-client confidentiality, and obtains each individual's consent to the mediation;

(ii) The covered attorney reasonably believes that the matter can be resolved on terms compatible with each individual's best interests, that each individual will be able to make adequately informed decisions in the matter, and that there is little risk of material prejudice to the interests of any of the individuals if the contemplated resolution is unsuccessful; and,

(iii) The covered attorney reasonably believes that the mediation can be undertaken impartially and without improper effect on other responsibilities the covered attorney has to any of the individuals.

(2) While acting as a mediator, the covered attorney shall consult with each individual concerning the decisions to be made and the considerations relevant in making them, so that each individual can make adequately informed decisions.

(3) A covered attorney shall withdraw as a mediator if any of the individuals so requests, or if any of the conditions stated in paragraph (a)(1) of this section is no longer satisfied. Upon withdrawal, the covered attorney shall not represent any of the individuals in the matter that was the subject of the mediation unless each individual consents.

(b) [Reserved].

§ 776.39 Evaluation for use by third persons.

(a) *Evaluation for use by third persons:*

(1) A covered attorney may undertake an evaluation of a matter affecting a client for the use of someone other than the client if:

(i) The covered attorney reasonably believes that making the evaluation is compatible with other aspects of the covered attorney's relationship with the client, and,

(ii) The client consents after consultation.

(2) Except as disclosure is required in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by § 776.25 of this part.

(b) [Reserved].

§ 776.40 Meritorious claims and contentions.

(a) *Meritorious claims and contentions.* A covered attorney shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A covered attorney representing an accused in a criminal proceeding or the respondent in an administrative proceeding that could result in incarceration, discharge from the Naval service, or other adverse personnel action, may nevertheless defend the client at the proceeding as to require that every element of the case is established.

(b) [Reserved].

§ 776.41 Expediting litigation.

(a) *Expediting litigation.* A covered attorney shall make reasonable efforts to expedite litigation or other proceedings consistent with the interests of the client and the attorney's responsibilities to tribunals.

(b) [Reserved].

§ 776.42 Candor and obligations toward the tribunal.

(a) *Candor and obligations toward the tribunal:*

(1) A covered attorney shall not knowingly:

(i) Make a false statement of material fact or law to a tribunal;

(ii) Fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

(iii) Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the covered attorney to be directly adverse to the position of the client and not disclosed by opposing counsel;

(iv) Offer evidence that the covered attorney knows to be false. If a covered attorney has offered material evidence and comes to know of its falsity, the covered attorney shall take reasonable remedial measures; or

(v) Disobey an order imposed by a tribunal unless done openly before the tribunal in a good faith assertion that no valid order should exist.

(2) The duties stated in paragraph (a) of this section continue to the conclusion of the proceedings, and apply even if compliance requires disclosure of information otherwise protected by § 776.25 of this part.

(3) A covered attorney may refuse to offer evidence that the covered attorney reasonably believes is false.

(4) In an ex parte proceeding, a covered attorney shall inform the tribunal of all material facts known to the covered attorney which are necessary to enable the tribunal to make an informed decision, whether or not the facts are adverse.

(b) [Reserved].

§ 776.43 Fairness to opposing party and counsel.

(a) *Fairness to opposing party and counsel.* A covered attorney shall not:

(1) Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A covered attorney shall not counsel or assist another person to do any such act;

(2) Falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(3) In pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(4) In trial, allude to any matter that the covered attorney does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused; or

(5) Request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(i) The person is a relative, an employee, or other agent of a client; and

(ii) The covered attorney reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

(b) [Reserved].

§ 776.44 Impartiality and decorum of the tribunal.

(a) *Impartiality and decorum of the tribunal.* A covered attorney shall not:

(1) Seek to influence a judge, court member, member of a tribunal, prospective court member or member of a tribunal, or other official by means prohibited by law or regulation;

(2) Communicate ex parte with such a person except as permitted by law or regulation; or

(3) Engage in conduct intended to disrupt a tribunal.

(b) [Reserved]

§ 776.45 Extra-tribunal statements.

(a) *Extra-tribunal statements:*

(1) A covered attorney shall not make an extrajudicial statement about any person or case pending investigation or adverse administrative or disciplinary proceedings that a reasonable person would expect to be disseminated by means of public communication if the covered attorney knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding or an official review process thereof.

(2) A statement referred to in paragraph (a)(1) of this section ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, discharge from the Naval service, or other adverse personnel action, and the statement relates to:

(i) The character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation, victim, or witness, or the identity of a victim or witness, or the expected testimony of a party, suspect, victim, or witness;

(ii) The possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by an accused or suspect or that person's refusal or failure to make a statement;

(iii) The performance or results of any forensic examination or test or the

refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(iv) Any opinion as to the guilt or innocence of an accused or suspect in a criminal case or other proceeding that could result in incarceration, discharge from the Naval service, or other adverse personnel action;

(v) Information the covered attorney knows or reasonably should know is likely to be inadmissible as evidence before a tribunal and would, if disclosed, create a substantial risk of materially prejudicing an impartial proceeding;

(vi) The fact that an accused has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the accused is presumed innocent until and unless proven guilty; or

(vii) The credibility, reputation, motives, or character of civilian or military officials of the Department of Defense.

(3) Notwithstanding paragraphs (a)(1) and (a)(2)(i) through (a)(2)(vii) of this section, a covered attorney involved in the investigation or litigation of a matter may state without elaboration:

(i) The general nature of the claim, offense, or defense;

(ii) The information contained in a public record;

(iii) That an investigation of the matter is in progress, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law or regulation, the identity of the persons involved;

(iv) The scheduling or result of any step in litigation;

(v) A request for assistance in obtaining evidence and information necessary thereto;

(vi) A warning of danger concerning the behavior of the person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(vii) In a criminal case, in addition to paragraphs (a)(3)(i) through (a)(3)(vi) of this section:

(A) The identity, duty station, occupation, and family status of the accused;

(B) If the accused has not been apprehended, information necessary to aid in apprehension of that person;

(C) The fact, time, and place of apprehension; and (D) The identity of investigating and apprehending officers or agencies and the length of the investigation.

(4) Notwithstanding paragraphs (a)(1) and (a)(2)(i) through (a)(2)(vii) of this section, a covered attorney may make a statement that a reasonable covered attorney would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the covered attorney or the attorney's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(5) The protection and release of information in matters pertaining to the DON is governed by such statutes as the Freedom of Information Act and the Privacy Act, in addition to those governing protection of national defense information. In addition, other laws and regulations may further restrict the information that can be released or the source from which it is to be released (e.g., the Manual of the Judge Advocate General).

(b) [Reserved].

§ 776.46 Attorney as witness.

(a) *Attorney as witness:*

(1) A covered attorney shall not act as advocate at a trial in which the covered attorney is likely to be a necessary witness except when:

(i) The testimony relates to an uncontested issue;

(ii) The testimony relates to the nature and quality of legal services rendered in the case; or

(iii) Disqualification of the covered attorney would work substantial hardship on the client.

(2) A covered attorney may act as advocate in a trial in which another attorney in the covered attorney's office is likely to be called as a witness, unless precluded from doing so by § 776.26 or § 776.28 of this part.

(b) [Reserved].

§ 776.47 Special responsibilities of a trial counsel.

(a) *Special responsibilities of a trial counsel.* A trial counsel shall:

(1) Recommend to the convening authority that any charge or specification not warranted by the evidence be withdrawn;

(2) Make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(3) Not seek to obtain from an unrepresented accused a waiver of important pretrial rights;

(4) Make timely disclosure to the defense of all evidence or information known to the trial counsel that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense all unprivileged mitigating information known to the trial counsel, except when the trial counsel is relieved of this responsibility by a protective order or regulation;

(5) Exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the trial counsel from making an extrajudicial statement that the trial counsel would be prohibited from making under § 776.45 of this part; and

(6) Except for statements that are necessary to inform the public of the nature and extent of the trial counsel's actions and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.

(b) *Role of the trial counsel.* (1) The trial counsel represents the United States in the prosecution of special and general courts-martial. See Article 38(a), UCMJ, and R.C.M. 103(16), 405(d)(3)(A), and 502(d)(5), MCM, 1998. Accordingly, a trial counsel has the responsibility of administering justice and is not simply an advocate. This responsibility carries with it specific obligations to see that the accused is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. Paragraph (a)(1) of this section recognizes that the trial counsel does not have all the authority vested in modern civilian prosecutors. The authority to convene courts-martial, and to refer and withdraw specific charges, is vested in convening authorities. Trial counsel may have the duty, in certain circumstances, to bring to the court's attention any charge that lacks sufficient evidence to support a conviction. See *United States* v. *Howe,* 37 M.J. 1062 (NMCMR 1993). Such action should be undertaken only after consultation with a supervisory attorney and the convening authority. See also § 776.42 of this part, governing ex parte proceedings. Applicable law may require other measures by the trial counsel. Knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of § 776.69 of this part.

(2) The ''ABA Standards for Criminal Justice: The Prosecution Function,'' (3rd ed. 1993), has been used by appellate courts in analyzing issues concerning trial counsel conduct. To the extent consistent with this part, the ABA standards may be used to guide trial counsel in the prosecution of criminal

cases. See United States v. Howe, 37 M.J. 1062 (NMCR 1993); *United States* v. *Dancy,* 38 M.J. 1 (CMA 1993); *United States* v. *Hamilton,* 41 M.J. 22 (CMA 1994); *United States* v. *Meek,* 44 M.J. 1 (CMA 1996).

§ 776.48 Advocate in nonadjudicative proceedings.

(a) *Advocate in nonadjudicative proceedings.* A covered attorney representing a client before a legislative or administrative tribunal in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of § 776.42, § 776.43, and § 776.44 of this part.

(b) [Reserved].

§ 776.49 Truthfulness in statements to others.

(a) *Truthfulness in statements to others.* In the course of representing a client a covered attorney shall not knowingly;

(1) Make a false statement of material fact or law to a third person; or

(2) Fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by § 776.25 of this part.

(b) [Reserved].

§ 776.50 Communication with person represented by counsel.

(a) *Communication with person represented by counsel.* In representing a client, a covered attorney shall not communicate about the subject of the representation with a party the covered attorney knows to be represented by another attorney in the matter, unless the covered attorney has the consent of the other attorney or is authorized by law to do so.

(b) [Reserved].

§ 776.51 Dealing with an unrepresented person.

(a) *Dealing with an unrepresented person.* When dealing on behalf of a client with a person who is not represented by counsel, a covered attorney shall not state or imply that the covered attorney is disinterested. When the covered attorney knows or reasonably should know that the unrepresented person misunderstands the covered attorney's role in the matter, the covered attorney shall make reasonable efforts to correct the misunderstanding.

(b) [Reserved].

§ 776.52 Respect for rights of third persons.

(a) *Respect for rights of third persons.* In representing a client, a covered attorney shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

(b) [Reserved].

§ 776.53 Responsibilities of the Judge Advocate General and supervisory attorneys.

(a) *Responsibilities of the Judge Advocate General and supervisory attorneys.* (1) The JAG and supervisory attorneys shall make reasonable efforts to ensure that all covered attorneys conform to this part.

(2) A covered attorney having direct supervisory authority over another covered attorney shall make reasonable efforts to ensure that the other attorney conforms to this part.

(3) A supervisory attorney shall be responsible for another subordinate covered attorney's violation of this part if:

(i) The supervisory attorney orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(ii) The supervisory attorney has direct supervisory authority over the other attorney and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(4) A supervisory attorney is responsible for ensuring that the subordinate covered attorney is properly trained and is competent to perform the duties to which the subordinate covered attorney is assigned.

(b) [Reserved].

§ 776.54 Responsibilities of a subordinate attorney.

(a) *Responsibilities of a subordinate attorney:*

(1) A covered attorney is bound by this part notwithstanding that the covered attorney acted at the direction of another person.

(2) In recognition of the judge advocate's unique dual role as a commissioned officer and attorney, subordinate judge advocates shall obey lawful directives and regulations of supervisory attorneys when not inconsistent with this part or the duty of a judge advocate to exercise independent professional judgment as to the best interest of an individual client.

(3) A subordinate covered attorney does not violate this part if that covered attorney acts in accordance with a supervisory attorney's written and reasonable resolution of an arguable question of professional duty. See § 776.10.

(b) [Reserved].

§ 776.55 Responsibilities regarding non-attorney assistants.

(a) *Responsibilities regarding non-attorney assistants.* With respect to a non-attorney acting under the authority, supervision, or direction of a covered attorney:

(1) The senior supervisory attorney in an office shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of a covered attorney;

(2) A covered attorney having direct supervisory authority over the non-attorney shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of a covered attorney; and

(3) A covered attorney shall be responsible for conduct of such a person that would be a violation of this part if engaged in by a covered attorney if:

(i) The covered attorney orders or, with the knowledge of the specific conduct, explicitly or impliedly ratifies the conduct involved; or

(ii) The covered attorney has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(b) [Reserved].

§ 776.56 Professional independence of a covered USG attorney.

(a) *Professional independence of a covered USG attorney.*

(1) Notwithstanding a judge advocate's status as a commissioned officer subject, generally, to the authority of superiors, a judge advocate detailed or assigned to represent an individual member or employee of the DON is expected to exercise unfettered loyalty and professional independence during the representation consistent with these Rules and remains ultimately responsible for acting in the best interest of the individual client.

(2) Notwithstanding a civilian USG attorney's status as a Federal employee subject, generally, to the authority of superiors, a civilian USG attorney detailed or assigned to represent an individual member or employee of the DON is expected to exercise unfettered loyalty and professional independence during the representation consistent with these Rules and remains ultimately responsible for acting in the best interest of the individual client.

(3) The exercise of professional judgment in accordance with paragraphs (a)(1) and (a)(2) of this section shall not, standing alone, be a basis for an adverse evaluation or other prejudicial action.

(b)(1) This section recognizes that a judge advocate is a military officer required by law to obey the lawful orders of superior officers. It also recognizes the similar status of a civilian USG attorney. Nevertheless, the practice of law requires the exercise of judgment solely for the benefit of the client and free of compromising influences and loyalties. Thus, when a covered USG attorney is assigned to represent an individual client, neither the attorney's personal interests, the interests of other clients, nor the interests of third persons should affect loyalty to the individual client.

(2) Not all direction given to a subordinate covered attorney is an attempt to influence improperly the covered attorney's professional judgment. Each situation must be evaluated by the facts and circumstances, giving due consideration to the subordinate's training, experience, and skill. A covered attorney subjected to outside pressures should make full disclosure of them to the client. If the covered attorney or the client believes the effectiveness of the representation has been or will be impaired thereby, the covered attorney should take proper steps to withdraw from representation of the client.

(3) Additionally, a judge advocate has a responsibility to report any instances of unlawful command influence. See R.C.M. 104, MCM, 1998.

§ 776.57 Unauthorized practice of law.

(a) *Unauthorized practice of law.* A covered USG attorney shall not:

(1) Except as authorized by an appropriate military department, practice law in a jurisdiction where doing so is prohibited by the regulations of the legal profession in that jurisdiction; or

(2) Assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

(b) Limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. A covered USG attorney's performance of legal duties pursuant to a military department's authorization, however, is considered a Federal function and not subject to regulation by the states. Thus, a covered USG attorney may perform legal assistance duties even though the covered attorney is not licensed to practice in the jurisdiction within which the covered attorney's duty station is located. Paragraph (a)(2) of this section does not prohibit a covered USG attorney from using the services of non-attorneys and delegating functions to them, so long as the covered attorney supervises the delegated work and retains responsibility for it. See § 776.55 of this part. Likewise, it does not prohibit covered USG attorneys from providing professional advice and instruction to non-attorneys whose employment requires knowledge of law; for example, claims adjusters, social workers, accountants and persons employed in Government agencies. In addition, a covered USG attorney may counsel individuals who wish to proceed pro se or non-attorneys authorized by law or regulation to appear and represent themselves or others before military proceedings.

§§ 776.58–776.65 [Reserved]

§ 776.66 Bar admission and disciplinary matters.

(a) *Bar admission and disciplinary matters.* A covered attorney, in connection with any application for bar admission, appointment as a judge advocate, employment as a civilian USG attorney, certification by the JAG or his designee, or in connection with any disciplinary matter, shall not:

(1) Knowingly make a false statement of fact; or

(2) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this section does not require disclosure of information otherwise protected by § 776.25 of this part.

(b) The duty imposed by this section extends to covered attorneys and other attorneys seeking admission to a bar, application for appointment as a covered USG attorney (military or civilian) or certification by the JAG or his designee. Hence, if a person makes a false statement in connection with an application for admission or certification (e.g., misstatement by a civilian attorney before a military judge regarding qualifications under Rule for Courts-Martial 502), it may be the basis for subsequent disciplinary action if the person is admitted or certified, and in any event may be relevant in a subsequent admission application. The duty imposed by this section applies to a covered attorney's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a covered attorney to make a knowing misrepresentation or omission in connection with a disciplinary investigation of the covered attorney's own conduct. This section also requires affirmative clarification of any misunderstanding on the part of the admissions, certification, or disciplinary authority of which the person involved becomes aware.

§ 776.67 Judicial and legal officers.

(a) *Judicial and legal officers.* A covered attorney shall not make a statement that the covered attorney knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, investigating officer, hearing officer, adjudicatory officer, or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) [Reserved].

§ 776.68 Reporting professional misconduct.

(a) *Reporting professional misconduct:*

(1) A covered attorney having knowledge that another covered attorney has committed a violation of this part that raises a substantial question as to that covered attorney's honesty, trustworthiness, or fitness as a covered attorney in other respects, shall report such violation in accordance with the procedures set forth in subpart C of this part.

(2) A covered attorney having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall report such violation in accordance with the procedures set forth in subpart C of this part.

(3) This Rule does not require disclosure of information otherwise protected by § 776.25 of this part.

(b) [Reserved].

§ 776.69 Misconduct.

(a) *Misconduct.* It is professional misconduct for a covered attorney to:

(1) Violate or attempt to violate this subpart, knowingly assist or induce another to do so, or do so through the acts of another;

(2) Commit a criminal act that reflects adversely on the covered attorney's honesty, trustworthiness, or fitness as an attorney in other respects;

(3) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(4) Engage in conduct that is prejudicial to the administration of justice;

(5) State or imply an ability to influence improperly a government agency or official; or

(6) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

(b)(1) Judge advocates hold a commission as an officer in the Navy or Marine Corps and assume legal responsibilities going beyond those of other citizens. A judge advocate's abuse of such commission can suggest an inability to fulfill the professional role of judge advocate and attorney. This concept has similar application to civilian USG attorneys.

(2) Covered non-USG attorneys, Reservists, and Retirees (acting in their civilian capacity), like their active-duty counterparts, are expected to demonstrate model behavior and exemplary integrity at all times. JAG may consider any and all derogatory or beneficial information about a covered attorney, for purposes of determining the attorney's qualification, professional competence, or fitness to practice law in DON matters, or to administer discipline under this part. Such consideration shall be made, except in emergency situations necessitating immediate action, according to the procedures established in subpart C of this part.

§ 776.70 Jurisdiction.

(a) *Jurisdiction.* All covered attorneys, as defined in § 776.2 of this part, shall be governed by this part.

(b)(1) Many covered USG attorneys practice outside the territorial limits of the jurisdiction in which they are licensed. While covered attorneys remain subject to the governing authority of the jurisdiction in which they are licensed to practice, they are also subject to these Rules.

(2) When covered USG attorneys are engaged in the conduct of Navy or Marine Corps legal functions, whether serving the Navy or Marine Corps as a client or serving an individual client as authorized by the Navy or Marine Corps, the rules contained in this subpart supersede any conflicting rules applicable in jurisdictions in which the covered attorney may be licensed. However, covered attorneys practicing in State or Federal civilian court proceedings will abide by the rules adopted by that State or Federal civilian court during the proceedings. As for covered non-USG attorneys practicing under the supervision of the JAG, violation of the rules contained in this subpart may result in suspension from practice in DON proceedings.

(3) Covered non-USG attorneys, Reservists, or Retirees (acting in their civilian capacity) who seek to provide legal services in any DON matter under JAG cognizance and supervision, may be precluded from such practice of law if, in the opinion of the JAG (as exercised through this instruction) the attorney's conduct in any venue renders that attorney unable or unqualified to practice in DON programs or proceedings.

§ 776.71 Requirement to remain in good standing with licensing authorities.

(a) *Requirement to remain in good standing with state licensing authority:*

(1) Each officer of the Navy appointed as a member of the Judge Advocate General's Corps, each officer of the Marine Corps designated a judge advocate, and each civil service and contracted civilian attorney who practices law under the cognizance and supervision of the JAG shall maintain a status considered ''in good standing'' at all times with the licensing authority admitting the individual to the practice of law before the highest court of at least one State, Territory, Commonwealth, or the District of Columbia.

(2) The JAG, the Director, JA Division, HQMC, or any other supervisory attorney may require any covered USG attorney over whom they exercise authority to establish that the attorney continues to be in good standing with his or her licensing authority. Representatives of the JAG or of the Director, JA Division, HQMC, may also inquire directly of any such covered USG attorney's licensing authority to establish whether he or she continues to be in good standing and has no disciplinary action pending.

(3) Each covered USG attorney shall immediately report to the JAG if any jurisdiction in which the covered USG attorney is or has been a member in good standing commences disciplinary investigation or action against him or her or if the covered USG attorney is disciplined, suspended, or disbarred from the practice of law in any jurisdiction.

(4) Each covered non-USG attorney representing an accused in any court-martial or administrative separation proceeding shall be a member in good standing with, and authorized to practice law by, the bar of a Federal court or of the bar of the highest court of a State, or a lawyer otherwise authorized by a recognized licensing authority to practice law and found by the military judge to be qualified to represent the accused.

(b)(1) The licensing authority granting the certification or privilege to practice law within the jurisdiction generally defines the phrase ''in good standing.'' At a minimum it means that the individual is subject to the jurisdiction's disciplinary review process; has not been suspended or disbarred from the practice of law within the jurisdiction; is up-to-date in the payment of all required fees; has met applicable continuing legal education requirements which the jurisdiction has imposed (or the cognizant authority has waived those requirements in the case of the individual); and has met such other requirements as the cognizant authority has set to remain eligible to practice law. So long as these conditions are met, a covered USG attorney may be considered ''inactive'' as to the practice of law within a particular jurisdiction and still be considered ''in good standing'' for purposes of this section.

(2) Rule for Courts-Martial 502(d)(3)(A) requires that any civilian defense counsel representing an accused in a court-martial be a member of the bar of a Federal court or of the bar of the highest court of a State. This civilian defense counsel qualification only has meaning if the attorney is a member ''in good standing,'' see *U.S.* v. *Waggoner,* 22 M.J. 692 (AFCMR 1986), and is then authorized to practice law within that jurisdiction. It is appropriate for the military judge, in each and every case, to ensure that a civilian defense counsel is qualified to represent the accused.

(3) Failure of a judge advocate to comply with the requirements of this Rule may result in professional disciplinary action as provided for in this instruction, loss of certification under Articles 26 and/or 27(b), UCMJ, adverse entries in military service records, and administrative separation under Secretary of the Navy Instruction 1920.6 (series) based on the officer's failure to maintain professional qualifications. In the case of civil service and contracted civilian attorneys practicing under the JAG's cognizance and supervision, failure to maintain good standing or otherwise to comply with the requirements of this Rule may result in adverse administrative action under applicable personnel regulations, including termination of employment.

(4) A covered USG attorney need only remain in good standing in one jurisdiction. If admitted to the practice of law in more than one jurisdiction, however, and any jurisdiction commences disciplinary action against or disciplines, suspends or disbars the covered USG attorney from the practice of law, the covered USG attorney must so advise the JAG.

(5) Certification by the United States Court of Appeals for the Armed Forces that a covered attorney is in good standing with that court will not satisfy the requirement of this section, since such status is normally dependent on Article 27 UCMJ certification alone.

§§ 776.72–776.75 [Reserved]

Subpart C—Complaint Processing Procedures

§ 776.76 Policy.

(a) It is JAG's policy to investigate and resolve, expeditiously and fairly, all allegations of professional impropriety lodged against covered attorneys practicing under JAG cognizance and supervision.

(b) Rules Counsel approval will be obtained before conducting any preliminary inquiry or formal investigation into an alleged violation of subpart B of this part or the Code of Judicial Conduct. The Rules Counsel will notify the JAG prior to the commencement of any preliminary inquiry or investigation. The preliminary inquiry and any subsequent investigation will be conducted according to the procedures set forth in this subpart.

§ 776.77 Related Investigations and Actions.

Acts or omissions by covered attorneys may constitute professional misconduct, criminal misconduct, poor performance of duty, or a combination of all three. Care must be taken to characterize appropriately the nature of a covered attorney's conduct to determine who may and properly should take official action.

(a) Questions of legal ethics and professional misconduct by covered attorneys are within the exclusive province of JAG. Ethical or professional misconduct will not be attributed to any covered attorney in any official record without a final JAG determination, made in accordance with this part, that such misconduct has occurred.

(b) Criminal misconduct is properly addressed by the covered USG attorney's commander through the disciplinary process provided under the UCMJ and implementing regulations, or through referral to appropriate civil authority.

(c) Poor performance of duty is properly addressed by the covered USG attorney's reporting senior through a variety of administrative actions, including documentation in fitness reports or employee appraisals.

(d) Prior JAG approval is not required to investigate allegations of criminal conduct or poor performance of duty involving covered attorneys. When, however, investigations into criminal conduct or poor performance reveal conduct that constitutes a violation of this part, or of the Code of Judicial Conduct in the case of judges, such conduct shall be reported to the Rules Counsel immediately.

(e) Inquiries into allegations of professional misconduct will normally be held in abeyance until any related criminal investigation or proceeding is complete. However, a pending criminal investigation or proceeding does not bar the initiation or completion of a professional misconduct investigation stemming from the same or related incidents or prevent the JAG from imposing professional disciplinary sanctions as provided for in this subpart.

§ 776.78 Informal Complaints.

Informal, anonymous, or ''hot line'' type complaints alleging professional misconduct must be referred to appropriate authority (such as the JAG Inspector General or the concerned supervisory attorney) for inquiry. Such complaints are not, by themselves, cognizable under this subpart but may, if reasonably confirmed, be the basis of a formal complaint described in § 776.79 of this part.

§ 776.79 The Complaint.

(a) The complaint shall:

(1) Be in writing and be signed by the complainant;

(2) State that the complainant has personal knowledge, or has otherwise received reliable information indicating, that:

(i) The covered attorney concerned is, or has been, engaged in misconduct that demonstrates a lack of integrity, that constitutes a violation of subpart B of this part or a failure to meet the ethical standards of the profession; or

(ii) The covered attorney concerned is ethically, professionally, or morally unqualified to perform his or her duties; and

(3) Contain a complete, factual statement of the acts or omissions constituting the substance of the complaint, as well as a description of any attempted resolution with the covered attorney concerned. Supporting statements, if any, should be attached to the complaint.

(b) A complaint may be initiated by any person, including the Administrative Law Division of the Office of JAG (JAG (13)), or the Judge Advocate Research and Civil Law Branch, JA Division, HQMC (JAR).

§ 776.80 Initial Screening and Rules Counsel.

(a) Complaints shall be forwarded to JAG(13) or, in cases involving Marine Corps judge advocates or civil service and contracted civilian attorneys who perform legal services under the cognizance and supervision of Director, JA Division, HQMC, to JAR.

(b) JAG(13) and JAR shall log all complaints received and will ensure that a copy is provided to the covered attorney who is the subject of the complaint.

(c) The covered attorney concerned may elect to provide an initial statement regarding the complaint for the Rules Counsel's consideration. The covered attorney will promptly inform JAG(13) or JAR if he or she intends to submit any such statement. At this screening stage, forwarding of the complaint to the Rules Counsel will not be unduly delayed to await the covered attorney's submission.

(d) The Rules Counsel shall initially review the complaint, and any statement submitted by the covered attorney complained of, to determine whether it complies with the requirements set forth in § 776.79 of this part.

(1) Complaints that do not comply with the requirements may be returned to the complainant for correction or completion, and resubmission to JAG(13) or JAR. If the complaint is not corrected or completed, and resubmitted within 30 days of the date of its return, the Rules Counsel may close the file without further action. JAG (13) and JAR will maintain copies of all correspondence relating to the return and resubmission of a complaint, and shall notify the covered attorney concerned if and when the Rules Counsel takes action to close the file.

(2) Complaints that comply with the requirements shall be further reviewed by the Rules Counsel to determine whether the complaint:

(i) Establishes probable cause to believe that a violation of this part or of the Judicial Code has occurred; or

(ii) Alleges ineffective assistance of counsel, or other violations of subpart B of this part, as a matter of defense in a court-martial, administrative separation, or nonjudicial punishment proceeding. If so, the Rules Counsel shall forward a copy of the complaint to the proper appellate authority for appropriate action and comment.

(e) The Rules Counsel shall close the file without further action if the complaint does not establish probable cause to believe that a violation has occurred. The Rules Counsel shall notify the complainant and the covered attorney concerned that the file has been closed. JAG(13) and JAR will maintain copies of all correspondence related to the closing of the file.

(f) The Rules Counsel may close the file if there is a determination that the complaint establishes probable cause but the violation is of a minor or technical nature appropriately addressed through corrective

counseling. The Rules Counsel shall report any such decision to the JAG. The Rules Counsel shall ensure the covered attorney concerned receives appropriate counseling and shall notify the complainant and the covered attorney concerned that the file has been closed. JAG(13) and JAR will maintain copies of all correspondence related to the closing of the file. The covered attorney concerned is responsible, under these circumstances, to determine if his or her Federal, state, or local licensing authority requires reporting of such action.

§ 776.81 Charges.

(a) If the Rules Counsel determines that there is probable cause to believe that a violation of this part or of the Code of Judicial Conduct has occurred, the Rules Counsel shall draft charges alleging violations of this part or of the Code of Judicial Conduct and forward the charges, together with the original complaint and any allied papers, as follows:

(1) In cases involving Marine Corps attorneys not serving as defense counsel or attached to Navy units, to the officer exercising general court-martial jurisdiction (OEGCMJ) over the charged covered attorney, and request, on behalf of JAG, that the OEGCMJ appoint a covered attorney (normally the concerned attorney's supervisor) to conduct a preliminary inquiry into the matter;

(2) In all other cases, to the supervisory attorney in the charged attorney's chain of command (or such other officer as JAG may designate), and direct, on behalf of JAG, the supervisory attorney to conduct a preliminary inquiry into the matter.

(b) The Rules Counsel shall provide a copy of the charges, complaint, and any allied papers to the covered attorney against whom the complaint is made and notify him or her that a preliminary inquiry will be conducted. Service of complaints, charges, and other materials shall be made by personal service, or by registered or certified mail sent to the covered attorney's last known address reflected in official Navy or Marine Corps records or in the records of the state bar(s) which licensed the attorney to practice law.

(c) The Rules Counsel shall also provide a copy of the charges to the commanding officer, or equivalent, of the covered USG attorney concerned if the complaint involves a covered USG attorney on active duty or in civilian Federal service.

(d) The Rules Counsel shall also forward a copy of the charges as follows:

(1) In cases involving Navy or Marine Corps judge advocates serving in Naval Legal Service Command (NLSC) units, to Vice Commander, NLSC;

(2) In cases involving Navy attorneys serving in Marine Corps units, or involving Marine Corps attorneys serving in Navy units, to the Commandant of the Marine Corps (Attn: JA);

(3) In cases involving members of the Navy-Marine Corps Trial Judiciary, to the Trial Judiciary Chief Judge; and

(4) To the appropriate military service attorney discipline section if the complaint involves covered attorneys certified by the Judge Advocates General/Chief Counsel of the other uniformed services.

§ 776.82 Interim suspension.

(a) Where the Rules Counsel determines there is probable cause to believe that a covered attorney has committed misconduct or other violations of this part, and poses a substantial threat of irreparable harm to his or her clients or the orderly administration of military justice, the Rules Counsel shall so advise the JAG. Examples of when a covered attorney may pose a ''substantial threat of irreparable harm'' include:

(1) When charged with the commission of a crime which involves moral turpitude or reflects adversely upon the covered attorney's fitness to practice law, and where substantial evidence exists to support the charge;

(2) When engaged in the unauthorized practice of law (e.g., failure to maintain good standing in accordance with § 776.71 of this part); or

(3) Where unable to represent client interests competently.

(b) Upon receipt of information from the Rules Counsel, JAG may order the covered attorney to show cause why he or she should not face interim suspension, pending completion of a professional responsibility investigation. The covered attorney shall have 10 calendar days in which to respond.

(c) If an order to show cause has been issued under paragraph (b) of this section, and the period for response has passed without a response, or after consideration of any response and finding sufficient evidence demonstrating probable cause to believe that the covered attorney is guilty of misconduct and poses a substantial threat of irreparable harm to his or her client or the orderly administration of military justice, JAG may direct an interim suspension of the covered attorney's certification under Articles 26(b) or 27(b), UCMJ, or R.C.M. 502(d)(3), or the authority to provide legal assistance, pending the results of the investigation and final action under this instruction.

(d) Within 10 days of JAG's decision to impose an interim suspension, the covered attorney may request an opportunity to be heard before an impartial officer designated by JAG. Where so requested, that opportunity will be scheduled within 10 calendar days of the request. The designated officer shall receive any information that the covered attorney chooses to submit on the limited issue of whether to continue the interim suspension. The designated officer shall submit a recommendation to JAG within 5 calendar days of conclusion.

(e) A covered attorney may, based upon a claim of changed circumstances or newly discovered evidence, petition for dissolution or amendment of JAG's imposition of interim suspension.

(f) Any professional responsibility investigation involving a covered attorney who has been suspended pursuant to this section shall proceed and be concluded without appreciable delay. However, JAG may determine it necessary to await completion of a related criminal investigation or proceeding, or completion of a professional responsibility action initiated by other licensing authorities. In such cases, JAG shall cause the Rules Counsel to so notify the covered attorney under interim suspension. Where necessary, continuation of the interim suspension shall be reviewed by JAG every 6 months.

§ 776.83 Preliminary inquiry.

(a) The purpose of the preliminary inquiry is to determine whether, in the opinion of the officer appointed to conduct the preliminary inquiry (PIO), the questioned conduct occurred and, if so, whether it constitutes a violation of this part or the Code of Judicial Conduct. The PIO is to recommend appropriate action in cases of substantiated violations.

(b) Upon receipt of the complaint and charges, the PIO shall promptly investigate the charges, generally following the format and procedures set forth in the Manual of the Judge Advocate General for the conduct of command investigations. Reports of relevant investigations by other authorities including, but not limited to, State bar associations may be used. The PIO should also:

(1) Identify and obtain sworn affidavits or statements from all relevant and material witnesses to the extent practicable;

(2) Identify, gather, and preserve all other relevant and material evidence; and

(3) Provide the covered attorney concerned an opportunity to review all evidence, affidavits, and statements collected and a reasonable period of time (normally not exceeding 7 days) to submit a written statement or any other written material that the covered attorney wishes considered.

(c) The PIO may appoint and use such assistants as may be necessary to conduct the preliminary inquiry.

(d) The PIO shall personally review the results of the preliminary inquiry to determine whether, by a preponderance of the evidence, a violation of this part or of the Judicial Code has occurred.

(1) If the PIO determines that no violation has occurred or that the violation is minor or technical in nature and warrants only corrective counseling, then he or she may recommend that the file be closed.

(2) If the PIO determines by a preponderance of the evidence that a violation did occur, and that corrective action greater than counseling may be warranted, he or she shall then recommend what further action is deemed appropriate.

(e) The PIO shall forward (via the OEGCMJ in appropriate Marine cases) the results of the preliminary inquiry to the Rules Counsel, providing copies to the covered attorney concerned and all parties to whom the charges were previously sent.

(f) The Rules Counsel shall review all preliminary inquiries. If the report is determined by the Rules Counsel to be incomplete, the Rules Counsel shall return it to the PIO, or to another inquiry officer, for further or supplemental inquiry. If the report is complete, then:

(1) If the Rules Counsel determines, either consistent with the PIO recommendation or through the Rules Counsel's own review of the report, that a violation of this part or Code of Judicial Conduct has not occurred and that further action is not warranted, the Rules Counsel shall close the file and notify the complainant, the covered attorney concerned, and all officials previously provided copies of the complaint. JAG(13) and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file.

(2) If the Rules Counsel determines, either consistent with a PIO recommendation or through the Rules Counsel's own review of the report, that a violation of this part has occurred but that the violation is of a minor or technical nature, then the Rules Counsel may determine that corrective counseling is appropriate and close the file. The Rules Counsel shall report any such decision to the JAG. The Rules Counsel shall ensure that the covered attorney concerned receives appropriate counseling and shall notify the complainant, the covered attorney concerned, and all officials previously provided copies of the complaint that the file has been closed. JAG(13) and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file. The covered attorney concerned is responsible, under these circumstances, to determine if his or her Federal, state, or local licensing authority requires reporting such action.

(3) If the Rules Counsel determines, either consistent with a PIO recommendation or through the Rules Counsel's own review of the report, that further professional discipline or corrective action may be warranted, the Rules Counsel shall:

(i) In cases involving Marine Corps attorneys not serving as defense counsel or attached to Navy units, request, on behalf of JAG, that the subject attorney's OEGCMJ appoint a disinterested covered attorney (normally senior to the covered attorney complained of and not previously involved in the case) to conduct an ethics investigation into the matter;

(ii) In all other cases, appoint, on behalf of JAG, a disinterested covered attorney (normally senior to the covered attorney complained of and not previously involved in the case) to conduct an ethics investigation; and

(iii) Notify those supervisory attorneys listed in § 776.81(c) and § 776.81(d) of this part.

§ 776.84 Ethics investigation.

(a) Whenever an ethics investigation is initiated, the covered attorney concerned will be so notified, in writing, by the Rules Counsel.

(b) The covered attorney concerned will be provided written notice of the following rights in connection with the ethics investigation:

(1) To request a hearing before the investigating officer (IO);

(2) To inspect all evidence gathered;

(3) To present written or oral statements or materials for consideration;

(4) To call witnesses at his or her own expense (local military witnesses should be made available at no cost);

(5) To be assisted by counsel (see paragraph (c) of this section);

(6) To challenge the IO for cause (such challenges must be made in writing and sent to the Rules Counsel via the challenged officer); and

(7) To waive any or all of these rights.

(c) The covered attorney may be represented by counsel at the hearing. Such counsel may be:

(1) A civilian attorney retained at no expense to the Government; or,

(2) In the case of a covered USG attorney, another USG attorney:

(i) Detailed by the cognizant Naval Legal Service Office (NLSO), Law Center, or Legal Service Support Section (LSSS); or

(ii) Requested by the covered attorney concerned, if such counsel is attached to the cognizant NLSO, Law Center, LSSS, or to a Navy or Marine Corps activity located within 100 miles of the hearing site at the time of the scheduled hearing, and if such counsel is reasonably available, as determined by the requested counsel's reporting senior in his or her sole discretion. There is no right to detailed counsel if requested counsel is made available.

(d) If a hearing is requested, the IO will conduct the hearing after reasonable notice to the covered attorney concerned. The hearing will not be unreasonably delayed. The hearing is not adversarial in nature and there is no right to subpoena witnesses. Rules of evidence do not apply. The covered attorney concerned or his or her counsel may question witnesses that appear. The proceedings shall be recorded but no transcript of the hearing need be made. Evidence gathered during, or subsequent to, the preliminary inquiry and such additional evidence as may be offered by the covered attorney shall be considered.

(e) The IO may appoint and use such assistants as may be necessary to conduct the ethics investigation.

(f) The IO shall prepare a report which summarizes the evidence, to include information presented at any hearing.

(1) If the IO believes that no violation has occurred or that the violation is minor or technical in nature and warrants only corrective counseling, then he or she may recommend that the file be closed.

(2) If the IO believes that a violation did occur, and that corrective action greater than counseling is warranted, he or she shall then recommend what further action is deemed appropriate.

(g) The IO shall forward the ethics investigation, including the IO's recommendations, to the Rules Counsel, as follows:

(1) In cases involving Navy or Marine Corps attorneys serving with NLSC units, via Vice Commander, NLSC;

(2) In cases involving Navy attorneys serving with Marine Corps units, via the Commandant of the Marine Corps (Attn: JA);

(3) In cases involving Navy or Marine Corps attorneys serving in subordinate Navy fleet or staff billets, via the fleet or staff judge advocate attached to the appropriate second-echelon commander;

(4) In cases involving members of the Navy-Marine Corps Trial Judiciary, via the Trial Judiciary Chief Judge;

(5) In cases involving Marine Corps attorneys serving in defense billets, via the Chief Defense Counsel of the Marine Corps;

(6) In cases involving Marine Corps attorneys not serving in defense counsel billets or in Navy units, via the OEGCMJ over the concerned attorney; and

(7) In cases involving covered attorneys certified by the Judge Advocates General/Chief Counsel of the other U.S. Armed Forces, via the appropriate military service attorney discipline section of that U.S. Armed Force.

(h) The Rules Counsel shall review all ethics investigations. If the report is determined by the Rules Counsel to be incomplete, the Rules Counsel shall return it to the IO, or to another inquiry officer, for further or supplemental inquiry. If the report is complete, then:

(1) If the Rules Counsel determines, either consistent with the IO recommendation or through the Rules Counsel's own review of the investigation, that a violation of this part or Code of Judicial Conduct has not occurred and that further action is not warranted, the Rules Counsel shall close the file and notify the complainant, the covered attorney concerned, and all officials previously provided copies of the complaint. JAG(13) and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file.

(2) If the Rules Counsel determines, either consistent with the IO recommendation or through the Rules Counsel's own review of the investigation, that a violation of this part or Code of Judicial Conduct has occurred but that the violation is of a minor or technical nature, then the Rules Counsel may determine that corrective counseling is appropriate and close the file. The Rules Counsel shall report any such decision to the JAG. The Rules Counsel shall ensure that the covered attorney concerned receives appropriate counseling and shall notify the complainant, the covered attorney concerned, and all officials previously provided copies of the complaint that the file has been closed. JAG(13) and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file. The covered attorney concerned is responsible, under these circumstances, to determine if his or her Federal, state, or local licensing authority requires reporting such action.

(3) If the Rules Counsel believes, either consistent with the IO recommendation or through the Rules Counsel's own review of the investigation, that professional disciplinary action greater than corrective counseling is warranted, the Rules Counsel shall forward the investigation, with recommendations as to appropriate disposition, to JAG.

§ 776.85 Effect of separate proceeding.

(a) For purposes of this section, the term ''separate proceeding'' includes, but is not limited to, court-martial, non-judicial punishment, administrative board, or similar civilian or military proceeding.

(b) In cases in which a covered attorney is determined, at a separate proceeding determined by the Rules Counsel to afford procedural protection equal to that provided by a preliminary inquiry under this instruction, to have committed misconduct which forms the basis for ethics charges under this instruction, the Rules Counsel may dispense with the preliminary inquiry and proceed directly with an ethics investigation.

(c) In those cases in which a covered attorney is determined to have committed misconduct at a separate proceeding which the Rules Counsel determines has afforded procedural protection equal to that provided by an ethics investigation under this instruction, the previous determination regarding the underlying misconduct is *res judicata* with respect to that issue during an ethics investigation. A subsequent ethics investigation based on such misconduct shall afford the covered attorney a hearing into whether the underlying misconduct constitutes a violation of this part, whether the violation affects his or her fitness to practice law, and what sanctions, if any, are appropriate.

(d) The Rules Counsel may dispense with the preliminary inquiry and ethics investigation, and if warranted, recommend to JAG that the covered attorney concerned be disciplined, consistent with this subpart, after providing the covered attorney concerned written notice and an opportunity to be heard in writing, in those cases in which a covered attorney has been:

(1) Decertified or suspended from the practice of law or otherwise subjected to professional responsibility discipline by the Judge Advocate General of another Military Department;

(2) Disbarred or suspended from the practice of law or otherwise subjected to professional responsibility discipline by the Court of Appeals for the Armed Forces or by any Federal, State, or local bar; or

(3) Convicted of a felony (or any offense punishable by one year or more of imprisonment) in a civilian or military court which, in the opinion of the Rules Counsel, renders the attorney unqualified or incapable of properly or ethically representing the DON or a client when the Rules Counsel has determined that the attorney was afforded procedural protection equal to that provided by an ethics investigation under this instruction.

§ 776.86 Action by JAG.

(a) JAG is not bound by the recommendation rendered by the Rules Counsel, IO, PIO, or any other interested party, but will base any action on the record as a whole. Nothing in this instruction limits JAG authority to suspend from the practice of law in DON matters any covered attorney alleged or found to have committed professional misconduct or violated this part, either in DON or civilian proceedings.

(b) JAG may, but is not required to, refer any case to the Professional Responsibility Committee for an advisory opinion on interpretation of subpart B of this part or its application to the facts of a particular case.

(c) Upon receipt of the ethics investigation, and any requested advisory opinion, JAG will take such action as JAG considers appropriate in JAG's sole discretion. JAG may, for example:

(1) Direct further inquiry into specified areas.

(2) Where determining the allegations to be unfounded, or that no further action is warranted, direct the Rules Counsel to make appropriate file entries and to notify the complainant, covered attorney concerned, and all interested parties of such determination.

(3) Where determining the allegations to be supported by clear and convincing evidence, take appropriate corrective action including, but not limited to:

(i) Limiting the covered attorney to practice under direct supervision of a supervisory attorney;

(ii) Limiting the covered attorney to practice in certain areas or forbidding him or her from practice in certain areas;

(iii) Suspending or revoking, for a specified or indefinite period, the covered attorney's authority to provide legal assistance;

(iv) Where finding that the misconduct so adversely affects the covered attorney's continuing ability to practice law in the naval service or that the misconduct so prejudices the reputation of the DON legal community, the administration of military justice, the practice of law under the cognizance of JAG, or the armed services as a whole, that certification under Article 27(b), UCMJ (10 U.S.C. 827(b)), or R.C.M. 502(b)(3), MCM, 1998, should be suspended or is no longer appropriate, directing such certification to be suspended for a prescribed or indefinite period or to be removed permanently;

(v) In the case of a judge, where finding that the misconduct so prejudices the reputation of military trial and appellate judges that certification under Article 26(b), UCMJ (10 U.S.C. 826(b)), should be suspended or is no longer appropriate, directing such certification to be suspended for a prescribed or indefinite period or to be removed permanently; and

(vi) Directing the Rules Counsel to contact appropriate authorities such as the Chief of Naval Personnel or the Commandant of the Marine Corps so that pertinent entries in appropriate DON records may be made; notifying the complainant, covered attorney concerned, and any officials previously provided copies of the complaint; and notifying appropriate tribunals and authorities of any action taken to suspend, decertify, or limit the practice of a covered attorney as counsel before courts-martial or the U.S. Navy-Marine Corps Court of Appeals, administrative boards, as a legal assistance attorney, or in any other legal proceeding or matter conducted under JAG cognizance and supervision.

§ 776.87 Finality.

Any action taken by JAG is final, subject to any remedies afforded by Navy Regulations or any other regulation to the covered attorney concerned.

§ 776.88 Report to licensing authorities.

Upon determination by JAG that a violation of the Rules or the Code of Judicial Conduct has occurred, JAG may cause the Rules Counsel to report that fact to the Federal, State, or local bar or other licensing authority of the covered attorney concerned. If so reported, notice to the covered attorney shall be provided by the Rules Counsel. The JAG's decision in no way diminishes a covered attorney's responsibility to report adverse professional disciplinary action as required by the attorney's Federal, State, and local bar or other licensing authority.

Subpart D—[Reserved]

Dated: March 1, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–6522 Filed 3–20–00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 3 and 13

RIN 1024–AC65

Personal Watercraft Use Within the NPS System

AGENCY: National Park Service, (NPS), Interior

ACTION: Final rule.

SUMMARY: This rule will prohibit personal watercraft (PWC) in areas of the National Park System unless the NPS determines that PWC use is appropriate for a specific area based on that area's enabling legislation, resources and values, other visitor uses and overall management objectives. This rule describes a process that will allow continued PWC use in some areas and will enable us to protect visitors and resources while managing the use of personal watercraft.

EFFECTIVE DATE: April 20, 2000.

ADDRESSES: Mail inquiries to: NPS—Ranger Activities Division, Room 7408, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Chip Davis at the above address or by calling 202–208–4874.

SUPPLEMENTARY INFORMATION:

Background

The NPS is granted broad statutory authority under various acts of Congress to manage and regulate water activities in areas of the National Park System, 16 United States Code (U.S.C.), and 16 U.S.C. 1a–2(h) and 3. The Organic Act, 16 U.S.C. 1 *et seq.*, authorizes the NPS to ''* * * regulate the use of the Federal areas known as national parks, monuments, and reservations * * * by such means and measures as conform to the fundamental purpose of the said parks * * * which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Congress has also emphasized that the ''* * * authorization of activities shall be construed and the protection management and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by congress.'' 16 U.S.C. 1a–1. The appropriateness of a visitor use or recreational activity will vary from park to park. *NPS Management Policies* states that ''* * * because of differences in individual park enabling legislation and resources and differences in the missions of the NPS and other Federal agencies, an activity that is entirely appropriate when conducted in one location may be inappropriate if conducted in another'' (Chapter 8:2–3).

NPS Management Policies provide further direction in implementing the intent of the congressional mandate and other applicable Federal legislation. The policy of the NPS regarding protection and management of natural resources is ''The National Park Service will manage the natural resources of the national park system to maintain, rehabilitate, and perpetuate their inherent integrity'' (Chapter 4:1).

The Organic Act and the other statutory authorities of the NPS vest us with substantial discretion in determining how best to manage park resources and provide for park visitors. ''Courts have noted that the Organic Act is silent as to the specifics of park management and that 'under such circumstances, the Park Service has broad discretion in determining which avenues best achieve the Organic Act's mandate. * * * * Further, the Park Service is empowered with the authority to determine what uses of park resources are proper and what proportion of the park resources are available for each use.'' *Bicycle Trails Council of Marin* v. *Babbitt*, 82 F.3d 1445, 1454 (9th Cir. 1996), quoting *National Wildlife Federation* v. *National Park Service*, 669 F. Supp. 384, 390 (D.Wyo. 1987). In reviewing a challenge to NPS regulations at Everglades National Park, the court stated, ''The task of weighing the competing uses of Federal property has been delegated by Congress to the Secretary of the Interior. * * * Consequently, the Secretary has

broad discretion in determining how best to protect public land resources.'' *Organized Fishermen of Florida* v. *Hodel*, 775 F.2d 1544, 1550 (11th Cir. 1985), *cert. denied*, 476 U.S. 1169 (1986). There is a limitation on this discretion.

Over the years, NPS areas have been impacted with new, and what often prove to be controversial, recreational activities. These recreational activities tend to gain a foothold in NPS areas in their infancy, before a full evaluation of the possible impacts and ramifications that expanded use will have on the area can be initiated, completed and considered. PWC use fits this category.

PWC use is a relatively new recreational activity that has been observed in about 32 of the 87 areas of the National Park System that allow motorized boating. PWCs are high performance vessels designed for speed and maneuverability and are often used to perform stunt-like maneuvers. PWC includes vessels commonly referred to as jet ski, waverunner, wavejammer, wetjet, sea-doo, wet bike and surf jet. Over 1.3 million PWCs are in use today with annual sales of approximately 150,000 units. The Personal Watercraft Industry Association (PWIA), which consists of about five or six PWC manufacturers, coined the term ''Personal Watercraft.''

This rule takes a conservative approach to managing PWC use in areas of the National Park System based on consideration of the potential resource impacts, conflicts with other visitors' uses and enjoyment, and safety concerns. The rule prohibits PWC use in areas of the National Park System unless we determine that PWC use is appropriate for a specific area based on that area's enabling legislation, resources, values, other visitor uses, and overall management objectives.

It is the policy of the National Park Service to regulate motorized recreational activity in park areas to mitigate resource degradation. It is our intention to utilize the expertise of the Environmental Protection Agency, Occupational Safety and Health Administration and other cooperating agencies as a way of maintaining the environmental integrity of park areas.

The rule allows two methods of authorizing PWC use. The first method is available for a relatively small group of Park Service areas (10 park areas identified in Table 1) where authorization might be appropriately and successfully accomplished through the Park Superintendent's Compendium, a locally based procedure described in 36 CFR 1.5 and 1.7. This method is referred to as Park Designated PWC Use. The second method, Special Regulation rulemaking through the **Federal Register**, is available for all park areas (including the 10 park areas in Table 1) where authorization of PWC use may be deemed appropriate. This method is referred to in this rule as Special Regulation PWC Use.

As an interim measure, a two-year grace period is available to NPS areas listed in the regulation. Park areas are identified for inclusion on the two tables established in this rule based upon whether there is current PWC use and an area's enabling legislation, resources, values, other visitor uses, and overall management objectives for the individual park area. The grace period would allow PWC use to continue, with any necessary and appropriate restrictions, while park managers evaluates the impact of PWC use in the identified park area. Superintendents may restrict PWC use through zoning, hour limits, etc., during the grace period. PWC use could also be closed during the grace period in any area through the compendium procedures, by following the public process described in 36 CFR 1.5 and 1.7.

The first method for authorizing PWC use in park areas is through the Park Superintendent's Compendium. The following areas are in this Park Designated PWC Use category:

TABLE 1.—PARK DESIGNATED PWC USE

Name	Water type	State
Amistad National Recreation Area	Impounded Lake	TX
Bighorn Canyon National Recreation Area	Impounded Lake	MT
Chickasaw National Recreation Area	Impounded Lake	OK
Curecanti National Recreation Area	Impounded Lake	CO
Gateway National Recreation Area	Open Ocean/Bay	NY
Glen Canyon National Recreation Area	Impounded Lake	AZ/UT
Lake Mead National Recreation Area	Impounded Lake	AZ/NV
Lake Meredith National Recreation Area	Impounded Lake	TX
Lake Roosevelt National Recreation Area	Impounded Lake	WA
Whiskeytown-Shasta-Trinity National Recreation Area	Impounded Lake	CA

In these Park Designated areas, Table 1., PWC use could continue, subject to management restrictions through the compendium, until April 22, 2002. After this date continued PWC use in these areas will require authorization either by the compendium or by special regulation as described below. During the grace period (April 20, 2000 to April 22, 2002) no authorizing administrative action is needed to allow PWCs to continue to operate in the park areas identified in Table 1. The grace period maintains the authority requirements that existed prior to the adoption of this regulation for two years. The compendium procedures authorize the superintendent to restrict or allow activities, among other things, ''for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, * * * or the avoidance of conflict among visitor use activities.'' 36 CFR 1.5(a). These procedures authorize the superintendent to take such actions using locally based methods, unless the proposed action ''is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the area, or is of a highly controversial nature * * *'' 36 CFR 1.5(b). In these circumstances, the superintendent must elevate the authorization to a Special Regulation rulemaking through the **Federal Register**, which is the authorization procedure required by this rule of all other areas of the National Park System designating PWC use.

A review of the legislation establishing these ten Park Designated areas shows that water-related recreation was a primary purpose for

these ten parks and they are characterized by substantial motorized use. Nine of the park areas contain man-made lakes created by the construction of dams, and one park area has open ocean or bay waters. It has been our experience that visitors to all ten areas appear generally to expect and accept a variety of motorized boating, including PWCs.

Whether a regulation or a compendium has been adopted to designate the use of PWCs in an area, the superintendent maintains the authority under 36 CFR 1.5 to manage the PWC use within these areas, e.g., by area closures, public use limits or other restrictions.

The second method for authorizing PWC use in park areas is a Special Regulation rulemaking in the **Federal Register**. The following areas covered by the two-year grace period are in this Special Regulation category:

TABLE 2.—SPECIAL REGULATION PWC USE

Name	Water type	State
Assateague Island National Seashore	Open Ocean/Bay	MD/VA
Cape Cod National Seashore	Open Ocean/Bay	MA
Cape Lookout National Seashore	Open Ocean/Bay	NC
Cumberland Island National Seashore	Open Ocean/Bay	GA
Fire Island National Seashore	Open Ocean/Bay	NY
Gulf Islands National Seashore	Open Ocean/Bay	FL/MS
Padre Island National Seashore	Open Ocean/Bay	TX
Indiana Dunes National Lakeshore	Natural Lake	IN
Pictured Rocks National Lakeshore	Natural Lake	MI
Delaware Water Gap National Recreation Area	River	PA/NJ
Big Thicket National Preserve	River	TX

In these Special Regulation areas, Table 2., PWC use could continue during the grace period, subject to appropriate limited restrictions through the compendium, until April 22, 2002. During this two-year grace period, the superintendents of these areas would be able to develop special regulations to allow PWC use to continue. After April 22, 2002, PWC use in these areas can be authorized only by special regulation as described below.

The Special Regulation method provides publication in the **Federal Register** with nationwide notice and opportunity to comment on any proposal to authorize PWC use in an area of the NPS. This method is similar to the approach we have used on other activities that raise questions of resource impacts, visitor use conflicts, or significant controversy, such as snowmobile and off-road vehicle use, bicycle use in undeveloped park zones, aircraft landing, and hang-gliding. (See, e.g., 36 CFR 2.17, 2.18, and 4.30).

Classification	Two year grace period		After two years	
	Open	Closed	Open	Closed
Park Designated Areas (36 CFR 1.5 & 1.7) (10 Areas).	Yes, Manage PWC by Compendium.	No, Can close by Compendium.	No, Except by Compendium or Special Regulation.	Yes, If no Compendium or Special Regulation in place.
Special Regulation Areas (11 Areas).	Yes, Manage PWC by Compendium.	No, Can close by Compendium.	No, Except by Special Regulation.	Yes, If no Special Regulation in place.
All Other Areas	No, Except by Special Regulation.	Yes, Closed by General PWC Regulation.	No, Except by Special Regulation.	Yes, If no Special Regulation in place.

Our conservative approach to authorizing PWC use in areas of the NPS reflects many concerns that have been raised about such use. These concerns, detailed in the preamble for the proposed rule, coupled with an analysis of the comments received, lead us to conclude that PWC use is inappropriate in most areas of the National Park System. We also recognize that PWC use appears to be appropriate in certain park areas. It is clear that Congress intended the NPS to manage an active motorized water-based recreation program on the large man-made lakes of Lake Mead and Glen Canyon National Recreation Areas and it seems appropriate for PWC use to be part of that recreation program. The

final rule designates park areas where PWC use would be allowed. Any designation must take into consideration the park area's enabling legislation, resources and values and other visitor uses.

Twelve NPS areas are closed as a result of the current rulemaking, (listed below, Group A). Two additional areas have existing closures by prior park specific regulations, Everglades & Yellowstone National Parks and two additional areas have horsepower and/or engine restrictions which prohibit PWC use, Buffalo & Ozark National Rivers (listed below Group B). Crescent Lake in Olympic National Park and lakes in Glacier and North Cascades National Parks closed based on public comment and hearings during the park General Management Plan process. Additional lakes in Olympic NP may close during this rulemaking.

GROUP A.—NPS AREAS OF PRIOR PWC USE THAT CLOSED DURING THIS RULEMAKING

Name	Water type	State
Biscayne National Park	Open Ocean/Bay	FL
Canaveral National Seashore	Open Ocean/Bay	FL
Golden Gate National Rec Area	Open Ocean/Bay	CA
Cape Hatteras National Seashore	Open Ocean/Bay	NC
Apostle Islands National Lakeshore	Natural Lake	WI
Isle Royal National Park	Natural Lake	MI
Glacier National Park	Natural Lake	MT
Olympic National Park	Natural Lake	WA
Sleeping Bear Dunes National Lakeshore	Natural Lake	MI
Canyonlands National Park	River	UT
Grand Canyon National Park	River	AZ
St. Croix National Scenic Riverway	River	WI/MN

GROUP B.—NPS AREAS CLOSED TO PWC USE BY OTHER PRIOR MEANS

Name	Water type	State
Everglades National Park	Open Ocean/Bay	FL
Buffalo National Scenic River	River	AK
Ozark National Scenic Riverways	River	MO
Glacier National Park	Natural Lake	MT
Olympic National Park	Natural Lake	WA
Yellowstone National Park	Natural Lake	MT/WY
North Cascades National Park	Impounded Lake	WA

The National Recreation Lakes Study Commission (NRLS) lists 1,782 federally managed man-made lakes and reservoirs. The NPS manages 82 of these lakes, (4.6%). A number of the NPS managed lakes will have continued PWC use. Therefore, well over 95% of the federally managed recreation lakes will be unaffected by this rulemaking. The NRLS report is available on the Department of Interior's web site *www.doi.gov/nrls/freq—ask.htm*

Changes to the Final Rule

Some changes have been made to the lists of park areas that were in the proposed rule. The two-year grace period described in the proposed rule remains available to a limited number of listed park areas. The grace period allows PWC use to continue, with any necessary restrictions, while park management evaluates the future of PWC use in the identified park area. Golden Gate and Chattahoochee National Recreation Areas and Canaveral and Cape Hatteras National Seashores were removed from the list. The Superintendents in these park areas determined since the proposed rule was published that PWC use posed a significant threat to park resources and values and adversely affected the park experience of other visitors. Sleeping Bear Dunes National Lakeshore was removed from the lists because the Superintendent determined that PWC use interferes with park visitor's opportunity to experience solitude and quiet in a near primitive environment. The Superintendents closed park waters to PWC use after determining that PWC use is not compatible with the purpose of the parks or the goals/objectives for management of the parks. Therefore, these park areas no longer need the coverage of the grace period.

Gulf Islands and Padre Island National Seashores were moved from the list of areas in the proposed rule using the Superintendent's compendium to authorize PWC use (Table 1) to the list of areas required to use Special Regulation rulemaking in the **Federal Register** (Table 2) in order to authorize the use of PWCs after the two year grace period. These two park areas were moved to the Special Regulation list (Table 2) because the park areas listed in the Park Designated PWC Use category (Table 1) are National Recreation Areas consisting of impounded lakes with active boating programs (Gateway National Recreation Area is also included in Table 1). It was determined that the two National Seashores should be on the list (Table 2) with the other National Seashores and subject to the same procedural requirements of promulgating a Special Regulation if PWC use is to continue after the two year grace period.

Big Thicket National Preserve was added to the list of areas covered by the grace period in order to allow use of PWC to continue during the Special Regulation rulemaking period (Table 2). Big Thicket National Preserve should have been included in the list (Table 2) in the proposed rule and was not included only because of an administrative oversight by the NPS. Big Thicket National Preserve satisfies the same criteria as the other park areas listed in Table 2. There is current PWC use at Big Thicket Preserve as a recreational activity consistent with the enabling act for the park. The use of PWCs presently is consistent with the resources and values of the park, is not causing any conflicts with other park visitors and is consistent with the overall management objectives of the

park. The two-year grace period will enable these three park areas to evaluate the impacts of continuation of use and the appropriateness of future use as part of the rulemaking process.

As a result of comments received, specifically from the State of Alaska, the proposed rule was changed to reflect the statutory (16 U.S.C. 3170) and regulatory (43 CFR 36.11) authority that exists authorizing this use in Alaska park areas. The proposed rule has also been changed for purposes of clarification by including in 36 CFR part 13, a definition of motorboat.

Summary of Comments

This rule was published in proposed form for public comment on September 15, 1998 (63 FR 49312), with the comment period lasting until November 16, 1998. The National Park Service received almost 20,000 timely written responses regarding the proposed regulation. Of the responses 13,089 were form letters, 724 were individual letters, 778 were electronic mail, and 7,391 were signatures on 87 separate petitions. Responses received included 14,688 from individuals, 1,639 from businesses, 5,650 from organizations, 2 from Federal agencies, and 3 from State governments.

Within the analysis, the term ''commenter'' refers to an individual, business, or organization that responded. The term ''comments'' refers to statements made by a commenter.

Analysis of Comments

Issue 1

We received 12,783 comments from groups, organizations, and individuals alleging discrimination in the prohibition of personal watercraft use in National Park Service areas. Almost all of the commenters stated that we could not prohibit one type of vessel in an area, such as PWC, and allow all other vessels. They said that we could not discriminate. The majority of these comments were from petitions stating that we based the proposed rule on anecdotal evidence and not scientific fact. They said that there was no basis to prohibit personal watercraft use in National Parks.

NPS Response

The District of Columbia Court of Appeals in Personal Watercraft Industry Association v. Department of Commerce, 48 F.3d 540 (D. C. Cir. 1995), ruled that an agency could discriminate and manage one type of vessel (PWC) differently than other vessels, provided the agency explains its reasons for doing so. The NPS regulation is intended to give the agency an opportunity to evaluate the impacts of PWC use before authorizing their use. This is the same general approach that the NPS uses for snowmobiles, off-road vehicles and other similar activities. PWC have been singled out because of the concerns raised by park visitors and park managers. These concerns include visitor conflicts, safety, inappropriate use, resource impacts, noise, wildlife disturbance and pollution.

Issue 2

Numerous commenters suggested that we were abdicating our responsibility to manage personal watercraft use by simply prohibiting their use entirely. They stated that enforcement of existing rules and regulations would remedy or mitigate problems and thus would not discriminate against the vast majority of law abiding PWC users.

NPS Response

We recognize that enforcement of existing rules and regulations are important; however, enforcement cannot completely prevent user conflicts or resource damage. The NPS believes that giving Superintendents the opportunity to evaluate the impact of personal watercraft use to determine if the use is detrimental to a park's natural, cultural, scenic, aesthetic or recreational values is the best approach for regulating PWC use at this time.

Issue 3

We received several industry comments stating that the outspoken views of certain park managers who object to personal watercraft use is indicative of the widespread Service exclusionary attitude toward personal watercraft.

NPS Response

We do not agree with this statement. There are park areas that will allow uninterrupted PWC use to continue and several others that may allow use after adopting a special regulation through public notice and comment rulemaking process.

Issue 4

Numerous commenters stated that our reliance on the Everglades National Park (ENP) report is flawed because it is not a scientific study, more recent research is available, and that the opinions stated in the ENP report are unsupported.

NPS Response

The ENP report stated that the Endangered Species Act specifically allows for prohibition of activities that may have adverse impacts on listed or proposed species, until studies determine otherwise. We recognize the need for more research but do not subscribe to the idea that there must be harm to the resources before we take action. Further, this rule is not based on the findings of the Everglades National Park Report. The report is merely an additional piece of information supporting this rule.

Issue 5

Several commenters suggested that the erosion of solitude was due to a steady increase in park visitation, not one specific type of recreational vessel.

NPS Response

The average visitation has increased in park areas and the NPS is working hard to maintain the purposes and values of the parks including solitude. Personal watercraft use is one of the activities that can have a direct and adverse effect on park values such as peace and quiet. As stated in the NPS Management Policies, the appropriateness of a visitor use or recreational activity will vary from park to park. This is particularly true with uses like PWCs.

Issue 6

Numerous commenters stated that we are suggesting that one type of park experience is more meaningful than another. They consider this subjective or discriminatory toward the four million personal watercraft users.

NPS Response

The implication is that we place less value on personal watercraft use than other forms of recreation. The Organic Act is the gauge by which the NPS evaluates recreational activities. Those activities that are contrary to the Act must be prohibited. The damage to natural and cultural resources and derogation of other values for which the park was created must be minimized or eliminated in order to avoid activities that permanently impair essential park resources.

Issue 7

Several commenters suggested that the proposed rule be withdrawn and that any regulation of personal watercraft become a part of the current National Park Service comprehensive planning for park use.

NPS Response

This rule provides for determinations based on the management objectives of specific park areas. These objectives are part of the comprehensive park planning process. The Organic Act establishes our primary mission as the

preservation of parks' natural and cultural resources, while providing for the enjoyment of the visitor. The appropriateness of a visitor use or recreational activity may vary from park to park. *NPS Management Policies* states that '' . . . because of differences in individual park enabling legislation and resources and differences in the missions of the NPS and other Federal agencies, an activity that is entirely appropriate when conducted in one location may be inappropriate if conducted in another'' (Chapter 8:2–3).

Issue 8

One organization commented on the social aspect of PWC, stating that the proposed rule could be unfair to the over 1,000,000 PWC owners and the over 3,000,000 family and friends who enjoy PWC use with those owners.

NPS Response

The NPS manages a very small portion of the total U. S. water recreation area available to U. S. citizens. There are numerous water recreation areas available for PWC use other than NPS areas. We will still provide recreation opportunity for PWC use in a number of NPS areas where it is appropriate. Closure of some NPS areas to PWC use will enhance the visitor experience for numerous visitors. NPS management policies derive from the Organic Act and Congressional mandates. Protection of sensitive resources is a primary objective of NPS management. Our conservative approach to PWC use in NPS areas allows us to meet this objective.

Issue 9

We received 271 comments indicating that we could not manage PWC use in NPS areas and banning their use was a simple solution to the problem.

NPS Response

PWC have been managed by various methods. This regulation is another method for managing PWC use. As stated in this preamble, the NPS is taking this conservative approach because it believes it is the best method for managing PWC use at this time.

Issue 10

The State of Alaska commented that the proposed regulation was silent on how the special access and procedural provisions of the Alaska National Interest Lands Conservation Act (ANILCA) will be met when regulating PWC use in Alaska's national park system units. The comment noted that Section 1110(a) of ANILCA recognized that motorized equipment used for recreation in the lower 48 states was, in Alaska, often used for access for traditional activities. The comment also stated that PWC use may be incompatible with the other uses and natural values of many park units nationwide and in Alaska. The comment noted that the State is particularly concerned about conflicts with other boaters and other park users and impacts on wildlife, birds and aquatic vegetation.

NPS Response

NPS shares the State's concern about the incompatibility of PWC's within park units in Alaska and elsewhere in the United States; such concerns have prompted this regulatory action. The proposed regulations as well as the final regulations here apply to all units of the National Park System, including those in Alaska. The proposed rule clearly indicated that it applied to the Alaska park units in subsection 3.24(a) which stated that PWCs were ''allowed only in designated areas'' within the National Park System nationwide. Furthermore, no Alaska parks were identified for separate regulatory treatment under either subsections 3.24 (b) or (c) of the proposal.

For the reasons explained below, NPS believes that nothing in this regulation is inconsistent with either Section 1110(a) of ANILCA, which allows access within Alaska conservation system units (including national park system units) by certain specified means, including motorboats, for traditional activities and travel to and from villages and homesites, or the Departmental regulations implementing that statute found at 43 CFR part 36. In response to the State's comment, we have clarified our interpretation in the NPS regulations at 36 CFR 13.1 by including a definition of the term ''motorboat'' which clarifies that it does not include a PWC.

The regulations use the term ''vessel'', which could give rise to an argument that PWCs are ''vessels'' protected by 43 CFR part 36. However, the term used in Section 1110(a) of ANILCA is not the broad term ''vessel'' but the more specific term ''motorboat.'' After examining the legislative history of Section 1110(a), and the Department's analysis in promulgating 43 CFR part 36 in 1986, as explained in what follows, we concluded that PWCs are not ''motorboats'' for purposes of Section 1110(a).

There is no existing statutory definition in ANILCA for either ''motorboat'' or ''PWC.'' It is NPS' understanding that PWCs were rarely, if ever, found in Alaska when ANILCA was enacted. Nothing in the legislative history suggests that Congress intended to authorize the use of PWCs in conservation system units for the purpose of conducting traditional activities in accordance with Section 1110(a). In light of the significant resource impacts posed by PWCs, which were discussed at length in the preamble to the proposed regulation and alluded to in the State of Alaska's comment, and the generally lesser resource impacts of motorboats, we believe that Congress has left to the discretion of the Secretary the authority to define the term ''motorboat,'' and the Secretary has reasonably concluded that this term does not include PWCs.

This conclusion is buttressed by the analysis made by the Department in 1986 when it promulgated two sets of regulations: Regulations applicable to FWS, NPS and BLM which implement Section 1110(a), at 43 CFR part 36; and the special regulations applicable to motorboat and other motorized watercraft usage on the Kenai National Wildlife Refuge at 50 CFR 36.39(i). The Department-wide regulations were approved by the Undersecretary of the Interior on July 2, 1986, although they were not published in the **Federal Register** until September 4, 1986 (51 FR 31619), and became effective on October 6, 1986. The **Federal Register** notice for the general regulation identified the Assistant Secretary for Fish and Wildlife and Parks (formerly Deputy Undersecretary for Alaska) as one of its primary authors. The Assistant Secretary also approved the Kenai NWR specific regulations on August 26, 1986. The Kenai regulations were published in the **Federal Register** on September 11, 1986 (51 FR 32329).

The Department has historically made interpretations of the terms and provisions in Section 1110(a). For example, in the general regulations, the Department concluded that helicopters were excluded from the Section 1110(a) protections afforded to airplanes:

> * * * A few objected to any restrictions being placed upon helicopter use, arguing that helicopters are a widely used means of transportation in Alaska, and that there is no reason to distinguish helicopters from fixed-wing aircraft. Others suggested that the provisions be amended to specifically allow emergency use of helicopters in areas without a permit, and also to allow helicopter use if pursuant to a memorandum of understanding with the appropriate Federal agency. Interior does not read the statutory authorization ''airplane'' of section 1110(a) as including helicopters. Accordingly, it is within its discretion to restrict helicopter use. Interior's experience has shown that uncontrolled helicopter use may have negative impacts on the purposes

and values for which the various areas were established, especially upon the wildlife. * * *

51 FR at 31627. Using the same kind of reasoning, we have excluded PWCs from the definition of ''motorboat.''

In the Kenai regulations, the Assistant Secretary approved a comprehensive regulatory scheme for access under Section 1110(a). Significantly, these regulations distinguished between motorboats and other forms of motorized watercraft:

Off-Road Vehicles. (i) The use of air cushion, airboat, or other motorized watercraft, except motorboats, is not allowed on the Kenai NWR, except as authorized by a special use permit from the Refuge Manager.

50 CFR 36.39(i)(3)(i). This was explained in the preamble to the regulation:

With respect to airboats, section 1110(a) of ANILCA and its legislative history indicate that motorboats were the only methods of motorized water transport that were to be given special access to conservation units. The Service recognizes that the modifier ''traditional'' in section 1110(a) does not refer to transportation methods but to the activities for which access is given. The Service therefore has revised section 3(i) of the regulations by rewording the phrase ''non-traditional motorized watercraft'' to read ''motorized watercraft except motorboats.''

Thus, in approving the Kenai NWR regulations in 1986, the Assistant Secretary specifically recognized that not all motorized watercraft are motorboats for purposes of Section 1110(a).

The Department's conclusion here is further supported by its treatment of snowmachines, another transportation form recognized in Section 1110(a). In separate regulations promulgated in 1981 implementing, in part, Section 1110(a) only months after the passage of ANILCA, NPS and FWS separately exercised the interpretive discretion afforded to the Secretary and by definition limited the class of snowmachines falling under the provisions of Section 1110(a) to those having a curb weight of less than 1,000 pounds. See, 46 FR 31854 (June 17, 1981) and 46 FR 31827 (June 17, 1981), respectively. While the Department-wide, general regulation in 1986 replaced various provisions of these NPS and FWS regulations, the general regulation did not define the term snowmachines and left unchanged both the FWS and NPS definitions. See, 51 FR 31619 (September 4, 1986). We have utilized this same interpretive discretion to exclude PWCs from the definition of motorboats herein placed in 36 CFR 13.1.

As noted in the preamble to the proposed regulations, there has also been a long regulatory history by various Federal agencies, including NPS, FWS and NOAA, in treating PWCs differently from other classes of motorized watercraft. The preamble also noted that at least 34 states have implemented or are considering legislation or regulations specific to the use and operation of PWCs. See 63 FR at 49314.

We also note the provision of the 1986 general regulation which explicitly preserves the ability of the appropriate agency to restrict or limit uses of an area under other applicable statutory authority (see, 43 CFR 36.11(h)(6)) and for which the following explanation was provided:

It is Interior's view however, that these uses may be limited or restricted pursuant to other applicable law. The Secretary of the Interior has authority in the areas administered by Interior to close areas or restrict use for a variety of reasons, such as for health and safety. We do not believe that these provisions of this section of ANILCA were intended to preclude the Secretary from utilizing other statutory authorizations to restrict these uses. * * * Interior has determined that these regulations should be limited to closures under the authority of that section [1110(a)]. Accordingly, by, limiting these regulations to closures authorized by section 1110(a), it was determined that the category of closure ''emergency'' was no longer necessary, and as such is covered by other established authority. Regulations providing for the closure of areas for reasons other than under the provisions of section 1110(a) include: For the NPS, 36 CFR 1.5; for the FWS, 50 CFR 25.21; and for the BLM, 43 CFR 8364; 51 F.R. at 31628.

Given the lack of any legislative history suggesting that access by PWC was intended to be protected by Section 1110(a), the Department's analysis in 1986 that underlay the Departmental and Kenai NWR regulations implementing Section 1110(a), and the different resource impacts posed by PWCs compared to motorboats, it is within the Secretary's discretion to define the term ''motorboat'' to exclude PWCs, and a clarifying definition was included in the final rule to that effect. Because there is little, if any, present use of PWCs in the National Parks in Alaska, we find that excluding PWCs from the definition of motorboat will have little effect on continued access to the parks for the conduct of traditional activities as intended by Section 1110(a).

Issue 11

The International Association of Fish and Wildlife Agencies commented that the NPS could only regulate PWC use in waters where we have jurisdiction. They contend that this authority to regulate could not extend to adjacent waters or navigable waters within Park boundaries that are subject to regulations by States.

NPS Response

Congress has directed and the courts have upheld the authority of the NPS to regulate waters within the congressionally established boundaries of a park area. *United States* v. *Armstrong,* 186 F.3d 1055 (8th Cir. 1999). Pursuant to the Property and Commerce Clauses of the U. S. Constitution, Congress has given the NPS specific statutory authority to regulate boating and other activities on waters, including navigable waters, within units of the National Park System, 16 U. S. C. 1a–2 (h).

Issue 12

One PWC manufacturer submitted a comment about the usefulness of PWC in situations other than recreation. For example, they suggest PWC might be useful during flood relief efforts, surf rescue or crowd control during boating events. Additionally the manufacturer suggests that PWC are more functional for disabled users. They contend that the advantage of PWC use by visitors who are paraplegic or otherwise wheelchair bound is that a PWC offers hand controls.

NPS Response

Administrative activities in emergency operations involving threats to life, property or park resources, conducted by the NPS or authorized agents will not be affected by this rule. Visitors with disabilities engage in many park experiences including a variety of water activities such as motorized boating where appropriate. PWC use by visitors with disabilities will be allowed in areas where PWC use is determined to be appropriate.

Issue 13

We received four comments in support of PWC as a traditional use and 67 comments opposing PWC, as a traditional use. The remainder of the pro-PWC comments focused on the subjectivity of the term ''traditional''. They argue that a PWC regulation based on traditional use as defined by the NPS is one-sided and that the NPS has no right to define what is or is not traditional use. The remaining comments came from a petition saying that PWC use conflicts with many other long-standing traditional uses of parks such as preserves for natural peace and quiet or as wildlife preserves.

NPS Response

We believe that National Park System areas are preserved specifically because they are outstanding examples of unique natural or historical resources. Thus, by their very nature, the resources of parks

are limited and cannot serve all potential uses. Indeed, we are ''. . . empowered to determine what uses of park resources are proper and what proportion of the resources are available for each use.'' *Bicycle Trails Council of Marin* v. *Babbitt,* 82 F.3d 1445, 1454 (9th Cir. 1996), quoting *National Wildlife Federation* v. *National Park Service,* 669 F. Supp. 384, 390 (D.Wyo. 1987).

Issue 14

We received 253 comments indicating that this regulation as proposed would negatively impact the personal watercraft industry. The majority of these were from small business owners or employees. They claimed they make a significant contribution to the economy of their local community and that their business had been hurt. They stated that media leaks from the NPS staff generated negative headlines that have kept customers away. Individual commenters express concern about the negative impact on the PWC industry.

In one response, the Personal Watercraft Industry Association (PWIA) challenges the average annual unit sales data in the proposed NPS rule stating, '' the seven year average for the highest seven sales volume years is 147,140, over 25% below the number the NPS quotes.'' In addition, PWIA questions the our assertion that there will be little, if any, economic impact on PWC users or the PWC industry on a regional or national basis. They state, '' the number of local and state jurisdictions who have called (cited) the pending NPS PWC rules as justification for restriction or prohibition of PWC use is substantial. In PWIA's opinion, combining the spill over impact in local communities with the negative media interpretation has substantial potential for impact of sales.'' The PWIA believes that we have not conducted a valid market analysis to conclude that the regulation will result in little economic impact.

NPS Response

We expect PWC use to continue in several areas of the National Park System. None of the comments related to economic impacts cited specific examples or instances where effects of the regulation would occur. It is likely that any restrictions in one area would likely shift usage to other areas open to PWC use. Since it is likely that the areas of the National Park System which receive the majority of PWC use will remain open, we expect little, if any, economic effect.

The annual sales data we referenced in the proposed rule was extracted from a 1996 PWIA market report, which also indicates that despite declining sales in 1996, PWC sales are expected to continue to grow at a significant rate.

A study entitled *Economic Activity Associated with Personal Watercraft Use in Monroe County Florida* indicates that local economies will continue to benefit financially from PWC use even if adjacent NPS areas are closed to PWC use.

Issue 15

People who supported PWC use submitted about 100 comments expressing the opinion that they had a ''right'' to use PWC in NPS areas. The majority of those commenters said that since they pay taxes, they have a right to use public lands and waters. Thirty-six commenters cited the Aquatic Resources Trust Fund (Wallop-Breaux) as a reason that PWC could not be prohibited. They felt this law would not allow the NPS to deny access to taxpayer funded boating facilities. A few commenters stated that it was their constitutional ''right'' to travel unrestricted on PWC.

NPS Response

The payment of taxes does not give a taxpayer the right to unrestricted use of public lands and waters. The Washington State Supreme Court determined that the payment of boat registration fees does not grant the right to use public waters, *Weden* v. *San Juan County*, 135 Wash.2d 678 (1998). Congress requires the NPS to regulate use of public lands and waters within the NPS system, in order to provide proper protection, management and administration of these areas.

The U.S. Fish and Wildlife Service administers the Wallop-Breaux program providing assistance to States for management of recreational fishing and boating programs. This program does not fund boating facilities in Federal areas such as National Parks. The Wallop-Breaux program only applies to facilities that have accepted federal grant funding. There is nothing in this law that would prevent the NPS from regulation of activities in NPS areas.

Issue 16

We received 161 responses referring to the enabling legislation of certain recreation areas and stated that PWC should be allowed under these sections of the United States Code.

NPS Response

We agree that PWC use may be appropriate in some areas of the NPS system. *NPS Management Policies* states that ''* * * because of differences in individual park enabling legislation and resources and differences in the missions of the NPS and other Federal agencies, an activity that is entirely appropriate when conducted in one location may be inappropriate if conducted in another.''

Issue 17

We received numerous comments citing the Organic Act and the mission of the Park Service to ''protect park resources * * * for future generations.'' Most respondents stated that PWC use was in direct conflict with preservation of the parks. We received 8,122 comments indicating the negative impacts of PWC use on wildlife or wildlife habitat. PWIA objects to our statement in the proposed rule that says ''studies also show the disturbance of fish and wildlife associated with PWCs.'' They state that ''If this statement is meant to provide justification for elimination of an activity, then one could reasonably infer that all access to parks should be banned since all human contact disturbs fish and wildlife.'' Further, PWIA objects to the our statement in the proposed rule that states ''PWC have a shallow draft, which gives them the ability to penetrate areas that are not available to conventional motorized watercraft.'' They state that ''a PWC can certainly operate in shallower water than a keel sailboat or an offshore sport fishing vessel. It will operate in the same depth of water as any other waterjet powered runabout.'' In addition, all PWC manufacturers recommend operation of PWC in a minimum of two feet of water. PWIA also implies that in the proposed rule we failed to consider a study, which demonstrates no impact to shallow water benthic communities from PWC use in water depths of two feet or more. Finally, the PWIA objects to our statement that PWC access (attributable to shallow draft) has the potential to adversely impact wildlife and aquatic vegetation in these shallow areas. They state ''any boating activity can have the same level of impact on wildlife and the study data indicates that a human walking has an impact at an even greater distance than a boat or PWC.''

NPS Response

We and the U.S. Fish and Wildlife Service have used existing and potential impacts to wildlife as a primary justification for banning and/or restricting PWC use. Since PWC use is erratic and incidental, it is difficult to design studies that capture direct impacts to wildlife. However, there is increasing scientific evidence and anecdotal information that impacts to

wildlife from PWC use may be more significant than those caused by conventional boats.

Other waterjet-propelled craft may have the same ability to penetrate areas as PWC, but PWC can penetrate areas not accessible to conventional motorized watercraft. This access has the potential to, and has, adversely impacted wildlife. Studies by both James A. Rodgers, Jr. in Florida and Skip Snow in Everglades National Park support this contention. The fact that manufacturers recommend operation of PWC in a minimum of two feet of water to protect resources is admirable; however, it is evident that not all PWC operators feel compelled to comply with such recommendations. Further, no specific water depth has been established as a ''safe'' depth for resource protection.

Issue 18

The PWIA states that any boating activity may have an impact on wildlife. The statement, which references the Rodgers study indicating that a walking human has an impact at an even greater distance than a boat or PWC, is misleading. Consideration must be given to the totality of scientific information available within any study before such conclusions are drawn.

Petitioners through the Blue Water Network agree with university studies that indicate that PWC harass and damage wildlife such as shore birds, fish, and seals. Most individual comments concluded that ''These noisy machines harass, injure, and kill wildlife.'' In one response, the Blue Water Network states, ''wildlife biologists throughout North America and elsewhere have testified on the existing and potential impacts of personal watercraft on birds, marine mammals and fish. PWC pose a unique threat to wildlife and wilderness areas because they are multiple impact machines.'' Blue Water also asserts that PWC are a physical threat to wildlife because they typically travel at high speeds, in shallow water near sensitive habitats. PWC regularly change direction and speed without warning and emit high-pitched, whining sounds. Blue Water also asserts that PWC lack low frequency, long-distance, sub-surface sounds, which might allow wildlife enough time to avoid collisions.

NPS Response

Evaluations conducted by park managers will include close examination of sensitive areas and study wildlife impacts. Mitigation in the form of zoning, seasons, number or speed limits will be available as management options, in addition to area closures.

Issue 19

We received 7,930 comments from individuals and organizations regarding pollution. The vast majority of the comments stated reasons why PWC use should not be allowed in NPS while a few comments challenged the validity of those reasons. Numerous commenters cited exhaust smoke and smell as a concern. Numerous comments also stated that the exhaust on a PWC contains up to 25% of unburned fuel, which pollutes the water.

NPS Response

We are concerned about pollution in any form, and exhaust gasses from two cycle marine engines is no exception. We recognize that a certain amount of exhaust smoke and smell is inherent with any two-cycle engine and that the comments addressed excessive amounts from PWC. We acknowledge the findings of the Environmental Protection Agency's (EPA) 1991 study that indicate two stroke engines lose roughly 25% of the fuel they consume unburned into the water, resulting in high levels of hydrocarbon emissions from these engines. The excessive smoke and smell from PWC could be attributed to unique operational characteristics of those vessels. PWC are often operated with throttle settings that transition from idle to full throttle and back to idle, typically in a rapid and repeated sequence. Additionally, we are aware of an industry-generated statistic, which states that 25% of all owners have made mechanical changes or modifications to their PWC, which may affect emissions.

Issue 20

Numerous comments expressed concern about the amount of raw fuel spilled into the water or on the shoreline when PWC were refueled by owners/operators at sites other than marina fuel docks. Comments were received from a few of organizations that addressed pollution of park waters that are used as a source of drinking water. Methyl Tertiary Butyl Ether (MTBE), a gasoline additive and suspected human carcinogen, introduced into the water may be costly and difficult to remove. Commenters continued by saying that the consequences of PWC use on park waters should not be borne by downstream water suppliers or their customers.

NPS Response

There is an increasing trend toward off-marina refueling of PWC and fuel spill clean-up materials usually available at marina locations are not available outside of those locations. We are concerned not only with resources within park boundaries, but also with resources and issues adjacent to parks.

Issue 21

One organization specifically referenced Executive Order (EO) 12898, which states that the EPA must protect minority or low income communities from pollution. They also identified park areas that currently affect some of those types of communities.

NPS Response

We will continue to comply with all Executive Orders. It is the policy of the National Park Service to regulate motorized recreational activity in park areas to mitigate resource degradation. It is our intention to utilize the expertise of the Environmental Protection Agency, Occupational Safety and Health Administration and other cooperating agencies as a way of maintaining the environmental integrity of park areas.

Issue 22

We received 5,732 comments that cited user conflicts. Of that total, 222 of these comments were from individuals and 5,510 were from a petition from one organization. Specific incidents cited included conflicts between PWC and kayakers, fishermen, and swimmers. A few PWC supporters said these conflicts resulted from a minority of inconsiderate PWC operators and that we should regulate inappropriate behavior or enforce existing regulations rather than prohibit PWC use. Numerous comments referenced rude, impolite or aggressive behavior by a majority of PWC operators. Numerous comments said that a minority of PWC operators interfere with the enjoyment of the parks by a majority of visitors.

NPS Response

It is apparent from the comments received that PWC use negatively impacts across a broad spectrum of park users. NPS recognizes these conflicts between park users and will try different management practices in an effort to minimize these impacts.

Issue 23

A number of comments were received regarding specific parks. These comments were general in nature, stating that PWC should be prohibited in specific parks. For example, Cabrillo National Monument received a number

of comments stating that PWC use is ''not even an issue'' and asking why they are being banned.

NPS Response

Cabrillo has been identified as an area where the enabling legislation, resource education values, other visitor uses, and several management objectives support the prohibition of PWC.

Issue 24

Opponents to PWC use identified several park specific areas for potential PWC closure, including Grand Teton NP, Lake Mead NRA, Sleeping Bear Dunes NL, Lake Powell at Glen Canyon NRA, Lake Shasta and Whiskeytown Lake at Whiskeytown-Shasta-Trinity NRA, Padre Island NS, Cape Cod NS, and Gulf Islands NS.

NPS Response

The NPS recognizes that certain activities that may be appropriate in one area may not be appropriate in another area. NPS Management Policies 1988 states in part that * * * ''because of differences in individual park enabling legislation and resources and differences in the missions of the NPS and other Federal agencies, an activity that is entirely appropriate when conducted in one location may be inappropriate if conducted in another'' (Chapter 8:2–3). PWC use has been reported to occur in 32 units of the National Park System and may be appropriate in approximately 21 of these areas. There are a number of areas where PWC use is not appropriate and should not be allowed. It is the objective of this regulation to ensure that PWC use only occur where authorized after determining its appropriateness.

Issue 25

We received 5,894 comments related to vessel operation and operator behavior. PWC industry representatives dispute statistical analysis of conservation organization PWC safety data. The industry offers contradictory data and dismisses the methods of tabulation.

NPS Response

A 1989 U.S. Coast Guard boating safety study defends industry contentions that other sporting activities are inherently more dangerous than PWC operation. The study indicates that canoes are several times more likely to have critical incidents than PWC. The PWC industry also noted a 1998 National Transportation Safety Board study that stated that alcohol impairment in PWC accidents was less frequent than in other boating related accidents. These claims were contradicted by statistical data that reflect an inordinate percentage of PWC accidents and injuries in relation to the number of overall registered vessels throughout the country. Opponents were vivid in describing episodes and encounters, including fatalities, involving PWC.

Issue 26

One commenter described how after being approached by PWC while kayaking ''It felt like being mugged in an urban park.'' A large number of commenters described dangerous episodes involving PWC and swimmers and kayakers, including near incidents of being capsized. Other power vessel operators cited dangerous encounters with PWC operators attempting to jump their vessels' wake, failing to yield the right of way, and erratic vessel operation. Commenters also described youthful or underage PWC operators as lacking full control of the vessel. Other powerboaters described rude and abusive encounters with PWC operators particularly when advice was offered on safety issues. One respondent stated that PWC operators ''seem to have a case of maritime road rage.'' This underscored their claim that these types of craft constitute a danger or at least a perception of danger when they are operated in close proximity to other users.

NPS Response

The rule prohibits PWC use in many areas used primarily by paddlers and visitors seeking solitude. In areas where PWCs are authorized, the NPS will take steps to minimize the adverse impacts from and between the different user groups. This should mitigate most conflicts of the type described in this comment.

Issue 27

Approximately 500 individuals, 10 business and 5,600 people through petitions, expressed an opinion that PWC use adversely impacts natural resources. The commenters did not offer specific evidence of resource damage, but expressed the opinion that we should protect the natural resources until more is known about the impact PWC have on natural resources. One organization cited Executive Orders that direct the NPS to close areas to off-road vehicles (including water vessels) if the vehicles cause damage to resources. Another organization stated that resource damages are only allegations.

NPS Response

This rule will prohibit PWC in areas of the National Park System unless the NPS determines that PWC use is appropriate for a specific area based on that area's enabling legislation, resources and values, other visitor uses and overall management objectives. This rule describes a process that will allow continued PWC use in some areas and will enable us to better manage the use of personal watercraft. NPS Management Policies state that if we have reasonable belief that resource damage may occur, we will implement limitations on the use.

Issue 28

We received 3,093 comments, mostly individuals, citing a variety of concerns over the noise associated with PWC use. All of the comments regarding noise noted the loss of quiet and solitude with the intrusion of PWC use. In almost all cases this noise was characterized as ''annoying.'' Specific concerns included the constant and repeated fluctuation in engine tone and pitch as PWCs enter and exit the water while jumping wakes, changing speed and performing other quick maneuvers along with the persistent noise associated with remaining in one general location rather than traveling from point-to-point.

NPS Response

The enjoyment of solitude and natural quiet are values deemed important to most park visitors. The NPS is working on a number of measures to preserve the soundscape in park areas. The rule requires the NPS to determine that PWC use is consistent with a park unit's enabling legislation, resources and values, other visitor uses and overall management objectives before authorizing PWC use in the park unit.

Issue 29

One organization and numerous individuals requested that the ''two year loophole'' be eliminated and that parks be either open to PWC use or closed upon publication of this rule.

NPS Response

We feel a grace period is helpful to allow an opportunity for proper evaluation of the actual impacts of PWC use. This period will allow us time to consider management alternatives and options. Park areas with PWC use during the grace period will retain the authority to restrict use or close areas if necessary to protect against damage to natural or cultural resources and derogation of any other values or purposes of the park area. We will also conduct studies and surveys of existing

PWC use during this period for use in the Special Regulation rulemaking process. The areas developing special regulations will use this time to accept and evaluate public comment on their proposed regulations.

Issue 30

We received 7,988 comments stating the opinion that PWC use was inappropriate in some areas of the NPS. These comments were general in nature stating that PWC, ''should not be allowed'', or ''are inappropriate.'' Some comments stated that PWC disturbed the ''tranquillity'' or ''solitude'', of NPS areas. Many commenters stated that parks were sanctuaries where they went to rejuvenate themselves from the pressures of the outside world and that PWC detracted from their enjoyment. PWIA also acknowledges that PWC use may be inappropriate in some areas of the National Park System.

NPS Response

We expect PWC use to continue in several areas of the National Park System. Because these same areas currently have the preponderance of PWC use in areas of the National Park System, we expect little, if any, economic impact on PWC users or the PWC industry on a regional or national basis. We completed a threshold analysis, as required by the Regulatory Flexibility Act, to examine potential impacts on small entities and consider alternatives to minimize such impact. We do not expect significant impacts on commercial PWC operations in and adjacent to NPS areas from this rule. A substantial number of small entities will not be affected.

Moreover, from the point of view of both users and the industry, it is quite likely that any restrictions in one area would only shift usage to other areas, either within or outside the park area. While such restrictions may reduce the quality of experience for some PWC users, we expect this rule to have a positive impact on non-PWC users.

Issue 31

We received an additional 401 miscellaneous comments from individuals, groups, and organizations citing a number of opinions, both for and against personal watercraft use. Opponents of PWC compared them with off-road vehicles, snowmobiles, and airboats as a form of recreation that detracted from the experience of other visitors. Proponents of PWCs consider their use as a valid form of recreation regardless of the NPS mandates for preservation. We received one comment from an organization suggesting that we develop an Appropriate Recreation Task Force to analyze future use.

NPS Response

This rule takes a conservative approach to managing PWC use based on consideration of the potential resource impacts, conflicts with other visitors' uses and enjoyment, and safety concerns.

This is the same regulatory approach we use to manage snowmobiles (36 CFR 2.18), off-road vehicle use (36 CFR 4.10), aircraft, including powerless hanggliders (36 CFR 2.17), and use of bicycles outside developed areas (36 CFR 4.30 (b)). The rule prohibits PWC use unless we determine that PWC use is appropriate based on an area's enabling legislation, resources, values, other visitor uses, and overall management objectives. Each park area is unique and represents only a small part of a much larger picture that depicts our nation's heritage. Because of this uniqueness, we do not think a national level task group would be productive.

Drafting Information

The principal authors of this final rule are; Chip Davis, Washington Office of Ranger Activities, National Park Service, Michael Tiernan, Office of the Solicitor, Department of the Interior and Destry Jarvis, Office of the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, Washington, D.C. In addition, numerous NPS employees from areas throughout the National Park System contributed significantly to the review and development of this regulation.

Compliance with Other Laws

Regulatory Planning and Review

The Office of Management and Budget reviewed this rule under Executive Order 12866. This rule will not create inconsistencies with other agencies' actions. Entitlement programs or the rights and obligations of their recipients will not be materially affected. This rule does not raise novel legal policy issues. The effects of this rule may be controversial in some areas, but they are not novel. State and local governments and other Federal agencies have implemented the same measures in efforts to manage PWC use.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule 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.*). The Regulatory Flexibility Act, as amended, requires agencies to analyze impacts of regulatory actions on small entities (businesses, nonprofit organizations, and governments), and to consider alternatives that minimize such impacts while achieving regulatory objectives. This threshold analysis examines impacts of the proposed regulation that would restrict PWC use within the National Park System. A combination of quantitative and qualitative indicators is used to determine whether these regulations would impose significant impacts on a substantial number of small entities. The threshold economic analysis of commercial PWC activity in relation to NPS areas supports this determination.

Analysis of Impacts

The PWC regulation could potentially impact two types of small businesses: manufacturers and rental shops. Small nonprofit organizations and small governments will not be affected. With respect to small manufacturers, significant impacts are not likely given the relatively low level of PWC use in affected NPS units compared to the overall use of PWCs throughout the United States. Over 1.3 million PWCs are currently in use in the U.S. with annual sales of approximately 200,000. Currently, PWC use has been observed in only 32 NPS units, 10 of which will likely not be affected significantly by these regulations (Table 1). Those 10 units, which are specifically authorized in their enabling legislation for water recreation, account for the vast majority of PWC use in NPS units. Consequently, PWC use would likely be potentially affected in only 22 NPS units. Those 22 affected units generally have alternative sites nearby where PWC use is allowed. Therefore, it is not anticipated that PWC manufacturers will suffer a significant decrease in sales due to these regulations.

Most, if not all, rental shops that supply PWCs for use within NPS units could be classified as small businesses for purposes of this threshold analysis. In the 22 potentially affected units, where PWCs are currently in use some rental shops that could be potentially impacted. However, any impacts from this rulemaking should not be widespread or significant for the following reasons:

1. In 11 of the 22 affected units, a 2-year grace period would allow a locally based determination on PWC use until unit-specific rulemakings can determine appropriate management measures. Such measures would not automatically prohibit PWC use, but could limit use to areas and times that are consistent with a unit's enabling legislation,

resources and values, other visitor uses, and overall management objectives. Therefore, not only would potentially affected rental shops benefit from the 2 year grace period, but a determination of appropriate levels of PWC use would be made in these units under future unit-specific regulations.

2. Future rulemakings will solicit and consider public comments on proposed management measures, potentially increasing the flexibility of such measures.

3. The remaining 11 affected units have limited commercial PWC use from rental shops. The primary use is by individuals with privately owned PWCs. Therefore, there would be limited impacts on rental shops near those units.

4. The affected units having commercial PWC rental operations operate on larger bodies of water (oceans, lakes and rivers) of which the NPS managed portions are only a part of the larger body of water. NPS jurisdiction typically extends from the shoreline out to ¼ mile and up to one mile in various units. PWC use is managed by State and local governments in the waters outside NPS jurisdiction and is unaffected by the NPS regulation.

5. Significant opportunities for PWC use exists at alternative sites near each of the 22 affected NPS units. Therefore, potentially affected rental shops would continue to be able to rent PWCs for use at these alternative sites.

6. No direct compliance costs, such as those associated with reporting requirements, would be imposed on rental shops.

Therefore, significant impacts on PWC rental shops are not expected from this rulemaking. Moreover, even if significant impacts were expected, a substantial number of rental shops will not be affected. Currently, there are over 100 rental shops that supply PWCs for use in NPS units. However, less than 10 rental shops supply PWCs for use in units that would be automatically closed to PWC use by this rulemaking.

There are virtually tens of thousands of water areas nationwide where PWCs may be operated. A very small percentage of the nation's 1.3 million PWCs are used in units of the NPS. In most areas where significant PWC use already occurs in the NPS, there are anticipated to be few changes that would adversely affect their current activity. Where PWC use does not already occur, the possibility of keeping those areas free of PWC use will not pose any additional economic impact.

These considerations indicate that this rulemaking will not impose significant impacts on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

a. Does not have an effect on the economy of $100 million or more, as demonstrated in the threshold analysis (Regulatory Flexibility Act Section).

b. Will not cause an increase in costs or prices for consumers, individual industries, Federal, State or local governments entities, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises (Regulatory Flexibility Act Section).

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. This rule does not change the relationship between the NPS and small governments.

b. The Department has determined and certifies pursuant the Unfunded Mandates Reform Act, that this rule will not impose a cost of $100 million or more in any given year on local, State or tribal governments or private entities.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. No takings of personal property will occur as a result of this rule.

Federalism

The effective date of Executive Order 13132 occurred after the publication of the proposed rule. This rule does not have significant Federalism effects. A Federalism assessment is not required. The rule will manage PWC use in NPS areas and does not infringe on State authority to manage PWC use in areas of State jurisdiction. State authorities were consulted and involved in the planning of this rule and representatives of the National Association of State Boating Law Administrators also participated.

Individual park areas regularly consult with elected state officials and various state management agencies involving a myriad of resource and recreation issues. Public comment and participation is sought on a frequent and recurring basis during general management planning and at various phases involving management of park areas. A number of areas requested comments through press releases during the decision process and received considerable feedback including correspondence from state agencies. Consideration of these comments and their impact on management decisions is reflected in the changes made to the final rule.

Civil Justice Reform

The Department has determined that this rule meets the applicable standards provided in Section 3(a) and 3(b)(2) of Executive Order 12988. The rule does not unduly burden the judicial system. NPS drafted this rule in ''Plain-English'' to provide clear standards and to ensure that the rule is easily understood. We consulted with the Department of Interior's Office of the Solicitor during the drafting process.

Paperwork Reduction Act

This rulemaking does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

National Environmental Policy Act

The NPS has determined that this rule will maintain the quality of the human environment, health and safety because it is not expected to:

(a) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) introduce conflicting uses, which compromise the nature and characteristics of the area or cause physical damage to it;

(c) conflict with adjacent ownership or land uses; or

(d) cause a nuisance to adjacent owners or occupants.

Also after a careful review of the exceptions to categorical exclusions in 516 DM 2, Appendix 2, the NPS has concluded that none of the listed exceptions would apply in the case of these regulations.

Based on this determination, the regulation is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6, Appendix 7, section 7.4 A. (10). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on the tribes.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 3

Marine safety, National parks, Reporting and recordkeeping requirements.

36 CFR Part 13

Alaska, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS amends 36 CFR Chapter I as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 9a, 460 1–6a(e), 469(k); D.C. Code 8–137, 40–721 (1981).

2. Section 1.4 is amended by revising the section heading and adding a new definition, in alphabetical order, in paragraph (a), to read as follows:

§ 1.4 What terms do I need to know?

(a) * * *

Personal watercraft refers to a vessel, usually less than 16 feet in length, which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull. The length is measured from end to end over the deck excluding sheer, meaning a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not included in the measurement. Length is stated in feet and inches.

* * * * *

PART 3—BOATING AND WATER USE ACTIVITIES

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

Authority: 16 U.S.C. 1, 1a–2(h), 3.

2. New § 3.24 is added to read as follows:

§ 3.24 Regulation of personal watercraft (PWC).

(a) *Is personal watercraft (PWC) use prohibited in units of the National Park System?* Yes, the use of personal watercraft in units of the National Park System is prohibited, except in designated areas.

(b) *How will the National Park Service designate areas for PWC use?* We will designate areas for personal watercraft through the **Federal Register**, using special regulations, except for the park areas identified in the following Table 1, where personal watercraft use may be designated using the criteria and procedures of §§ 1.5 and 1.7 of this chapter:

TABLE 1.—PARK DESIGNATED PWC USE

Name	Water type	State
Amistad National Recreation Area	Impounded Lake	TX
Bighorn Canyon National Recreation Area	Impounded Lake	MT
Chickasaw National Recreation Area	Impounded Lake	OK
Curecanti National Recreation Area	Impounded Lake	CO
Gateway National Recreation Area	Open Ocean/Bay	NY
Glen Canyon National Recreation Area	Impounded Lake	AZ/UT
Lake Mead National Recreation Area	Impounded Lake	AZ/NV
Lake Meredith National Recreation Area	Impounded Lake	TX
Lake Roosevelt National Recreation Area	Impounded Lake	WA
Whiskeytown-Shasta-Trinity National Recreation Area	Impounded Lake	CA

(c) *How does the grace period apply?* For the park areas identified in Tables 1 and 2 of this section, this section provides a two-year grace period (April 20, 2000 to April 22, 2002) from the requirements of this section. During the grace period no authorizing administrative action is needed to allow PWCs to continue to operate in the park areas identified in this section. Table 2 follows:

TABLE 2.—SPECIAL REGULATION PWC USE

Name	Water type	State
I. National Seashores:		
Assateague Island National Seashore	Open Ocean/Bay	MD/VA
Cape Cod National Seashore	Open Ocean/Bay	MA
Cape Lookout National Seashore	Open Ocean/Bay	NC
Cumberland Island National Seashore	Open Ocean/Bay	GA
Fire Island National Seashore	Open Ocean/Bay	NY
Gulf Islands National Seashore	Open Ocean/Bay	FL/MS
Padre Island National Seashore	Open Ocean/Bay	TX
II. National Lakeshores:		
Indiana Dunes National Lakeshore	Natural Lake	IN
Pictured Rocks National Lakeshore	Natural Lake	MI
III. National Recreation Area: Delaware Water Gap National Recreation Area	River	PA/NJ
IV. National Preserve: Big Thicket National Preserve	River	TX

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

1. The authority citation for part 13 continues to read as follows:

Authority: 16 USC 1, 3, 462(k), 3101 *et seq.*; Sec. 13.65 also issued under 16 USC 1a–2(h), 20, 1361, 1531, 3197; Pub. L. 105–277, 112 Stat. 2681, October 21, 1998; Pub. L. 106–31, 113 Stat. 57, May 21, 1999.

2. Section 13.1 is amended by redesignating paragraphs (j) through (v) as paragraphs (k) through (w) and add new paragraph (j) to read as follows:

§ 13.1 Definitions.

* * * * *

(j) The term *motorboat* refers to a motorized vessel other than a personal watercraft.

* * * * *

Dated: December 6, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–6717 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[FRL–6560–5]

OMB Approvals Under the Paperwork Reduction Act; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this technical amendment amends the table that list the Office of Management and Budget (OMB) control numbers issued under the PRA for Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to May 30, 1991 and have not been Modified or Reconstructed since May 30, 1991.

EFFECTIVE DATE: this final rule is effective March 21, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Ann Warner at (919) 541–1192, Program Implementation and Review Group, Information Transfer and Program Integration Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The amendment updates the table to list those information collection requirements promulgated under the Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to May 30, 1991 and have not been Modified or Reconstructed since May 30, 1991 which appeared in the **Federal Register** on November 8, 1999 (64 FR 60689–60706). The affected regulation is codified at 40 CFR 62.14350–62.14356. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations. The table lists CFR citations with reporting, recordkeeping, or other information collection requirements, and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, EPA finds that further notice and comment is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), to amend this table without prior notice and comment.

I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make 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 21, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: March 8, 2000.

Oscar Morales,

Director, Collections Strategies Division, Office of Environmental Information.

For the reasons set out in the preamble, 40 CFR part 9 is amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding an undesignated heading and

entry in numerical order to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Approval and Promulgation of State Plans for Designated Facilities and Pollutants	
62.14355	2060–0430
* * * * *	

[FR Doc. 00–6217 Filed 3–20;–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 431

[FRL–6562–3]

Amendment to the Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Builders' Paper and Board Mills Point Source Category; Technical Amendment; Removal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This action removes duplicative regulatory language for the Builders' Paper and Board Mills Point Source Category. The regulatory requirements for this category are already included in regulations related to the Secondary Fiber, Non-Deink Subcategory of the Pulp, Paper, and Paperboard Point Source Category.

DATES: Effective on March 21, 2000.

FOR FURTHER INFORMATION CONTACT: Mark A. Perez, Engineering and Analysis Division (4303), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460; call (202) 260–2275 or e-mail: perez.mark@epa.gov.

SUPPLEMENTARY INFORMATION:

Need for Removing 40 CFR Part 431

On April 15, 1998, EPA promulgated effluent limitations guidelines and standards, under the Clean Water Act (CWA), for a portion of the pulp, paper and paperboard industry. 63 FR 18504. EPA also promulgated national emission standards for hazardous air pollutants (NESHAP) under the Clean Air Act (CAA) as amended in 1990, for the pulp and paper production source category. Id. In that rulemaking, known as the Cluster Rules, EPA reorganized 26 subcategories (formerly found in parts 430 and 431) into 12 new subcategories. See 63 FR 18637. In reorganizing the subcategories, mills formerly in the Builders' Paper and Board Mills Point Source Category (part 431) were placed under the Secondary Fiber Non-Deink Subcategory (part 430, subpart J). EPA did not make any substantive changes to the limitations and standards applicable to mills in this subcategory in the April 15, 1998 rule, but simply reprinted in their entirety the current effluent limitations guidelines and standards applicable to these mills. Thus, the regulations codified under part 431 are now duplicative and are removed by this action.

Administrative Requirements and Related Government Acts

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the revisions in this final rule are not substantive. Today's correction removes redundant regulatory language for the Builders' Paper and Board Mills Point Source Category. The same requirements for this category appear in 40 CFR parts 430 and 431. This action removes the redundant part 431 requirements. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). For the same reason, the Agency has determined that good cause exists to waive the requirement under 5 U.S.C. 553(d) that a rule be published not less than 30 days before its effective date. In this case, the revision in today's final rule is not substantive in nature because it withdraws duplicative requirements. Therefore, the amendments are effective immediately.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, as described above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose significant intergovernmental mandates, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). 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.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the April 15, 1998 **Federal Register** document.

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

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 21, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 431

Environmental protection, Paper and paper products industry, Waste treatment and disposal, Water pollution control.

Dated: March 8, 2000.

J. Charles Fox,

Assistant Administrator for Water.

PART 431—[REMOVED]

Accordingly under the authority of Sections 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the ''Act''); 33 U.S.C. 1311, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 816, Public Law 92–500; 91 Stat. 1567, Public Law 95–217, 40 CFR part 431 is removed and reserved.

[FR Doc. 00–6975 Filed 3–20–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350 and 355

[Docket No. FMCSA–98–4878 (formerly FHWA Docket No. FHWA–98–4878)]

RIN 2126–AA40 (formerly RIN 2125–AE46)

Motor Carrier Safety Assistance Program

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The FMCSA is revising the Motor Carrier Safety Assistance Program (MCSAP) to comply with the congressionally-mandated provisions of the Transportation Equity Act for the 21st Century (TEA–21). This action broadens the scope of the MCSAP beyond enforcement activities and programs by requiring participating States to assume greater responsibility for improving motor carrier safety. These rules will now require States to develop performance-based plans reflecting national priorities and performance goals, revise the MCSAP funding distribution formula, and create a new incentive funding program. These rules provide States greater flexibility in designing programs to address national and State goals for reducing the number and severity of commercial motor vehicle (CMV) accidents. This action also includes conforming amendments to the regulations on compatibility of State laws and regulations affecting interstate motor carrier operations.

DATES: The effective date of this rule is April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. F. Daniel Hartman, National Safety Programs Division, MSP–10, (202) 366–9579, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC, in response to previous rulemaking notices concerning the docket referenced at the beginning of this notice by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions on-line for more information and help.

You may download an electronic copy of this document using a modem and suitable communications software from the U.S. Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at URL: *http://www.nara.gov/fedreg* and from the U.S. Government Printing Office's databases at URL: *http://www.access.gpo.gov/nara.*

Creation of New Agency

In October 1999, the Secretary of Transportation rescinded the authority previously delegated to the Federal Highway Administrator to perform the motor carrier functions and operations, and to carry out the duties and powers related to motor carrier safety, that are statutorily vested in the Secretary. That authority was redelegated to the Director of the Office of Motor Carrier Safety (OMCS), a new office within the Department (see 64 FR 56270, October 19, 1999, and 64 FR 58356, October 29, 1999). The OMCS had previously been the FHWA's Office of Motor Carriers (OMC).

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) established the Federal Motor Carrier Safety Administration (FMCSA) as a new operating administration within the Department of Transportation, effective January 1, 2000 (Public Law 106–159, 113 Stat. 1748, December 9, 1999). The Secretary therefore rescinded the motor carrier authority delegated to the Director of the OMCS and redelegated it to the Administrator of the FMCSA (65 FR 220, January 4, 2000).

The staff previously assigned to the FHWA's OMC, and then to the OMCS, are now assigned to the FMCSA. The motor carrier functions of the FHWA's Resource Centers and Division (*i.e.*, State) Offices have been transferred without change to the FMCSA Service Centers and FMCSA Division Offices, respectively. For the time being, all phone numbers and addresses are unchanged. Similarly, rulemaking activities begun under the auspices of the FHWA and continued under the OMCS will be completed by the FMCSA.

Background

The Motor Carrier Safety Assistance Program (MCSAP) is a Federal grant-in-aid program. The MCSAP was first authorized in the Surface Transportation Assistance Act of 1982 (STAA)(Public Law 97–424, 96 Stat. 2079, 2154), reauthorized in the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99–570, 100 Stat. 3207, 3207–186), and again in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (49 U.S.C. 31101–31104, as amended). The original authorization contained certain eligibility requirements for financial assistance, including agreement to adopt and enforce safety regulations compatible with the FMCSRs and Hazardous Materials Regulations (HMRs). The regulatory compatibility requirement remains today and ensures

a permanent and consistent enforcement and safety presence throughout the nation.

The Motor Carrier Safety Act of 1984 (Title II of Public Law 98–554, 98 Stat. 2832, 2838) created the Commercial Motor Vehicle Safety Regulatory Review Panel (Safety Panel) to analyze State CMV safety requirements and develop recommendations on how to achieve compatibility with the Federal regulations. The Safety Panel recommended, in part, that the FHWA establish procedures for the continual review and analysis of the compatibility of State safety laws and regulations with Federal requirements through the MCSAP. Consistent with these recommendations, the FHWA incorporated an annual review process as a MCSAP eligibility criterion. Section 208 of the 1984 Act also authorized the Secretary to preempt those State laws and regulations affecting interstate CMV safety found to be inconsistent with Federal laws and regulations. Such a finding would have the effect of rendering inconsistent State laws and regulations unenforceable.

Summary of TEA–21

The TEA–21 (Public Law 105–178, 112 Stat. 107) was signed into law on June 9, 1998. Section 4003 of the TEA–21 authorized the MCSAP at the following funding levels for FY 1998 through FY 2003: $79 million for FY 1998, $90 million for FY 1999, $95 million for FY 2000, $100 million for FY 2001, $105 million for FY 2002, and $110 million for FY 2003.

Section 4002 of the TEA–21 adds a new section 31100 to title 49 of the U.S. Code which revises the purpose of the grant program. The goals and directives outlined in this section closely parallel the concepts and principles of a performance-based program. The changes foster greater coordination and cooperation between State and Federal jurisdictions in improving CMV safety. The changes also give States more flexibility to address their particular safety issues through the MCSAP. Section 4002 of the TEA–21 also sets forth four current program goals:

(1) Investing in activities achieving maximum accident reductions.

(2) Assessing and improving statewide program performance by setting program outcome goals, improving information and analysis systems, and monitoring program effectiveness.

(3) Ensuring adequate training of enforcement personnel.

(4) Advancing promising technologies and safe operating procedures.

Section 4003 of the TEA–21 has expanded the definition of ''commercial motor vehicle'' to include vehicles with a gross vehicle weight (GVW) or gross vehicle weight rating (GVWR) of at least 10,001 pounds. This amendment simplifies enforcement efforts in cases where a vehicle with a GVW of more than 10,001 pounds does not have a corresponding manufacturer's GVWR plate or is being operated in excess of the manufacturer's GVWR. The hazardous materials portion of the definition of ''commercial motor vehicle'' in 49 U.S.C. 31101 is also revised to make it consistent with the ''commercial motor vehicle'' definition in 49 U.S.C. 31132.

A key provision of TEA–21 is the section 4003 requirement that MCSAP participating States implement performance-based CMV safety programs by FY 2000. This provision shifts the emphasis of State programs from measuring activity levels or input (e.g., the number of vehicles inspected) to focusing program effort on outcomes (e.g., reductions in CMV accidents, fatalities, and injuries). States have reacted very positively to this change and all participating MCSAP jurisdictions have implemented performance-based programs.

Section 4003 also revised the grant eligibility criteria and the State plan format to require references to ''improving'' CMV safety and ''hazardous materials'' enforcement. This section emphasizes that the principal goal of the MCSAP is not simply to enforce regulations but to encourage States to assume the responsibility for finding ways to actively improve CMV safety. It also reinforces the concept that it is equally important to adopt and enforce both the FMCSRs and the HMRs. Additional requirements include (1) establishing programs ensuring proper and timely correction of safety violations noted during roadside inspections, and (2) ensuring that roadside inspections are conducted at locations that will adequately protect the safety of both drivers and enforcement personnel. These provisions codify and reinforce longstanding best practices of State CMV safety programs.

The legislation expands the existing requirement that State agencies coordinate the Commercial Vehicle Safety Plans (CVSP), originally called the State Enforcement Plan (SEP), with the State Highway Safety Plans under 23 U.S.C. 402. The TEA–21 mandates States participating in MCSAP to coordinate the CVSP and data collection and information systems with the State agency administering highway safety programs under title 23, U.S. Code. The January 1, 1994, deadline for SAFETYNET participation, as required by 49 U.S.C. 31102(b)(M), has been deleted since all States have met the requirement. Each jurisdiction receiving MCSAP funding is required to participate in SAFETYNET and other information systems. There is also a new requirement for States to exchange information in a timely manner. These requirements encourage States and agencies within a State to share best practices and develop broader-based safety programs.

Section 4003(f) of TEA–21 removes the current funding set-asides for research and development, traffic enforcement, hazardous materials training, public awareness, and demonstration of technologies and methodologies. These set-asides were created to encourage uniform State implementation of significant national programs but limited States' flexibility in allocating their MCSAP resources. The set-asides have been replaced by new allocation criteria allowing the administrative flexibility needed for States to design programs targeting their unique safety problems as well as meeting national priorities. The new funding allocation allows up to 5 percent of MCSAP funds to be designated for States, local governments, and other persons using and training qualified personnel for high priority activities and programs that improve CMV safety and compliance with safety regulations. Up to 5 percent of MCSAP funds will also be available to States, local governments, and other persons using and training qualified personnel to carry out border CMV safety programs, enforcement activities, and other projects. The Secretary may also reimburse State agencies, local governments, or other persons up to 100 percent for public education activities relating to border or high priority activities, programs, and projects.

The overall MCSAP funding consists of four parts:

1. Basic Program Funds emphasizing uniform roadside driver and CMV safety inspections, data collection and reporting, traffic enforcement, drug and alcohol enforcement, educational activities, compliance reviews, and current complementary activities.

2. Incentive Funds encourage States to improve CMV accident performance and to meet other safety performance criteria.

3. High Priority and Border Activity Funds for States to improve CMV safety and compliance with safety regulations and to carry border CMV safety

programs, enforcement, and other projects.

4. Administrative set-aside of 1.25 percent to cover program administration and State personnel training costs.

General Discussion of the NPRM

The notice of proposed rulemaking (NPRM) to amend the regulations governing the MCSAP and to request comments was published in the **Federal Register** on March 9, 1999 (64 FR 11414). In the preamble to the NPRM, proposed changes to the regulations were thoroughly explained.

Discussion of Responses to the NPRM

The comment period of the NPRM closed on May 10, 1999. Forty-three comments were received. Of these, thirty-three were from MCSAP agencies, six were from various safety associations, one was from a trucking company, one from a Federal agency, one from the Upper Great Plains Transportation Institute, and one from an individual.

Specific Concerns

Definitions

Four commenters believed that ''large truck'' should be defined.

The FMCSA agrees and, for the purpose of distributing Incentive Funds for reducing the number and rate of large truck-involved fatal accidents, is using the Fatality Analysis Reporting System (FARS) definition of a ''large truck.''

The State of Louisiana supported the revised definition of a CMV.

The term ''performance factor'' has been deleted, since the proposal to adjust the States' basic program funding level by applying a factor based upon a State's reduction in its CMV accident rate has been removed.

While the calculation of ''accident rate'' and ''10-year average accident rate'' were described in detail in the NPRM, those terms were not included in the definitions section. Those definitions have been added. For the purpose of determining States' eligibility under § 350.327(b)(2) Incentive Funds, the definition of ''10-year average accident rate'' has been added to § 350.105. For example, for the FY 2000 distribution:

1. The FMCSA would calculate a State's 10-year average accident rate period from 1987 through 1996. The average 10-year accident rate would be calculated by dividing the number representing the State's aggregated number of large truck-involved fatal crashes as reported in the FARS from 1987 through 1996 by the number representing the State's aggregate vehicle miles traveled (VMT) as reported by the FHWA for the same 10-year period.

2. The FMCSA would then calculate the State's 1997 accident rate by dividing the number of large truck-involved fatal crashes as reported in the FARS by the number representing the State's vehicle miles traveled (VMT) and compare that to the average 10-year accident rate.

3. If a comparison reveals the State's accident rate has increased, the State would not be eligible to receive accident-rate incentive shares for the current funding year since there was no reduction.

4. If a comparison reveals that the accident rate has decreased, the State would be eligible to receive accident-rate incentive shares for the current funding year.

5. If a comparison reveals the State's 1997 accident rate is within the lowest 10 percent of accident rates and the 1997 rate is the same as the State's 10-year average accident rate, the State would be eligible to receive accident rate incentive shares for the current funding year.

6. The calculations in steps 1 through 5 would be repeated in FY 2001 through 2003, adjusting the 10-year period and average and using the most recent calendar year for which data are available for comparison to the 10-year average.

Finally, the term ''crash'' has been replaced by the term ''accident'' throughout the preamble and the rule to more accurately reflect the nature of our CMV safety program.

Basic Program Funds Allocation Formula

While most of the respondents support the performance-based concept, the greatest source of disagreement on the Basic Program Funds allocation formula concerned the new performance factor. Twenty-three different comments suggested that the performance factor be dropped from the formula or that some measure other than accidents be used to determine performance. States believe that the Basic Program Funds should be left intact in order to provide funding continuity from year to year. Most States with a low fatality count were concerned that a single fatal accident could significantly affect the amount of funds received. It was noted that using the fatal accident rate both to penalize a State's receipt of Basic Program Funds and also to fail to reward a State with Incentive Funds appears to be double jeopardy. States believed that reducing a State's Basic Program Funds based on fatal accidents, which can be caused by factors not directly controllable by the State's safety programs (*e.g.*, weather), is unfair.

The FMCSA agrees that applying a performance factor to the basic program fund allocation could have a negative effect on MCSAP programs within a State and, therefore, will remove the performance factor (proposed § 350.325) from the Basic Program Funds formula process.

The States of Idaho, Vermont, Wyoming, and Montana, and the American Trucking Associations (ATA), questioned the use of population as a formula factor, stating that population is not a direct measure of commercial vehicle activity.

Because the major goal of the MCSAP is to reduce the number and severity of CMV accidents and population provides an indirect measure of accident exposure, the FMCSA has determined that population is a relevant formula factor and will be retained in the basic formula.

California and New York, two States with large urban populations, recommended the use of lane miles rather than highway road miles.

The FMCSA analyzed the use of lane miles as a potential formula factor and found that it correlated highly with highway road miles. Because of this high correlation and because highway road miles were already an accepted factor, the FMCSA decided that there was no need to change from highway road miles to lane miles.

The States of Idaho and Wyoming recommended the use of CMV miles traveled (CVMT) rather than total VMT in the formula, stating that non-commercial vehicle travel has little to do with CMV safety activities.

The FMCSA considered the use of CVMT as a factor. The CVMT (calculated as the VMT of combination and heavy single-unit trucks) is highly correlated to total VMT but has the disadvantage of requiring additional calculations. In addition, one State does not report VMT data for CMVs. Finally, a majority of fatal accidents involving CMVs also involve other vehicles. As a result, the FMCSA decided to use total VMT as a direct indicator of accident exposure.

Oregon and Montana suggested that highway road miles within federally controlled lands (*e.g.*, those areas controlled by the Bureau of Land Management (BLM)) and any road open to CMVs be included in the mileage factor.

The source of the mileage used in the MCSAP formula is the totals column of Table HM–10 of the FHWA's

publication, ''Highway Statistics.'' [1] This table includes both rural and urban highway road miles as submitted by the States to the FHWA. The FMCSA acknowledges that the exclusion of the BLM road miles from the FHWA's statistics beginning with 1998 could adversely affect CMV safety in States with a significant number of BLM road miles. Since States perform safety tasks on these roads, the FMCSA has decided to use the 1997 FHWA Road Miles calculation through FY 2003.

The Commonwealth of the Northern Mariana Islands and the Government of Guam requested reconsideration of reducing grants to the Territories. The NPRM noted that grants were proposed to be reduced from prior funding levels because Territories had lower population levels, road miles, and VMT and did not report special fuel consumption. These commenters explained that their special geographic situation and taxation system were different from the 50 States, which caused their reporting system to be different. They also asserted that a reduction in funding level would adversely affect their programs.

The FMCSA acknowledges the difference in reporting requirements but significant differences remain between the Territories and the 50 States in terms of population and road miles. With the increased funds authorized by the TEA–21, the FMCSA will add more funding to the Territories (Guam, American Samoa, Northern Mariana Islands, and the Virgin Islands) and hold them closer to their FY 1999 funding level. This amount is fixed at $350,000 and will not change through FY 2003.

The State of Idaho, which has a large percentage of Federal land, suggested using Federal acreage as a formula factor because the building of new roads is restricted within Federal lands, which penalizes the State's ability to increase its total highway mileage.

The FMCSA considered acreage and rejected it because the existence of large land areas, without extensive road miles, simply does not relate to accident potential.

The Owner-Operator Independent Drivers Association (OOIDA) recommended that the number of CMV accidents be used as a formula factor, where the number of accidents is directly proportional to the amount of money received (*i.e.*, States that have more accidents would receive more funding).

The FMCSA considered the possibility of using CMV accidents as a factor in the formula for distribution of Basic Program Funds. Incorporation of CMV accidents was rejected because (1) there is not *currently* a valid source of complete CMV accident data, (2) the four formula factors, as described, apportion funds to those States with the greatest accident exposure, and (3) using accidents as a factor does not place emphasis on accident reduction (a performance goal).

North Carolina suggested that a State's economy should be reconsidered as a formula factor because a booming economy would directly correlate to the number of CMVs traveling in a State.

The FMCSA determined that the use of special fuels (*e.g.*, diesel) was a better measure of CMV activity in a State.

Louisiana suggested using traffic density as a factor.

The FMCSA examined traffic density in detail because it appeared to be a reasonable measure of accident potential. For States that are consistently urban (high traffic density; *e.g.*, Washington, D.C.) or consistently rural (low traffic density; *e.g.*, North Dakota), a measure of traffic density makes sense. For States with a combination of very urban areas and great expanses of rural areas (*e.g.*, Texas), however, the logic of an overall traffic density factor for the entire State fails. Therefore, traffic density will not be incorporated as a factor in the formula.

The State of Illinois asserted that if a performance factor had to be applied to the Basic Program Funds allocation, then strong consideration should be given to adding a comparison of each State to the National accident rate.

Since the performance factor has been deleted, this recommendation is no longer a consideration.

Distribution of Basic Program Funds and Incentive Funds

Ten respondents disagreed with dividing the MCSAP funds into the Basic Program Funds and Incentive Funds by percentages which changed each year (*i.e.*, a 90–10 split in the year 2000; 85–15 split in the year 2001; 80–20 split in the year 2002; and 75–25 split in the year 2003, etc.). While the National Association of Governors' Highway Safety Representatives and the Commercial Vehicle Safety Alliance (CVSA) recommended that the Basic Program Funds not be decreased in order to provide more funding for Incentive Funds, State agencies in New York, Minnesota, and Illinois recommended different percentages for the splits. States commented that the final MCSAP Basic Program Funds distribution should be continued at the States' current levels of funding to encourage enrichment or enhancement of those efforts in areas of greatest safety potential.

After careful consideration of these comments, the FMCSA has adjusted the percentages for dividing the MCSAP funds. The revised percentages are shown in the table below. The MCSAP Basic Program Funds distribution has been increased to provide funding in FY 2000 above the FY 1999 funding amount of $80,000,000, thereby providing a modest growth in the Basic Program Funds through FY 2003. Therefore, the Incentive Funds have been recalculated to begin at 5 percent of the total MCSAP funds available in FY 2001, with an increase of 3 percent per year, with the final percent in FY 2003 at 11 percent.

The MCSIA has provided additional funding for the motor carrier safety grant program. Section 103(b)(1) of the MCSIA increased the amount available in fiscal years 2001, 2002 and 2003 for motor carrier safety grants by $65 million per fiscal year. This amount was reduced by a total of $10 million per fiscal year for FY's 2001 through 2003 to fund the Commercial Motor Vehicle Crash Causation Study (section 224(f), $5 million) and data collection and analysis activities (section 225(f), $5 million) of the MCSIA. Accordingly, the table entitled ''MCSAP Funds Distribution Based on TEA–21 and MCSIA Authorization Levels'' has been revised to reflect a net increase of $55,000,000 per fiscal year in FY's 2001 through 2003 for motor carrier safety grants.

MCSAP Funds Distribution Based on TEA–21 and MCSIA Authorization Levels

Fiscal year	2000	2001	2002	2003
Total MCSAP Funds	$95,000,000	$100,000,000	$105,000,000	$110,000,000

[1] ''Highway Statistics'' is published annually by the Federal Highway Administration. It is available for inspection and copying as prescribed at 49 CFR part 7 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

MCSAP FUNDS DISTRIBUTION BASED ON TEA–21 AND MCSIA AUTHORIZATION LEVELS—Continued

Fiscal year	2000	2001	2002	2003
		55,000,000	55,000,000	55,000,000
		155,000,000	160,000,000	165,000,000
Administrative Takedown*	1,187,500	1,937,500	2,000,000	2,062,500
High Priority Activities	4,750,000	7,750,000	8,000,000	8,250,000
Border Activities	4,750,000	7,750,000	8,000,000	8,250,000
Basic Program Funds	84,312,500	130,684,375 (95%)	130,640,000 (92%)	130,329,375 (89%)
Incentive Funds	0**	6,878,125 (5%)	11,360,000 (8%)	16,108,125 (11%)

* Minimum of 75 percent is dedicated for training State Personnel.
** No Incentive Funds were distributed in fiscal year 2000.

The table entitled ''MCSAP Funds Distribution'' has been removed from proposed § 350.313(d) due to the uncertainty that the annual congressional MCSAP appropriation will be identical to the current authorized funding level.

Incentive Funds Allocation

Eight States and two organizations asserted that the philosophy of rewarding States for cutting down on their accident problem was illogical. They stated that the funds should go to those States with the biggest accident problems in order to deal with those problems.

The objective of the MCSAP is not to distribute funds to the States, the objective is to reduce accidents, injuries, and fatalities. Simply providing more funds to States with increased accidents, injuries and fatalities provides no incentive to improve safety. However, the four-factor formula for allocating Basic Program Funds, while not based on the number of accidents, does provide the greatest amount of funds to those States with the greatest potential for accident problems.

Ten States and one safety advocacy group disagreed with the use of population in the determination of the accident rate and suggested using all VMT rather than population in the calculation. One comment indicated that population is a fair basis for allocating basic funding because population is an indirect measure of accident potential. However, for determining the accident rate, use of VMT was recommended because VMT links fatalities to the actual rate of exposure.

The FMCSA agrees with this set of comments. The definition of fatal-accident rate has been changed to the total number of large truck-involved fatal crashes as reported in FARS for each State divided by the total VMT for each State for all vehicles.

Seven States and the ATA recommended using the number of CMV accidents rather than the number of fatal accidents in determining the accident rate. Various reasons were given. First, the costs of crippling injuries and property damage are significant, even if a fatality is not involved. Second, the difference between a fatal accident and a serious injury accident is often a difference of luck or the physical condition of the victim. Third, a small State may have relatively few fatal CMV accidents and any fluctuation would have profound impacts upon the accident rate. Using the total number of CMV accidents would have less impact from year to year.

The FMCSA basically agrees with all of these arguments. However, the reason for not using all CMV accidents at this point is the lack of a mature, reliable data base. The Motor Carrier Management Information System (MCMIS) accident module will eventually be an excellent source for CMV accident data. At this time, however, not all States are reporting accurate and consistent data to MCMIS. As MCMIS accident reporting by the States improves, the agency may consider using CMV accidents as the safety performance measure for MCSAP funding.

The States of Louisiana, Maryland, South Carolina, and South Dakota, the National Association of Governors' Highway Safety Representatives, and the ATA disagreed with the proposal to compare the ten-year average accident rate with the current one-year accident rate. The ATA suggested comparing a three-year average with the ten-year average to prevent unwarranted penalties because of random annual fluctuations in the number of accidents in States with relatively few fatal accidents.

The purpose of comparing the ten-year average to the current year's fatal accident rate is to give an incentive to reduce accidents. The purpose of comparing one year's accidents and accident rate to the average of the preceding 10 years is to determine the effectiveness of that year's accident reduction strategies. For this reason, the FMCSA will retain the proposed method of calculation.

Massachusetts commented that the definition of accident rates appears to change between the description of Basic and Incentive Funds.

The word ''fatal'' is added to the description of accident rates in §§ 350.317 and 350.327.

The Association of Waste Hazardous Materials Transporters questioned the fairness of allocating MCSAP Incentive Funds based on all CMV-involved fatal accidents and asserted that the accident rates should be derived using the number of accidents attributable to the CMV (based on law-enforcement citations).

The FMCSA does not agree with this recommendation because the issuing of citations as a result of an accident (as recorded in the FARS) does not always provide a complete determination of ''fault.''

Fourteen commenters recommended that the FMCSA not use accident rates for allocation of Incentive Funds. Three reasons were given:

1. An improved accident rate is not always the result of State efforts, and accidents may increase even after a State has put forth its best effort to reduce accidents.

2. States with low numbers of accidents will be penalized by very small changes in the number of accidents, even when the changes may not be statistically significant.

3. States will be penalized for improvements in accident reporting.

To lessen the impact of the accident statistics in the Incentive Funds allocation process, one commenter suggested allotting equal shares to each factor. Another comment was to use positive rather than negative incentive measures (*e.g.*, assign incentive points

for proactive program development plans).

Incentive Funds do not ''penalize'' the States. These are additional funds beyond the Basic Program Funds allocation and serve to reward States which have seen a reduction in the number of fatal accidents or the fatal accident rate and an improvement in other areas. If a State's performance continues to improve, the State will continue to receive Incentive Funds. Proactive program development should result in a reduction in accidents. Reducing accidents is a positive measure.

The State of New York noted that the approach to incentive funding fails to recognize States that have developed successful CMV safety programs. New York commented that ''it is designed to make it relatively easy for states with poorer programs to get significant incentive funding for modest gains even though they are at the bottom of any reasonable comparative national ranking.''

The FMCSA recognizes that States with the best (or lowest) fatal accident rates may have difficulty reducing those rates further, while States with higher accident rates have more room for improvement. To encourage those States with the lowest fatal accident rates who were unable to reduce—but were able to maintain—those outstanding fatal accident rates, three incentive shares will be awarded.

Although comments generally supported the concept of incentive funding, comments from nine States and the CVSA indicated concern that establishing an incentive award for timely upload of CMV accidents may actually have the effect of reducing the completeness and accuracy of the data. These States also maintain that they have no control over the speed with which certain accident data is reported to them, thereby resulting in late reporting to the FMCSA.

We are sympathetic to the States' accident reporting challenges, particularly their dependence on law enforcement agencies outside the lead MCSAP agency jurisdiction, but the collection of complete, accurate and timely accident data is vital to reducing fatalities and accidents. We cannot compromise our safety goals due to a fear that States will not report accident information in order to prevent their timeliness record from suffering. A sufficiently populated accident database provides the CMV accident information necessary to profile high-risk carriers and drivers and establish national policies and regulations that promote safety. More importantly, however, a complete and timely accident database enables the States to evaluate current safety and enforcement programs, to formulate effective future programs, and to allocate resources based upon sound data—elements of an effective performance-based program. As such, the FMCSA will retain timely accident data upload as an incentive element, and will continue to work with the States in seeking ways to improve State-wide accident reporting mechanisms.

In addition, the weighting of the incentive categories has been adjusted to emphasize the importance of fatality reduction compared to other program element improvements.

The States of California, Illinois, Michigan, and New York commented that the proposed method of calculating and distributing incentive award funds failed to reflect the relative size of States' Basic Program Funds. The FMCSA agrees and has modified the formula to weight shares based upon a State's percentage of participation in the Basic Program Funds distribution formula.

The total of all States' shares will be divided into the dollar amount of Incentive Funds available, thereby establishing the value of one share. Each State's incentive allocation will then be determined by multiplying the State's percentage of participation in the formula allocation of Basic Program Funds, by the number of shares it has that year, by the dollar value of one share.

Use of FARS Data for the Incentive Funds

Six States commented about using FARS data rather than the office's own SAFETYNET accident data for all accidents to determine incentive shares.

Currently, the FMCSA SAFETYNET Accident Module is not sufficiently populated to be used to distribute funds. The agency is working aggressively with States to record all required CMV accidents in SAFETYNET. As accident data collection improves, the agency can use it as the basis for calculating incentive funding. The FARS is a nationally recognized source of fatal accident data and the most consistent and reliable data source available at this time.

Partial Funding (50 Percent) Basic Program Funds

The States of Florida, Maine, and South Dakota commented that there was no provision in the NPRM for continued partial (50 percent) funding of the MCSAP Basic Program Funds for those States with existing incompatible intrastate regulations outside the Tolerance Guidelines and the FMCSRs. The State of Michigan commented that no State would be eligible for any funding for incompatibility based on § 350.203, and that the FMCSA should amend that section.

Eliminating partial funding from the NPRM for States that currently have incompatible intrastate regulations was an administrative oversight and has been corrected in the final rule under § 350.335. Florida, Maine and South Dakota will continue to receive 50 percent funding of their Basic Program Funds formula allocation until the incompatibilities are removed, and provided no further incompatibilities have been created. However, any State that becomes incompatible, other than the existing three incompatible States, will not be eligible for funding.

The State of Maine (Department of Public Safety) commented on § 350.341(d) of the Tolerance Guidelines prohibiting exemptions to the FMCSRs based upon the distance a motor carrier or driver operates from the work reporting location. Maine has three regulatory variances which exempt from all of Parts 391 and 395, and portions of 396, intrastate carriers, except those transporting Hazardous Materials, whose drivers operate within a 100 air-mile radius of their terminal. Maine stated: ''[I]t is the position of the State of Maine that our exemption does not impact highway safety and that the penalty imposed restricts the ability of the State of Maine to maximize our ability to impact highway safety by limiting activities under the MCSAP Program.''

Maine believes that the FMCSA would circumvent the intent of Congress through administrative rulemaking if § 350.341(d) is adopted. The substance of § 350.341(d) has been part of the Tolerance Guidelines since September 8, 1992. Until the study required by section 4032 of TEA–21 is complete, and a final decision is made, the States of Maine, Florida, and South Dakota will continue to receive 50 percent of their MCSAP Basic Program Funds.

Conditions To Qualify for Basic Program Funds

California commented that the FMCSA did not specifically identify those parts of the FMCSRs that the States are required to adopt or be compatible with in order to qualify for and receive MCSAP funds.

The FMCSA did not intend to extend the scope of required compliance beyond Parts 390 through 397. That is the clear meaning of § 350.201. However, § 350.201(a) has been

rewritten to clarify which parts of the FMCSRs and HMRs must be adopted by the States to qualify for MCSAP funding. This paragraph incorporates exceptions previously found in the ''Conditions for basic grant approval'' and the ''Tolerance Guidelines.''

Maintenance of Effort

Section 103(c) of the MCSIA amends the maintenance of effort required in the ISTEA by changing the base period to fiscal years 1997, 1998, and 1999 for measuring the level of effort. The effect of this change is to greatly increase the level of commercial motor vehicle safety activities that the State must maintain to participate in MCSAP. The intent of the maintenance of effort provision is to ensure that Federal funds supplement State funds and do not replace them. Further, it ensures that States commit to continuing their past efforts in commercial motor vehicle safety activities.

Enforcement of Registration and Financial Responsibility Requirements

Section 207 of the MCSIA amended 49 U.S.C. 31102(B)(1)(R) to read as follows (new material *italicized*): ''(R) ensures that the State will cooperate in the enforcement of registration *requirements under section 13902* and financial responsibility requirements under sections *13906*, 31138, and 31139, and regulations issued thereunder.'' The references to § 13902 (''Registration of motor carriers'') and 13906 (''Security of motor carriers, brokers, and freight forwarders'') merely clarified the meaning of the previous text by identifying the statutory provisions that deal with registration and financial responsibility requirements. Since Sec. 207 did not substantively change subparagraph (R), the FMCSA finds good cause, pursuant to 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act, to incorporate these changes into § 350.201(t) without prior notice and opportunity for comment.

Local Jurisdictions

The State of California, the OOIDA, the National Association of Governors' Highway Safety Representatives, and the CVSA were strongly opposed to local jurisdictions participating in High Priority MCSAP funding.

The FMCSA believes that under very limited circumstances, it may be desirable to fund local agencies' CMV safety program activities. In those cases, the local agency receiving a grant would be held to essentially the same qualification, certification, and administrative requirements as any other MCSAP jurisdiction, and in any event be required to coordinate all activities through the lead MCSAP agency in that State.

Compatibility

Parts of 49 CFR pertaining to the FMCSRs and HMRs which were inadvertently omitted from the NPRM but are in the current part 350, appendix C, have been added to § 350.337. The response to the question found at § 350.337 in the NPRM was not sufficiently clear about the extent to which State laws governing interstate commerce may differ from Federal law and still be compatible. The response has been rewritten to agree with the regulatory adoption requirements and exceptions stated in § 350.201. The FMCSA has added the phrase ''and provide an orderly transition to full regulatory adoption at a later date'' in § 350.341(g). This phrase is in the current Tolerance Guidelines in part 350 and was inadvertently left out of the NPRM. There was no intention of changing the standard for grandfather clauses.

The Wisconsin Motor Carriers Association and the Wisconsin DOT both commented about the addition of the words ''engaged exclusively in intrastate commerce'' with regard to the Tolerance Guidelines in § 350.339. Their comments suggested that this phrase could be interpreted to require any motor carrier that uses the same drivers and vehicles in both interstate and intrastate commerce to be subject only to the U. S. DOT jurisdiction and the FMCSRs rather than allowing those carriers, drivers and CMVs to be subject to State rules when operating on an intrastate basis.

The FMCSA agrees with these comments and has removed the word ''exclusively'' from §§ 350.339, 350.341, and 350.343.

The U.S. Equal Employment Opportunity Commission commented and urged the FMCSA to revise the State waiver standard in § 350.341(h) to be no more restrictive than the newly adopted waiver standards under section 4007 of TEA–21.

The FHWA's interim final rule implementing section 4007, ''Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures,'' [63 FR 67600, December 8, 1998] applies to interstate commerce. As indicated earlier in this notice, the Secretary has rescinded the authority previously delegated to the FHWA to carry out motor carrier functions and operations. Therefore, the regulations issued by the FHWA are now regulations of the FMCSA.

The Tolerance Guidelines in the current part 350 set forth the limited deviations from the FMCSRs allowed for laws and regulations that apply only to motor carriers, CMV drivers and CMVs engaged in intrastate commerce that are not subject to Federal jurisdiction. Section 350.341(h)(1) describes variances in place prior to the implementation of the requirements of the Surface Transportation Assistance Act of 1982. Presumably, the States who had variances grandfathered under § 350.341(h)(1) ensured that they were based upon appropriate performance standards and had no adverse effect upon safety. Since the driver qualification standard in § 350.341(h)(2) is consistent with the requirements of 49 CFR part 381—Waivers, Exemptions, and Pilot Programs, no change has been made to the Tolerance Guidelines in § 350.341(h)(2).

California commented that participating States should be given latitude to enact regulations and statutes that are compatible with Federal regulations but not identical. The State suggested that the FMCSA should retain the terminology ''having the same effect as'' in lieu of the word ''identical.''

It was an administrative oversight to leave out the phrase ''having the same effect as.'' We have added it to the language in § 350.105 only for the FMCSRs. The word ''identical'' will also remain.

California commented that under § 350.345, a State should be able to apply for additional variances from the Tolerance Guidelines and have those variances apply to interstate commerce.

California's request would undermine the congressional intent and purpose of the MCSAP to ensure uniformity of regulations and enforcement among the States. Since the inception of the program, the agency has required each State to enforce uniform motor carrier safety and hazardous materials regulations for both interstate and intrastate motor carriers and drivers. Safety standards in one State must be compatible with the requirements in another State in order to foster a uniform national safety environment. The purpose of variances is to set forth the limits within which a State can deviate from the FMCSRs and still be considered compatible for funding purposes under 49 CFR 350. But these variances are applicable only to those State rules and regulations where the U.S. Department of Transportation does not have jurisdiction, namely intrastate commerce. Variances are not available

for State rules and regulations governing interstate commerce.

Commercial Vehicle Safety Plan (CVSP)

Nine comments dealt with the CVSP.

Nevada was opposed to including a safe inspection location requirement in the State Certification. Nevada indicated most States have inspection sites that are adequate or barely adequate for CMV inspections and some are not safe under all weather conditions and certain times of the day.

The OOIDA and the ATA supported the requirement.

Since section 4003(c)(8) of TEA–21 requires that States ensure roadside inspections will be conducted at a location that is adequate to protect the safety of drivers and enforcement personnel as a condition for Basic Program Funds, that requirement must be part of the State Certification. The language has been revised to require that the MCSAP agency have departmental policies stipulating that roadside inspections are conducted at locations adequate to protect the safety of drivers and enforcement personnel.

The FMCSA is adding three items to the State Certification to be consistent with the conditions a State must meet to qualify for Basic Program Funds: (1) The State will participate in SAFETYNET and ensure information is exchanged with other States in a timely manner; (2) The State will ensure that requirements relating to the licensing of CMV drivers is enforced, including checking the status of commercial driver's licenses (CDL); and (3) The State will ensure that CMV size and weight enforcement activities funded with MCSAP funds will not diminish the effectiveness of other CMV safety enforcement programs.

Nevada and Wisconsin commented that the States need clarification regarding the requirement that the CVSP, data collection, and information systems be coordinated with State highway safety programs under 23 U.S.C. 402.

This requirement is neither another layer of approval for the CVSP nor a means to validate the States' SAFETYNET data with section 402 data. The requirement to coordinate a State's CVSP (formerly SEP) with the State highway safety plan under 23 U.S.C. 402 has always been a component of the State Certification. Section 4003(c)(2) of TEA–21 merely expands the requirement to also include the coordination of data collection and information systems with State highway safety programs under title 23, U.S. Code. Certification item 12 has been revised to reflect that mandate. The intent of this congressional direction is to ensure close coordination of State highway safety programs. State highway safety programs aimed at passenger cars and drivers and those aimed at CMVs and CMV drivers should complement each other to the fullest possible extent. Both the section 402 State and community grant program and MCSAP are data-driven and performance-based programs designed to reduce accidents, injuries, and fatalities. The Congress intends for these programs to share data, information, and program plans to reduce fatalities. The States must certify that information exchange or coordination of safety plans was accomplished.

The OOIDA, Advocates for Highway and Auto Safety (AHAS), and the States of Iowa and Maryland commented about the timely and proper correction of all CMV safety violations. The OOIDA commented that there are no standards which define the ''timely and proper'' correction of CMV violations. Iowa commented that the term ''all'' should be eliminated. The AHAS expressed its concern for eliminating ''the prior regulatory requirement that states enact and enforce an out-of-service (OOS) verification program in favor of a 'certification acceptance' that the States have a process in place for timely and proper correction of all CMV safety violations noted during inspections.'' Maryland is concerned that the State has no control over interstate carriers not domiciled in their State.

Section 4003(c)(4) of TEA–21 eliminates the current statutory requirement that the States establish an out-of-service verification program and mandates that the States ''will establish a program to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection* * *.'' This mandate does not preclude the States from continuing their out-of-service verification programs. This is not a new requirement for the States. Section 350.9(p) currently requires the correction of all violations cited on roadside inspection reports. States are also required to have a tracking system in place to ensure that motor carriers certify the corrections of safety violations and that inspection reports are returned to the issuing agency (§ 350.13(b)(4)(v)).

Standards to define ''timely and proper'' corrections of CMV violations are found in 49 CFR 396.9(d)(2) which states: ''Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.'' Additionally, 49 CFR 396.11(c) states that, ''prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent shall repair any defect or deficiency listed on the driver vehicle inspection report which would likely affect the safety of operation of the vehicle.'' Section 396.9 also requires that a motor carrier shall certify that all repairs have been made and return the signed inspection form to the issuing agency within 15 days following the inspection. Furthermore, the North American Uniform Out-of-Service Criteria states that ''violations other than out-of-service conditions detected during the inspection process will not preclude the completion of the current trip or dispatch. However, such violations must be corrected or repaired prior to redispatch.''

The Upper Great Plains Transportation Institute provided comments to the docket on suggested revisions for § 350.213, ''What must a CVSP include.'' The FMCSA agrees that the CVSP guidelines should be consistent with the Performance-Based MCSAP training. The following paragraphs have been amended: ''(a) A statement of the State agency goal or mission'' is amended to read ''(a) A General overview section that must include the following two items: (1) A statement of the State agency goal or mission.'' Paragraph ''(b)'' is now ''(2)'' under Paragraph ''(a)'' and the phrase ''comprehensive evaluation'' is changed to ''program summary.'' The sentence, ''Evaluation data should measure program progress in one-year increments'' has been deleted and replaced with, ''Data periods used must be consistent from year to year.'' In the next sentence of this paragraph the phrase ''chosen by the State'' is replaced with ''for which the State's data is current.'' The word ''evaluation'' that appears in the next sentence has been changed to ''summary.'' Paragraph (b) has been expanded to include descriptions of the State's activities related to removing impaired CMV drivers from the highways and interdicting controlled substances transported by CMVs (as required by § 350.201(q)) and enforcing registration and financial responsibility requirements (as required by § 350.201(t)). In paragraph (f), now paragraph (e), the second sentence has been replaced with ''Strategies may include education, enforcement, legislation, or technology/infrastructure.'' In paragraph (g), now paragraph (f), the second sentence has been completely deleted. To be consistent with the Performance-Based MCSAP training, a new paragraph (i) has been added. The Performance-Based MCSAP training specifies that each

State specific objective must be evaluated. The new paragraph (i) describes the information the States will discuss in this section of its CVSP. To be consistent with the Performance-Based MCSAP training, paragraphs (n) through (r) have been added to this section. Paragraphs (c) through (m) have been redesignated as paragraphs (b) through (g) and (j) through (m), respectively.

Size and Weight Enforcement

Michigan and Oregon asked for a clarification regarding cost eligibility of size and weight enforcement at fixed sites.

The MCSAP rule on this point has not changed since 1992. To be eligible for reimbursement, (§ 350.29(c)(5)) size and weight enforcement must be conducted at locations other than fixed weight facilities, at specific geographic locations where the weight of the vehicle can significantly affect the safe operation of the vehicle, or at seaports where intermodal shipping containers enter and exit the United States. These size and weight enforcement activities must be carried out in conjunction with an appropriate North American Standard Inspection and inspection report.

Consolidation of Appendices

This rulemaking incorporates appendices A, B, and C into the regulatory text. The following table shows where each section of the amended regulations appear in the new format:

Old regulation	New regulation
350.1—Purpose	350.103.
350.3—Definitions	350.105.
350.5—Policy	350.101.
350.7—Objective	350.101.
350.9—Conditions for basic grant approval	350.107, 350.201.
350.11—Adopting and enforcing compatible laws and regulations (generally):	
350.11(a)	350.201(a).
350.11(b)	350.331(c).
350.11(c)	Removed.
350.11(d)	350.105 (compatible/compatibility).
350.11(e)	350.203.
350.11(f)	350.331(d).
350.11(g)	350.345.
350.11(h)	350.335(d).
350.11(i)	350.335(e).
350.13—State Enforcement Plan (SEP) for a basic grant	350.213.
350.15—Certification of compliance by State	350.209.
350.17—Maintenance of effort	350.301.
350.19—Grant application submission	350.205.
350.21—Distribution of funds:	
350.21(a)	350.303.
350.21(b)	350.305.
350.21(c)	350.323(a).
350.21(d)	350.323(b).
350.21(e)–(f)	350.313, 350.315, 350.317, 350.319, 350.321, 350.323, 350.327, 350.329.
350.31(g)	350.307.
350.23—Acceptance of State Plan	350.205, 350.207.
350.25—Effect of failure to submit a satisfactory State Plan	350.205, 350.207.
350.27—Procedure for withdrawal of approval	350.215.
350.29—Eligible costs	350.309, 350.311, 350.315.
350 App A—Guidelines To Be Used in Preparing State Enforcement Plan.	350.213 the SEP has been renamed the Commercial Vehicle Safety plan (CFSP).
350 App B—Form of State Certification	350.211.
350 App C—Tolerance Guidelines for Adopting Compatible State Rules and Regulations:	
paragraph 1	Removed.
paragraph (2)(a)	350.337.
paragraph (2)(b)	350.337.
paragraph (3)(a)	Removed.
paragraph (3)(b)	350.341(a).
paragraph (3)(c)	350.341(b).
paragraph (3)(d)	350.341(c).
paragraph (3)(d)(1)–(d)(11)	350.343.
paragraph (3)(e)	350.341(d).
paragraph (3)(f)	350.341(e).
paragraph (3)(g)	350.341(f).
paragraph (3)(h)	350.341(g).
paragraph (3)(i)	350.341(h).
paragraph (3)(j)	Removed.

Conforming Amendments

This action amends various sections of 49 CFR part 355 to conform with changes to the MCSAP and 49 CFR part 350. Under § 355.5, the terms ''compatible/compatibility'' and ''State'' are revised to be consistent with part 350. The acronym ''FMCSRs'' has been added to the definition for ''Federal Motor Carrier Safety Regulations'' and replaces ''FMCSR'' throughout this part. Section 355.21(c) now reflects the requirement that State laws and regulations be identical to the Hazardous Materials Regulations. The term ''Commercial Vehicle Safety Plan (CVSP)'' replaces ''Safety Enforcement Plan (SEP).'' Cross-references to part 350 have been updated.

The FMCSA has eliminated the last two sentences under the paragraph titled ''Definitions'' in Appendix A to Part 355—Guidelines for the Regulatory Review. States must continue to ensure that definitions of terms used in their laws and regulations are consistent with FMCSR definitions. We have simply removed the example term ''commercial motor vehicle.'' An interim final rule ''Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle; Interim Final Rule'' published on September 3, 1999, at 64 FR 48510 revised the CMV definition under § 390.5 to cover ''vehicles designed or used to transport more than 8 passengers (including the driver) for compensation.'' But the action exempts the operation of these small passenger-carrying vehicles from all of the FMCSRs for 6 months to allow time for the completion of a separate rulemaking action also published on September 3, 1999, at 64 FR 48518. Revising appendix A to reflect the new CMV definition is premature and potentially confusing to the States.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of DOT regulatory policies and procedures. The revisions to the FMCSRs will not cause an annual impact on the economy of over $100 million, and they will not adversely affect a sector of the economy in a material way. The changes will not create an inconsistency or otherwise interfere with another agency's actions, nor do they raise novel legal or policy issues. These changes merely implement a recently enacted legislative mandate which directed the FMCSA to amend its regulations pertaining to the MCSAP. This final rule broadens the scope of the MCSAP beyond enforcement activities and programs by requiring participating States to assume greater responsibility for improving motor carrier safety. It revises the MCSAP funding distribution formula, creates a new incentive funding program, and requires States to develop performance-based CMV safety plans. Thus, in light of this analysis, especially the finding that the economic impact of this action is likely to be minimal, the FMCSA has determined that a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FMCSA has evaluated the effects of this rule on small entities. It is anticipated that this rulemaking will have little or a non-significant impact upon small entities. The changes merely implement TEA–21 provisions pertaining to the MCSAP affecting only States and local jurisdictions. This rule provides a process for making high priority activity and border activity funds available to local jurisdictions as well as MCSAP agencies. The basic conditions for local agencies to qualify for these funds are consistent with the conditions local agencies must now follow to receive funds through the MCSAP agency. Local agencies will not be required to participate unless they find it is in their best interest. The number of local agencies that would receive direct funding will be minimal since the FMCSA will provide grants directly to local agencies only where it is not possible to work through the lead MCSAP agency. Therefore, the FMCSA hereby certifies that this proposed action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

This rule does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 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.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in acordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. The changes in this rule implement TEA–21 provisions. The MCSAP is a grant-in-aid type program whereby Federal financial assistance is provided to States. The basic nature of the program and the level of total funding for the program are not affected by these changes. Nothing in this document directly preempts any State law or regulation. Therefore, this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program. Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. In its March 9, 1999, notice of proposed rulemaking (NPRM) titled ''Motor Carrier Safety Assistance Program (MCSAP), the agency stated that this action might increase the number of respondents in the MCSAP information collection (OMB Control No. 2126–0010). The

agency has subsequently determined that the number of respondents would not change as a result of this rulemaking, and therefore, is not requesting any revisions to the currently approved collection which will expire on March 31, 2001. The NPRM specifically solicited comments regarding the information collections imposed by this action. The comments that were received are being addressed as a program element of the MCSAP and will not result in any changes to this information collection.

National Environmental Policy Act

The agency has analyzed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and it has determined that this action will not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 350

Grant programs—transportation, Highway safety, Motor carriers.

49 CFR Part 355

Administrative practice and procedure, Federal-State relations, Grant programs, Hazardous materials transportation.

Issued on: March 14, 2000

Julie Cirillo,

Acting Deputy Administrator.

In consideration of the foregoing, the FMCSA amends title 49, Code of Federal Regulations, chapter III, as follows:

1. Part 350 is revised to read as follows:

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

Subpart A—General

Sec.

350.101 What is the Motor Carrier Safety Assistance Program (MCSAP)?
350.103 What is the purpose of this part?
350.105 What definitions are used in this part?
350.107 What jurisdictions are eligible for MCSAP funding?
350.109 What are the national program elements?
350.111 What constitutes ''traffic enforcement'' for the purpose of the MCSAP?

Subpart B—Requirements for Participation

350.201 What conditions must a State meet to qualify for Basic Program Funds?
350.203 [Reserved]
350.205 How and when does a State apply for MCSAP funding?
350.207 What response does a State receive to its CVSP submission?
350.209 How does a State demonstrate that it satisfies the conditions for Basic Program funding?
350.211 What is the format of the certification required by § 350.209?
350.213 What must a State CVSP include?
350.215 What are the consequences for a State that fails to perform according to an approved CVSP or otherwise fails to meet the conditions of this part?

Subpart C—Funding

350.301 What level of effort must a State maintain to qualify for MCSAP funding?
350.303 What are the State and Federal shares of expenses incurred under an approved CVSP?
350.305 Are U.S. Territories subject to the matching funds requirement?
350.307 How long are MCSAP funds available to a State?
350.309 What activities are eligible for reimbursement under the MCSAP?
350.311 What specific items are eligible for reimbursement under the MCSAP?
350.313 How are MCSAP funds allocated?
350.315 How may Basic Program Funds be used?
350.317 What are Incentive Funds and how may they be used?
350.319 What are permissible uses of High Priority Activity Funds?
350.321 What are permissible uses of Border Activity Funds?
350.323 What criteria are used in the Basic Program Funds allocation?
350.325 [Reserved]
350.327 How may States qualify for Incentive Funds?
350.329 How may a State or a local agency qualify for High Priority or Border Activity Funds?
350.331 How does a State ensure its laws and regulations are compatible with the FMCSRs and HMRs?
350.333 What are the guidelines for the compatibility review?
350.335 What are the consequences if my State has laws or regulations incompatible with the Federal regulations?
350.337 How may State laws and regulations governing motor carriers, CMV drivers, and CMVs in interstate commerce differ from the FMCSRs and still be considered compatible?
350.339 What are tolerance guidelines?
350.341 What specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction?
350.343 How may a State obtain a new exemption for State laws and regulations for a specific industry involved in intrastate commerce?
350.345 How does a State apply for additional variances from the FMCSRs?

Authority: 49 U.S.C. 31100–31104, 31108, 31136, 31140–31141, 31161, 31310–31311, 31502; and 49 CFR 1.73.

Subpart A—General

§ 350.101 What is the Motor Carrier Safety Assistance Program (MCSAP)?

The MCSAP is a Federal grant program that provides financial assistance to States to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles (CMV). The goal of the MCSAP is to reduce CMV-involved accidents, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. Investing grant monies in appropriate safety programs will increase the likelihood that safety defects, driver deficiencies, and unsafe motor carrier practices will be detected and corrected before they become contributing factors to accidents. The MCSAP also sets forth the conditions for participation by States and local jurisdictions and promotes the adoption and uniform enforcement of safety rules, regulations, and standards compatible with the Federal Motor Carrier Safety Regulations (FMCSRs) and Federal Hazardous Material Regulations (HMRs) for both interstate and intrastate motor carriers and drivers.

§ 350.103 What is the purpose of this part?

The purpose of this part is to ensure the Federal Motor Carrier Safety Administration (FMCSA), States, and other political jurisdictions work in partnership to establish programs to improve motor carrier, CMV, and driver safety to support a safe and efficient transportation system.

§ 350.105 What definitions are used in this part?

10-year average accident rate means for each State, the aggregate number of large truck-involved fatal crashes (as reported in the Fatality Analysis Reporting System (FARS)) for a 10-year period divided by the aggregate vehicle miles traveled (VMT) (as defined by the Federal Highway Administration (FHWA)) for the same 10-year period.

Accident rate means for each State, the total number of fatal crashes involving large trucks (as measured by the FARS for each State) divided by the total VMT as defined by the FHWA for each State for all vehicles.

Agency means Federal Motor Carrier Safety Administration.

Administrative Takedown Funds means funds deducted by the FMCSA each fiscal year from the amount made available for the MCSAP for expenses incurred in the administration of the MCSAP, including expenses to train State and local government employees.

Administrator means Federal Motor Carrier Safety Administrator.

Basic Program Funds means the total MCSAP funds less the High Priority Activity, Border Activity, Administrative Takedown, and Incentive Funds.

Border Activity Funds means funds provided to States, local governments, and other persons carrying out programs, activities, and projects relating to CMV safety and regulatory enforcement supporting the North American Free Trade Agreement (NAFTA) at the U.S. border. Up to 5 percent of total MCSAP funds are available for these activities.

Commercial motor vehicle (CMV) means a motor vehicle that has any of the following characteristics:

(1) A gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) of 4,537 kilograms (10,001 pounds) or more.

(2) Regardless of weight, is designed or used to transport 16 or more passengers, including driver.

(3) Regardless of weight, is used in the transportation of hazardous materials and is required to be placarded pursuant to 49 CFR part 172, subpart F.

Commercial vehicle safety plan (CVSP) means the document outlining the State's CMV safety objectives, strategies, activities and performance measures.

Compatible or *Compatibility* means State laws and regulations applicable to interstate commerce and to intrastate movement of hazardous materials are identical to the FMCSRs and the HMRs or have the same effect as the FMCSRs. State laws applicable to intrastate commerce are either identical to, or have the same effect as, the FMCSRs or fall within the established limited variances under § 350.341.

High Priority Activity Funds means funds provided to States, local governments, and other persons carrying out activities and projects that directly support the MCSAP, are national in scope in that the successful activity or project could potentially be applied in other States on a national scale, and improve CMV safety and compliance with CMV safety regulations. Up to 5 percent of total MCSAP funds are available for these activities.

Incentive Funds means funds awarded to States achieving reductions in CMV involved fatal accidents, CMV fatal accident rate, or meeting specified CMV safety program performance criteria.

Large truck means a truck over 10,000 pounds gross vehicle weight rating including single unit trucks and truck tractors (FARS definition).

Motor carrier means a for-hire motor carrier or private motor carrier. The term includes a motor carrier's agents, officers, or representatives responsible for hiring, supervising, training, assigning, or dispatching a driver or concerned with the installation, inspection, and maintenance of motor vehicle equipment or accessories or both.

North American Standard Inspection means the methodology used by State CMV safety inspectors to conduct safety inspections of CMVs. This consists of various levels of inspection of the vehicle or driver or both. The inspection criteria are developed by the FMCSA in conjunction with the Commercial Vehicle Safety Alliance (CVSA), an association of States, Canadian Provinces, and Mexico whose members agree to adopt these standards for inspecting CMVs in their jurisdiction.

§ 350.107 What jurisdictions are eligible for MCSAP funding?

All of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Virgin Islands are eligible to receive MCSAP grants directly from the FMCSA. For purposes of this subpart, all references to ''State'' or ''States'' include these jurisdictions.

§ 350.109 What are the national program elements?

The national program elements include the following five activities:

(a) Driver/vehicle inspections.

(b) Traffic enforcement.

(c) Compliance reviews.

(d) Public education and awareness.

(e) Data collection.

§ 350.111 What constitutes ''traffic enforcement'' for the purpose of the MCSAP?

Traffic enforcement means enforcement activities of State or local officials, including stopping CMVs operating on highways, streets, or roads for violations of State or local motor vehicle or traffic laws (*e.g.,* speeding, following too closely, reckless driving, improper lane change). To be eligible for funding through the grant, traffic enforcement must include an appropriate North American Standard Inspection of the CMV or driver or both prior to releasing the driver or CMV for resumption of operations.

Subpart B—Requirements for Participation

§ 350.201 What conditions must a State meet to qualify for Basic Program Funds?

Each State must meet the following twenty-two conditions:

(a) Assume responsibility for improving motor carrier safety and adopting and enforcing State safety laws and regulations that are compatible with the FMCSRs (49 CFR parts 390–397) and the HMRs (49 CFR parts 107 (subparts F and G only), 171–173, 177, 178 and 180), except as may be determined by the Administrator to be inapplicable to a State enforcement program.

(b) Implement a performance-based program by the beginning of Fiscal Year 2000 and submit a CVSP which will serve as the basis for monitoring and evaluating the State's performance.

(c) Designate, in its State Certification, the lead State agency responsible for implementing the CVSP.

(d) Ensure that only agencies having the legal authority, resources, and qualified personnel necessary to enforce the FMCSRs and HMRs or compatible State laws or regulations are assigned to perform functions in accordance with the approved CVSP.

(e) Allocate adequate funds for the administration of the CVSP including the enforcement of the FMCSRs, HMRs, or compatible State laws or regulations.

(f) Maintain the aggregate expenditure of funds by the State and its political subdivisions, exclusive of Federal funds, for motor carrier and highway hazardous materials safety enforcement, eligible for funding under this part, at a level at least equal to the average expenditure for Federal or State fiscal years 1997, 1998, and 1999.

(g) Provide legal authority for a right of entry and inspection adequate to carry out the CVSP.

(h) Prepare and submit to the FMCSA, upon request, all reports required in connection with the CVSP or other conditions of the grant.

(i) Adopt and use the reporting standards and forms required by the FMCSA to record work activities performed under the CVSP.

(j) Require registrants of CMVs to declare, at the time of registration, their knowledge of applicable FMCSRs, HMRs, or compatible State laws or regulations.

(k) Grant maximum reciprocity for inspections conducted under the North

American Standard Inspection through the use of a nationally accepted system that allows ready identification of previously inspected CMVs.

(l) Conduct CMV size and weight enforcement activities funded under this program only to the extent those activities do not diminish the effectiveness of other CMV safety enforcement programs.

(m) Coordinate the CVSP, data collection and information systems, with State highway safety programs under title United States Code (U.S.C.).

(n) Ensure participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section.

(o) Ensure information is exchanged with other States in a timely manner.

(p) Emphasize and improve enforcement of State and local traffic laws and regulations related to CMV safety.

(q) Promote activities in support of the national program elements listed in § 350.109, including the following three activities:

(1) Activities aimed at removing impaired CMV drivers from the highways through adequate enforcement of restrictions on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment.

(2) Activities aimed at providing an appropriate level of training to MCSAP personnel to recognize drivers impaired by alcohol or controlled substances.

(3) Interdiction activities affecting the transportation of controlled substances by CMV drivers and training on appropriate strategies for carrying out those interdiction activities.

(r) Enforce requirements relating to the licensing of CMV drivers, including checking the status of commercial drivers' licenses (CDL).

(s) Require the proper and timely correction of all CMV safety violations noted during inspections carried out with MCSAP funds.

(t) Enforce registration requirements under 49 U.S.C. section 13902 and 49 CFR part 356 and financial responsibility requirements under 49 U.S.C. sections 13906, 31138 and 31139 and 49 CFR part 387.

(u) Adopt and maintain consistent, effective, and reasonable sanctions for violations of CMV, driver, and hazardous materials regulations.

(v) Ensure that MCSAP agencies have policies that stipulate roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel.

§ 350.203 [RESERVED]

§ 350.205 How and when does a State apply for MCSAP funding?

(a) The lead agency, designated by the Governor, must submit the State's CVSP to the Motor Carrier State Director, FMCSA, on or before August 1 of each year.

(b) This deadline may, for good cause, be extended by the State Director for a period not to exceed 30 calendar days.

(c) For a State to receive funding, the CVSP must be complete and include all required documents.

§ 350.207 What response does a State receive to its CVSP submission?

(a) The FMCSA will notify the State, in writing, within 30 days of receipt of the CVSP whether:

(1) The plan is approved.

(2) Approval of the plan is withheld because the CVSP does not meet the requirements of this part, or is not adequate to ensure effective enforcement of the FMCSRs and HMRs or compatible State laws and regulations.

(b) If approval is withheld, the State will have 30 days from the date of the notice to modify and resubmit the plan.

(c) Disapproval of a resubmitted plan is final.

(d) Any State aggrieved by an adverse decision under this section may seek judicial review under 5 U.S.C. chapter 7.

§ 350.209 How does a State demonstrate that it satisfies the conditions for Basic Program funding?

(a) The Governor, the State's Attorney General, or other State official specifically designated by the Governor, must execute a State Certification as described in § 350.211.

(b) The State must submit the State Certification along with its CVSP, and supplement it with a copy of any State law, regulation, or form pertaining to CMV safety adopted since the State's last certification that bears on the items contained in § 350.201 of this subpart.

§ 350.211 What is the format of the certification required by § 350.209?

The State's certification must be consistent with the following content:

I (name), (title), on behalf of the State (or Commonwealth) of (State), as requested by the Administrator as a condition of approval of a grant under the authority of 49 U.S.C. 31102, as amended, do hereby certify as follows:

1. The State has adopted commercial motor carrier and highway hazardous materials safety rules and regulations that are compatible with the FMCSRs and the HMRs.

2. The State has designated (name of State CMV safety agency) as the lead agency to administer the CVSP for the grant sought and (names of agencies) to perform defined functions under the plan. These agencies have the legal authority, resources, and qualified personnel necessary to enforce the State's commercial motor carrier, driver, and highway hazardous materials safety laws or regulations.

3. The State will obligate the funds or resources necessary to provide a matching share to the Federal assistance provided in the grant to administer the plan submitted and to enforce the State's commercial motor carrier safety, driver, and hazardous materials laws or regulations in a manner consistent with the approved plan.

4. The laws of the State provide the State's enforcement officials right of entry and inspection sufficient to carry out the purposes of the CVSP, as approved, and provide that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Standard Inspection procedure, through the use of a nationally accepted system allowing ready identification of previously inspected CMVs.

5. The State requires that all reports relating to the program be submitted to the appropriate State agency or agencies, and the State will make these reports available, in a timely manner, to the FMCSA on request.

6. The State has uniform reporting requirements and uses FMCSA designated forms for record keeping, inspection, and other enforcement activities.

7. The State has in effect a requirement that registrants of CMVs declare their knowledge of the applicable Federal or State CMV safety laws or regulations.

8. The State will maintain the level of its expenditures, exclusive of Federal assistance, at least at the level of the average of the aggregate expenditures of the State and its political subdivisions during State or Federal fiscal years 1997, 1998, and 1999. These expenditures must cover at least the following four program areas, if applicable:

(a) Motor carrier safety programs in accordance with 49 CFR 350.301.

(b) Size and weight enforcement programs.

(c) Traffic safety.

(d) Drug interdiction enforcement programs.

9. The State will ensure that CMV size and weight enforcement activities funded with MCSAP funds will not diminish the effectiveness of other CMV safety enforcement programs.

10. The State will ensure that violation fines imposed and collected by the State are consistent, effective, and equitable.

11. The State will ensure it has a program for timely and appropriate correction of all violations discovered during inspections conducted using MCSAP funds.

12. The State will ensure that the CVSP, data collection, and information systems are coordinated with the State highway safety program under title 23, U.S. Code. The name of the Governor's highway safety representative (or other authorized State official through whom coordination was accomplished) is _____. (Name)

13. The State participates in SAFETYNET and ensures information is exchanged with other States in a timely manner.

14. The State has undertaken efforts to emphasize and improve enforcement of State and local traffic laws as they pertain to CMV safety.

15. Ensure that MCSAP agencies have departmental policies stipulating that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel.

16. The State will ensure that requirements relating to the licensing of CMV drivers are enforced, including checking the status of CDLs.

Date _____

Signature _____

§ 350.213 What must a State CVSP include?

The State's CVSP must reflect a performance-based program, and contain the following eighteen items:

(a) A general overview section that must include the following two items:

(1) A statement of the State agency goal or mission.

(2) A program summary of the effectiveness of the prior years' activities in reducing CMV accidents, injuries and fatalities, and improving driver and motor carrier safety performance. Data periods used must be consistent from year to year. This may be calendar year or fiscal year or any 12-month period of time for which the State's data is current. The summary must show trends supported by safety and program performance data collected over several years. It must identify safety or performance problems in the State and those problems must be addressed in the new or modified CVSP.

(b) A brief narrative describing how the State program addresses the national program elements listed in § 350.109. The plan must address these elements even if there are no planned activities in a program area. The rationale for the resource allocation decision must be explained. The narrative section must include a description of how the State supports the three activities identified in § 350.201(q):

(1) Activities aimed at removing impaired CMV drivers from the highways through adequate enforcement of restrictions on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment.

(2) Activities aimed at providing an appropriate level of training to MCSAP personnel to recognize drivers impaired by alcohol or controlled substances.

(3) Interdiction activities affecting the transportation of controlled substances by CMV drivers and training on appropriate strategies for carrying out those interdiction activities.

(4) Activities to enforce registration requirements under 49 U.S.C. 13902 and 49 CFR part 365 and financial responsibility requirements under 49 U.S.C. 13906, 31138 and 31139 and 49 CFR part 387.

(c) A definitive problem statement for each objective, supported by data or other information. The CVSP must identify the source of the data, and who is responsible for its collection, maintenance, and analysis.

(d) Performance objectives, stated in quantifiable terms, to be achieved through the State plan. Objectives must include a measurable reduction in highway accidents or hazardous materials incidents involving CMVs. The objective may also include documented improvements in other program areas (e.g., legislative or regulatory authority, enforcement results, or resource allocations).

(e) Strategies to be employed to achieve performance objectives. Strategies may include education, enforcement, legislation, use of technology and improvements to safety infrastructure.

(f) Specific activities intended to achieve the stated strategies and objectives. Planned activities must be eligible under this program as defined in §§ 350.309 and 350.311.

(g) Specific quantifiable performance measures, as appropriate. These performance measures will be used to assist the State in monitoring the progress of its program and preparing an annual evaluation.

(h) A description of the State's method for ongoing monitoring of the progress of its plan. This should include who will conduct the monitoring, the frequency with which it will be carried out, and how and to whom reports will be made.

(i) An objective evaluation that discusses the progress towards individual objectives listed under the ''Performance Objectives'' section of the previous year's CVSP and identifies any safety or performance problems discovered. States will identify those problems as new objectives or make modifications to the existing objectives in the next CVSP.

(j) A budget which supports the CVSP, describing the expenditures for allocable costs such as personnel and related costs, equipment purchases, printing, information systems costs, and other eligible costs consistent with §§ 350.311 and 350.309.

(k) A budget summary form including planned expenditures for that fiscal year and projected number of activities in each national program element, except data collection.

(l) The results of the annual review to determine the compatibility of State laws and regulations with the FMCSRs and HMRs.

(m) A copy of any new law or regulation affecting CMV safety enforcement that was enacted by the State since the last CVSP was submitted.

(n) Executed State Certification as outlined in § 350.211.

(o) Executed MCSAP–1 form.

(p) List of MCSAP contacts.

(q) Annual Certification of Compatibility, § 350.331.

(r) State Training Plan.

§ 350.215 What are the consequences for a State that fails to perform according to an approved CVSP or otherwise fails to meet the conditions of this part?

(a) If a State is not performing according to an approved plan or not adequately meeting conditions set forth in § 350.201, the Administrator may issue a written notice of proposed determination of nonconformity to the Governor of the State or the official designated in the plan. The notice will set forth the reasons for the proposed determination.

(b) The State will have 30 days from the date of the notice to reply. The reply must address the deficiencies or incompatibility cited in the notice and provide documentation as necessary.

(c) After considering the State's reply, the Administrator will make a final decision.

(d) In the event the State fails timely to reply to a notice of proposed determination of nonconformity, the notice becomes the Administrator's final determination of nonconformity.

(e) Any adverse decision will result in immediate cessation of Federal funding under this part.

(f) Any State aggrieved by an adverse decision under this section may seek judicial review under 5 U.S.C. chapter 7.

Subpart C—Funding

§ 350.301 What level of effort must a State maintain to qualify for MCSAP funding?

(a) The State must maintain the average aggregate expenditure (monies spent during the base period of Federal or State fiscal years 1997, 1998, and 1999) of State funds for motor carrier and highway hazardous materials safety enforcement purposes, in the year in which the grant is sought.

(b) Determination of a State's level of effort must not include the following three things:

(1) Federal funds received for support of motor carrier and hazardous materials safety enforcement.

(2) State matching funds.

(3) State funds used for federally sponsored demonstration or pilot CMV safety programs.

(c) The State must include costs associated with activities performed during the base period by State or local agencies currently receiving or projected to receive funds under this part. It must include only those activities which meet the current requirements for funding eligibility under the grant program.

§ 350.303 What are the State and Federal shares of expenses incurred under an approved CVSP?

(a) The FMCSA will reimburse up to 80 percent of the eligible costs incurred in the administration of an approved CVSP.

(b) In-kind contributions are acceptable in meeting the State's matching share if they represent eligible costs as established by 49 CFR part 18 or agency policy.

§ 350.305 Are U.S. Territories subject to the matching funds requirement?

The Administrator waives the requirement for matching funds for the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

§ 350.307 How long are MCSAP funds available to a State?

The funds obligated to a State will remain available for the rest of the fiscal year in which they were obligated and the next full fiscal year. The State must account for any prior year's unexpended funds in the annual CVSP. Funds must be expended in the order in which they are obligated.

§ 350.309 What activities are eligible for reimbursement under the MCSAP?

The primary activities eligible for reimbursement are:

(a) The five national program elements listed in § 350.109 of this part.

(b) Sanitary food transportation inspections performed under 49 U.S.C. 5708.

(c) The following three activities, when accompanied by an appropriate North American Standard Inspection and inspection report:

(1) Enforcement of size and weight regulations conducted at locations other than fixed weight facilities, at specific geographical locations where the weight of the vehicle can significantly affect the safe operation of the vehicle, or at seaports where intermodal shipping containers enter and exit the United States.

(2) Detection of the unlawful presence of controlled substances in a CMV or on the driver or any occupant of a CMV.

(3) Enforcement of State traffic laws and regulations designed to promote the safe operation of CMVs.

§ 350.311 What specific items are eligible for reimbursement under the MCSAP?

All reimbursable items must be necessary, reasonable, allocable to the approved CVSP, and allowable under this part and 49 CFR part 18. The eligibility of specific items is subject to review by the FMCSA. The following six types of expenses are eligible for reimbursement:

(a) Personnel expenses, including recruitment and screening, training, salaries and fringe benefits, and supervision.

(b) Equipment and travel expenses, including per diem, directly related to the enforcement of safety regulations, including vehicles, uniforms, communications equipment, special inspection equipment, vehicle maintenance, fuel, and oil.

(c) Indirect expenses for facilities, except fixed scales, used to conduct inspections or house enforcement personnel, support staff, and equipment to the extent they are measurable and recurring (*e.g.*, rent and overhead).

(d) Expenses related to data acquisition, storage, and analysis that are specifically identifiable as program-related to develop a data base to coordinate resources and improve efficiency.

(e) Clerical and administrative expenses, to the extent necessary and directly attributable to the MCSAP.

(f) Expenses related to the improvement of real property (e.g., installation of lights for the inspection of vehicles at night). Acquisition of real property, land, or buildings are not eligible costs.

§ 350.313 How are MCSAP funds allocated?

(a) After deducting administrative expenses authorized in 49 U.S.C. 31104(e), the MCSAP funds are allocated as follows:

(1) Up to 5 percent of the MCSAP funds appropriated for each fiscal year may be distributed for High Priority Activities and Projects at the discretion of the Administrator.

(2) Up to 5 percent of the MCSAP funds appropriated for each fiscal year may be distributed for Border CMV Safety and Enforcement Programs at the discretion of the Administrator.

(3) The remaining funds will be allocated among qualifying States in two ways:

(i) As Basic Program Funds in accordance with § 350.323 of this part,

(ii) As Incentive Funds in accordance with § 350.327 of this part.

(b) The funding provided in paragraphs (a)(1) and (a)(2) of this section may be awarded through contract, cooperative agreement, or grant. The FMCSA will notify States if it intends to solicit State grant proposals for any portion of this funding.

(c) The funding provided under paragraphs (a)(1) and (a)(2) of this section may be made available to State MCSAP lead agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.

§ 350.315 How may Basic Program Funds be used?

Basic Program Funds may be used for any eligible activity or item consistent with §§ 350.309 and 350.311.

§ 350.317 What are Incentive Funds and how may they be used?

Incentive Funds are monies, in addition to Basic Program Funds, provided to States that achieve reduction in CMV-involved fatal accidents, CMV fatal accident rate, or that meet specified CMV safety performance criteria. Incentive Funds may be used for any eligible activity or item consistent with §§ 350.309 and 350.311.

§ 350.319 What are permissible uses of High Priority Activity Funds?

(a) The FMCSA may generally use these funds to support, enrich, or evaluate State CMV safety programs and to accomplish the five objectives listed below:

(1) Implement, promote, and maintain national programs to improve CMV safety.

(2) Increase compliance with CMV safety regulations.

(3) Increase public awareness about CMV safety.

(4) Provide education on CMV safety and related issues.

(5) Demonstrate new safety related technologies.

(b) These funds will be allocated, at the discretion of the FMCSA, to States, local governments, and other organizations that use and train qualified officers and employees in coordination with State safety agencies.

(c) The FMCSA will notify the States when such funds are available.

(d) The Administrator may designate up to 5 percent of the annual MCSAP funding for these projects and activities.

§ 350.321 What are permissible uses of Border Activity Funds?

(a) The FMCSA may generally use such funds to develop and implement a national program addressing CMV safety and enforcement activities along the United States' borders.

(b) These funds will be allocated, at the discretion of the FMCSA, to States,

local governments, and other organizations that use and train qualified officials and employees in coordination with State safety agencies. The FMCSA will notify the States when such funds are available. The Administrator may designate up to 5 percent of the annual MCSAP funding for these projects and activities.

§ 350.323 What criteria are used in the Basic Program Funds allocation?

(a) The funds are distributed proportionally to the States using the following four, equally weighted (25 percent), factors.

(1) 1997 Road miles (all highways) as defined by the FHWA.

(2) All vehicle miles traveled (VMT) as defined by the FHWA.

(3) Population—annual census estimates as issued by the U.S. Census Bureau.

(4) Special fuel consumption (net after reciprocity adjustment) as defined by the FHWA.

(b) Distribution of Basic Program Funds is subject to a maximum and minimum allocation as illustrated in the Table to this section, as follows:

TABLE TO § 350.323(b)—BASIC PROGRAM FUND ALLOCATION LIMITATIONS

Recipient	Maximum allocation	Minimum allocation
States and Puerto Rico	4.944% of the Basic Program Funds	$350,000 or 0.44% of Basic Program Funds, whichever is greater.
U.S. Territories	$350,000 (fixed amount)	

§ 350.325 [Reserved]

§ 350.327 How may States qualify for Incentive Funds?

(a) A State may qualify for Incentive Funds if it can demonstrate that its CMV safety program has shown improvement in any or all of the following five categories:

(1) Reduction of large truck-involved fatal accidents.

(2) Reduction of large truck-involved fatal accident rate or maintenance of a large truck-involved fatal accident rate that is among the lowest 10 percent of such rates of MCSAP recipients.

(3) Upload of CMV accident reports in accordance with current FMCSA policy guidelines.

(4) Verification of CDLs during all roadside inspections.

(5) Upload of CMV inspection data in accordance with current FMCSA policy guidelines.

(b) Incentive Funds will be distributed based upon the five following safety and program performance factors:

(1) Five shares will be awarded to States that reduce the number of large truck-involved fatal accidents for the most recent calendar year for which data are available when compared to the 10-year average number of large truck-involved fatal accidents ending with the preceding year. The 10-year average will be computed from the number of large truck-involved fatal crashes, as reported by the FARS, administered by the National Highway Traffic Safety Administration (NHTSA).

(2) Four shares will be awarded to States that reduce the fatal-accident rate for the most recent calendar year for which data are available when compared to each State's average fatal accident rate for the preceding 10-year period. States with the lowest 10 percent of accident rates in the most recent calendar year for which data are available will be awarded three shares if the rate for the State is the same as its average accident rate for the preceding 10-year period.

(3) Two shares will be awarded to States that upload CMV accident data within FMCSA policy guidelines.

(4) Two shares will be awarded to States that certify their MCSAP inspection agencies have departmental policies that stipulate CDLs are verified, as part of the inspection process, through Commercial Driver's License Information System (CDLIS), National Law Enforcement Tracking System (NLETS), or the State licensing authority.

(5) Two shares will be awarded to States that upload CMV inspection reports within current FMCSA policy guidelines.

(c) The total of all States' shares awarded will be divided into the dollar amount of Incentive Funds available, thereby establishing the value of one share. Each State's incentive allocation will then be determined by multiplying the State's percentage participation in the formula allocation of Basic Program Funds, by the number of shares it received that year, multiplied by the dollar value of one share.

(d) States may use Incentive Funds for any eligible CMV safety purpose.

(e) Incentive Funds are subject to the same State matching requirements as Basic Program Funds.

(f) A State must annually certify compliance with the applicable incentive criteria to receive Incentive Funds. A State must submit the required certification as part of its CVSP or as a separate document.

§ 350.329 How may a State or a local agency qualify for High Priority or Border Activity Funds?

(a) States must meet the requirements of § 350.201, as applicable.

(b) Local agencies must meet the following nine conditions:

(1) Prepare a proposal in accordance with § 350.213, as applicable.

(2) Coordinate the proposal with the State lead MCSAP agency to ensure the proposal is consistent with State and national CMV safety program priorities.

(3) Certify that your local jurisdiction has the legal authority, resources, and trained and qualified personnel necessary to perform the functions specified in the proposal.

(4) Designate a person who will be responsible for implementation, reporting, and administering the approved proposal and will be the primary contact for the project.

(5) Agree to fund up to 20 percent of the proposed request.

(6) Agree to prepare and submit all reports required in connection with the proposal or other conditions of the grant.

(7) Agree to use the forms and reporting criteria required by the State lead MCSAP agency and/or the FMCSA to record work activities to be performed under the proposal.

(8) Certify that the local agency will impose sanctions for violations of CMV and driver laws and regulations that are consistent with those of the State.

(9) Certify participation in national data bases appropriate to the project.

§ 350.331 How does a State ensure its laws and regulations are compatible with the FMCSRs and HMRs?

(a) A State must review any new law or regulation affecting CMV safety as soon as possible, but in any event immediately after enactment or

issuance, for compatibility with the FMCSRs and HMRs.

(b) If the review determines that the new law or regulation is incompatible with the FMCSRs and/or HMRs, the State must immediately notify the Motor Carrier State Director.

(c) A State must conduct an annual review of its laws and regulations for compatibility and report the results of that review in the annual CVSP in accordance with § 350.213(l) along with a certification of compliance, no later than August 1 of each year. The report must include the following two items:

(1) A copy of the State law, regulation, or policy relating to CMV safety that was adopted since the State's last report.

(2) A certification, executed by the State's Governor, Attorney General, or other State official specifically designated by the Governor, stating that the annual review was performed and that State CMV safety laws remain compatible with the FMCSRs and HMRs. If State CMV laws are no longer compatible, the certifying official shall explain.

(d) As soon as practical after the effective date of any newly enacted regulation or amendment to the FMCSRs or HMRs, but no later than three years after that date, the State must amend its laws or regulations to make them compatible with the FMCSRs and/or HMRs, as amended.

§ 350.333 What are the guidelines for the compatibility review?

(a) The State law or regulation must apply to all segments of the motor carrier industry (*i.e.,* for-hire and private motor carriers of property and passengers).

(b) Laws and regulations reviewed for the CDL compliance report are excluded from the compatibility review.

(c) Definitions of words or terms must be consistent with those in the FMCSRs and HMRs.

(d) A State must identify any law or regulation that is not the same as the corresponding Federal regulation and evaluate it in accordance with the table to this section as follows:

TABLE TO § 350.333—GUIDELINES FOR THE STATE LAW AND REGULATION COMPATIBILITY REVIEW

Law or regulation has same effect as corresponding Federal regulation	Applies to interstate or intrastate commerce	Less stringent or more stringent	Action authorized
(1) Yes			Compatible—Interstate and intrastate commerce enforcement authorized.
(2) No	Intrastate		Refer to § 350.341
(3) No	Interstate	Less stringent	Enforcement prohibited.
(4) No	Interstate	More stringent	Enforcement authorized if the State can demonstrate the law or regulation has a safety benefit or does not create an undue burden upon interstate commerce (See 49 CFR Part 355).

§ 350.335 What are the consequences if my State has laws or regulations incompatible with the Federal regulations?

(a) A State that currently has compatible CMV safety laws and regulations pertaining to interstate commerce (i.e., rules identical to the FMCSRs and HMRs) and intrastate commerce (i.e., rules identical to or within the tolerance guidelines for the FMCSRs and identical to the HMRs) but enacts a law or regulation which results in an incompatible rule will not be eligible for Basic Program Funds nor Incentive Funds.

(b) A State that fails to adopt any new regulation or amendment to the FMCSRs or HMRs within three years of its effective date will be deemed to have incompatible regulations and will not be eligible for Basic Program nor Incentive Funds.

(c) Those States with incompatible laws or regulations pertaining to intrastate commerce and receiving 50 percent of their basic formula allocation on April 20, 2000 will continue at that level of funding until those incompatibilities are removed, provided no further incompatibilities are created.

(d) Upon a finding by the FMCSA, based upon its own initiative or upon a petition of any person, including any State, that your State law, regulation or enforcement practice pertaining to CMV safety, in either interstate or intrastate commerce, is incompatible with the FMCSRs or HMRs, the FMCSA may initiate a proceeding under § 350.215 for withdrawal of eligibility for all Basic Program and Incentive Funds.

(e) Any decision regarding the compatibility of your State law or regulation with the HMRs that requires an interpretation will be referred to the Research and Special Programs Administration of the DOT for such interpretation before proceeding under § 350.215.

§ 350.337 How may State laws and regulations governing motor carriers, CMV drivers, and CMVs in interstate commerce differ from the FMCSRs and still be considered compatible?

States are not required to adopt 49 CFR parts 398 and 399, subparts A through E and H of part 107, and §§ 171.15 and 171.16, as applicable to either interstate or intrastate commerce.

§ 350.339 What are tolerance guidelines?

Tolerance guidelines set forth the limited deviations from the FMCSRs allowed in your State's laws and regulations. These variances apply only to motor carriers, CMV drivers and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction.

§ 350.341 What specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction?

(a) A State may exempt a CMV from all or part of its laws or regulations applicable to intrastate commerce, provided that neither the GVW, GVWR, GCW, nor GCWR of the vehicle equals or exceeds 11,801 kg (26,001 lbs.). However, a State may not exempt a CMV from such laws or regulations if the vehicle:

(1) Transports hazardous materials requiring a placard.

(2) Is designed or used to transport 16 or more people, including the driver.

(b) State laws and regulations applicable to intrastate commerce may not grant exemptions based upon the type of transportation being performed (*e.g.,* for-hire, private, etc.).

(c) A State may retain those exemptions from its motor carrier safety laws and regulations that were in effect before April, 1988, are still in effect, and apply to specific industries operating in intrastate commerce.

(d) State laws and regulations applicable to intrastate commerce must not include exemptions based upon the distance a motor carrier or driver operates from the work reporting

location. This prohibition does not apply to those exemptions already contained in the FMCSRs nor to the extension of the mileage radius exemption contained in 49 CFR 395.1(e) from 100 to 150 miles.

(e) Hours of service—State hours-of-service limitations applied to intrastate transportation may vary to the extent of allowing the following:

(1) A 12-hour driving limit, provided driving a CMV after having been on duty more than 16 hours is prohibited.

(2) Driving prohibitions for drivers who have been on duty 70 hours in 7 consecutive days or 80 hours in 8 consecutive days.

(f) Age of CMV driver—All CMV drivers must be at least 18 years of age.

(g) Grandfather clauses—States may provide grandfather clauses in their rules and regulations if such exemptions are uniform or in substantial harmony with the FMCSRs and provide an orderly transition to full regulatory adoption at a later date.

(h) Driver qualifications:

(1) Intrastate drivers who do not meet the physical qualification standards in 49 CFR 391.41 may continue to be qualified to operate a CMV in intrastate commerce if the following three conditions are met:

(i) The driver was qualified under existing State law or regulation at the time the State adopted physical qualification standards compatible with the Federal standards in 49 CFR 391.41.

(ii) The otherwise non-qualifying medical or physical condition has not substantially worsened.

(iii) No other non-qualifying medical or physical condition has developed.

(2) The State may adopt or continue programs granting variances to intrastate drivers with medical or physical conditions that would otherwise be non-qualifying under the State's equivalent of 49 CFR 391.41 if the variances are based upon sound medical judgment combined with appropriate performance standards ensuring no adverse affect on safety.

§ 350.343 How may a State obtain a new exemption for State laws and regulations for a specific industry involved in intrastate commerce?

The FMCSA strongly discourages exemptions for specific industries, but will consider such requests if the State submits documentation containing information supporting evaluation of the following 10 factors:

(a) Type and scope of the industry exemption requested, including percentage of industry affected, number of vehicles, mileage traveled, number of companies involved.

(b) Type and scope of the requirement to which the exemption would apply.

(c) Safety performance of that specific industry (*e.g.*, accident frequency, rates and comparative figures).

(d) Inspection information (*e.g.*, number of violations per inspection, driver and vehicle out-of-service information).

(e) Other CMV safety regulations enforced by other State agencies not participating in the MCSAP.

(f) Commodity transported (*e.g.*, livestock, grain).

(g) Similar variations granted and the circumstances under which they were granted.

(h) Justification for the exemption.

(i) Identifiable effects on safety.

(j) State's economic environment and its ability to compete in foreign and domestic markets.

§ 350.345 How does a State apply for additional variances from the FMCSRs?

Any State may apply to the Administrator for a variance from the FMCSRs for intrastate commerce. The variance will be granted only if the State satisfactorily demonstrates that the State law, regulation or enforcement practice:

(a) Achieves substantially the same purpose as the similar Federal regulation.

(b) Does not apply to interstate commerce.

(c) Is not likely to have an adverse impact on safety.

PART 355—[AMENDED]

2. Revise the authority citation for 49 CFR part 355 to read as follows:

Authority: 49 U.S.C. 504 and 31101 *et seq.*; 49 CFR 1.73.

3. Amend § 355.5 by revising the definitions of ''compatible or compatibility,'' ''Federal Motor Carrier Safety Regulations,'' and ''State''; by adding a definition of ''Federal Hazardous Materials Regulations''; and by placing the definitions in alphabetical order, to read as follows:

§ 355.5 Definitions.

* * * * *

Compatible or *Compatibility* means that State laws and regulations applicable to interstate commerce and to intrastate movement of hazardous materials are identical to the FMCSRs and the HMRs or have the same effect as the FMCSRs; and that State laws applicable to intrastate commerce are either identical to, or have the same effect as, the FMCSRs or fall within the established limited variances under §§ 350.341, 350.343, and 350.345 of this subchapter.

Federal Hazardous Materials Regulations (FMHRs) means those safety regulations which are contained in parts 107, 171–173, 177, 178 and 180, except part 107 and §§ 171.15 and 171.16.

Federal Motor Carrier Safety Regulations (FMCSRs) means those safety regulations which are contained in parts 390, 391, 392, 393, 395, 396, and 397 of this subchapter.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam and the Virgin Islands.

4. Revise § 355.21(c) to read as follows:

§ 355.21 Regulatory review.

* * * * *

(c) *State review.* (1) The State shall determine which of its laws and regulations pertaining to commercial motor vehicle safety are the same as the Federal Motor Carrier Safety or Federal Hazardous Materials Regulations. With respect to any State law or regulation which is not the same as the FMCSRs (FHMRs must be identical), the State shall identify such law or regulation and determine whether:

(i) It has the same effect as a corresponding section of the Federal Motor Carrier Safety Regulations;

(ii) It applies to interstate commerce;

(iii) It is more stringent than the FMCSRs in that it is more restrictive or places a greater burden on any entity subject to its provisions.

(2) If the inconsistent State law or regulation applies to interstate commerce and is more stringent than the FMCSRs, the State shall determine:

(i) The safety benefits associated with such State law or regulation; and

(ii) The effect of the enforcement of such State law or regulation on interstate commerce.

(3) If the inconsistent State law or regulation does not apply to interstate commerce or is less stringent than the FMCSRs, the guidelines for participation in the Motor Carrier Safety Assistance Program in §§ 350.341, 350.343, and 350.345 of this subchapter shall apply.

5. Revise § 355.23 to read as follows:

§ 355.23 Submission of results.

Each State shall submit the results of its regulatory review annually with its certification of compliance under § 350.209 of this subchapter. It shall submit the results of the regulatory review with the certification no later than August 1 of each year with the Commercial Vehicle Safety Plan (CVSP). The State shall include copies of pertinent laws and regulations.

6. Amend appendix A to part 355 by revising the paragraph entitled ''**Definitions**'' and by revising the heading to the paragraph ''**Hours of Service**'' and placing them in alphabetical order, to read as follows:

Appendix A to Part 355—Guidelines for the Regulatory Review

* * * * *

DEFINITIONS

Definitions of terms must be consistent with those in the FMCSRs.

* * * * *

HOURS OF SERVICE OF DRIVERS

* * * * *

[FR Doc. 00–6819 Filed 3–20–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990713189–9335–02; I.D. 060899B]

RIN 0648–AK79

Fisheries of the Northeastern United States; Spiny Dogfish Fishery Management Plan

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

ACTION: Final rule; delay of effectiveness.

SUMMARY: NMFS delays the effective date of a final rule published January 11, 2000, from March 15, 2000, until March 27, 2000. The final rule was to have been effective February 10, 2000; however, its effectiveness was previously delayed until March 15, 2000. The final rule will implement approved management measures for the spiny dogfish fishery, as contained in the Spiny Dogfish Fishery Management Plan (FMP). This action is being taken in order to provide the Mid-Atlantic and New England Fishery Management Councils (Councils) with the opportunity to come to an agreement on how to proceed with implementation of the FMP. If the Councils have not reached an agreement by March 27, 2000, NMFS will assess the situation to determine the appropriate course of action to take at that time.

DATES: The effective date of the final rule implementing the Spiny Dogfish Fishery Management Plan (published on January 11, 2000, at 65 FR 1557) and whose effectiveness was delayed until March 15, 2000 (65 FR 7460, February 15, 2000) is further delayed until March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Richard Pearson, Fishery Policy Analyst, at 978–281–0279.

SUPPLEMENTARY INFORMATION: The FMP was developed jointly by the Councils, with the Mid-Atlantic Council having the administrative lead. A Notice of Availability for the FMP was published in the **Federal Register** on June 29, 1999 (64 FR 34759), and solicited public comment through August 30, 1999. The proposed rule to implement the FMP was published in the **Federal Register** on August 3, 1999 (64 FR 42071), and solicited public comments through September 17, 1999. NMFS made the decision to partially approve the FMP on September 29, 1999. A final rule to implement the FMP was published in the **Federal Register** January 11, 2000 (65 FR 1557), to be effective on February 10, 2000. A delay in effectiveness of the final rule was filed on February 10, 2000, and published on February 15, 2000 (65 FR 7460), which made the effective date of this rule March 15, 2000. The final rule will now be effective March 27, 2000.

Dated: March 15, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–6809 Filed 3–15–00; 3:29 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 55
Tuesday, March 21, 2000

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

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 00–09]

RIN 1557–AB72

Assessment of Fees; National Banks; District of Columbia Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) proposes to amend the assessment formula it uses to assess independent trust banks. A trust bank is considered independent for purposes of this proposal if it specializes in trust activities and is not affiliated with a full service national bank. Under the revised rate structure, all trust banks would continue to be assessed based on balance sheet assets. However, independent trust banks with over $1 billion in trust assets would pay an additional assessment to reflect the supervision required of these banks' off-balance sheet activities, while smaller independent trust banks would pay a flat fee.

DATES: Comments must be received by April 20, 2000.

ADDRESSES: Comments should be directed to, and may be inspected and copied at: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219, Attention: Docket No. 00–09. In addition, comments may be sent via facsimile at (202) 874–5274 or via Internet at regs.comments@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: Mitchell E.F. Plave, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Karen McCluskey, National Bank Examiner (Trust Banks), (202) 874–7276.

SUPPLEMENTARY INFORMATION:

I. Background

The OCC charters, regulates, and supervises approximately 2400 national banks and 58 Federal branches and agencies of foreign banks in the United States, accounting for nearly 60 percent of the nation's banking assets. Its mission is to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States.

The OCC funds the activities it undertakes to carry out this mission through assessments on national banks. The National Bank Act authorizes the OCC to collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the Office of the Comptroller. 12 U.S.C. 482 (Supp. 1999). The statute requires that our charges be set to meet the Comptroller's expenses in carrying out authorized activities. *Id.* The OCC, under part 8, currently assesses national banks and Federal branches and agencies according to a formula based on factors that affect the cost of our supervision, including a bank's size, condition, and whether it is the ''lead'' bank or ''non-lead'' bank among national banks in a holding company.[1] The regulation also authorizes the OCC to assess a fee for certain special examinations and for examining the fiduciary activities of national banks. 12 CFR 8.6(a). In recent years, however, the OCC stopped separately charging national banks for the cost of examining and supervising fiduciary activities.

Since the OCC eliminated those separate fees, the number, size, and complexity of the activities of independent trust banks have increased and their balance sheet assets increasingly do not reflect the ongoing scope or complexity of their activity, nor the extent of the OCC's supervisory responsibilities with respect to them. For example, although trust assets managed by a bank are not shown on the bank's balance sheet, the bank's fiduciary activities are subject to extensive regulatory standards under 12 CFR part 9 as well as under state laws that are made applicable to national bank fiduciary activities by 12 U.S.C. 92a. The OCC evaluates the bank's adherence to those standards as part of our supervision and examination of the bank.

This proposal would amend the OCC's assessment regulation to revise the formula for independent trust banks to better align our assessment structure for these banks with the extent of the OCC's supervisory responsibilities. We invite comment on any aspect of this proposal.

The OCC notes that, while not covered by this proposed rulemaking, independent credit card banks raise many of the same issues that are raised by independent trust banks. Accordingly, the OCC anticipates that it soon will be publishing a proposed rule seeking comment on changes to the assessment structure for independent credit card banks.

II. Discussion of the Proposal and Request for Comment

The proposal would amend 12 CFR 8.6 by adding a new paragraph (c) that provides the OCC with the flexibility to increase assessments on independent trust banks by applying either a managed assets component or a flat fee, depending on the amount of assets a particular bank has under management. The proposal defines an ''independent trust bank'' as a national bank that has trust powers, does not primarily offer full service banking, and is not affiliated with a full service national bank.[2] The managed assets component and flat fee would be assessed, as appropriate, on independent trust banks in addition to the assessment calculated on book assets under 12 CFR 8.2.

Banks with at least $1 billion in managed assets. Independent trust banks with at least $1 billion in assets under management would pay a managed assets component that would be calculated by multiplying the amount of assets under management by a factor to be supplied by the OCC in the annual Notice of Comptroller of the Currency Fees (Notice of Fees) pursuant to 12 CFR 8.8. ''Assets under management'' are those assets reported by national banks on Schedule A, Line 18 of the Annual Report of Trust Assets (FFIEC Form

[1] A ''lead bank'' is the largest national bank controlled by a company, based on a comparison of the total assets held by each national bank controlled by that company as reported in each bank's most recent Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) (Call Report). 12 CFR 8.2(a)(6)(ii)(A).

[2] *See Charters*, Corporate Manual, Office of the Comptroller of the Currency at 19–20 (1998) (describing trust banks).

001). This figure aggregates assets over which the bank has investment discretion (discretionary assets) with those that it holds without investment discretion (non-discretionary assets), for example, in a custodial capacity.[3] We invite comment on the feasibility of distinguishing discretionary from non-discretionary assets for assessment purposes by requiring banks to report these two types of assets separately.

The OCC proposes to use a declining marginal rate to calculate the managed assets component, with the rates declining at $1 billion and again at $10 billion of assets under management. While the actual rate will be provided in the Notice of Fees and may change as the OCC's experience in supervising independent trust banks changes over time, the OCC anticipates that a bank, in calculating each of its semiannual assessments, initially will multiply the first $1 billion in assets under management by 0.0000150, assets under management over $1 billion up to $10 billion by 0.0000030, and all assets under management over $10 billion by 0.0000005. The bank then would add the product to the semiannual assessment as otherwise calculated under current Part 8.[4]

Banks with under $1 billion in managed assets. The OCC incurs a minimum cost in supervising any independent trust bank, regardless of size. To reflect this, the OCC proposes to require independent trust banks having less than $1 billion in assets under management to pay a flat fee in addition to the assessment the bank would pay based on the bank's balance sheet assets. While the actual amount of the minimum fee would be stated in the Notice of Fees and would be subject to change depending on the OCC's experience in supervising small trust banks, the OCC anticipates that this fee would be approximately $12,500 per semiannual assessment.[5]

III. Comment Solicitation

The OCC requests comment on all aspects of this proposal. In addition, the OCC seeks comment on the impact of this proposal on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comment on the impact of the proposal on community banks' current resources, and whether the goals of the proposal could be achieved, for community banks, through an alternative approach.

Finally, the OCC requests comment on whether the proposal is written clearly and is easy to understand. On June 1, 1998, the President issued a Memorandum directing each agency in the Executive branch to write its rules in plain language. This directive applies to all new proposed and final rulemaking documents issued on or after January 1, 1999. In addition, Public Law 106–102 requires each federal agency to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comment on how to make this rule clearer. For example, you may wish to discuss:

(1) Whether we have organized the material to suit your needs;

(2) Whether the requirements of the rule are clear; or

(3) Whether there is something else we could do to make the rule easier to understand.

IV. Regulatory Flexibility Act

An agency must prepare a Regulatory Flexibility Analysis if a rule it proposes will have a ''significant economic impact'' on a ''substantial number of small entities.'' 5 U.S.C. 603, 605. If, after an analysis of a rule, an agency determines that the rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) provides that the head of the agency may so certify. The OCC has reviewed the impact this proposed rule would have on small independent trust banks. Based on that review, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The basis for this conclusion is that the proposed rule will apply to a very small portion of national banks. For purposes of this Regulatory Flexibility Analysis and regulation, the OCC defines ''small independent trust banks'' to be those banks with less than $100 million in total assets, including managed assets.[6] Using this definition, the proposed rule will affect only seven small entities, representing less than 1% of all national banks. The OCC does not believe this to be a substantial number of small entities.

V. Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

VI. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposed rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this rulemaking requires no further analysis under the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 8

National banks.

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend chapter I, Part 8 of title 12 of the Code of Federal Regulations as follows:

PART 8—ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

1. The authority citation for part 8 continues to read as follows:

[3] The Office of Thrift Supervision (OTS) recently revised its trust assessment structure to distinguish ''fiduciary'' from ''nonfiduciary'' trust assets. See Thrift Bulletin TB 48–16 (January 18, 2000). The OCC's rules do not make this distinction, but do distinguish assets that are held with investment discretion from those that are not. See 12 CFR 9.2(i) (definition of investment discretion in the OCC's rules governing fiduciary activities).

[4] This approach is similar to the approach recently adopted by the OTS. *See* Assessments and Fees, 63 FR 65663 (Nov. 30 1998) (final rule; codified at 12 CFR part 502). The OCC's statutory assessment authority is similar in certain key respects to the OTS's statutory assessment authority. Both agencies are authorized to fund their expenses through such assessments as each agency finds necessary or appropriate. *Compare* 12 U.S.C. 482 *with* 12 U.S.C. 1467(k) (OTS authority to impose fees for examinations and supervisory activities).

[5] We note that the OTS's assessment rule in 12 CFR part 502 uses a billable hours approach to assessing thrifts with total assets under management of $1 billion or less. We invite comment on both approaches.

[6] The OCC is using this definition for the sole purpose of this preliminary regulatory flexibility analysis after consulting with the Small Business Administration's Office of Advocacy. The OTS, in its assessment regulation, also consulted with the Office of Advocacy and defined ''small savings associations'' as those with less than $100 million in total assets, including off-balance sheet assets. See Assessments and Fees, 63 FR 43642, 43646 (1998).

Authority: 12 U.S.C. 93a, 481, 482, and 3102 and 3108; 15 U.S.C. 78c and 781; and 26 D.C. Code 102.

2. In § 8.6, the section heading is revised and a new paragraph (c) is added to read as follows:

§ 8.6 Fees and assessments for examinations and investigations; independent trust banks.

* * * * *

(c) *Additional assessments for independent trust banks.* The assessment of independent trust banks will include a component in addition to the assessment calculated according to § 8.2. For purposes of this part, an ''independent trust bank'' is a national bank that has trust powers, does not primarily offer full service banking, and is not affiliated with a full service national bank.

(1) *Managed assets component.* Independent trust banks having at least $1 billion in trust assets as reported on Schedule A, Line 18 of the Annual Report of Trust Assets (FFIEC Form 001) shall pay an assessment that is calculated by multiplying the amount of those trust assets by a rate or rates provided by the OCC in the Notice of Fees.

(2) *Flat fee.* Independent trust banks having less than $1 billion in trust assets as reported on Schedule A, Line 18 of FFIEC Form 001 will pay a flat fee in an amount to be provided in Notice of Comptroller of the Currency Fees (Notice of Fees) published as stated in § 8.8.

Dated: March 14, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 00–6866 Filed 3–20–00; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 108, 109, 111, 129 and 191

[Docket No. FAA–1999–6673; Notice No. 00–02]

RIN 2120–AG84

Certification of Screening Companies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meetings and extension of comment period.

SUMMARY: This action extends the comment period and announces two pubic meetings on the subject of ''Certification of Screening Companies; Notice of Proposed Rulemaking (NPRM)'' (65 FR 560, January 5, 2000). In that NPRM, the FAA proposes to require that all companies that perform aviation security screening be certificated by the FAA and meet enhanced requirements. This extension and the public meetings are a result of a formal request from the Air Transport Association (ATA) and the Regional Airline Association (RAA) to extend the comment period and hold a public meeting on the proposal. These actions will afford interested parties additional opportunity to present their views on the proposed rulemaking.

DATES: The public meetings will be on April 4, 2000, in San Francisco, CA and April 6, 2000, in Fort Worth, TX. The meetings will begin at 9 a.m. Persons unable to attend the meetings are invited to provide written comments, which must be received on or before May 4, 2000.

ADDRESSES: The public meeting on April 4, 2000, will be held at the State of California Building Auditorium, 455 Golden Gate Avenue, San Francisco, CA 94102. The public meeting on April 6, 2000, will be held at the Fritz Lanham Federal Building, Room 1A03, 819 Taylor Street, Fort Worth, TX 76102. Persons unable to attend the meetings may mail their comments in duplicate to: U.S. Department of Transportation Dockets, Docket No. FAA–1999–6673, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 10 am and 5 pm weekdays, except Federal holidays. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: *http://dms.dot.gov/* at anytime. Commenters who wish to file comments electronically should follow the instructions on the DMS web site.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the meetings or questions regarding the logistics of the meetings should be directed to Judy Courbois, Federal Aviation Administration, Office of Rulemaking, ARM–102, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9783; fax (202) 267–5075. Questions concerning the subject matter of the meetings should be directed to Scott Cummings, Office of Civil Aviation Security Policy and Planning (ACP–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9468; fax (202) 267–5359.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposed rule also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in notice No. 99–21 may be changed in light of the comments received.

Comments received on the proposal will be available before and after the closing date for comments in the DOT Rules Docket for examination by interested persons. However, the Assistant Administrator for Civil Aviation Security has determined that the security programs required by parts 108, 109, and 129 contain sensitive security information. As such, the availability of information pertaining to these security programs is governed by part 191. Carriers, screening companies, and others who wish to comment on the NPRM should be cautious not to include in their comments any information contained in any security program.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice or to the NPRM must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–1999–6673.'' The postcard will be date stamped and mailed to the commenter.

Availability of Notices

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: (703) 321–3339) or the Government Printing Office (GPO)'s electronic bulletin board service (telephone: (202) 512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this document.

Persons interested in being placed on the mailing list for future notices should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

On December 15, 1999, the FAA issued notice No. 99–21, ''Certification of Screening Companies, NPRM'' (65 FR 560, January 5, 2000). Comments to that document were to be received on or before April 4, 2000.

By letter dated January 20, 2000, ATA and RAA requested that the FAA schedule a public meeting and extend the comment period for notice No. 99–21 by 90 days until July 5, 2000. ATA and RAA stated that given the length and complexity of the rule, it is unreasonable for the FAA to expect that affected parties will be able to thoroughly analyze the operational and financial impact of the proposed rule within the comment period the FAA allocated. It also noted that there are many entities, including small screening companies that are unfamiliar with the FAA's regulatory procedures and may have never participated in the rulemaking process. ATA and RAA further stated that it is in the interest of the FAA and the aviation industry to provide a detailed briefing of the elements of the NPRM.

In accordance with § 11.29(c) of title 14, Code of Federal Regulations, the FAA has reviewed ATA and RAA's petition for extension of the comment period to notice No. 99–21 and request for a public meeting. ATA and RAA have shown a substantive interest in the proposed rule and good cause for the extension and a public meeting.

The FAA scheduled one public meeting in Washington, DC on March 10, 2000, as announced in the **Federal Register** on February 2, 2000. The FAA believes that two additional public meetings and a 30-day extension of the comment period will provide the public sufficient additional opportunity to present comments on the proposed rule. However, in view of the Congressional mandate to improve the training and testing of screeners without delay, the FAA has determined that the requested 90-day extension of the comment period is not appropriate. The FAA also has determined that extending the comment period and holding public meetings are consistent with the public interest.

Participation at the Meetings

The FAA should receive requests from persons who wish to present oral statements at either meeting no later than March 24, 2000. Such requests should be submitted to Judy Courbois, as listed above in the section titled **FOR FURTHER INFORMATION CONTACT**, and should include a written summary of oral remarks to be presented and an estimate of time needed for the presentation. The FAA will prepare an agenda of speakers, which will be available at the meetings. The names of those individuals whose requests to present oral statements are received after the date specified above may not appear on the written agenda. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Persons requiring audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Public Meeting Procedures

The FAA will use the following procedures to facilitate the meetings:

(1) There will be no admission fee or other charge to attend or to participate in the meetings. The meetings will be open to all persons who are scheduled to present statements or who register between 8:30 am and 9 am on the day of the meetings. While the FAA will make every effort to accommodate all persons wishing to participate, admission will be subject to availability of space in the meeting rooms. The meetings may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meetings.

(2) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(3) The FAA will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the FAA reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(4) Sign and oral interpretation can be made available at the meetings, as well as an assistive listening device, if requested 10 calendar days before the meetings.

(5) Representatives of the FAA will preside over the meetings. A panel of FAA personnel involved in this proposal will be present.

(6) The meetings will be recorded by a court reporter. A transcript of the meetings and any material accepted by the FAA representatives during the meetings will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. Additional transcript purchase information will be available at the meetings.

(7) The FAA will review and consider all material presented by participants at the meetings. Position papers or material presenting views or arguments related to the certification of screening companies may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meetings provide six copies of all materials to be presented for distribution to the FAA representatives; other copies may be provided to the audience at the discretion of the participant.

(8) Statements made by FAA representatives are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meetings by an FAA representative is not intended to be, and should not be construed as, a position of the FAA.

(9) The meetings are designed to solicit public views and gather additional information on the certification of screening companies. Therefore, the meetings will be conducted in an informal and non-adversarial manner. No individual will be subject to cross-examination by any other participant; however, FAA representatives may ask questions to clarify a statement and to ensure a complete and accurate record.

Extension of Comment Period

The FAA has reviewed the request for consideration of an extended comment period for notice No. 99–21 and determined that an extension would be in the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for notice No. 99–21 is extended to May 4, 2000.

Issued in Washington, DC on March 15, 2000.

Jan Brecht-Clark,

Director, Office of Civil Aviation Security Policy and Planning.

[FR Doc. 00–6872 Filed 3–15–00; 3:46 pm]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 200, 270, 275 and 290

[Notice No. 893: Ref: Notice No. 887]

RIN 1512–AB99

Implementation of Public Law 105–33, Section 9302, Relating to Tobacco Importation Restrictions, Markings, Minimum Manufacturing Requirements, and Penalty Provisions (98R–369P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This notice reopens the comment period for Notice No. 887, a notice of proposed rulemaking cross-referenced to temporary regulations, published in the **Federal Register** on December 22, 1999. ATF has received several requests to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues raised in the notice.

DATES: Written comments must be received by April 20, 2000.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221; Notice No. 893.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel J. Hiland, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226; Telephone (202) 927–8210.

SUPPLEMENTARY INFORMATION: On December 22, 1999, ATF published a notice of proposed rulemaking cross-referenced to temporary regulations in the **Federal Register**. The notice solicited comments from all interested persons regarding temporary regulations that implemented several provisions of the Balanced Budget Act of 1997. Section 9302 of the new law: (1) Places restrictions on the importation of previously exported tobacco products, (2) requires markings on tobacco products or cigarette papers and tubes removed or transferred without payment of the federal excise tax, (3) provides penalties for selling, relanding, or receiving, within the jurisdiction of the United States, tobacco products or cigarette papers and tubes which have been labeled and shipped for exportation and were removed after the effective date, and (4) authorizes the Secretary to prescribe minimum capacity or activity requirements as a criteria for issuance of a manufacturer's permit. These new provisions of law became effective on January 1, 2000.

The temporary rule implemented these changes in law by providing new and amended regulations in parts 200, 270, 275 and 290 of title 27 of the Code of Federal Regulations (CFR). Additionally, the Bureau of Alcohol, Tobacco and Firearms (ATF) made several other clarifying changes to the tobacco regulations. The temporary rule will remain in effect until superseded by final regulations.

The comment period for Notice 887 closed on February 22, 2000. Prior to the close of the comment period, ATF received several requests to extend the comment period for an additional 30 days. Several interested parties stated that they would need additional time to prepare a full response for their company or client.

In consideration of the above, ATF finds that a reopening of the comment period is warranted. Therefore, the comment period is being reopened for an additional 30 days until April 20, 2000. The Bureau believes that a comment period totaling 90 days is a sufficient amount of time for all interested parties to respond.

Disclosure

Copies of this notice, Notice No. 887, and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

Drafting Information. This notice was written by Mr. Daniel Hiland, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 200

Administrative practice and procedure, Authority delegations.

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Electronic fund transfer, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Customs duties and inspection, Electronic fund transfer, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products, U.S. possessions, Warehouses.

27 CFR Part 290

Administrative practice and procedure, Aircraft, Authority delegations, Cigarette papers and tubes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Penalties, Surety bonds, Tobacco products, Vessels, Warehouses.

Authority and Issuance.

This notice is issued under the authority in 26 U.S.C. 7805.

Dated: March 15, 2000.

Bradley A. Buckles,

Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 00–6996 Filed 3–20–00; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF EDUCATION

34 CFR Parts 606, 607, and 608

Developing Hispanic-Serving Institutions Program, Strengthening Institutions Program, and Strengthening Historically Black Colleges and Universities Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to amend the regulations governing the Developing Hispanic-Serving Institutions, Strengthening Institutions, and Strengthening Historically Black Colleges and Universities Programs to incorporate statutory changes made by the Higher Education Amendments of 1998 (1998 Amendments). The 1998 Amendments provide that an institution's use of grant funds for endowment fund purposes under the Developing Hispanic-Serving Institutions, Strengthening Institutions, and Strengthening Historically Black Colleges and Universities Programs can be subject to appropriate requirements under the Endowment Challenge Grant

Program. These regulations propose amendments to implement the statutory changes.

DATES: We must receive your comments on or before May 22, 2000.

ADDRESSES: Address all comments about these proposed regulations to Darlene Collins, U.S. Department of Education, 1990 K Street, NW, Room 6032, Washington, DC 20006–8512. If you prefer to send your comments through the Internet, use the following address:

http://www.ed.gov/offices/OPE/HEP/idues/title3a.html

If you want to comment on the information collection requirements you must send your comments to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. You may also send a copy of these comments to the Department representative named in this preamble.

FOR FURTHER INFORMATION CONTACT: Darlene Collins. Telephone: (202) 502–7576. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations in 1990 K St. N.W., Room 6032, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

Background

As amended by the 1998 Amendments, sections 311(d)(3), 323(b)(3), and 503(c)(3) of the Higher Education Act of 1965, as amended (HEA), provide, in effect, that we can subject an institution's use of grant funds for endowment fund purposes under the Developing Hispanic Serving-Institutions, Strengthening Institutions, and Strengthening Historically Black Colleges and Universities Programs to appropriate requirements in the Endowment Challenge Grant Program.

We have implemented the requirements contained in the Endowment Challenge Grant Program in 34 CFR part 628. We propose that §§ 628.3, 628.6, 628.10, and 628.41 through 628.47 contain appropriate requirements for grantees to follow that wish to use part of their grant funds for endowment purposes. However, we believe that applicable provisions in three of these sections need revision for purposes of clarification and to reflect statutory requirements.

Based upon questions we received over the years, we propose to revise the definition of the term ''endowment fund income'' in § 628.6 to clarify that endowment fund income includes fund appreciation and retained fund earnings, including interest and dividends.

We propose that the institutional match in § 628.10(a) be revised to reflect the statutory requirement that it must be made on at least a one-to-one basis. That is, each grant dollar to be used for endowment purposes must be matched with at least one non-Federal dollar.

We further propose that when an institution decides to use grant funds for endowment fund purposes, unlike the provisions in § 628.41, it must immediately match those grant funds with non-Federal dollars. We believe this latter requirement to be appropriate given the grantee institution's flexibility as to when to use its grant funds for endowment purposes, and the limited amount of grant funds that may be used for that purpose.

We propose to amend §§ 606.10, 607.10, and 608.10 to implement these requirements by adding a new paragraph (d) relating to the use of grant funds by a grantee for establishing or increasing an endowment fund.

Clarity of the Regulations

Executive Order 12866 and the President's Memorandum of June 1, 1998 on ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 608.10 *What activities may be carried out under a grant?*)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?
- Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These proposed regulations would affect small institutions of higher education using grant funds for endowment fund purposes under the Developing Hispanic-Serving Institutions, Strengthening Institutions, or Strengthening Historically Black Colleges and Universities Programs. However, the regulations implement statutory amendments applicable to the award of grant funds under these programs and are not expected to have a significant economic impact on the institutions affected.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives in the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

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http://ocfo.ed.gov/fedreg.htm

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(Catalog of Federal Domestic Assistance Numbers: 84.031S, 84.031A, and 84.031B)

List of Subjects in 34 CFR Parts 606, 607, and 608

Colleges and universities, Grant programs-education, Reporting and recordkeeping requirements.

Dated: March 13, 2000.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

For the reasons discussed in the preamble, the Secretary proposes to amend title 34 of the Code of Federal Regulations by amending parts 606, 607, and 608 as follows:

PART 606—DEVELOPING HISPANIC-SERVING INSTITUTIONS PROGRAM

1. The authority citation for part 606 continues to read as follows:

Authority: 20 U.S.C. 1101 *et seq.*, unless otherwise noted.

2. Section 606.10 is amended by adding a new paragraph (d) to read as follows:

§ 606.10 What activities may and may not be carried out under a grant?

* * * * *

(d) *Endowment funds.* If a grantee uses part of its grant funds to establish or increase an endowment fund, it must comply with the provisions of §§ 628.3, 628.6, 628.10, and 628.41 through 628.47 of this chapter with regard to the use of those funds, except—

(1) The definition of the term ''endowment fund income'' in § 628.6 of this chapter does not apply. For purposes of this paragraph (d), ''endowment fund income'' means an amount equal to the total value of the fund, including fund appreciation and retained interest and dividends, minus the endowment fund corpus;

(2) Instead of the requirement in § 628.10(a) of this chapter, the grantee institution must match each dollar of Federal grant funds used to establish or increase an endowment fund with one dollar of non-Federal funds; and

(3) Instead of the requirements in § 628.41(a)(3) through (a)(5) and the introductory text in § 628.41(b) and § 628.41(b)(2) and (b)(3) of this chapter, if a grantee institution decides to use any of its grant funds for endowment purposes, it must match those grant funds immediately with non-Federal funds when it places those funds into its endowment fund.

PART 607—STRENGTHENING INSTITUTIONS PROGRAM

3. The authority citation for part 607 continues to read as follows:

Authority: 20 U.S.C. 1057–1059c, 1066–1069f, unless otherwise noted.

4. Section 607.10 is amended by adding a new paragraph (d) to read as follows:

§ 607.10 What activities may and may not be carried out under a grant?

* * * * *

(d) *Endowment funds.* If a grantee uses part of its grant funds to establish or increase an endowment fund, it must comply with the provisions of §§ 628.3, 628.6, 628.10 and 628.41 through 628.47 of this chapter with regard to the use of those funds, except—

(1) The definition of the term ''endowment fund income'' in § 628.6 of this chapter does not apply. For the purposes of this paragraph (d), ''endowment fund income'' means an amount equal to the total value of the fund, including fund appreciation and retained interest and dividends, minus the endowment fund corpus;

(2) Instead of the requirement in § 628.10(a) of this chapter, the grantee institution must match each dollar of Federal grant funds used to establish or increase an endowment fund with one dollar of non-Federal funds; and

(3) Instead of the requirements in § 628.41(a)(3) through (a)(5) and the introductory text in § 628.41(b) and § 628.41(b)(2) and (b)(3) of this chapter, if a grantee institution decides to use any of its grant funds for endowment purposes, it must match those grant funds immediately with non-Federal funds when it places those funds into its endowment fund.

PART 608–STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES PROGRAM

5. The authority citation for part 608 continues to read as follows:

Authority: 20 U.S.C. 1060 through 1063a, 1063c, 1066, 1068, 1069c, 1069d, and 1069f, unless otherwise noted.

6. Section 608.10 is amended by adding a new paragraph (d) to read as follows:

§ 608.10 What activities may be carried out under a grant?

* * * * *

(d) *Endowment funds.* If a grantee uses part of its grant funds to establish or increase an endowment fund, it is subject to the provisions of §§ 628.3, 628.6, 628.10 and 628.41 through 628.47 of this chapter with regard to the use of those funds, except—

(1) The definition of the term ''endowment fund income'' in § 628.6 of this chapter does not apply. For purposes of this paragraph (d), ''endowment fund income'' means an amount equal to the total value of the fund, including fund appreciation and retained interest and dividends, minus the endowment fund corpus;

(2) Instead of the requirement in § 628.10(a) of this chapter, the grantee institution must match each dollar of Federal grant funds used to establish or increase an endowment fund with one dollar of non-Federal funds; and

(3) Instead of the requirements in § 628.41(a)(3) through (a)(5) and the introductory text in § 628.41(b) and § 628.41(b)(2) and (b)(3) of this chapter, if a grantee institution decides to use

any of its grant funds for endowment purposes, it must match those grant funds immediately with non-Federal funds when it places those funds into its endowment fund.

[FR Doc. 00–6650 Filed 3–20–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket No. OST–99–6578]

RIN 2105–AC49

Procedures for Transportation Workplace Drug and Alcohol Testing Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking; forum announcement.

SUMMARY: This document announces an electronic public discussion forum through which the public may provide comment on the U.S. Department of Transportation's (DOT) notice of proposed rulemaking (NPRM) to revise the Department's drug and alcohol testing procedures, published in the **Federal Register** on December 9, 1999 (64 FR 69076). The electronic public discussion forum (commonly referred to as a ''bulletin board'') will be available to the public for a three-day period from April 3, 2000 through April 5, 2000. The electronic public discussion forum is an alternative means by which the public may provide comments, or have last-minute questions addressed, on the drug and alcohol procedures originally published at 64 FR 69076 on December 9, 1999. All comments, questions, and answers will become part of the total docket package.

DATES: The electronic public discussion forum will be available to the public from 12:00 AM, EST, April 3, 2000 through 11:59 PM, EST, April 5, 2000.

ADDRESSES: The Internet address for the electronic public discussion forum is *http://dot.kudosnet.net/*. Comments addressed to this site will become part of the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0000.

FOR FURTHER INFORMATION CONTACT: For general information on the electronic public discussion forum, contact Kenneth Edgell, Office of Drug and Alcohol Policy and Compliance, U.S. Department of Transportation, Room 10403, 400 Seventh Street, SW., Washington, DC 20590, telephone number (202) 366–3784, fax number (202) 366–3897, or e-mail at *kenneth.edgell@ost.dot.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the electronic public discussion forum is to provide an alternative capacity for gathering comments on the Department's proposed drug and alcohol procedures. Another capability of the bulletin board-type system is to allow interchange between the public and the Office of Drug and Alcohol Policy and Compliance to attempt to clarify issues, or answer last-minute questions, for the public through a question and answer format. Topics can be generated, questions may be posed, and clarification will be provided (by ODAPC). All of the interchange (e.g., question, answers, comments) generated in this context will be viewable by all users of the system. Specific instructions for use of the electronic public discussion forum will be provided at the Internet site.

Issued this 15th day of March, 2000, at Washington, DC.

Mary Bernstein,

Director, Office of Drug and Alcohol Policy and Compliance, Department of Transportation.

[FR Doc. 00–6879 Filed 3–20–00; 8:45 am]

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Notices

Federal Register

Vol. 65, No. 55

Tuesday, March 21, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

RIN 0584–AC89

National School Lunch Program: Pilot Projects, Alternatives to Free and Reduced Price Application Requirements and Verification Procedures—Extension of Date for Submission of Applications

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice; extension of application date.

SUMMARY: On January 21, 2000, the Department issued a notice (65 FR 3409) announcing pilot projects which would permit selected school food authorities and State agencies to test alternatives to the application procedures and verification process for households participating in the National School Lunch Program. The January 21 notice advised interested parties that applications to conduct a pilot project must be postmarked no later than March 21, 2000. Subsequently, interested parties have advised the Department that the 60 days provided for submission of applications is not sufficient. This notice provides an additional 45 days by extending the date for submission of applications to the Food and Nutrition Service of the Department to May 5, 2000.

DATES: Applications to conduct a pilot project must be postmarked no later than May 5, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Sinn by telephone at (703) 305–2107 to request an application packet or in writing to Mr. Matthew Sinn, Office of Analysis, Nutrition and Evaluation, Room 503, 3101 Park Center Drive, Alexandria, Virginia 22302; or electronically at matthew.sinn@fns.usda.gov. The application packet is also available at the Food and Nutrition Service Web site, located at http://www.fns.usda.gov/oane/. The January 21, 2000 notice (65 FR 3409) announcing the pilot projects is available at the Food and Nutrition Service Web site, located at http://www.fns.usda.gov/cnd/lunch/governance/verification.html.

SUPPLEMENTARY INFORMATION:

Background

The Department published a notice in the **Federal Register** (FR 65 FR 3409) on January 21, 2000, announcing pilot projects which would permit selected school food authorities and State agencies to test alternatives to the free and reduced price application procedures and verification process for households participating in the National School Lunch Program. The Department provided interested parties 60 days in which to submit an application to participate. Subsequent to issuance of the notice, interested parties indicated that the 60-day submission period, ending March 21, 2000, does not provide sufficient time to develop an application.

The Department is eager to ensure that interested parties have sufficient time to develop and submit an application. To achieve this end, the Department will continue to receive applications postmarked no later than May 5, 2000.

Dated: March 15, 2000.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 00–7022 Filed 3–20–00; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–045N3]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0504]

Egg Safety Action Plan; Public Meetings

AGENCIES: Food Safety and Inspection Service, USDA; Food and Drug Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: The Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) are announcing two joint public meetings to solicit and discuss information for reducing or eliminating the risk of *Salmonella Enteritidis* (SE) in shell eggs and egg products using a farm-to-table approach. The current status of the Egg Safety Action Plan also will be discussed.

DATES: The first meeting will be held on Thursday, March 30, 2000, from 8:30 a.m. to 5 p.m. in Columbus, Ohio. The second meeting will be held on Thursday, April 6, 2000, from 8:30 a.m. to 5 p.m. in Sacramento, California. Comments must be submitted no later than April 20, 2000.

ADDRESSES: The first meeting will be held at the Hyatt Regency Columbus at the Greater Columbus Convention Center, 350 North High St., Columbus, OH 43215. Telephone: 614–463–1234. The second meeting will be held in the Auditorium of the California Department of Food and Agriculture Building, 1220 N St., Sacramento, CA 95814. Telephone: 916–654–0561.

FOR FURTHER INFORMATION CONTACT: For registration for the Columbus, OH meeting: Linda Russell, FSIS, 202–501–7249 or FAX 202–501–7615.

For registration for the Sacramento, CA meeting: Mary Harris, FSIS, 202–501–7315 or FAX 202–501–7615. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Russell or Ms. Harris 1 week before the meeting.

For general information regarding either meeting: Nancy Bufano, FDA, 202–401–2022, FAX 202–205–4422, or e-mail: nbufano@bangate.fda.gov; Alice Thaler, FSIS, 202–690–2683, FAX 202–720–8213; or Martha Workman, FSIS, 202–720–3219, FAX 202–690–0824.

SUPPLEMENTARY INFORMATION:

I. Background and Information Solicitation

The President's Council on Food Safety was established in August 1998 to improve the safety of the food supply through science-based regulation and well-coordinated inspection, enforcement, research, and education programs. The Council on Food Safety was charged with developing a

comprehensive long-range strategic plan that can be used to set priorities, improve coordination and efficiency, identify gaps in the current system, recommend ways to fill those gaps, enhance and strengthen prevention and intervention strategies, and identify or develop measures to show progress.

The Council has identified egg safety as one component of the public health issue of food safety that warrants immediate Federal, interagency action. In July 1999, FDA and FSIS committed to developing an action plan to address the presence of SE in shell eggs and egg products using a farm-to-table approach.

As part of this action plan, FDA and FSIS held a public meeting on August 26, 1999, to obtain stakeholder input on the draft goals, as well as to further develop the objectives and action items. The Egg Safety Action Plan, announced by the President on December 11, 1999, was developed, in part, from the input received at the meeting. The Egg Safety Action Plan is available on the Internet at www.foodsafety.gov or from Alice Thaler, FSIS, or Nancy Bufano, FDA (see contact persons).

In this notice, FSIS and FDA are announcing two joint public meetings to solicit and discuss information related to the implementation of the Egg Safety Action Plan. Therefore, the agencies invite comments on the following general questions regarding the Action Plan:

1. Does the Egg Safety Action Plan comprehensively cover the problem of SE in eggs and measures for reducing this hazard? If not, what should the Plan include to be more complete?

2. What are the costs and benefits of implementing each risk reduction component in the Action Plan?

3. What training should be associated with respect to each component of the Action Plan?

However, the specific purpose of the public meetings is to gather information for reducing or eliminating the risk of SE in eggs. In 2000, FDA will propose regulations for egg producers that the States and FDA will enforce; FSIS will propose regulations with performance standards for packers and egg products processors that the States and USDA (FSIS and Agricultural Marketing Service) will enforce. The information shared at the public meetings and during the comment period for the public meetings will be carefully considered as the new regulations are crafted. After the proposed rules are published, the agencies plan to hold additional public meetings to discuss, among other issues, enforcement strategies, as well as strategies to effectively communicate between State and Federal governments.

To obtain public comment on components of the Egg Safety Action Plan, the agencies developed the series of questions posed in this notice. These questions are offered to focus both the discussions at the public meetings and the written comments to be submitted to the docket. Some of the questions reference possible components of an SE-reduction program. An outline of these components will be provided as a handout at the public meetings, and is available on the Internet at www.usda.fsis.gov or from Alice Thaler, FSIS (see contact person above).

FDA envisions that the on-farm risk reduction measures may include several mandatory components, including the requirement for a risk reduction plan. Environmental testing may be used to verify that this risk reduction plan is effectively controlling SE in the environment. In order to develop appropriate and adequate on-farm standards, the agency has the following questions regarding shell egg production:

4. Are the following appropriate and adequate components for a nationwide SE reduction program: Bio-security, SE-negative feed, chicks from SE-monitored breeders, flock health monitoring program, cleaning and disinfection of houses, rodent/pest control, monitored water supply?

5. How effective do you think each component would be? Which component(s) do you think will provide the most risk reduction?

6. Is environmental testing an appropriate verification step to ensure that the risk reduction plan is working? If so, how often and when should testing be performed to ensure that the plan is working and that the consumer is protected from consuming SE-contaminated eggs?

7. In the event that an environmental sample for SE is positive, what, if any, additional steps should a producer be required to take with the positive flock/house and with the next flock that will be placed in that house?

8. Where vaccines have been used, is there a correlation between vaccine use and reduction of SE in eggs?

FSIS envisions that packer/processor risk reduction measures may include several mandatory components of a risk reduction plan. In order to propose appropriate and adequate packer/processor performance standards, the agency has the following questions regarding shell egg packing and egg products processing:

9. In the event eggs from an SE-positive layer flock are diverted from the table egg market, what measures should be implemented to ensure those eggs are pasteurized?

10. In the event eggs from an SE-positive flock are diverted to the production of liquid, frozen, or dried egg products, should the eggs be handled or processed differently? Indicate the cost associated with the described process.

11. Do customer specifications exist that prohibit the processing of SE-positive eggs for egg products? Considering your production volume and available market for egg products, will this influence the price for SE-positive eggs?

12. What is an estimated cost to implement the proposed components of a HACCP-based system, including adequate good manufacturing practices to minimize the growth of SE and prevent cross contamination, for each of the following processing operations (include only the new costs incurred such as record keeping, company verification on a continuing basis, and revised processing procedures for conformance):

a. Packer of shell eggs for the consumer?

b. In-shell pasteurization of eggs?

c. HACCP in egg products establishments?

13. For the development of a performance standard(s) for the thermal processing of liquid eggs and other egg products, we are requesting information regarding the enumeration of SE in liquid eggs prior to pasteurization.

14. What is the cost of maintaining refrigerated storage (maximum temperature 60 °F) for eggs received that are destined for grading and packaging or in-shell pasteurization, when time to processing will exceed 24 hours from time of lay?

15. Are there any methods by which a packer/processor can determine how old eggs are when they are received?

16. When packing shell eggs for the consumer, will the use of only new primary packing materials increase your marketing costs? If so, what is the estimated cost? Is there a way to clean plastic containers to prevent cross contamination so they can be re-used?

17. Are the proposed components of the national standards for packing and processing of shell eggs and egg products appropriate and adequate to reduce the risk associated with SE?

In addition to standards for shell egg production and packer/processor standards, the Egg Safety Action Plan includes measures to reduce SE contamination of eggs during distribution and at retail and includes plans to accelerate SE research. The

agencies have the following questions related to retail and research:

18. Do the provisions in the 1999 Food Code which apply to shell eggs adequately protect at-risk consumers in retail establishments? If not, what other provisions are necessary for their protection? (Note: The 1999 Food Code is available on the Internet under ''Federal/State Food Programs'' at www.cfsan.fda.gov.)

19. Rewashing of shell eggs is a widespread industry practice. Are there data or research to support it? If it is disallowed, what economic effect will it have on the shell egg industry?

20. What research on SE in eggs is already underway and what additional research is needed to assist producers, packer/processors, and retailers in proper practices?

To assess the economic impact of any proposed risk reduction plan, FDA's economics team would like information on the shell egg industry. Useful information which egg farm operators can provide include answers to the following questions:

21. To what extent are you already engaging in the following practices:

a. Use of chicks from National Poultry Improvement Plan (NPIP) SE-monitored breeders?

b. Rodent/pest control?

c. Bio-security?

d. Cleaning and disinfecting?

e. Use of monitored water supply?

f. Use of SE-controlled feed?

22. Testing for verification on the on-farm plan. We are interested in your answers to the following questions for both environmental testing and egg testing:

a. To what extent are you currently testing?

b. What is the sampling plan for the tests you conduct?

c. What tests do you use? Do you test for the presence of Salmonella, SE, SE stereotypes, etc.?

d. How much do these tests cost (include separately both lab costs and on-farm labor costs)?

23. How much would it cost you to implement each of the proposed components of the risk reduction plan? (Note: The costs you estimate should be the new costs you will bear in excess of what you are already spending on risk reduction.)

24. What are the current market prices or costs you pay or get for the following:

a. Chicks from NPIP SE-monitored breeders versus chicks from noncertified sources?

b. Grade A/B eggs versus breaker eggs?

c. Dry cleaning versus dry, wet disinfecting poultry houses?

d. SE-controlled feed versus noncontrolled feed?

25. Can you get replacement chicks/pullets at a time different from your usual lay cycle? If so, what price premium, if any, would you have to pay to get these birds?

26. Do you currently vaccinate your layers for SE? At what time(s)? What does it cost?

27. Before processing or shipping for processing, are your eggs stored on the farm in an environment that is not temperature controlled? For how long? If so, what temperatures are the eggs stored at and how long do they stay in storage?

28. When you ship your eggs from the farm to the processor/ packer, do you reuse packing materials? What steps are taken to minimize any bio-security hazards that may arise from such a practice? How much would it cost to sanitize or use new packing materials for each egg shipment?

29. To help us understand the viewpoint from which you are making your comments, it would be helpful for us to have some information about the structure of your firm. This will help us to determine whether your comment represents an additional perspective that we should consider. Answers to the following questions would be useful:

a. In what State(s) do you currently operate?

b. How many layer houses do you have?

c. What style of house(s) is typical for your operation?

d. What is the average number of layers in each house?

e. Is yours an in-line or an off-line operation?

f. Do you currently molt your layers? If molting is used, when is it used?

II. Five Segments of the Public Meetings

The agenda for both public meetings will address the following five segments of the farm-to-table egg safety continuum:

1. On-farm production;
2. Packer shell egg processing;
3. Egg products processing;
4. Retail, food service, and consumer; and
5. Research.

The format of both public meetings will involve discussion of the questions posed in the previous section of this notice. The discussion will be led by a panel composed of stakeholders representing industry, Federal and State government, academia, and consumer interests, and it will include all meeting participants. In addition, there will be time at the end of each meeting for general public comment. However, attendees must request time in advance to participate in this public comment session. Time allotted for comment will be approximately 5 minutes for each participant, but will depend on the number of people participating.

III. Agenda for Public Meetings Implementing the Egg Safety Action Plan in Columbus, OH (March 30, 2000) and Sacramento, CA (April 6, 2000)

8:30 a.m.; Opening presentation—current status of the Egg Safety Action Plan (FDA/FSIS)

8:45 a.m. Significance and prevalence of SE infection associated with eating raw or undercooked eggs (Centers for Disease Control and Prevention)

9:00 a.m. On-farm production—overview of the issues (FDA)

9:10 a.m. Discussion—issues for on-farm production

10:10 a.m. Break

10:25 a.m. Packer/shell egg processing—overview of the issues (FSIS)

10:35 a.m. Discussion—issues for packer/shell egg processing

11:35 a.m. Lunch—1 hour

12:35 p.m. Egg products processing—overview of the issues (FSIS)

12:45 p.m. Discussion—issues for egg products processing

1:45 p.m. Retail/food service/consumer—overview of the issues (FDA)

1:55 p.m. Discussion—issues for retail/food service/consumer

2:25 p.m. Regulatory impact analysis—the role of economics in rulemaking (FDA)

2:35 p.m. Research—overview of the issues (FDA)

2:45 p.m. Discussion—issues for research

3:15 p.m. Break

3:30 p.m. Open microphone—participants must sign in to request a slot

4:30 p.m. Closing remarks (FDA/FSIS)

IV. Additional Public Notification

Public awareness of and 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 aware of this notice, FSIS will announce the notice and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In

addition, the update is available on line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the congressional and Public Affairs Office, at 202–720–5704.

V. Public Dockets and Submission of Comments

The agencies have established public dockets to which comments may be submitted. Comments should be directed either to FSIS, Docket No. 98–045N3, or to FDA, Docket No. 00N–0504. All comments must include the appropriate docket number. Submit written comments in triplicate to:

USDA/FSIS Hearing Clerk, 300 12th St. SW., rm. 102, Cotton Annex, Washington, DC 20250–3700, or to

FDA/Dockets Management Branch (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. You may also send comments to the Dockets Management Branch at the following e-mail address: FDADockets@oc.fda.gov or via the FDA Internet at http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm.

VI. Meeting Summaries

Summaries of the proceedings of the public meetings will be posted on the Internet at www.foodsafety.gov. This website is a joint FDA, USDA, and Environmental Protection Agency food safety homepage. It is linked to each agency for persons seeking additional food safety information. Summaries of the proceedings of the public meetings may also be requested in writing from the Dockets Management Branch, FDA (address above) approximately 30 business days after the meetings, at a cost of 10 cents per page. The summaries of the public meetings will be available for public examination at the Docket Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 15, 2000.

Thomas J. Billy,

Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation, Food and Drug Administration.

[FR Doc. 00–7004 Filed 3–16–00; 4:33 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement to the Final Environmental Impact Statement for the Huckleberry Land Exchange, Mt. Baker-Snoqualmie National Forest, Skagit, Snohomish, King, Pierce, Lewis, Kittitas, and Cowlitz Counties, Washington

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplemental environmental impact statement.

SUMMARY: The USDA Forest Service will prepare a supplement to the final environmental impact statement for the Huckleberry Land Exchange. The supplemental EIS is intended to meet the May 19, 1999 order of the United States Court of Appeals for the Ninth Circuit, as remanded back to the Forest Service by United States District Court on October 12, 1999 (No. C97–786WD and C97–803WD, 9th Cir. No. 98–35043). Further analysis will be done to address specific issues raised by the Court of Appeals.

DATES: Any comments concerning the analysis should be received, in writing, by April 17, 2000 to be most useful. See below for information on estimated dates for release of the supplemental draft environmental impact statement and public comment period.

ADDRESSES: Send written comments to John Phipps, Forest Supervisor, 21905—64th Avenue West, Mountlake Terrace, WA 98043.

FOR FURTHER INFORMATION CONTACT: Everett White, Washington Lands Adjustment Team Leader, Forest Supervisor's Office. Phone: (425) 744–3442. Email: *ewhite01@fs.fed.us.*

SUPPLEMENTARY INFORMATION: In July 1991, the USDA Forest Service and Weyerhaeuser Company signed a Statement of Intent to enter into a land exchange involving lands in the Huckleberry Mountain area and other areas within the boundaries of the Mt. Baker-Snoqualmie National Forest. Scoping and public involvement was initiated in June 1994; a draft environmental impact statement (DEIS) was released in July 1996. After a public comment period, a final EIS and concurrent Record of Decision (ROD) was issued in November 1996. The ROD called for implementation of the exchange through a modification of Alternative 3, as analyzed in the FEIS.

The decision was appealed (pursuant to 36 CFR part 215) in early 1997. The three appeals were denied in early March 1997.

In late March 1997, pursuant to the ROD, the Forest Service and Weyerhaeuser Company executed an exchange agreement: Weyerhaeuser conveyed to the United States 30,253 acres of land in and around the Mt. Baker-Snoqualmie National Forest in return for 4,362 acres of land in the Huckleberry Mountain area. In addition, Weyerhaeuser donated to the United States 962 acres for addition to the Alpine Lakes Wilderness and 1,034 acres for addition to the National Forest System outside the Wilderness.

In the spring of 1997, two complaints were filed in the federal district court, seeking declaratory and injunctive relief to halt the Huckleberry Land Exchange. The district court consolidated the two actions and granted Weyerhaeuser's motion to intervene. In December, 1997, the district court concluded the agency had met all applicable laws and denied the plaintiff's motion.

Plaintiffs did not seek a stay of the district court's order pending appeal, but appealed to the Ninth Circuit Court of Appeals the district court's decision regarding their claims under the National Environmental Protection Act (NEPA) and the National Historic Preservation Act (NHPA).

Because there was no stay, the exchange was finalized on March 12, 1998. Weyerhaeuser initiated timber harvest on the lands the company acquired.

On May 19, 1999, the Ninth Circuit Court reversed the decision of the district court in several areas and remanded the case back to the district court with directions that it remand to the Forest Service for further proceedings under NEPA and NHPA consistent with the opinion. The Ninth Circuit Court also enjoined any further management activities on the land until the Forest Service satisfies the NEPA and NHPA obligations it identified. In response, the Forest Service has decided to prepare a supplemental environmental impact statement.

The SEIS will display the original alternatives (including no action); the modified Alternative 3, selected in the 1996 ROD; and three new alternatives: the two alternatives ordered by the

Ninth Circuit Court of Appeal (purchase and deed restrictions) and an alternative that would include fewer acres exchanged. The SEIS will not address any exchange parcels that were not analyzed in the 1996 EIS. The SEIS will disclose the direct, indirect, and cumulative effects of the alternatives. Past, present, and projected activities on both private and National Forest system lands will be considered.

The original issues will guide the analysis, along with the issues raised by the Court of Appeals.

No scoping meetings are planned (40 CFR 1502.9(c)(4)). Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 30 days.

The draft SEIS is expected to be filed in July 2000. Following release of the Draft SEIS, there will be a 45-day public comment period from the date the Environmental Protection Agency published the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final SEIS is scheduled to be completed in December 2000. In the final SEIS, the Forest Service will respond to comments received (during the comment period) that pertain to the environmental consequences discussed in the draft SEIS, and applicable laws, regulations, and policies considered for this proposal. The lead agency is the Forest Service; the Forest Supervisor of the Mt. Baker-Snoqualmie National Forest is the responsible official. The responsible official will document the decision and the rationale for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations 36 CFR part 215.

Dated: March 7, 2000.

Mary E. Wells,

Acting Forest Supervisor.

[FR Doc. 00–6903 Filed 3–20–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

John Day/Snake Resource Advisory Council, Hells Canyon Subgroup

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Hells Canyon Subgroup of the John Day/Snake Resource Advisory Council will meet on April 13 and 14, 2000 at Nez Perce Tribal Headquarters, Main St., and Beaver Grade, Lapwai, ID. The meeting will begin at 9 a.m. and continue until 5 p.m. the first day and will begin at 8 a.m. and continue until 4 p.m. on the second day. Agenda items to be covered include: (1) Review draft CMP alternatives and, (2) Open public forum. All meetings are open to the public. Public comments will be received at 1:30 p.m. on April 13, 2000.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kendall Clark, Area Ranger, USDA, Hells Canyon National Recreation Area, 88401 Highway 82, Enterprise, OR 97828, 541–5501.

Dated: March 15, 2000.

John C. Schuyler,

Deputy Forest Supervisor.

[FR Doc. 00–6991 Filed 3–20–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–808]

Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 21, 2000.

ACTION: Notice of final determination of sales at less than fair value.

FOR FURTHER INFORMATION CONTACT: Charles Ranado, Stephanie Arthur or Robert James at (202) 482–3518, (202) 482–6312 or (202) 482–0649, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations

refer to the regulations codified at 19 CFR part 351 (April 1, 1999).

Final Determinations

We determine that cold-rolled flat-rolled carbon-quality steel products (cold-rolled steel) from Turkey are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on January 7, 2000. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey,* 65 FR 1127 (January 7, 2000) (*Preliminary Determination*). Since the publication of the Preliminary Determination the following events have occurred.

The Department verified sections A–C of Borcelik Celik Sanayii ve Ticaret A.S. (Borcelik's) responses from December 6 through December 9, 1999, at Borcelik's administrative headquarters in Istanbul, Turkey. The Department also verified section D of Borcelik's response from December 13 through December 17, 1999, at Borcelik's administrative headquarters. *See* Memorandum For the File; ''Verification of Sales Data—Borcelik'', January 19, 2000 (Sales Verification Report) and Memorandum to Neal Halper, Acting Director, Office of Accounting; ''Verification of the Cost of Production and Constructed Value Data—Borcelik,'' January 19, 2000 (Cost Verification Report). Public versions of these, and all other Departmental memoranda referred to herein, are on file in the Central Records Unit, room B–099 of the main Commerce building.

On January 24, 2000, Eregli Demir ve Çelik Fabrikalari T.A.S. (Erdemir) requested a public hearing. In addition, on February 7, 2000, petitioners [1] also requested a hearing. On February 11, 2000, both respondents (Borcelik and Erdemir) filed case briefs while petitioners filed case briefs on issues concerning Borcelik. We received rebuttal briefs from all parties on February 18, 2000. The Department held a hearing on February 22, 2000.

Period of Investigation

The period of investigation (POI) is April 1, 1998 through March 31, 1999.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated March 13, 2000, which is hereby adopted and incorporated by reference into this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099.

In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at www.ita.doc.gov/import admin/records/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

For a description of the scope of this investigation, see the ''Scope of Investigation'' section of the Decision Memorandum, which is on file in B–099 and available on the Web at www.ita.doc.gov/import admin/records/frn/.

Use of Facts Available

For a discussion of our application of facts available, see the ''Facts Available'' section of the Decision Memorandum, which is on file in B–099 and available on the Web at www.ita.doc.gov/import admin/records/frn/.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results, where applicable. Any allegations of programming or clerical errors with which we do not agree are discussed in the relevant sections of the ''Decision Memorandum,'' accessible in B–099 and on the Web at www.ita.doc.gov/import admin/records/frn/.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing Customs to continue to suspend liquidation of all entries of cold-rolled flat-rolled, carbon-quality steel products from Turkey that are entered, or withdrawn from warehouse, for consumption on or after January 7, 2000, the date of publication of the Preliminary Determination. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for the period April 1, 1998 through March 31, 1999:

Exporter/manufacturer	Weighted-average margin (percent)
Erdemir	32.91
Borcelik	8.67
All Others	8.67

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue in antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 13, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Appendix I—Issues in Decision Memo

Comments and Responses

1. Facts Available
   1. Adverse Facts Available
   2. Major Input Rule

[1] Petitioners in this case are Bethlehem Steel Corporation, Gulf States Steel, Inc., Ispat Inland Inc., LTV Steel Company Inc., National Steel Company, Steel Dynamics, Inc., U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, United Steelworkers of America, and Independent Steelworkers Union (collectively, petitioners).

2. Date of Sale
3. COP/CV
   1. Exchange Rate Gains and Losses
   2. Translation Gains and Losses
   3. Major Input—Trace to Individual Coils
   4. Missing Coils
   5. Auditor's Adjustments
   6. Sales of Scrap
4. Adjustments to Export Price
   1. Movement Expenses
   2. Duty Drawback
5. Adjustments to Normal Value
   1. Returns
   2. Interest Revenue
   3. Technical Services
6. Model Match
7. Ministerial Errors

[FR Doc. 00–6992 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–831)

Fresh Garlic From the People's Republic of China; Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce is extending the time limit for the final results of the administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The review covers three producers/exporters of subject merchandise. The period of review is November 1, 1997, through October 31, 1998.

EFFECTIVE DATE: March 15, 2000.

FOR FURTHER INFORMATION CONTACT: Farah Naim or Richard J. Rimlinger, Office of Antidumping/Countervailing Duty Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4203, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3174 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 120 days after the date on which the notice of preliminary results was published in the **Federal Register**. In a situation in which the Department issued the preliminary results within the original statutory time limit, the Department may extend the time limit for completion of the final results, provided that the final results are issued within 300 days after the date on which the preliminary results were published.

In the instant case, the preliminary results were published in the **Federal Register** on July 21, 1999 (64 FR 39115), within the original statutory time frame. On November 18, 1999, we extended the final results partially for this case from November 18, 1999, to March 15, 2000 (64 FR 66884). However, because comments made by the petitioners concerning the existence of a re-packaging scheme present unusual issues, we find it not practicable to consider and address these issues fully by the March 15, 2000, deadline. Accordingly, the Department is extending the time limit for the final results to no later than May 16, 2000 (*i.e.,* 300 days after the publication of the preliminary results).

We are publishing this notice in accordance with 19 CFR 351.302.

Dated: March 15, 2000.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 00–6993 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the following overseas trade missions to be held between April and May 2000. For a more complete description of the trade mission, obtain a copy of the mission statement from the Project Officer indicated below. The recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daley on March 3, 1997.

Thailand Airports 2000

Bangkok, Thailand, April 26–27, 2000, Recruitment closes April 7, 2000.

For further information contact: Alain DeSarran, U. S. Department of Commerce, Tel: 202–482–2422, Fax: 202–501–6165, E-mail: ADeSarran@mail.doc.gov

Aerospace Trade Mission to Brazil

Rio de Janeiro, Sao Paulo, Brazil, May 14–20, 2000, Recruitment closes April 25, 2000.

For further information contact: Kim Wells, U.S. Department of Commerce, Tel: 202–482–2232, Fax: 202–482–3383, E-Mail: Kim Wells@ita.doc.gov

U.S. Information Technology Trade Mission to Far East Asia

Hong Kong, China, Taipei, Taiwan, Seoul and Pusan, South Korea, June 8–17, 2000, Recruitment closes April 15, 2000

For further information contact: Tu-Trang Phan, U.S. Department of Commerce, Tel: 202–482–0480, Fax: 202–482–3002, E-mail: Tu-Trang Phan@ita.doc.gov

For further information contact: Reginald Beckham, U.S. Department of Commerce. Tel: 202–482–5478, Fax: 202–482–1999.

Dated: March 15, 2000.

Tom Nisbet,

Director, Promotion Planning and Support Division, Office of Export Promotion Coordination.

[FR Doc. 00–6900 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Docket No. [000202023–0023–01; I.D. No. 011000B]

RIN 0648–ZA78

Announcement of Opportunity to submit proposals for the Coastal Ecosystem Research Project in the Northern Gulf of Mexico

AGENCY: Center for Sponsored Coastal Ocean Research/Coastal Ocean Program (CSCOR/COP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of Funding Opportunity for financial assistance for project grants and cooperative agreements.

SUMMARY: The purpose of this document is to advise the public that NOAA/NOS/

CSCOR/COP is soliciting proposals from 1 to 3 years in duration for monitoring studies, particularly of the hypoxic zone, and for retrospective and modeling studies in the Northern Gulf of Mexico (N-GOMEX). It is anticipated that projects funded under this announcement will have a July 1, 2000, start date.

This notice solicits applications for research projects from eligible non-Federal and Federal applicants. In an effort to maximize the use of limited resources, applications from non-Federal, non-NOAA Federal and NOAA applicants will be competed against each other. Research proposals selected for funding from non-Federal researchers will be funded through a project grant. Research proposals selected for funding from non-NOAA Federal applicants will be funded through an interagency transfer provided legal authority exists for the federal applicant to receive funds from another agency. Research proposals selected for funding from NOAA will be funded through NOAA.

DATES: The deadline for receipt of proposals at the COP office is 3:00 pm, EST, April 21, 2000.

ADDRESSES: Submit the original and 10 copies of your proposal to Coastal Ocean Program Office (N-GOMEX 2000), SSMC#3, 9th Floor, Station 9700, 1315 East-West Highway, Silver Spring, MD 20910. NOAA Standard Form Applications with instructions are accessible on the following COP Internet Site: http://www.cop.noaa.gov under the COP Grants Support Section, Part D, Application Forms for Initial Proposal Submission. If you are unable to access this information, you may call COP at 301–713–3338 to leave a mailing request.

FOR FURTHER INFORMATION CONTACT: Technical Information: Kenric Osgood, N-GOMEX 2000 Program Manager, COP Office, 301–713–3338/ext 130, Internet: Kenric.Osgood@noaa.gov; Business Management Information: Leslie McDonald, COP Grants Administrator, 301–713–3338/ext 137, Internet: Leslie.McDonald@noaa.gov. The following web sites furnish results of studies concerning the periodic hypoxia associated with the northern Gulf of Mexico referred to later in this Document under **SUPPLEMENTARY INFORMATION:** http://www.aoml.noaa.gov/ocd/necop/ and http://www.nos.noaa.gov/Products/pubs hypox.html.

A report of the workshop, U.S. GLOBEC report No. 19, is available from the following address or homepage: U.S. GLOBEC Coordinating Office, UMCES, Chesapeake Biological Laboratory, P.O. Box 38, Solomons, MD 20688; Phone: 410–326–7370; Fax: 410–326–7341; Internet: fogarty@usglobec.org and http://www.usglobec.org. This report is referenced later in this Document under **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

Background

Program Description

For complete Program Description and Other Requirements criteria for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

Coastal regions dominated by large rivers are disproportionately important to the biological production of the world's oceans, primarily because these rivers carry large amounts of ''new'' nitrogen. An important river-dominated coastal ecosystem in the U.S. is the Mississippi River, which supports high primary and secondary production in the Gulf of Mexico. Approximately 20 percent of the U.S. commercial fishery landings by dollar value are from the northern Gulf. Major recreational fisheries also exist in this region.

There is a strong relationship between riverine inputs (especially nutrients) and primary production, followed in turn by zooplankton production and fish production in a classic Nutrient-Phytoplankton-Zooplankton-Fish food web. Anthropogenic nitrogen loadings from the Mississippi River to the Gulf of Mexico have increased dramatically during the past several decades, which has led to changes in the ecosystem of the northern Gulf, including (1) the annual development of an extensive zone of bottom water hypoxia during the summer stratified period; (2) a probable increase in overall biological production; and (3) an apparent shift from a balanced pelagic/demersal fish community to one significantly more dominated by pelagic fisheries.

Several past and present programs have studied the periodic hypoxia associated with the northern Gulf of Mexico. Notably, from 1990 to 1997, the Coastal Ocean Program supported a study on Nutrient Enhanced Coastal Ocean Productivity; and the Committee on Environment and Natural Resources recently completed an integrated assessment of Gulf of Mexico hypoxia. Results of those studies can be found on the web sites listed earlier in this Document under **FURTHER INFORMATION:**

A workshop was held in January 1999 to discuss relationships between the Mississippi River, the production of marine populations, and ecosystem parameters in the Gulf of Mexico; and to discuss how these relationships might be affected by changes in weather and climate. A report of the workshop, U.S. GLOBEC report No. 19, is available from the address or homepage shown earlier in this Document under **FURTHER INFORMATION.**

This solicitation for proposals will begin a program to examine the inter-relationships driving the Mississippi River-dominated Gulf of Mexico ecosystem. The planned suite of studies will enable improved predictions about future effects of nutrient loading, eutrophication, hypoxia, and climate change on the Gulf of Mexico ecosystem. The currently requested proposals should focus on monitoring the spatial and temporal changes in the distribution of the hypoxic zone in the northern Gulf of Mexico. A secondary priority for this announcement is the effects of hypoxia on the distribution and abundance of fishery species, and the species upon which they depend.

Structure of the Research Program

The NOAA Coastal Ocean Program intends to support an initial research program comprising monitoring and possibly, retrospective analyses and modeling. Subsequent announcements may solicit further proposals in these areas and for process field studies in the region, depending on the outcome of the proposed research solicited here, and the levels of future appropriated funding.

Monitoring studies could include shipboard surveys, multi-disciplinary mooring observations, drifters, and analysis of regional satellite data. Highest priority monitoring activities for this announcement are monitoring the magnitude and extent of the hypoxic zone in the northern Gulf of Mexico in space and time. Monitoring activities with lower priorities for this announcement include monitoring the distribution and abundance of nutrient-stimulated phytoplankton, zooplankton and fishery populations and their relation to eutrophication, hypoxia, and Mississippi River plume dynamics.

Retrospective analyses are a secondary priority for this initial announcement. Retrospective analyses should be used to provide quantitative and detailed information on issues relevant to the objectives listed above, but not already completed, in the recent CENR report. Examples include retrospective analyses of biological data concerning key animal populations; retrospective analyses of meteorological and physical oceanographic controls on

plume distribution; retrospective analyses of the coupling between transport and population dynamics of key species; and retrospective analyses of coupling between climate, drainage basin, and shelf oceanography.

Modeling studies are a tertiary priority for this initial announcement. Modeling activities will be used to guide further program development and identify important processes for the extensive fieldwork anticipated to follow this preliminary phase. For example, models of NPZF and trophic responses to varying nutrient inputs, including organic flux to the bottom; models of water column stability, oxygen demand in bottom waters, and hypoxia; and physical-biological coupled models of transport and population dynamics of key zooplankton and fishery populations.

In order to fully develop predictive capability, a more intensive 5–7 year program is being planned for when additional funding becomes available. This complete program will include monitoring, retrospective studies, modeling and process field studies to identify relationships among ecosystem constituents. The process studies will be nested within monitoring efforts which identify and measure important ecosystem components, and retrospective and modeling efforts which will place the field measurements into broader temporal and theoretical context. The overall goal of the entire program is to understand and ultimately predict how changes in climate, nutrient loading and hypoxia will affect populations of marine animal species in the northern Gulf of Mexico. The projects conducted as a result of this solicitation for proposals will help guide the development of the more complete program.

Part I: Schedule and Proposal Submission

The provisions for proposal preparation provided here are mandatory. Proposals received after the published deadline or proposals that deviate from the prescribed format will be returned to the sender without further consideration. This announcement, additional background information, and proposal preparation instructions will be made available on the COP home page (http://www.cop.noaa.gov).

Full Proposals

Applications submitted in response to this announcement require an original proposal and 10 proposal copies at time of submission. This includes color or high-resolution graphics, unusually-sized materials (not 8.5″ × 11″ or 21.6 cm x 28 cm), or otherwise unusual materials submitted as part of the proposal. For color graphics, submit either color originals or color copies. The stated requirements for the number of proposal copies provide for a timely review process because of the large number of technical reviewers. Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

Required Elements

All recipients are to closely follow the instructions and requirements in the preparation of the standard NOAA Application Forms and Kit requirements listed in Part II: Further Supplementary Information, paragraph (10) of this Document. Each proposal must also include the following seven elements:

(1) *Signed summary title page*: The title page should be signed by the Principal Investigator (PI) and the institutional representative. The Summary Title page identifies the project's title starting with the acronym N-GOMEX 2000, a short title (<50 characters), and the lead PI's name and affiliation, complete address, phone, FAX, and E-mail information. The requested budget for each fiscal year should be included on the Summary Title page. Multi-institution proposals must include signed Summary Title pages from each institution.

(2) *One-page abstract/project summary*: The Project Summary (Abstract) Form, which is to be submitted at time of application, shall include an introduction of the problem, rationale, scientific objectives and/or hypotheses to be tested, and a brief summary of work to be completed. The prescribed COP format for the Project Summary Form can be found on the COP Internet site under the COP Grants Support Section.

The summary should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost, and budget period. It should be written in the third person. The summary is used to help compare proposals quickly and allows the respondents to summarize these key points in their own words.

(3) *Statement of work/project description*: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the program goals, and its scientific priorities. The project description section (including Relevant Results from Prior Support) should not exceed 15 pages. Page limits are inclusive of figures and other visual materials, but exclusive of references and milestone chart.

Project management should be clearly identified with a description of the functions of each PI within a team. NOAA has specific requirements that environmental data be submitted to the National Oceanographic Data Center. It is important to provide a full scientific justification for the research; do not simply

reiterate justifications presented in this document. This section should also include:

(a) The objective for the period of proposed work and its expected significance;

(b) The relation to the present state of knowledge in the field and relation to previous work and work in progress by the proposing principal investigator(s);

(c) A discussion of how the proposed project lends value to the program goals, and

(d) Potential coordination with other investigators.

(e) References cited: Reference information is required. Each reference must include the name(s) of all authors in the same sequence in which they appear in the publications, the article title, volume number, page numbers, and year of publications. While there is no established page limitation, this section should include bibliographic citations only and should not be used to provide parenthetical information outside of the 15–page project description.

(4) *Milestone chart*: Time lines of major tasks covering the duration of the proposed project, up to 36 months, if proposing a 3-year project.

(5) *Budget*: At time of proposal submission, all applicants shall submit the Standard Form, SF–424 (Rev 7–97), ''Application for Federal Assistance'', to indicate the total amount of funding proposed for the whole project period. In lieu of the Standard Form 424A, Budget Information (Non-Construction), at time of original application, all proposers are required to submit a COP Summary Proposal Budget Form for each fiscal year increment. Multi-institution proposals must include budget forms from each institution.

Use of this budget form will provide for a detailed annual budget and the level of detail required by the COP program staff to evaluate the effort to be invested by investigators and staff on a specific project. The COP budget form is compatible with forms in use by other agencies that participate in joint projects with COP; and can be found on the COP home page under COP Grants Support, Part D.

All applicants shall include a budget narrative/justification that supports all proposed budget object class categories. The program office will review the proposed budgets to determine the necessity and adequacy of proposed costs for accomplishing the objectives of the proposed grant. Ship time needs should be identified in the proposed budget. The SF–424A, Budget Information (Non-Construction) Form, shall be requested from only those recipients subsequently recommended for award.

(6) *Biographical sketch*: Abbreviated curriculum vitae, two pages per investigator, are sought with each proposal. Include a list of up to five publications most closely related to the proposed project and up to five other significant publications. A list of all persons (including their organizational affiliation), in alphabetical order, who have collaborated on a project, book, article, or paper within the last 48 months should be included. If there are no collaborators, this should be so indicated. Students, post-doctoral associates, and graduate and postgraduate advisors of the PI should also be disclosed. This information is used to help identify potential conflicts of interest or bias in the selection of reviewers.

(7) *Proposal format and assembly*: Clamp the proposal in the upper left-hand corner, but leave it unbound. Use one inch (2.5 cm) margins at the top, bottom, left and right of each page. Use a clear and easily legible type face in standard 12 points size.

Part II: Further Supplementary Information

(1) *Program authorities*: For a list of all program authorities for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual Document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page. Specific Authority cited for this Announcement is 33 U.S.C. 1442.

(2) *Catalog of Federal Domestic Assistance Number*: 11.478 Coastal Ocean Program.

(3) *Program description*: For complete COP program descriptions, see the annual COP General Document (64 FR 49162, September 10, 1999).

(4) *Funding availability*: Funding is contingent upon the availability of Federal appropriations. It is anticipated that up to $600,000 per fiscal year will be available for supporting studies proposed by submissions to this announcement. The priorities for these funds are stated earlier in this Document.

If an application is selected for funding, NOAA has no obligation to provide any additional prospective funding in connection with that award in subsequent years. Renewal of an award to increase funding or extend the period of performance is based on satisfactory performance and is at the total discretion of the funding agency.

Publication of this document does not obligate the Coastal Ocean Program to any specific award or to any part of the entire amount of funds available. Recipients and subrecipients are subject to all Federal laws and agency policies, regulations, and procedures applicable to Federal financial assistance awards.

(5) *Matching requirements*: None.

(6) *Type of funding instrument*: Project Grants for non-Federal applicants; interagency transfer agreements or other appropriate mechanisms other than project grants or cooperative agreements for Federal applicants.

(7) *Eligibility criteria*: For complete eligibility criteria for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page. Proposals deemed acceptable from Federal researchers will be funded through a mechanism other than a grant or cooperative agreement where legal authority allows for such funding. Non-NOAA Federal applicants are required to submit certification or documentation which clearly shows that they can receive funds from the Department of Commerce (DOC) for research (i.e., legal authority exists allowing the transfer of funds from DOC to the non-NOAA Federal applicant's agency).

(8) *Award period*: Full Proposals should cover a project period of up to 3 years, with a start date of July 1, 2000. Multi-year project period funding may be funded incrementally on an annual basis; but once awarded, multi-year projects will not compete for funding in subsequent years. Each award shall require a Statement of Work that can be easily separated into annual increments of meaningful work which represent solid accomplishments if prospective funding is not made available, or is discontinued.

(9) *Indirect costs*: If indirect costs are proposed, the following statement applies: The total dollar amount of the indirect costs proposed in an application must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award.

(l0) *Application forms*: For complete information on application forms for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual Document in the **Federal Register** (64 FR 49162, September 10, 1999); the COP home page; and the information given earlier in this Document under *Required Elements*, paragraph (5) Budget.

(11) *Project funding priorities*: For description of project funding priorities, see COP's General Grant Administration Terms and Conditions annual notification in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(12) *Evaluation criteria*: For complete information on evaluation criteria, see COP's General Grant Administration Terms and Conditions annual Document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(13) *Selection procedures*: For complete information on selection procedures, see COP's General Grant Administration Terms and Conditions annual Document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page. All proposals received under this specific Document will be evaluated and ranked individually in accordance with the assigned weights of the above evaluation criteria by independent peer mail review.

(14) *Other requirements*: For a complete description of other requirements, see COP's General Grant Administration Terms and Conditions annual Document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(15) Pursuant to Executive Orders 12876, 12900 and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

(16) Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase

American-made equipment and products with funding provided under this program.

(17) This notification involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by the Office of Management and Budget (OMB) under control numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046.

The COP Grants Application Package has been approved by OMB under control number 0648–0384 and includes the following information collections: a Summary Proposal Budget Form, a Project Summary Form, standardized formats for the Annual Performance Report and the Final Report, and the submission of up to 20 copies of proposals. Copies of these forms and formats can be found on the COP Home Page under Grants Support section, Part F.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: March 13, 2000.

Ted I. Lillestolen,

Deputy Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 00–6980 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031400E]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee and Advisory Panel in April, 2000 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The Council will hold these meetings between Thursday, April 6, 2000 and Friday, April 21, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: All meetings will be held in Warwick, RI. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978)465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, April 6, 2000,at 10 a.m. and Friday, April 7, 2000, at 8:30 a.m. — Scallop Oversight Committee Meeting

Location: Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000.

The committee will develop draft management alternatives for Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP). The committee will recommend these draft alternatives to the Council at its May 3–5, 2000 meeting for inclusion and analysis in the Draft Supplemental Environmental Impact Statement (DSEIS).

Friday, April 21, 2000, at 9:30 a.m. — Joint Scallop Oversight Committee and Advisory Committee Meeting

Location: Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000.

The committee and advisors will review and finalize the draft management alternatives for Amendment 10 to the FMP. The committee will recommend these draft alternatives to the Council at its May 3–5, 2000 meeting for inclusion and analysis in the DSEIS.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 15, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–6982 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031500B]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet April 3–7, 2000. The Council meeting will begin on Monday, April 3, at 1:30 p.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 8:30 a.m. on Tuesday, April 4 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings and hearing will be held at the Doubletree Hotel - Columbia River, 1401 Hayden Island Drive, Portland, OR 97217; telephone: (503) 283–2111.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks, Introductions, Roll Call

2. Executive Director's Report

3. Approve Agenda

B. Groundfish Management

1. Agendum Overview

2. Status of Federal Regulations, Research Programs, and Other Activities

3. Harvest Rate Policy

4. Exempted Fishing Permits: Research Efforts

5. Canary Rockfish Allocation and Inseason Adjustment in the Pink Shrimp and Other Fisheries
6. Adoption of Rockfish Bycatch Estimate and Inseason Adjustments in Relevant Fisheries
7. Inseason Adjustments including English Sole and Redband Rockfish Retention Regulations
8. Inseason Adjustment in the Vertical Line Black Rockfish Allocation
9. Plan Amendment for Stock Rebuilding
10. Rebuilding Plans for Canary Rockfish and Cowcod
11. Status of Groundfish Strategic Plan
12. Observer Program
13. Plan Amendment to Address Bycatch and Management Measure Issues-Review First Draft
14. Renewal of Emergency Rule for 2000 Management Measures
15. American Fisheries Act
16. Efforts to Reduce Yellowtail Rockfish Catch in the Whiting Fishery: Review of Exempted Fishing Permit

C. Salmon Management
1. Agendum Overview
2. Identification of Stocks Not Meeting Escapement Goals for Three Consecutive Years
3. Methodology Reviews for 2000
4. Tentative Adoption of 2000 Ocean Salmon Management Measures for Analysis
5. Clarify Council Direction on 2000 Management Measures, If Necessary
6. Final Action on 2000 Measures
7. Clarification of Final Action on 2000 Measures (IF NECESSARY)

D. Administrative and Other Matters
1. Agendum Overview
2. Report of the Budget Committee
3. Report of the Legislative Committee
4. Establishment of a Council Operating Procedure for E-Mail
5. Appointments to and Composition of Council Advisory Entities
6. Groundfish Workload Issues
7. June 2000 Draft Agenda

E. Marine Reserves
Staff Report

F. Habitat Issues
Report of the Habitat Steering Group

Advisory Meetings

The Groundfish Management Team will meet at 1 p.m. on Sunday, April 2 and throughout the week as necessary to address groundfish management items on the Council agenda.

The Salmon Advisory Subpanel will convene on Monday, April 3, at 8 a.m. and will continue to meet throughout the week as necessary to address salmon management items on the Council agenda.

The Scientific and Statistical Committee will convene on Monday, April 3, at 8 a.m., and on Tuesday, April 4, at 8 a.m. to address scientific issues on the Council agenda.

The Habitat Steering Group meets at 9 a.m. on Monday, April 3, to address issues and actions affecting habitat of fish species managed by the Council.

The Budget Committee meets on Monday, April 3 at 9 a.m. to review the status of the 2000 Council budget and the proposed budget for 2001.

The Groundfish Advisory Subpanel will meet at 9:30 a.m. on Monday, April 3 and will convene throughout the week to address groundfish management items on the Council agenda.

The Salmon Technical Team will convene throughout the week (Monday April 3 through Friday April 7) as necessary to address salmon management items on the Council agenda.

The Enforcement Consultants meet at 5:30 p.m. on Tuesday, April 4, and will continue to meet as necessary through Friday, April 7 to address enforcement issues relating to Council agenda items.

The ad-hoc Marine Reserve Committee will meet on Tuesday, April 4 at 5 p.m. to discuss marine reserve issues relating to Council agenda items.

Comments on Council Agenda Items will not be accepted if submitted via e-mail or internet.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John S. Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: March 16, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–6981 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research, NOAA, DOC.

ACTION: Notice of open meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for research, education, and application of science to resource management. SAB activities and advice will provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Wednesday, April 5, 2000, from 8:00 a.m. to 5:30 p.m.; Thursday, April 6, 2000, from 8:00 a.m. to 5:00 p.m.; and Friday, April 7, 2000, from 8:00 a.m. to 5:30 p.m.

Place: American Geophysical Union, 2000 Florida Avenue, NW, Washington, DC.

Status: The meeting will be open to public participation with two 30-minute time periods set aside during the meeting for direct verbal comments or questions from the public. The SAB expects that public statements presented at its meeting swill not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 35 copies) should be received in the SAB Executive Director's Office by March 29, 2000, in order to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after March 29 will be distributed to the SAB, but may not be reviewed prior to the meeting date. Approximately thirty (30) seats will be available for the public including five (5) seats reserved for the media. Seats will be available on a first-come first-served basis.

Matters to Be Considered: The meeting will include the following topics: (1) Overview and SAB discussion of FY 2000 NOAA budget, (2) NOAA update to SAB recommendations concerning the establishment of three pilot SAB Working Groups to develop review processes that will be used to review

various NOAA science efforts (see *http://www.sab.noaa.gov/oct1999finalminutes.html,* (3) NOAA response to SAB request to establish an Ocean and Coastal Information Dissemination Service (see *http://www.sab.noaa.gov/oct1999finalminutes.html),* (4) Discussion of the SAB Report for the next NOAA Administrator, (5) Public Input Session with SAB discussion, (6) Presentations and SAB discussion of the ''Census of Marine Life'' and NOAA's Ocean Exploration and Research Initiative, (7) Overview and SAB discussion of potential recommendations relating to the NOAA FY 2002 budget request, (8) SAB Sub-Committee and Issue Group Reports, (9) Overview and SAB discussion of NOAA/Universities Administrative Efficiencies Subcommittee, (10) Presentation and SAB discussion of Aquaculture Initiative.

FOR FURTHER INFORMATION CONTACT: Dr. Michael S. Uhart, Executive Director Science Advisory Board, NOAA, Rm. 11142, 1315 East-West Highway, Silver Spring, Maryland 20910 (Phone: 301–713–9121, Fax: 301–713–3515, E-mail: Michael.Uhart@noaa.gov); or visit the NOAA SAB website at *www.sab.noaa.gov.*

Dated: March 15, 2000.

Louisa Koch,

Deputy Assistant Administrator, OAR.

[FR Doc. 00–6873 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031400B]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1245); receipt of applications to modify permits (1194, 1212); and receipt of a modification to an application to modify a permit (994).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement:

NMFS has received a permit application from Mr. J. David Whitaker, of South Carolina Department of Natural Resources (SCDNR) (1245); NMFS has received applications for permit modifications from Northwest Fisheries Science Center, NMFS at Seattle, WA (NWFSC)(1194, 1212); and NMFS has received an amendment to an application for permit modifications from the Idaho Cooperative Fish and Wildlife Research Unit at Moscow, ID (ICFWRU) (994).

DATES: Comments or requests for a public hearing on the new application or any of the modification requests must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00 p.m. eastern standard time on April 20, 2000.

ADDRESSES: Written comments on the new application or any of the modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the internet. The applications and related documents are available for review in the indicated office, by appointment:

For permits 994, 1194, and 1212: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (ph: 503–230–5400, fax: 503–230–5435).

For permit 1245: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (ph: 301–713–1401, fax: 301–713–0376).

Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permits 994, 1194, and 1212: Robert Koch, Portland, OR (ph: 503–230–5424, fax: 503–230–5435, e-mail: Robert.Koch@noaa.gov).

For permit 1245: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Sea Turtles

Endangered green turtle (*Chelonia mydas*), endangered Kemp's ridley turtle (*Lepidochelys kempii*), endangered leatherback turtle (*Dermochelys coriacea*), threatened loggerhead turtle (*Caretta caretta*).

Fish

Sockeye salmon (*Oncorhynchus nerka*): endangered Snake River (SnR).

Chinook salmon (*O. tshawytscha*): threatened SnR spring/summer; threatened SnR fall; endangered upper Columbia River (UCR) spring; threatened lower Columbia River (LCR).

Steelhead (*O. mykiss*): threatened SnR; endangered UCR; threatened middle Columbia River (MCR); threatened LCR.

To date, final protective regulations for threatened LCR chinook salmon and SnR, MCR, and LCR steelhead under section 4(d) of the ESA have not been promulgated by NMFS. Protective regulations are currently proposed for threatened LCR chinook salmon (65 FR 169, January 3, 2000) and threatened SnR, MCR, and LCR steelhead (64 FR 73479, December 30, 1999). This notice of receipt of applications requesting takes of these species is issued as a precaution in the event that NMFS issues final protective regulations that prohibit takes of threatened LCR chinook salmon and threatened SnR, MCR, and LCR steelhead. The initiation of a 30-day public comment period on the applications, including their proposed takes of threatened LCR chinook salmon and threatened SnR, MCR, and LCR steelhead does not presuppose the contents of the eventual final protective regulations.

New Applications Received

SCDNR (1245) has requested a 3-year permit to establish scientifically valid indices of abundance for the northern sub-population of the loggerhead, Kemp's ridley, green and leatherback sea turtles which occur in the Atlantic Ocean off the southeastern United States. This study is intended to capture juveniles and adults, thereby providing a more comprehensive assessment of total population abundance and an assessment of the health of individual animals.

Modification Requests Received

NWFSC requests a modification to ESA section 10(a)(1)(A) scientific research permit 1194. Permit 1194 authorizes NWFSC annual takes of adult artificially propagated SnR spring/summer chinook salmon and adult artificially propagated UCR steelhead associated with an evaluation of passive integrated transponder (PIT) tag interrogation systems at Bonneville Dam on the Columbia River in the Pacific Northwest. The objectives of the study are to evaluate the ability of the prototype tag detection systems to detect PIT-tagged adult salmon passing through the facility and evaluate the effects of the detection system on adult behavior as they approach and pass through the system. For the modification, NWFSC requests an annual take of adult UCR spring chinook salmon associated with the research. ESA-listed adult chinook salmon are proposed to be captured, tagged with PITs and non-permanent visual markers, released, and monitored from above or underwater with video cameras. The modification is requested to be valid for the duration of the permit, which expires on December 31, 2003.

NWFSC requests a modification to ESA section 10(a)(1)(A) scientific research permit 1212. Permit 1212 authorizes NWFSC annual takes of juvenile SnR sockeye salmon; juvenile naturally produced and artificially propagated SnR spring/summer chinook salmon; juvenile SnR fall chinook salmon; and juvenile naturally produced and artificially propagated UCR steelhead associated with four studies at the hydropower dams on the Snake and Columbia Rivers in the Pacific Northwest. The goal of Study 1 is to provide up-to-date survival estimates of juvenile salmonids as they migrate past McNary Dam on the Columbia River. The goal of Study 2 is to evaluate the specific trouble areas in the juvenile fish bypass system at Lower Monumental Dam on the Snake River. The goal of Study 3 is to compare the performance of juvenile salmonids tagged with Sham radiotransmitters with juvenile salmonids tagged with PITs at Lower Granite Dam on the Snake River. The goal of Study 4 is to determine tailrace residence times of radio-tagged hatchery chinook salmon under varying operational conditions at Lower Monumental Dam and to identify spill conditions that utilize the smallest volumes of water to maximize fish passage efficiency at Ice Harbor Dam on the Snake River. The research will provide information that will be used to develop corrective measures to improve juvenile fish passage at the dams. For the modification, NWFSC requests a take of juvenile MCR steelhead associated with Study 1. ESA-listed juvenile steelhead are proposed to be captured at McNary Dam, sampled for biological information, and released. ESA-listed juvenile steelhead indirect mortalities associated with the research are also requested. The modification is requested to be valid for the duration of the permit, which expires on December 31, 2003.

Amendment to Modification Request Received

On September 25, 1998, NMFS published a notice in the **Federal Register** (63 FR 51340) that an application was received from ICFWRU for a modification to ESA section 10(a)(1)(A) scientific research permit 994. Permit 994 authorizes ICFWRU annual takes of adult SnR sockeye salmon; adult SnR spring/summer and fall chinook salmon; and adult UCR steelhead associated with scientific research designed to assess the passage success and homing behavior of adult salmonids that migrate upriver past the eight dams and reservoirs in the lower Columbia and lower Snake Rivers, evaluate specific flow and spill conditions, and evaluate measures to improve adult anadromous fish passage. For the modification, ICFWRU requested a take of adult SnR steelhead associated with the scientific research. The modification to permit 994 has not yet been issued because a final rule providing take prohibitions for SnR steelhead under section 4(d) of the ESA has not been published by NMFS. NMFS has received an amendment of ICFWRU's application for modifications to permit 994. In the application amendment, ICFWRU requests an increase in the take of adult SnR sockeye salmon associated with a new study designed to monitor the passage of adult sockeye salmon returning to the upper Salmon River in Idaho. ESA-listed adult sockeye salmon are proposed to be captured at Lower Granite Dam on the Snake River, tagged with radiotransmitters and identifier tags, released, and tracked electronically. Also for the application amendment, ICFWRU requests takes of adult UCR spring chinook salmon; adult LCR chinook salmon; adult MCR steelhead; and adult LCR steelhead associated with the sampling effort at Bonneville Dam on the Columbia River. The modification as amended is requested to be valid for the duration of the permit, which expires on December 31, 2000.

Dated: March 14, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–6983 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 15, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 21, 2000.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, 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.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover, carryforward and recrediting of unused carryforward.

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 50495, published on September 17, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 15, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 13, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on March 21, 2000, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
338/638	1,156,475 dozen.
339/639	1,212,631 dozen.
340/640	1,190,527 dozen.
342/642	837,801 dozen.
351/651	1,352,548 dozen.
442	84,552 dozen.
443	143,928 numbers.
444	84,552 numbers.
448	43,558 dozen.
633	174,685 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–6882 Filed 3–20–00; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Petition Requesting Rule Declaring Natural Rubber Latex a Strong Sensitizer

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission has received a petition from Debi Adkins, editor of *Latex Allergy News,* requesting that the Commission issue a rule declaring that natural rubber latex (''NRL'') and products containing NRL are strong sensitizers under the Federal Hazardous Substances Act (''FHSA''). The Commission solicits written comments concerning the petition.

DATES: The Office of the Secretary should receive comments on the petition by May 22, 2000.

ADDRESSES: Comments, preferably in five copies, on the petition should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Petition HP 00–2, Petition on Natural Rubber Latex.'' A copy of the petition is available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800, ext. 1232.

SUPPLEMENTARY INFORMATION: The Commission has received correspondence from Debi Adkins, editor of Latex Allergy News, that requests the Commission to declare that natural rubber latex (''NRL'') and products containing NRL are strong sensitizers under the Federal Hazardous Substances Act (''FHSA''). The petitioner asserts that a portion of the population has developed an allergy to NRL that can cause serious allergic reactions, even death. NRL may be in such consumer products as gloves, adhesives, shoes, balloons, pacifiers, and carpet backing, as well as many medical products. Ms. Adkins asks the Commission to add NRL and products containing NRL to its list of strong sensitizers so that these products would require labeling. The Commission is docketing the correspondence as a petition under provisions of the FHSA, 15 U.S.C. 1261–1277.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800. A copy of the petition is also available for inspection from 8:30 a.m. to 5 p.m., Monday through Friday, in the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

Dated: March 15, 2000.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00–6874 Filed 3–20–00; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for AmeriCorps*VISTA Grants Nationwide

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (hereinafter ''the Corporation'') announces the availability of funds for fiscal year 2000, for new AmeriCorps*VISTA (Volunteers in Service to America) program grants throughout the United States, the District of Columbia, Puerto Rico, and the Virgin Islands. Project applications will be written to cover a 12-month period and grants will be awarded for a 12-month period with a renewal option. As part of this effort, the Corporation is soliciting applications from public or private non-profit organizations, including current AmeriCorps*VISTA project sponsors. Approximately 10 to 12 grants are expected to be awarded in summer 2000, subject to the availability of FY 2000 funding.

DATES: Applications must be received by 5 p.m. April 17, 2000.

ADDRESSES: Application instructions and kits are available from the Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Avenue, NW, Washington, DC, 20525, (202) 606–5000, ext. 134; TDD (202) 565–2799, or TTY via the Federal Information Relay Service at (800) 877–8339. Five original signature copies of the application should be submitted to the Corporation for National and Community Service, 1201 New York Avenue, NW, Room 9207, Attn: Matt Dunne, Director, AmeriCorps*VISTA, Washington, DC, 20525. The Corporation will not accept applications that are submitted via facsimile or e-mail transmission. Applications submitted via overnight mail that arrive after the closing date will be accepted if they are postmarked at least two days prior to the closing date. Otherwise, late applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: For further information, contact AmeriCorps*VISTA Headquarters, in Washington, DC, at (202) 606–5000, ext. 134.

SUPPLEMENTARY INFORMATION:

A. Background

AmeriCorps*VISTA is authorized under the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113). The statutory mandate of AmeriCorps*VISTA is ''to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enbling persons from all walks of life, all geographical areas, and all age groups * * * (to) assist in the solution of poverty and poverty-related problems, and * * * to generate the commitment of private sector resources, to encourage volunteer service at the local level, and to strengthen local agencies and organizations to carry out the purpose (of the program).'' (42 U.S.C. 4951) AmeriCorps*VISTA carries out its legislative mandate by assigning individuals 18 years and older, on a full-time, year-long basis, to public and private non-profit organizations whose goals are in accord with AmeriCorps*VISTA's legislative mission. Each AmeriCorps*VISTA project must focus on the mobilization of community resources, the transference of skills to community residents, and the expansion of the capacity of community-based organizations to solve local problems. Programming should encourage permanent, long-term solutions to problems confronting low-income communities rather than short-term approaches for handling emergency needs.

AmeriCorps*VISTA project sponsors must actively elicit the support and/or participation of local public and private sector elements in order to enhance the chances of a project's success as well as to make the activities undertaken by AmeriCorps*VISTA members self-sustaining when the Corporation no longer provides resources.

B. Purpose of This Announcement

This is a nationwide effort to create and expand opportunities for low-income individuals in one of the following areas: (1) Technology assistance to community based and school based learning centers; (2) Welfare to work initiatives including job creation, micro-business enterprise, business training and assistance to public assistance recipients who are starting new businesses to work in these areas; and (3) Literacy, after-school and summer reading programs for youth.

*AmeriCorps*VISTA Projects in These Initiatives will Focus On*

1. National, local, state or multi-state organizations working in conjunction with local affiliates that share a vision of promoting economic self-sufficiency; or literacy, afterschool and summer reading programs for youth; or technology assistance with communities and/or schools.
2. Promotion of partnerships and collaboration between the public and private sectors including businesses, community-based organizations; faith-based organizations and other service programs;
3. Recruitment, training, and coordination of local volunteers;
4. Mobilization of resources needed to support the project; and
5. Development of a sustainable capacity in local communities.

C. Eligible Applicants

Eligible applicants for AmeriCorps*VISTA program grants supporting these initiatives must be public or private non-profit organizations: regional or national non-profit organizations, tribal or territorial governments, or organizations representing tribal populations. Current AmeriCorps*VISTA sponsoring organizations may apply without affecting the status of their existing projects.

D. Scope of Grant

Each grant budget will support a minimum of 15 AmeriCorps*VISTA members on a full-time basis for one year of service. The average Federal cost of an AmeriCorps*VISTA service year, i.e., total Federal cost divided by total number of members, will range from approximately $11,000 to $13,000 in the continental United States depending upon the location of the assignment(s). (Higher rates apply in Alaska and Hawaii.) Specific budget guidance is available in the project application kit; average allowance costs contained in the instructions should be used to prepare the budget submission.

Each grant will include funds for the grantee to pay: a monthly subsistence allowance for AmeriCorps*VISTA members that is commensurate with the cost-of-living of the assignment area and covers the cost of food, housing, utilities, and incidental expenses; an end-of-service cash stipend payment, accrued at the rate of $100 per month, for those members not selecting the AmeriCorps education award; and relocation expenses for those AmeriCorps*VISTA members who must relocate in order to serve. The grant will also include funds for member in-service training, member supervision, and member/supervisor job-related transportation.

The following costs will be covered by the Corporation: an AmeriCorps education award in the amount of $4725 for AmeriCorps*VISTA members who complete their year of service and do not elect the stipend, health support for all AmeriCorps*VISTA members; a child care allowance for eligible AmeriCorps*VISTA members; travel from home of record to training to assignment for all AmeriCorps*VISTA members as well as travel home at the end of service.

Grant applicants should demonstrate their commitment to matching the Federal contribution toward the operation of the AmeriCorps*VISTA program grant by offsetting all, or part of, the costs of member supervision, transportation, and training, as well as the basic costs of the program itself (e.g., space, telephone, etc.). This support can be achieved through cash or in-kind contributions.

Grants will be awarded on a 12-month basis with a renewal option subject to need, satisfactory performance, and the availability of Corporation resources. Publication of this announcement does not obligate the Corporation to award any specific number of grants or to obligate the entire amount of funds available, or any part thereof, for grants under the AmeriCorps*VISTA program.

E. Responsibilities of the Grantee

The applicant organization must demonstrate a strong institutional commitment of personnel, resources, training and technical expertise. Applicant organizations must develop a strong and well-coordinated multi-site or single site project rather than loosely tying together several unrelated local programs.

The applicant organization will have several crucial roles and responsibilities in operating an AmeriCorps*VISTA project. All applicant organizations must: identify local sites and assist them with preparation of Part A of the Project Application (CNS Form 1421A) (OMB Control Number 3045–0038), provide on-going monitoring, training, technical assistance, and support to local sites, assist in member recruitment, and work with sites to develop long-term sustainability plans.

After selection, the grantees will be advised by the Corporation of specific requirements related to the AmeriCorps*VISTA project, including the submission of Project Progress

Reports (CNS Form 1433) (OMB Control Number 3045–0043), to the Americorps*VISTA project manager and assistance in the design and delivery of training. The Corporation State Office works with the local project affiliates to develop Part B (CNS Form 1421B) (OMB Control Number 3045–0038), of the project application and to provide in-service training and technical assistance for the members. The Corporation State Office also provides training to AmeriCorps*VISTA supervisors through periodic site visits and meetings with supervisors. A Project Progress Report is submitted by each local affiliate to the Corporation State Office on a quarterly basis.

F. Submission Requirements

To be considered for funding, applicants must submit five copies, with original signatures on items 2 and 3, of the following:

1. A one-page narrative summary description, single-spaced, single-sided in 10–12 point, of the proposed AmeriCorps*VISTA project including the name, address, telephone number, and contact person for the applicant organization as shown on the SF 424. The summary should include the major objectives and expected outcomes of the project. The summary will be used as a project abstract to provide reviewers with an introduction to the substantive parts of the application. Therefore, care should be taken to produce a summary which accurately and concisely reflects the proposal.
2. Application for Federal Assistance, SF 424, with a detailed narrative budget justification.
3. AmeriCorps*VISTA Project Application, Form 1421, Parts A and B. All project information must be contained in the space provided on the application form except where additional sheets may be submitted for the Project Work Plan and/or Member Assignment Description(s).
4. Current resume of potential AmeriCorps*VISTA supervisor(s), if available, or resume of the director of the applicant organization.
5. List of members of the Board of Directors including their professional affiliations and/or program-related activities.
6. Organizational chart illustrating the location of the AmeriCorps*VISTA project within the overall applicant organization.
7. Letters of support must be provided from outside organizations that will be collaborating in the overall project effort. Letters should reflect knowledge and endorsement of the specific objectives of the project, as well as any commitment of resources to the project if applicable.
8. For each local site that will be hosting AmeriCorps*VISTA member(s), Part A of the application must be included. No other documents pertaining to the local sites should be attached.

National Applicant Organizations Must Also Submit One Copy of the Following

1. Current Articles of Incorporation.
2. Proof of non-profit status, or an application for non-profit status and related documentation.
3. CPA certification of accounting capability.
4. A copy of most recent annual report, if available.
5. No additional attachments are to be included. Such attachments will not be read or given to reviewers.

G. Criteria for AmeriCorps*VISTA Project Selection

All of the following elements must be incorporated in the applicant's submission:

I. Program Design

a. Getting Things Done

The proposed project must:

1. Address the needs of low-income communities and otherwise comply with the provisions of the Domestic Volunteer Service Act of 1973, as amended, (42 U.S.C. 4951 *et seq.*) applicable to AmeriCorps*VISTA, and all applicable published regulations, guidelines, and Corporation policies.
2. Be internally consistent, i.e., the problem statement that demonstrates need, the project work plan, the AmeriCorps*VISTA member assignment description, and all other components must be related logically to each other.
3. Contain clear and measurable objectives/outcomes in the project application for a 12-month period that address the overall objectives of the initiative. Proposed projects must show how the activities of the AmeriCorps*VISTA members contribute to specific outcomes related to increased economic opportunity for low-income people. It is expected that outcome objectives will reflect the evolution of the project over the 12-month period.
4. Include activities and mechanisms that provide for the involvement of beneficiaries of the project.
5. Indicate how the proposed project complements and/or enhances activities already underway in, or planned for, the community(ies) which will be served by the project. To the extent possible, projects should seek out opportunities to collaborate with other Corporation programs, as well as with other community partners, including the business sector.
6. Describe how the number of AmeriCorps*VISTA members requested is appropriate for the project goals/objectives, and how the skills requested are appropriate for the assignment(s).

b. Strengthening Communities

The proposed project must:

1. Describe how the project will develop a sustainable capacity in the local community to effectively foster the long-term self-sufficiency of the community. Project services should provide assistance oriented towards long-term solutions.
2. Demonstrate collaboration with organizations which provide supportive services to enhance job creation and community development.
3. Be designed to generate public and/or private sector resources, and to promote local, part-time volunteer service at the community level.
4. Describe in measurable terms the anticipated self-sufficiency outcomes at the conclusion of the project, including outcomes related to the sustainability of the project activities.

c. Member Development

The proposed project must:

1. Clearly state how AmeriCorps*VISTA members will be trained, supervised, and supported to ensure the achievement of program goals and objectives as stated in the project work plan.
2. Describe how AmeriCorps*VISTA assignments are designed to utilize the full-time AmeriCorps*VISTA member's time to the maximum extent.

II. Organizational Capacity

The proposed project must:

1. Ensure that resources needed to achieve project goals and objectives are available.
2. Have the management and technical capability to implement the project successfully.
3. Have a track record or experience in dealing with the issues addressed by the proposed project.
4. Have systems for the evaluation and monitoring of project activities. Applicants must describe the methods that will be used to track progress toward the stated objectives, and the procedures that will provide the feedback needed to make adjustments and improve program quality. Projects must also be prepared to cooperate with the Corporation for National Service and its evaluation partners in all Corporation monitoring and evaluation efforts.

III. Budget/Cost-Effectiveness:

The proposed project must:

1. Include a budget that adequately supports the program design.
2. Include a budget that adheres to budget guidance provided with the application.
3. Describe how the applicant organization is committing resources necessary for program implementation.

H. Application Review

Proposal Evaluation

To ensure fairness to all applicants, the Corporation reserves the right to take action, up to and including disqualification, in the event that a proposal fails to comply with any requirements specified in this Notice.

1. Program Design (60% as described below):

The project application allows the Corporation to assess the capacity of the applicant organization to implement the project and accomplish the purpose of the initiative. The overall quality of the application will be evaluated as follows:

a. Responsiveness to Getting Things Done Criteria (25%).

b. Responsiveness to Strengthening Communities Criteria (30%).

c. Responsiveness to Member Development Criteria (5%).

2. Organizational Capacity (25%):

The applicant organization's capacity to direct, manage, support, provide technical assistance, assess the project, and promote long-term implementation of the project's efforts, must be reflected in the Project Application.

3. Budget (15%):

Applicants must prepare the budget according to information contained in Item D, Scope of Grant, above, and instructions about costs and allowance levels contained in the application kit. A detailed Budget Narrative must identify and justify each line item and cost. The Corporation will assess the cost-effectiveness of the proposed project and the project's ability to leverage significant resources from private and/or public sources.

I. Geographic Diversity

After evaluating the overall quality of the proposal and its responsiveness to the criteria noted above, the Corporation will take into consideration whether funded projects are: (1) geographically diverse, including projects in both urban and rural areas, and projects are identified throughout the five geographical regions as designated by CNS, and (2) in areas of high concentration of low-income residents, including those in empowerment zones, enterprise communities and homeownership zones.

J. Program Authority

Corporation Authority to make these grants is authorized under Title I, Part A of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113).

Dated: March 16, 2000.

Matt Dunne,

*Director, AmeriCorps*VISTA.*

[FR Doc. 00–6987 Filed 3–20–00; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), U.S. Army, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed information collection; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 22, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Office of the Assistant Secretary Manpower and Reserve Affairs, 111 Army Pentagon, Washington, DC 20310–0111, ATTN: SAMR–MPP, (Kathleen A. Dillion). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

TITLE, ASSOCIATED FORM, AND OMB NUMBER: Army Recruiting Market Tracking Survey.

NEEDS AND USES: The Army urgently needs redesigned marketing and recruiting strategies. New research is being carried out on the factors that affect youth willingness to enter the Army, the perceptions of their key influencers, patterns of recruiters-youth-influencers interactions, and on youth's and influencers's media habits. That research will provide the baseline information required to design new enlistment options, marketing campaigns, and recruiting strategies.

Affected Public: Individuals or household.

Annual Burden Hours: 5146.

Number of Respondents: 9,750 (6,500 youth; 3,250 parents).

Responses Per Respondent: 1.

Average Burden Per Response: 1 hour (35 youth; 25 parents).

Frequency: Voluntary.

SUPPLEMENTARY INFORMATION: The Army requires a second companion survey to provide ongoing assessments of the results of these changes and to pinpoint additional modifications that may be needed to enhance cost-effectiveness and strengthen Army recruiting. The survey will be administered to a national probability sample of youth 16–24 years of age. In half these cases, a shorter interview with one of the respondent's parent will be completed.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–6999 Filed 3–20–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Scientific Advisory Board

AGENCY: Armed Forces Institute of Pathology (AFIP), DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, Public Law (92–463), announcement is made of the following open meeting:

Name of Committee: Scientific Advisory Board (SAB).

Date of Meeting: 11–12 May 2000.

Place: Armed Forces Institute of Pathology, Building 54, 14th St. & Alaska Ave., NW, Washington, DC 20306–6000.

Time: 8:30 a.m.–4:30 p.m. (11 May 2000)—8 a.m.–12 p.m. (12 May 2000).

FOR FURTHER INFORMATION CONTACT: Mr. Ridgely Rabold, Center for Advanced Pathology (CAP), AFIP, Building 54, Washington, DC 20306–6000, phone (202) 782–2553.

SUPPLEMENTARY INFORMATION:

General function of the board: The Scientific Advisory Board provides scientific and professional advice and guidance on programs, policies and procedures of the AFIP.

Agenda: The Board will hear status reports from the AFIP Deputy Director, Center for Advanced Pathology Director, the National Museum of Health and Medicine, and each of the pathology departments which the Board members will visit during the meeting.

Open board discussions: Reports will be given on all visited departments. The reports will consist of findings, recommended areas of further research, and suggested solutions. New trends and/or technologies will be discussed and goals established. The meeting is open to the public.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–6998 Filed 3–20–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Cost Sharing Cooperative Agreement Applications

AGENCY: Defense Logistics Agency (DLA).

ACTION: Notice of solicitation for cost sharing cooperative agreement applications.

SUMMARY: The Defense Logistics Agency (DLA) issued a solicitation for cooperative agreement applications (SCAA) to assist state and local governments and other nonprofit eligible entities in establishing or maintaining procurement technical assistance centers (PTACs). These centers help business firms market their goods and services to the Department of Defense (DoD), other federal agencies, and state and/or local government agencies. Notice of the issuance of this SCAA was published in the March 17, 1999 **Federal Register** (Volume 64, Number 51, page 13176). This solicitation governs the submission of applications for calendar years 1999, 2000, 2001, and 2002 and applies to all applications from all eligible entities, including Indian Economic Enterprises and Indian Tribal Organizations.

Pursuant to Section ''I'' paragraph ''J'' of the SCAA, notice is hereby given that limited additional funds are anticipated to be available in order to accept applications for additional new programs. However, applications will only be accepted from eligible entities that propose programs that will provide service to areas that are not currently receiving service from an existing program. This provision prohibiting applications from new programs proposing to service areas currently receiving service from an existing program is absolute, and the provisions of Section V, paragraph D. of the SCAA do not apply should a new applicant propose to service an area currently receiving service from an existing program. In addition, Section II of the SCAA is amended by changing the definition of a statewide program so as to prohibit more than one statewide program per state. Section V of the SCAA is amended to include situations where more than one applicant applies as a statewide program for an individual state, as an unacceptable duplicate coverage situation. Section VIII of the SCAA is amended by adding a new paragraph F. ''LIMITATIONS'' which limits the amount of DoD's funding for any option year to no more than that which was obligated for the base year award and the DoD percentage of total net program cost for any option year shall not be greater than DoD's percentage of total net program cost for the base year award. The March 15, 1999 SCAA is amended as follows; all applications submitted after March 10, 2000 and all PTAC awards made and options exercised after April 1, 2000 shall be governed by this amended version of the SCAA:

* * * * *

Section II

* * * * *

30. Statewide program. A PTA program that provides statewide coverage. There can be only one statewide program per state. In the event more than one applicant applies as a statewide program, the procedure in Section V, paragraph D. will be followed. For the purpose of the funding limitations appearing in Section I, paragraph F.3., PTA programs providing services to all the reservations within one of the twelve Bureau of Indian Affairs (BIA) Area Offices (which are Aberdeen, Albuquerque, Anadarko, Billings, Eastern, Juneau, Minneapolis, Muskogee, Navajo, Phoenix, Portland and Sacramento) and at least 50 per cent of the reservations of another BIA Area Office will be considered a statewide program.

* * * * *

Section V

D. Duplicate Coverage

Applications whose proposals produce a duplicate coverage situation will be reviewed by the GO to determine if the extent of duplicate coverage is acceptable or unacceptable. A duplicate coverage situation shall be deemed unacceptable if any of the following occur:

1. An applicant proposes to provide PTA services to more than 25 percent of the total number of counties that another applicant is proposing to service.

2. Two or more applicants **cumulatively** propose to provide PTA service to more than 25 percent of the total number of counties that another individual applicant proposes to service.

3. Two or more applicants apply as statewide programs servicing the same state.

Applicants that propose to provide service primarily to reservations (at least 75% of their total program cost will be dedicated to providing service to reservations) will not be considered to duplicate applicants that do not propose to provide service primarily to reservations, notwithstanding the areas either propose to service.

When the GO determines that an unacceptable duplicate coverage situation exists, only the applicant(s) determined to be most meritorious among those proposing the duplicate coverage situation using the selection procedures listed in Section VI will be considered for award.

* * * * *

Section VIII

* * * * *

F. Limitations

The total mount of DoD funding for any program in any option year shall not exceed the total amount *obligated* by DoD for the base year award. The percentage of DoD's share of total net program cost for any option year shall not be greater than the percentage of DoD's share of total net program cost for the base year award.

(end of SCAA revisions)

DATES: On line submissions of applications for new programs will be available on or about March 20, 2000. The closing date for the submission of applications is May 5, 2000.

The SCAA is currently available for review on the Internet Website: http://www.dla.mil/scaa

Printed copies are not available for distribution.

Eligible entities may only submit an application as outlined in Section IV of the SCAA. In order to comply with the electronic portion of the submission, applicants must obtain a log in account and password from DLA. To obtain

these, applicants must furnish the Grants Officer written evidence that they meet the criteria of an eligible entity as set forth in paragraph 14 of Section II of the SCAA.

This information should be mailed or otherwise delivered to: HQ, Defense Logistics Agency, Small and Disadvantaged Business Utilization Office (DDAS Room 1127), 8725 John J. Kingman Road, Ft. Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: If you have any questions or need additional information please contact Ms. Diana Maykowskyj at (703) 767–1656.

Anthony J. Kuders,

Deputy Director, Small and Disadvantaged Business Utilization.

[FR Doc. 00–6904 Filed 3–20–00; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 22, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 15, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Comprehensive Program Annual Performance Report.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 140; Burden Hours: 2,800.

Abstract: The Comprehensive Program is a discretionary grant program that makes competitive awards to support reform and innovations through projects that improve educational practice at the postsecondary level. Grantees annually submit a performance report to demonstrate that substantial progress is being made toward meeting the objectives of their projects. Reporting requirements are currently based on broad criteria from the Education Department General Administrative Regulations (EDGAR). This request is to use a reporting format that elicits needed information on program-specific outcomes within the annual report without posing additional burden to the grantee.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO IMG Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–6901 Filed 3–20–00; 8:45 am]

BILLING CODE 4001–01–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 20, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and

proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 15, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: ED-Flex State Application Guidance.

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 45

Burden Hours: 1,800

Abstract: Pub L. 106–25, the Education Flexibility Partnership Act of 1999, permits States, which do not currently have Ed-Flex authority, to submit an application to the Secretary of Education to request Ed-Flex authority. Thirty-eight states, plus the outlying areas, will voluntarily apply for the authority to waive Federal regulations for seven USDE programs, as delineated under the law. In the application, the State must demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes: a description of the process the State will use to evaluate applications from school districts or schools requesting waivers, how the State has met the eligibility requirements, a description of the State's evaluation process, and how the Ed-Flex plan will assist in implementing the State's reform plan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO IMG Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (202) 708–9346 (fax). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–6902 Filed 3–20–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education—School Improvement Programs—Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Priorities for fiscal Year (FY) 2000.

SUMMARY: The Secretary announces absolute priorities for the FY 2000 grant competition under the Native Hawaiian Curriculum Development, Teacher Training and recruitment Program. After funding continuation awards, the Secretary would use the remaining FY 2000 funds available under the program to award new grants to support activities in one or more of the following areas: (1) Computer literacy and and technology education, (2) agriculture education partnerships, (3) astronomy, (4) indigenous health, (5) waste management innovation, (6) prisoner education, and (7) marine resource management.

DATES: We must receive your comments on or before April 20, 2000.

ADDRESSES: Address all comments about this proposed priority to Lynn Thomas, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3C124, Washington, DC 20202–6410, Telephone: (202) 260–7779. If you prefer to send your comments through the Internet, use the following address: Lynn thomas@ed.gov

FOR FURTHER INFORMATION CONTACT: Lynn Thomas, (202) 260–1541. If you use a telecommunications device for deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation To Comment: Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3C124, 400 Maryland Avenue, SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individual With Disabilities in Reviewing the Rulemaking Record: On request, the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability that needs assistance to review the comments. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

General: There is available for distribution under the Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program (20 USC 7909) a total of $5,500,000 of FY 2000 funds. Of this amount, approximately $3,300,000 will be used to award continuation awards to successful applicants in the FY 1999 competition. The remaining $2,200,000 of FY 2000 funds will be used to support curriculum development and teacher training activities in one or more of the following areas: (1) Computer literacy and technology education, (2) agriculture education partnerships, (3) astronomy, (4) indigenous health, (5) waste management innovation, (6) prisoner education, and (7) marine resource management. Except for marine resource management, these are the same areas that were funded under the FY 1999 competition. Congress has urged the Secretary to support activities in these seven areas and the Secretary believes that limiting newly funded projects in this way will help address the needs of Native Hawaiian students in these significant areas of Native Hawaiian culture and traditions. Therefore, the Secretary is announcing absolute funding priorities and intends to use available FY 2000 funds under the program for a competition to support projects in one or more of the seven categories.

The Secretary will announce final priorities for these competitions in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the final priority, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. A notice inviting applications under the competitions will be published in the **Federal Register** concurrent with or following the notice of final priorities.

Absolute Priorities: Under the Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program, the Secretary announces absolute preference to applications that focus entirely on activities in one of the following areas:

(1) Computer literacy and technology education—to support curriculum development, teacher training and model programs designed to increase computer literacy and access for Native Hawaiian elementary and secondary school students;

(2) Agriculture education partnerships—to support the integration of agricultural and businesses practices into high school curriculum through the expansion of partnerships between community-based agricultural businesses and high schools with high concentrations of Native Hawaiian students;

(3) Astronomy—to support the development of educational programs in astronomy for Native Hawaiian elementary and secondary school students to assist them in reaching challenging science and mathematics standards and to encourage them to enter the field of astronomy;

(4) Indigenous health—to support curriculum development, teacher training, and instruction activities that will foster a better understanding and knowledge of Native Hawaiian traditional medicine, particularly among Native Hawaiian elementary and secondary students;

(5) Waste management innovation—to study and document traditional Hawaiian practices of sustainable waste management and to prepare teaching materials for educational purpose and for demonstration on the use of native Hawaiian plants and animals for waste treatment and environmental remediation;

(6) Prisoner education—to support programs that target juvenile offenders and/or youth at risk of becoming juvenile offenders. Comprehensive and culturally sensitive strategies for reaching the target population will include family counseling, basic education/jobs skills training, and the involvement of community elders as mentors; and

(7) Marine resource management—to support programs designed to teach Native Hawaiian elementary and secondary students about traditional fishery management techniques used in the Native Hawaiian culture.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. one of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Program Authority: Sections 9209 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 7909) CFDA 84.297A.

Electronic Access to This Document: You may review 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://www.ed.gov/fedreg.htm* or *http://ocfo.ed.gov/news.html*.

To use the PDF you must have Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, 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 Domestic Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Dated: March 16, 2000.

Michael Cohen,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 00–6946 Filed 3–20–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of Upcoming Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Advisory Committee on Student Financial Assistance which is open to the public. Individuals who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, and/or materials in alternative format) should notify Ms. Hope M. Gray at 202–708–7439 or via e-mail at hope_gray@ed.gov no later than April 3, 2000. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES AND TIMES: Wednesday, April 12, 2000, beginning at 8:30 a.m. and ending at approximately 5:00 p.m.; and Thursday, April 13, 2000, beginning at 8:30 a.m. and ending at approximately 2:00 p.m.

ADDRESSES: Boston University, School of Management, Executive Leadership Center, 595 Commonwealth Avenue, Boston, Massachusetts 02118.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue SW, Suite 601, Washington, DC 20202–7582 (202) 708–7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the Committee has been charged with providing technical expertise with regard to systems of need analysis and application forms, making recommendations that result in the maintenance of access to postsecondary education for low- and middle-income students; conducting a study of institutional lending in the Stafford Student Loan Program; assisting with activities related to the 1992 reauthorization of the Higher Education Act of 1965; conducting a third-year evaluation of the Ford Federal Direct Loan Program (FDLP) and the Federal Family Education Loan Program (FFELP) under the Omnibus Budget Reconciliation Act (OBRA) of 1993; and assisting Congress with the 1998 reauthorization of the Higher Education Act.

The congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act. The Committee traditionally approaches its work from a set of fundamental goals: promoting program integrity,

eliminating or avoiding program complexity, integrating delivery across the Title IV programs, and minimizing burden on students and institutions.

Reauthorization of the Higher Education Act has provided the Advisory Committee with a significantly expanded agenda in six major areas, such as, Performance-based Organization (PBO); Modernization; Technology; Simplification of Law and Regulation; Distance Education; and Early Information and Needs Assessment. In each of these areas, Congress has asked the Committee to: monitor progress toward implementing the Amendments of 1998; conduct independent, objective assessments; and make recommendations for improvement to the Congress and the Secretary. Each of these responsibilities flows logically from and effectively implements one or more of the Committee's original statutory functions and purposes.

The proposed agenda includes: (a) discussion sessions on implementing the provisions of the Higher Education Amendments of 1998 and their impact on all Title IV programs, in particular, examining long-term issues that are central to the federal role of providing access to postsecondary education for low- and middle-income students, and (b) progress to date on distance education and Gear Up. In addition, the Committee will discuss its plans for the remainder of fiscal year 2000 and address other Committee business. Space is limited and you are encouraged to register early if you plan to attend. You may register through Internet at ADV_COMSFA@ED.gov or Tracy_Deanne_Jones@ED.gov. Please include your name, title, affiliation, complete address (including Internet and e-mail—if available), and telephone and fax numbers. If you are unable to register electronically, you may mail or fax your registration information to the Advisory Committee staff office at (202) 401–3467. Also, you may contact the Advisory Committee staff at (202) 708–7439. The registration deadline is Monday, April 3, 2000.

The Advisory Committee will meet in Boston, Massachusetts on April 12, 2000, from 9:00 a.m. until approximately 5:00 p.m., and on April 13, from 8:30 a.m. until approximately 2:00 p.m.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, SW, Suite 601, Washington, DC from the hours of 9:00 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: March 15, 2000.

Brian K. Fitzgerald,

Staff Director, Advisory Committee on Student Financial Assistance

[FR Doc. 00–6934 Filed 3–20–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice is being issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States of America and the Republic of South Africa.

This subsequent arrangement concerns the cropping and transfer of 49 U.S.-origin spent fuel elements consisting of 5700.1 grams of uranium, of which 4276.6 grams of the isotope U–235 is 90 percent enriched, from the Pelindaba Safari Reactor storage facility to the Thabana Pipe Storage facility for long-term storage. The transfer, cropping and storage of the 49 fuel elements will be done under IAEA supervision and will take no longer than 2 months to complete. The purpose of the transfer is to alleviate the shortage of storage space at the Pelindaba Safari Reactor facility.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Trisha Dedik,

Director, International Policy and Analysis Division for Arms Control and Nonproliferation, Office of Defense Nuclear Nonproliferation.

[FR Doc. 00–6918 Filed 3–20–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Availability of Solicitation for Awards of Financial Assistance Solicitation Number DE–PS07–00ID13909—Petroleum Industries Vision of the Future

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of availability of solicitation.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office (ID), is seeking applications for cost-shared research and development of technologies which will reduce energy consumption, reduce environmental impacts and enhance economic competitiveness of the domestic downstream (refining) sector of the Petroleum Industry. The research is to address downstream (refining) research priorities identified by the Petroleum Industry in the areas of Energy and Process Efficiency, Materials and Inspection Technology and Environmental Performance.

DATES: The deadline for receipt of full applications is May 17, 2000, at 3:00 p.m. MST.

ADDRESSES: Applications should be submitted to: Procurement Services Division, U. S. DOE, Idaho Operations Office, Attention: Carol Van Lente [DE–PS07–00ID13909], 850 Energy Drive, MS 1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Carol Van Lente, Contract Specialist, by facsimile at (208) 526–5548, e-mail: *vanlencl@id.doe.gov,* or by telephone at (208) 526–1534, Dallas L. Hoffer, Contracting Officer at *hofferdl@id.doe.gov.*

SUPPLEMENTARY INFORMATION: The Petroleum Vision and Roadmap are located at *http://www.oit.doe.gov/petroleum/.* Approximately $2,250,000 of funding will be available to fund the first year of selected research efforts. DOE anticipates making 4 or more cooperative agreement awards each with a duration of three years or less. A minimum 50% non-federal cost share is required for research and development projects over the life of the project. First year cost share can be as low as 30% if subsequent years have sufficient cost share so that non-federal share totals at least 50%. Collaborations between industry, university, and National Laboratory participants are encouraged. The issuance date of Solicitation Number DE–PS07–00ID13909 is on or about March 17, 2000. The solicitation is available in its full text via the

Internet at the following address: *http://www.id.doe.gov/doeid/PSD/proc-div.html.* The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086.

Issued in Idaho Falls on March 14, 2000.

M.L. Adams,

Branch Chief, Contracts and Assistance Branch.

[FR Doc. 00–6917 Filed 3–20–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Agency Information Collection Activities: Request for Emergency Review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for emergency processing under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*) by March 22, 2000. The reason for this emergency clearance request is to obtain data needed for responding to requests from the Secretary of Energy and Congress on the impact of interruptible natural gas contracts, which affected home heating oil supplies in the Northeastern United States during January and February 2000.

The Supplementary Information contains the following: (1) The collection number and title; (2) a summary of the collection of information (includes the sponsor (i.e., the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement), response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

DATES: Comments must be filed by March 22, 2000.

ADDRESS: Address comments to the Mr. Erik Godwin, Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, DC 20503. (Mr. Godwin may be reached by telephone at (202) 395-3084. Comments should also be addressed to the Statistics and Methods Group at the address immediately below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be contacted by telephone at (202) 426–1103, FAX at (202) 426–1081, or e-mail at Herbert.Miller@eia.doe.gov.

SUPPLEMENTARY INFORMATION:

The energy information collection submitted to OMB for review was:

1. EIA–903, ''Natural Gas Service Interruptions in the Northeast during January and February 2000''.

2. The Energy Information Administration plans to collect information in four parts from 34 natural gas companies who deliver natural gas (i.e., have natural gas service arrangements) to consumers in the Northeast.

Part I requests information on interruptions of any firm service arrangements during January and February 2000. Part II requests information on selected characteristics of interruptible service arrangements. Part III requests baseline monthly and weekly information for those categories of service which were interrupted during January and February 2000. Part IV requests information on customers who were interrupted. This is a new survey and a new OMB number is being requested. The response obligation will be mandatory.

3. The data are needed to respond to a request from the Secretary of Energy and Congress to jointly conduct a study on the impact of interruptible contracts on home heating oil supplies in the Northeast, during January and February 2000.

4. Respondents will be 34 natural gas companies who deliver natural gas to consumers.

5. The reporting burden is expected to be 680 hours. (34 respondents ×1 response ×20 hours)

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., March 16, 2000.

Jay H. Casselberry,

Agency Clearance Office, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 00–7070 Filed 3–20–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–214–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 2000.

Take notice that on March 8, 2000, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of April 1, 2000.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS and Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules SST and FSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's Rate Schedules GSS, LSS and CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS, LSS and CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the

web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6890 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR00–2–000]

ExxonMobil Pipeline Company; Notice of Petition for Declaratory Order

March 15, 2000.

Take notice that on March 9, 2000, pursuant to Rules 207(a)(2) and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, 385.212, ExxonMobil Pipeline Company (EMPCo.) tendered for filing a petition for a declaratory order regarding the proposed rate for transportation service to be provided through a new crude oil pipeline from the Diana and Hoover Fields in the offshore Gulf of Mexico, to onshore facilities at Quintana and Freeport, Texas.

EMPCo. seeks regulatory assurance regarding its initial Hoover Offshore Oil Pipeline System (HOOPS) rate, which it states is based on the Commission's customary oil pipeline ratemaking formula with two narrow variations. First, EMPCo requests authority to use the unit of throughput (UOT) method of depreciation, rather than straight-line or some other form of remaining life depreciation. Second, EMPCo seeks authority to develop its initial rate based on a five-year ''levelized'' rate approach.

EMPCo. anticipates a June 15, 2000 start-up of operations, and requests that the Commission issue an expedited order declaring (1) that the unit of throughput depreciation approach may be used for HOOPS rates; (2) that the initial HOOPS rate may be based on projected costs and revenues levelized over the first five years of HOOPS operations. EMPCo states that it proposes to charge the initial rate of $2.104 per barrel set forth in Attachment B–10 to the filing, if its petition is accepted before start-up subject to changes only as permitted or required by the Commission's indexing rules. EMPCo states that absent the grant of its petition before start-up it would be required to charge $2.35 per barrel, as set forth in Attachment B–6 to the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 30, 2000, with replies to any protests due April 10, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6885 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2489–000]

Green Mountain Energy Resources, L.L.C; Notice of Issuance of Order

March 15, 2000.

Green Mountain Energy Resources, L.L.C. (Green Mountain) submitted for filing a rate schedule under which Green Mountain will engage in wholesale electric power and energy transactions as a marketer. Green Mountain also requested waiver of various Commission regulations. In particular, Green Mountain requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Green Mountain.

On June 2, 1999, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Green Mountain 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).

Absent a request for hearing within this period, Green Mountain is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Green Mountain's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 30, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order 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. 00–6883 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–215–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 2000.

Take notice that on March 10, 2000, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 10, 2000:

Third Revised Sheet Number 159
Second Revised Sheet Number 160

Northern Border proposes to revise section 5.0 and remove section 5.1 under Rate Schedule T–1. The herein proposed changes do not result in a change in Northern Border's total revenue requirement.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers

and interested state regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6891 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–83–002]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 15, 2000.

Take notice that on March 10, 2000, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective January 14, 2000:

Substitute First Revised Sheet No. 79
Substitute Original Sheet No. 80
Substitute Original Sheet No. 80G
Substitute Original Sheet No. 80H

On November 29, 1999, Texas Gas filed proposed tariff sheets to establish a new Summer No-Notice Service (SNS). The Commission Order issued January 12, 2000, suspended the effective date of those tariff sheets until June 14, 2000, subject to refund, the conditions set forth within the Order, and the outcome of a technical conference. Texas Gas states that the tariff sheets submitted herein reflect changes to the SNS Rate Schedule, which Texas Gas agreed to as a result of the recent technical conference.

Texas Gas states that copies of the revised tariff sheets are being mailed to all parties on the Commission's official service list as well as to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6889 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–71–019 and RP97–312–008]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 15, 2000.

Take notice that on March 7, 2000, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to be effective April 1, 2000.

On January 20, 1998, Transco filed a Stipulation and Agreement (Settlement) in Docket No. RP97–71 which, among other things, resolved Transco's cost of service, overall throughput level, and mix of throughput for the RP97–71 rate period. Article VI, Section B of the Settlement, as approved by the June 12 Order, requires Transco, ''[t]o the extent necessary to prevent Transco from over-collecting its costs'', to make a limited Section 4 rate filing to adjust the cost of service, cost allocations, throughput and throughput mix underlying Transco's existing rates ''coincident with the 'spin-down' of all or a portion of Transco's gathering or transmission (as currently functionalized) facilities.''

On February 17, 1998, in Docket No. CP98–242–000, Transco filed for approval to abandon by sale to Williams Gas Processing-Gulf Coast Gathering Company, L.P. the Tilden/McMullen Gathering System. On May 4, 1999, the Commission issued an order approving the abandonment of certain limited gathering facilities (the Facilities) and permitting Transco one year to effectuate the spin-down. In compliance with the Settlement and the Commission's order, Transco proposes to effectuate the spin-down of the Facilities on April 1, 2000.

Transco states that it is serving copies of the instant filing to its affected customers, State Commissions and other interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6888 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–114–000]

Trunkline Gas Company; Notice of Application

March 15, 2000.

Take notice that on March 9, 2000, Trunkline Gas Company (Trunkline), 5444 Westheimer Road, Houston, Texas 77056–5306, filed an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and the Commission's Regulations thereunder, for an order permitting and approving the abandonment of 720 miles of mainline transmission facilities by transfer to CMS Trunkline Pipeline

Holdings, Inc. (TPH), for conversion to refined petroleum products transportation service, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Any questions regarding this application should be directed to William W. Grygar, Vice President of Rates and Regulatory Affairs, 5444 Westheimer Road, Houston, Texas 77056–5306 at (713) 989–7000.

Specifically, Trunkline is requesting authorization to abandon approximately 720 miles of mainline facilities known as the 26-inch Line 100–1 by transfer to TPH,[1] and thereby reduce its certificated mainline capacity by 255 MDt/d, from the current level of 1,810 MDt/d to 1,555 MDt/d. Trunkline states that abandonment of these facilities is being proposed in response to the underutilization of Trunkline's system that exists on an annual basis and the excess capacity which exists in the Midwest region. Trunkline states that in the absence of vigorous discounting practices, the actual underutilization of its system would be substantially greater. Trunkline further states that the abandonment will have no adverse effect on the service needs of existing or future customers and will not affect Trunkline's ability to meet all of its firm service obligations. Trunkline states that the abandonment will allow Trunkline to redeploy these pipeline facilities to serve the public interest in another area of interstate commerce. Trunkline states that no adverse environmental impact will result from the proposed abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 2000, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to a participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

[1] Trunkline states the TPH is a wholly-owned subsidiary of Trunkline.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6884 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–76–000, et al.]

Black River Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

March 13, 2000.

Take notice that the following filings have been made with the Commission:

1. Black River Limited Partnership

[Docket No. EG00–76–000]

Take notice that on March 7, 2000, Black River Limited Partnership filed with the Federal Energy Regulatory Commission an amendment to the Application for Determination of Exempt Wholesale Generator Status.

Copies of the application have been served upon the New York Public Service Commission, the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Securities and Exchange Commission.

Comment date: April 3, 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. CinCap VII, LLC

[Docket No. EG00–113–000]

Take notice that on March 8, 2000, CinCap VII, LLC (CinCap VII), with its principal office at 1100 Louisiana Street, Suite 4950, Houston, Texas 77002, submitted with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

CinCap VII states that it is a limited liability company duly organized and existing under the laws of the State of Delaware. CinCap VII will be engaged directly and exclusively in the business of owning and operating three natural gas-fired peaking generation combustion turbines consisting of 132 megawatts (when operating at summer conditions) located in Cadiz, Henry County, Indiana (the Cadiz Facility). The Cadiz Facility is expected to begin commercial operations in June 2000.

CinCap VII intends to operate the Cadiz Facility as a merchant plant and sell all energy and capacity generated by the Cadiz Facility at wholesale, subject to the jurisdiction of the Commission. CinCap VII will not make any retail sales, foreign or otherwise.

Comment date: April 3, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Dynegy Power Marketing, Inc.

[Docket No. ER94–968–031]

Take notice that on March 8, 2000, Dynegy Power Marketing, Inc. filed a quarterly report for the quarter ending December 31, 1999 for information only.

4. Cabrillo Power I LLC

[Docket No. ER00–1827–000]

Take notice that on March 7, 2000, Cabrillo Power I LLC filed a quarterly report for the quarter ending December 31, 1999.

Comment date: April 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. ComCap VII, LLC

[Docket No. ER00–1831–000]

Take notice that on March 8, 2000, CinCap VII, LLC (CinCap VII) submitted for approval CinCap VII's Rate Schedule FERC No. 1; a Code of Conduct; a request for certain blanket approvals, including the authority to sell electricity at market-based rates and reassign transmission capacity; and a request for waiver of certain Commission regulations.

CinCap VII is a limited liability company duly organized and existing under the laws of the State of Delaware and is qualified to do business in the State of Indiana. CinCap VII is a wholly-owned subsidiary of VMC Generating Co., a Texas general partnership owned on a 50/50 basis by CinCap VIII, LLC, an indirect wholly-owned subsidiary of Cinergy Corp., and Duke Energy Trenton, LLC, an indirect wholly-owned subsidiary of Duke Energy Corp. (Duke Energy).

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Quest Energy, L.L.C.

[Docket No. ER00–1832–000]

Take notice that on March 8, 2000, Quest Energy, L.L.C. (Quest) tendered for filing, pursuant to Rules 205 and 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, and Section 35.12 of the Commission's regulations, 18 CFR 35.12, an application for blanket authorizations and certain waivers under various regulations of the Commission, and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective the earlier of May 8, 2000, or the date of a Commission order granting approval of this Rate Schedule.

Quest intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Quest purchases power, including capacity and related services from electric utilities, qualifying facilities, and independent power producers, and resells such power to other purchasers, Quest will be functioning as a marketer. In Quest's marketing transactions, Quest proposes to charge rates mutually agreed upon by the parties. In transactions where Quest does not take title to the electric power and/or energy, Quest will be limited to the role of a broker and will charge a fee for its services. Quest is not in the business of producing nor does it contemplate acquiring title to any electric power transmission facilities.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER00–1833–000]

Take notice that on March 8, 2000, Arizona Public Service Company (APS) tendered for filing a Service Agreement to provide Retail Network Integration Transmission Service under APS' Open Access Transmission Tariff to the Salt River Project Agricultural Improvement and Power District Merchant Group (Merchant Group).

A copy of this filing has been served on the Merchant Group and the Arizona Corporation Commission.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. CinCap VIII, LLC

[Docket No. ER00–1834–000]

Take notice that on March 8, 2000, CinCap VIII, LLC (CinCap VIII) submitted for approval CinCap VIII's Rate Schedule FERC No. 1; a Code of Conduct; a request for certain blanket approvals, including the authority to sell electricity at market-based rates and reassign transmission capacity; and a request for waiver of certain Commission regulations.

CinCap VIII is a Delaware limited liability company and is a wholly owned subsidiary of Cinergy Capital & Trading, Inc., which, in turn, is an indirect, wholly-owned subsidiary of Cinergy Corp., a Delaware corporation that is a registered public utility holding company under the Public Utility Holding Company Act of 1935, as amended.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Carolina Power & Light Company

[Docket No. ER00–1835–000]

Take notice that on March 8, 2000, Carolina Power & Light Company (CP&L) tendered for filing Service Agreements for Short-Term Firm Point-to-Point Transmission Service with El Paso Merchant Energy, L.P. and The Legacy Energy Group, LLC; and Service Agreements for Non-Firm Point-to-Point Transmission Service with El Paso Merchant Energy, L.P. and The Legacy Energy Group, LLC. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of March 2, 2000 for each Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. The Cincinnati Gas & Electric Company

[Docket No. ER00–1836–000]

Take notice that on March 8, 2000, The Cincinnati Gas & Electric Company tendered a Notice of Cancellation of Service Agreement No. 21 under its Electric Tariff, First Revised Volume No. 1 for service under Rate WS–S to the City of Lebanon, Ohio.

Copies of the filing were served upon the affected customer and the Public Utilities Commission of Ohio.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. FirstEnergy Corp. and Pennsylvania Power Company

[Docket No. ER00–1837–000]

Take notice that on March 8, 2000, FirstEnergy Corp. tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Network Integration Service and an Operating Agreement for the Network Integration Transmission Service under the Pennsylvania Electric Choice Program with ACN Power, Inc. pursuant to the FirstEnergy System Open Access Tariff. These agreements will enable the parties to obtain Network Integration Service under the Pennsylvania Electric Choice Program in accordance with the terms of the Tariff.

The proposed effective date under these agreements is March 1, 2000.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company, Commonwealth Edison Company of Indiana

[Docket No. ER00–1838–000]

Take notice that on March 8, 2000, Commonwealth Edison Company and Commonwealth Edison Company of Indiana (collectively ComEd) filed to update Appendix A to Schedule 9 of ComEd's Power Sales and Reassignment of Transmission Rights Tariff (PSRT–1).

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER00–1839–000]

Service Agreement between Sonat Power Marketing L.P. and Virginia Power for Firm Point-To-Point Transmission Service dated October 7, 1997 and approved by the FERC in a letter order on January 2, 1998 under Docket No. ER98–671–000.

Service Agreement between Sonat Power Marketing L.P. and Virginia Power for Non-Firm Point-To-Point Transmission Service dated October 27, 1997 and approved by the FERC in a letter order on January 15, 1998 under Docket No. ER98–849–000.

Virginia Power respectfully requests an effective date of the termination of

February 18, 2000, as requested by El Paso Merchant Energy, L.P., successor to Sonat Power Marketing L.P.

Copies of the filing were served upon El Paso Merchant Energy, L.P., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Arizona Public Service Company

[Docket No. ER00–1840–000]

Take notice that on March 8, 2000, Arizona Public Service Company (APS) tendered for filing a revised Contract Demand Exhibit for Southern California Edison (SCE) applicable under the APS–FERC Rate Schedule No. 120.

Copies of this filing have been served on SCE, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: March 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Otter Tail Power Company

[Docket No. ER00–1841–000]

Take notice that on March 6, 2000, Otter Tail Power Company (OTP) tendered for filing a Service Agreement between OTP and Northwestern Wisconsin Electric Co. The Service Agreement allows Northwestern Wisconsin Electric 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.

16. Alliant Energy Corporate Services Inc.

[Docket No. ER00–1842–000]

Take notice that on March 9, 2000, Alliant Energy Corporate Services Inc. (ALTM) tendered for filing a signed Service Agreement under ALTM's Market Based Wholesale Power Sales Tariff (MR–1) between itself and NUI Energy Brokers, Inc. (NUI).

ALTM respectfully requests a waiver of the Commission's notice requirements, and an effective date of March 8, 2000.

Comment date: March 30, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph E

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. 00–6931 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing and Soliciting Motions To Intervene and Protests

March 15, 2000.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* New Major Licenses.

b. *Projects:* Soda Project No. 20–019, Grace-Cove Project No. 2401–007, and Oneida Project No. 472–017.

c. *Date filed:* September 27, 1999.

d. *Applicant:* PacifiCorp.

e. *Location:* On the Bear River in Caribou and Franklin Counties, Idaho. The projects are partially located on United States lands administered by the Bureau of Land Management.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* Randy Landolt, Managing Director, Hydro Resources, PacificCorp, 825 NE Multnomah Street, Suite 1500, Portland, OR 97232, (503) 813–6650, or, Thomas H. Nelson, 825 Multnomah Street, Suite 925, Portland, OR 97232, (503) 813–5890.

h. *FERC Contact:* Hector Perez, E-mail address hector.perez@ferc.fed.us, or (202) 219–2843.

i. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervener filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource energy.

j. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

k. *The existing Soda Project consists of:* (1) The 103-foot-high and 433-foot-long concrete gravity Soda Dam with a 114-foot-long spillway section; (2) the Soda Reservoir with a surface area of 1,100 acres, an active storage capacity of 16,300 acre-feet, and a maximum water surface elevation of 5,720 feet; (3) the Soda Powerhouse containing two units with a total installed capacity of 14 megawatts (MW); and (4) other appurtenances.

The existing Grace Development consists of: (1) A 51-foot-high and 180-foot-long rock filled timber crib dam that creates a 250-acre-foot usable storage capacity forebay; (2) a 26,000-foot-long flowline and surge tanks; and (3) a powerhouse with three units with total installed capacity of 33 MW. The Cove Department consists of: (1) a 26.5-foot-high and 141-foot-long conrete dam creating a 60-acre-foot capacity forebay; (2) a 6,125-foot-long concrete and wood flume; (3) a 500-foot-long steel penstock; and (4) a powerhouse with a 7.5-MW unit.

The existing Oneida Project consists of: (1) The 111-foot-high and 456-foot-long concrete gravity Oneida Dam; (2) the Oneida Reservoir with an active storage of 10,880 acre-feet and a surface area of 480 acres; (3) a 16-foot-diameter, 2,240-foot-long flowline; (4) a surge tank; (5) three 12-foot-diameter, 120-foot-long steel penstocks; (6) the Oneida Powerhouse and three units with a total installed capacity of 30 MW; and (7) other appurtenances.

l. Copies of the applications are available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). Copies are also available for inspection and reproduction at the address in item g above.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with

the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list a motion to intervene must be filed by the specified deadline date herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will be able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION to INTERVENE'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6886 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing, Notice Soliciting Motions To Intervene and Protests, and Notice Soliciting Comments, Final Terms and Conditions, Recommendations and Prescriptions

March 15, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2016–044.

c. *Date filed:* December 27, 1999.

d. *Applicant:* City of Tacoma.

e. *Name of Project:* Cowlitz River Hydroelectric Project.

f. *Location:* On the Cowlitz River, in Lewis County, Washington. About 5 acres are included within the Gifford Pinchot National Forest and about 59 acres are on lands owned by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Toby Freeman, Tacoma Power, 3628 South 35th Street, Tacoma, WA 98411; (253) 502–8862.

i. *FERC Contact:* David Turner (202) 219–2844, Email: david.turner@ferc.fed.us.

j. *Deadline for filing interventions, protests, comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Brief Project Description:* The 462-megawatt (MW) project consists of the following: (1) 606-foot-high, 1,300-foot-long Mossyrock Dam and powerhouse containing two generating units with a combined capacity of 300 MW; (2) 11,830-acre Riffe Lake at maximum operating pool elevation of 778.5 feet; (3) 250-foot-high, 850-foot-long Mayfield Dam and powerhouse containing four generating units with a combined capacity of 162 MW; (4) 2,250-acre Mayfield Lake at maximum operating pool elevation of 425 feet; (5) 17.9 miles of 230-kilovolt transmission line; (6) Cowlitz Salmon Hatchery; (7) a 400-foot-long, 28-foot-high zoned earthen embankment that connects to a 320-foot-long, 12-foot-high concrete fish barrier at the Cowlitz Salmon Hatchery, known as Barrier Dam; (8) Cowlitz Trout Hatchery; (9) Mossyrock Park; (10) Taidnapam Park; and other associated facilities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedures, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Response Documents—The Commission is requesting final comments on the applicant's application and draft environmental assessment, final reply comments, final recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions, and prescriptions concerning the application be filed with the Commission within 60 days from

the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must: (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' ''OR PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis; and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6887 Filed 3–20–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6562–8]

Agency Information Collection Activities: Continuing Collection; Comment Request; Quality Assurance Specification and Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Quality Assurance Specification and Requirements, ICR Number 0866, OMB No. 2080–0033, current expiration date 08/31/2000. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 22, 2000.

ADDRESSES: Quality Staff (2811R), U.S. EPA, Washington, DC 20460. Comments will be accepted electronically at *quality@epa.gov.* The ICR may be obtained without charge by contacting the person listed below or by electronically downloading it from the following Internet site: http://es.epa.gov/ncerqa/qa/index.html.

FOR FURTHER INFORMATION CONTACT: Nancy Wentworth, Director, Quality Staff; 202–564–6830, Facsimile Number 202–565–2441; quality@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which apply for Federal financial assistance from EPA for proposed projects that involve environmentally-related measurements or data generation.

Title: ICR Number 0866, Quality Assurance Specification and Requirements, OMB Control No. 2080–0033, expiring 8/31/2000.

Abstract: This ICR covers the quality assurance (QA) paperwork burden that appears at 40 CFR 30.54, 40 CFR 31.45, and 40 CFR 35.260 and 35.6055. (These references may also be obtained at the Internet site listed above.) These are subsections from 40 CFR part 30—Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, 40 CFR part 31—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and 40 CFR part 35—State and Local Assistance. The information collection activity involves the development and implementation of quality assurance practices consisting of policies, procedures, specifications, standards, and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to out-of-control conditions or malfunctions. Specifically, this refers to the preparation of QA management and project plans. The quality system of the recipient of 40 CFR part 30 assistance must comply with the requirements of ANSI/ASQC E4, ''Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs.'' A clarifying statement for all organizations receiving EPA financial assistance under 40 CFR part 31 and 40 CFR part 35 has been issued by the Office of Grants and Debarment. This clarifying statement defines Agency-wide criteria for meeting the requirements under the applicable CFRs and is consistent with Agency policy since 1988. It cites the ANSI/ASQC E4 as a national consensus standard that applies to all recipients. (This statement is also accessible through the Internet site listed above.) All QA submissions are reviewed and approved by an EPA certified project officer and/or a designated quality assurance officer.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Burden Statement: The currently approved ICR estimated the burden for annual reporting and recordkeeping to be 85 hours each for 567 state and local respondents applying for assistance, and 70 hours each for 708 principal investigators who solicit assistance. The Agency burden for review of QA plans and preparation assistance to respondents was estimated at 17 hours each for the estimated 1,275 awards. This estimate included the time needed to review instructions, search existing data sources, gather and maintain the

data needed, and complete and review the collection of information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 14, 2000.

Margaret N. Schneider,

Deputy Assistant Administrator, Office of Environmental Information.

[FR Doc. 00–6974 Filed 3–20–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6562–6]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260–2740, or email at farmer.sandy@epa.gov, and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1395.04; Emergency Planning and Release Notification Requirements (EPCRA, Sections 302, 303, and 304); in 40 CFR part 355; was approved 01/21/2000; OMB No. 2050–0092; expires 01/31/2003.

EPA ICR No. 1814.02; National Health Protection Survey of Beaches; was approved 01/31/2000; OMB No. 2040–0189; expires 01/31/2003.

EPA ICR No. 0795.10; Notification of Chemical Exports—TSCA Section (12b); in 40 CFR part 707; was approved 01/31/2000; OMB No. 2070–0030; expires 01/31/2003.

EPA ICR No. 1899.01; Reporting and Recordkeeping Requirements for the Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators; in 40 CFR part 60, subpart Ce; was approved 01/31/2000; OMB No. 2060–0422; expires 01/31/2003.

EPA ICR No. 1901.01; Emission Guidelines Reporting and Recordkeeping Requirements for Existing Small Municipal Waste Combustion (MWC) Units; in 40 CFR part 60, subparts B and BBBB; was approved 02/03/2000; OMB No. 2060–0424; expires 02/28/2003.

EPA ICR No. 1648.02; Control Technology Determination for Equivalent Emissions Limitations by Permit; in 40 CFR part 63, subpart B; was approved 02/03/2000; OMB No. 2060–0266; expires 11/30/2001.

EPA ICR No. 0328.08; Spill Prevention, Control, and Countermeasures (SPCC) Plans; in 40 CFR part 112; was approved 02/03/2000; OMB No. 2050–0021; expires 12/31/2000.

EPA ICR No. 1352.07; Community Right-to-Know Reporting Requirements under Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA); in 40 CFR part 370; was approved 02/04/2000; OMB No. 2050–0072; expires 08/31/2001.

EPA ICR No. 1891.02; NESHAP for Source Category: Publicly Owned Treatment Works; in 40 CFR part 63, subpart VVV; was approved 02/04/2000; OMB No. 2060–0428; expires 02/28/2003.

EPA ICR No. 0111.09; National Emission Standard for Asbestos; in 40 CFR part 61, subpart M; was approved 02/09/2000; OMB No. 2060–0101; expires 02/28/2003.

EPA ICR No. 0246.07; Contractor Cumulative Claim and Reconciliation; was approved 02/02/2000; OMB No. 2030–0016; expires 02/28/2003.

EPA ICR No. 1037.06; Oral and Written Purchase Orders; was approved 02/02/2000; OMB No. 2030–0007; expires 02/28/2003.

EPA ICR No. 1039.09; Monthly Progress Reports; was approved 02/02/2000; OMB No. 2030-0005; expires 02/28/2003.

EPA ICR No. 1893.02; Federal Emission Guidelines for Existing Municipal Solid Waste Landfills; in 40 CFR part 62, subpart Cc; was approved 02/02/2000; OMB No. 2060–0430; expires 02/28/2003.

EPA ICR No. 1925.01; RCRA Section 3007 Questionnaire for the Paint Manufacturing Industry; was approved 02/03/2000; OMB No. 2050–0168; expires 06/30/2001.

EPA ICR No. 1900.01 NSPS for Small Municipal Waste Combustors—Reporting and Recordkeeping Requirements; in 40 CFR part 60, subpart AAAA; was approved 02/01/2000; OMB No. 2060–0423; expires 02/28/2003.

EPA ICR No. 1906.01; Agricultural Health Study: Pesticide Exposure Study; was approved 02/09/2000; OMB No. 2080–0063; expires 02/28/2003.

EPA ICR No. 1541.06; NESHAP for Benzene Waste Operations; in 40 CFR part 61, subpart FF; was approved 02/14/2000; OMB No. 2060–0183; expires 02/28/2003.

EPA ICR No. 1088.09; NSPS for Industrial-Commercial-Institutional Steam Generating Units; in 40 CFR part 60, subpart Db; was approved 02/15/2000; OMB No. 2060–0072; expires 02/28/2003.

EPA ICR No. 1055.06; NSPS for Kraft Pulp Mills; in 40 CFR part 60, subpart BB; was approved 02/15/2000; OMB No. 2060–0021; expires 02/28/2003.

EPA ICR No. 1052.06; NSPS for Fossil-Fuel-Fired Steam Generating Units; in 40 CFR part 60, subpart D; was approved 02/15/2000; OMB No. 2060–0026; expires 02/28/2003.

OMB Disapproval

EPA ICR No. 1768.02; Collection of Impact Data on Technical Information Request for Generic Clearance, Design for the Environment (DFE); OMB No. 2070–0152; on 02/11/2000 OMB disapproved this collection.

Comments Filed

EPA ICR No. 1884.01; Inventory Update Rule Amendments (Proposed Rule); on 01/04/2000 OMB filed comment.

EPA ICR No. 1870.01; Management Standards for Cement Kiln Dust Waste—Reporting and Recordkeeping Requirements; in 40 CFR part 259; on 01/14/2000 OMB filed comment.

EPA ICR No. 1363.08; Toxic Chemical Release Reporting, Recordkeeping, Supplier Notification, and Petition under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (Proposed Rule), OMB No. 2070–0093; on 01/21/2000; OMB filed comment.

EPA ICR No. 1927.01; Reporting and Recordkeeping Requirements for the Emission Guidelines for Existing Commercial and Industrial Solid Waste Incineration (CISWI) Units; on 02/02/2000 OMB filed comment.

EPA ICR No.1926.01; Reporting and Recordkeeping Requirements for Standards of Performance for New Stationary Sources: Commercial and Industrial Solid Waste Incineration (CISWI) Units; on 02/02/2000 OMB filed comment.

Extensions of Expiration Dates

EPA ICR No. 1783.01; National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production; in 40 CFR part 63, subpart III; OMB No. 2060–0357; on 01/18/2000 OMB extended the expiration date through 04/30/2000.

EPA ICR No. 0877.05; Environmental Radiation Ambient Monitoring System (ERAMS); OMB No. 2060–0015; on 01/18/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 1080.09; National Emission Standards for Hazardous Air Pollutants Benzene Emissions from Benzene Storage Vessels, and Coke By-Product Recovery Plants; in 40 CFR part 61, subpart L and Y; OMB No. 2060–0185; on 01/14/2000 OMB extended the expiration date through 07/31/2000.

EPA ICR No. 0095.10; Pre-certification and Testing Exemption Reporting and Recordkeeping Requirements; in 40 CFR part 89, subparts G and J; OMB No. 2060–0007; on 01/31/2000 OMB extended the expiration date through 07/31/2000.

EPA ICR No. 1428.04; Trade Secrets for Community Right-to-Know and Emergency Planning—EPCRA Section 322; in 40 CFR part 350; OMB No. 2050–0078; on 02/04/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 1415.03; NESHAP for Dry Cleaning Facilities/Perchloroethylene (PCE); in 40 CFR part 63, subpart M; OMB No. 2060–0234; on 02/01/2000 OMB extended the expiration date through 06/30/2000.

Dated: March 14, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–6976 Filed 3–20–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6562–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, National Emissions Standards for Coke Oven Batteries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emissions Standards for Coke Oven Batteries, part 63, subpart L; OMB No. 2060–0253; EPA No. 1362.04.; expiration date is April 30, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 20, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at farmer.sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1362.04. For technical questions about the ICR, please contact: Maria T. Malave, (202) 564–7027.

SUPPLEMENTARY INFORMATION:

Title: National Emissions Standards for Coke Oven Batteries, Part 63, Subpart L; OMB No. 2060–0253; EPA No. 1362.04; expiration date is April 30, 2000. This is a request for a revision a currently approved collection.

Abstract: These standards apply to owners or operators of by-product and non-recovery coke oven batteries, whether existing, new, reconstructed, rebuilt or restarted. It also applies to all batteries using the conventional by-product recovery, the nonrecovery process, or any new recovery process. Applicability dates vary depending on the emission limitation the affected facility is subject. The National Emissions Standards for Coke Oven Batteries were proposed on December 4, 1992 and promulgated on October 27, 1993. Under this rule, all existing batteries must choose a compliance track. Three compliance approaches are available under the rule: the ''MACT (Maximum Achievable Control Technology) track,'' the ''LAER (Lowest Achievable Emission Rate) extension track,'' and straddling both tracks (until January 1, 1998).

Owners or operators of coke oven batteries, whether existing, new, reconstructed, rebuilt or restarted, are required to comply with the following monitoring, recordkeeping and reporting requirements:

Monitoring Requirements Include:

1. Daily monitoring of coke oven batteries by a certified observer for each emission point and calculate the 30-run rolling average.
2. Daily performance tests for each coke oven battery are needed to determine compliance with the visible emission limitations for coke oven doors, topside port lids, offtake systems, and charging operations.
3. Monitoring of pollution control equipment operation and maintenance (*e.g.,* flare system).
4. Daily inspection of the collecting main for leaks according to Method 303.

Recordkeeping Requirements Include:

1. Maintain records of the startup, shutdown, or malfunction plan developed under section 63.310.
2. Maintain records of the coke oven emission control work practice plan developed under section 63.306.
3. Maintain records of maintenance and inspection on leaks for by-product coke oven batteries.
4. Maintain records of daily operating parameters and design characteristics for nonrecovery coke oven batteries.
5. Maintain records of bypass/bleeder stack flare system or an approved alternative control device.
6. Maintain records onsite for at least a year and must thereafter be accessible within three working days upon the Administrator's request.

Reporting Requirements Include:

1. Submit one-time notifications to elect a compliance track and to certify initial compliance.
2. If applicable, respondents also would submit one-time notifications or requests for constructing a new, brownfield, or padup rebuild by-product coke oven battery using a new recovery technology; restarting a cold-idle battery shutdown prior to November 15, 1990; obtaining an exemption from control requirements for bypass/bleeder stacks by committing to permanent closure of a battery or using an equivalent alternative control system for the stacks; and obtaining an alternative standard for coke oven doors on a battery equipped with a shed.
3. If a malfunction occurred, respondents must notify the enforcement agency and follow up with a written report. A report also would be required if coke oven gas were vented

through a bypass/bleeder stack and not flared as required under the rule.

4. Report for the venting of coke oven gas other than through a flare system.

5. Submit semiannual compliance certifications.

Based on recorded and reported information, EPA and states can identify compliance problems and what records or processes should be inspected at the plant. The records the plants maintain help indicate whether plants are in compliance with the standard, reveal misunderstanding about how the standard is to be implemented, and indicate to EPA whether plant personnel are operating and maintaining their process equipment properly.

Reporting and recordkeeping requirements on the part of the respondent are mandatory under sections 112 and 114 of the Clean Air Act as amended. All information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 16, 1999; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,804 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of By-Product & Non-Recovery Coke Oven Batteries.

Estimated Number of Respondents: 25.

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 104,659 hours.

Estimated Total Annualized Capital and O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1362.04 and OMB No. 2060–0253 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania, Ave., NW., Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: March 14, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–6977 Filed 3–20–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140284; FRL–6497–8]

Access to Confidential Business Information by Chemical Abstract Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor Chemical Abstract Services (CAS) and its subcontractor TMC MicroImage, Inc., both of Columbus, Ohio, access to information which has been submitted to EPA under sections 5 and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA occurred as a result of an approved waiver dated February 28, 2000, which requested granting CAS and TMC immediate access to TSCA CBI. This waiver was necessary to allow CAS and TMC to assist the Office of Pollution Prevention and Toxics (OPPT) in microfilming and processing TSCA CBI materials.

FOR FURTHER INFORMATION CONTACT: For General Information Contact: Barbara Cunningham, Director, Office of Program Management and Evaluation (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (202) 554–1404; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to ''those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA).'' Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

Electronically. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

III. What Action is the Agency Taking?

Under contract number 68–W5–0015, contractor CAS and its subcontractor TMC, both of Columbus, Ohio, will assist the Office of Pollution Prevention and Toxics (OPPT) in microfilming and processing of TSCA CBI materials.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W5–0015, CAS and TMC will require access to CBI submitted to EPA under sections 5 and 8 of TSCA to perform successfully the duties specified under the contract.

CAS and TMC personnel will be given access to information submitted to EPA

under sections 5 and 8 of TSCA. Some of the information may be claimed or determined to be CBI. In a previous notice published in the **Federal Register** of February 24, 1998 (63 FR 9229) (FRL–5771–5), CAS and TMC were authorized access to TSCA CBI submitted to EPA under sections 5 and 8(b) of TSCA.

EPA is issuing this notice to inform all submitters of information under sections 5 and 8 of TSCA that EPA may provide CAS and TMC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at either CAS' Columbus, Ohio facility or the subcontractor may take TSCA CBI materials to its facility for the purpose of microfilming, provided the transfer of materials is done so only under the direct supervision of a CAS official authorized for TSCA CBI access and that all TSCA CBI materials be returned daily to CAS' facility.

CAS and TMC will be authorized access to TSCA CBI at their facilities under the EPA *TSCA Confidential Business Information Security Manual*. Before access to TSCA CBI is authorized at CAS and TMC sites, EPA will perform the required inspection of its facilities and ensure that the facilities are in compliance with the Manual.

Upon completing review of the CBI materials, CAS will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until June 30, 2000.

CAS and TMC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: March 13, 2000.

Allan S. Abramson,

Director, Information Management Division, Pollution Prevention and Toxics.

[FR Doc. 00–6979 Filed 3–20–00 8:45 am]

BILLING CODE 6560–50–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

RIN 3046–AA45

Agency Information Collection Activities: Proposed Collection; Comments Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commission announces that it intends to submit to the Office of Management and Budget (OMB) a request for an extension of the expiration date without change the existing collection requirements under 29 CFR part 1602, Recordkeeping and Reporting Requirements under Title VII and the ADA. The Commission is seeking public comments on the proposed extension.

DATES: Written comments on this notice must be submitted on or before May 22, 2000.

ADDRESSES: Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW, Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile (''FAX'') machine. The telephone number of the FAX received is (202) 663–4114. (This is not a toll-free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment.

Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4078 (voice) or (202) 663–4074 (TDD). (These are not toll-free telephone numbers.) Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street, NW, Washington, DC 20507 between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Deputy Legal Counsel, Thomas J. Schlageter, Assistant Legal Counsel or Stephanie D. Garner, Senior Attorney, at (202) 663–4670 or TDD (202) 663–7026. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 which prohibits employment discrimination on the basis of race, color, religion, national origin or sex and Title I of the ADA, which prohibits employment discrimination against qualified individuals with disabilities. Sections 709(c) of Title VII and 107(a) of the ADA authorize the EEOC to issue recordkeeping regulations that are deemed reasonable, necessary or appropriate to the enforcement of the Acts. EEOC has promulgated recordkeeping regulations under Title VII and the ADA. The EEOC seeks extension without change of the information collection requirements contained in the recordkeeping regulations.

Collection Title: Recordkeeping and Reporting under Title VII and the ADA.

OMB Control Number: 3046–0040.

Description of Affected Public: Employers with 15 or more employees are subject to Title VII and the ADA.

Responses: 627,000.

Reporting Hours: One.

Federal Cost: None.

Number of Forms: None.

Abstract: Section 709(c) of Title VII, 42 U.S.C. 2000e–8(c), and section 107(a) of the ADA, 42 U.S.C..12117, require the Commission to establish regulations pursuant to which employers subject to those Acts shall make and preserve certain records to assist the EEOC in assuring compliance with the Acts' nondiscrimination requirements in employment. The Commission requires, in 29 CFR Part 1602, that any personnel record made or kept by an entity must be maintained for one year or until the later disposition of a charge or enforcement proceeding.

This is a recordkeeping requirement. Any of the records maintained which are subsequently disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of sections 706(b) and 709(e) of Title VII and section 107(a) of the ADA.

Burden Statement: There will be no increased burden on employers. All employers subject to Title VII are subject to the ADA, and the same EEOC records retention requirements are applicable to both.

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 5, and OMB regulation 5 CFR 1320.8(d)(1), the Commission solicits public comment to enable it to:

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

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

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

(4) Minimize the burden of the collection of information on those who

are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: March 9, 2000.

For the Commission.

Ida L. Castro,

Chairwoman.

[FR Doc. 00–6460 Filed 3–20–00; 8:45 am]

BILLING CODE 6570–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 14, 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 22, 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: 3060–0580.

Title: Limits on Carriage of Vertically Integrated Programming—Section 76.504 and 76.1710.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,500.

Estimated Time Per Response: 15 hours.

Total Annual Burden: 22,500 hours.

Total Annual Costs: $7,500.

Needs and Uses: The records are to be made available to members of the public, local franchising authorities and the Commission on reasonable notice and during regular business hours. The records will be reviewed by local franchising authorities and the Commission to monitor compliance with channel occupancy limits in respective local franchise areas.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–6876 Filed 3–20–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

March 14, 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 May 22, 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, Room 1 A–804, 445 Twelfth Street, SW, 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: 3060–0569.

Title: Commercial Leased Access Dispute Resolution—Section 76.975.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 60.

Estimated Time Per Response: 2–10 hours.

Frequency of Response: On occasion filing requirement.

Total Annual Burden: 1,320 hours.

Total Annual Costs: $69,000.

Needs and Uses: The information will be used by leased access programmers and will be reviewed by the Commission to resolve leased access disputes.

OMB Control Number: 3060–0563.

Title: Change in Status of Cable Operator—Section 76.915.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 70.

Estimated Time Per Response: 13 hours.

Frequency of Response: On occasion filing requirement.

Total Annual Burden: 950 hours.

Total Annual Costs: $450.

Needs and Uses: The information is used by the Commission and LFAs to

examine potential changes in the regulatory status of cable systems resulting from the presence of effective competition in the systems' franchise areas.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–6877 Filed 3–20–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

March 14, 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 20, 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.: 3060–0581.

Title: Section 76.503, National Subscriber Limits.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10 respondents; 20 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 20 hours.

Total Annual Cost: $800.

Needs and Uses: Section 76.503(g) (formerly section 76.503(c)), states that ''prior to acquiring additional multichannel video-programming providers, any cable operator that serves 20% or more of multichannel video-programming subscribers nationwide shall certify to the Commission, concurrent with its applications to the Commission for transfer of license at issue in the acquisition, that no violation of the national subscriber limits prescribed in this section will occur as a result of such acquisition.''

The certification filings under this rule section will be used by the Commission staff to ensure that cable operators do not violate the 30 percent share rule in their acquisitions of additional multi-channel programming providers. Section 76.503, Note 1, certification filings will be used by the Commission to verify that limited partners who so certify are not involved in management or operations of the media-related activities of the partnership.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–6947 Filed 3–20–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Requirement Submitted to OMB for Emergency Review and Approval

March 13, 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 20, 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 contacts listed below as soon as possible.

ADDRESSES: Direct all comments to Edward C. Springer, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3562 or via internet at edward.springer@omb.eop.gov, and Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: *The Commission has requested emergency OMB review of this collection with an approval by March 17, 2000.*

OMB Control Number: 3060–XXXX.

Type of Review: New Collection.

Title: Survey to Provide Information on Historical Participants in Broadcast and Wireless Licensing by the FCC and Secondary Market, 1950 to the Present.

Form No.: N/A.

Respondents: Individuals or households; business or other for-profit.

Number of Respondents: 150.

Estimated Time Per Response: 1.5 hours.

Frequency of Response: One time reporting requirement.

Total Annual Burden: 225 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission requests emergency OMB review and

approval by March 17, 2000, for a survey that will be used to provide the basis for the FCC's investigation that seeks to provide a historical perspective on what market barriers, if any, are faced by small, women- and minority-owned businesses in the acquisition, sale, or transfer of FCC broadcast and wireless licenses.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–6878 Filed 3–20–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning proposed collection of information Survey of Contractor Responsibility.

SUPPLEMENTARY INFORMATION: This information collection is required by the Federal Acquisition Regulation Part 9, Contractor Qualifications to make a determination of contractors responsibility prior to the awarding of Government Contracts. The Contacting officer must make a determination that the contractor has a satisfactory record of integrity, business ethics and financial resources to complete the job.

Collection of Information

Title: Survey of Contractor Responsibility.

Type of Information Collection: Reinstatement of a previously approved collection.

OMB Number: 3067–0181.

Form Numbers: 40–25.

Abstract: FEMA Form 40–25, Survey of Contractor Responsibilities is part of an evaluation process of proposals or offers received by FEMA's Disaster Contracting Officer. Data is used by the Acquisition Management Staff to determine responsibility, adequate financial resources, performance record and a satisfactory record of integrity and business ethics. In the event of contractual problems the information on the form may be turned over to the General Accounting Office, FEMA's Office of Inspector General and the legal office of the Department of justice.

Affected Public: Individuals and households, small business organizations

Number of Respondents: 150.

Frequency of Response: On occasion.

Hours per Response: 2 hours.

Estimated Total Annual Burden Hours: 250

Estimated Cost. $11,250.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments should be received within 60 days of the date of this notice.

ADDRESS: Interested persons should submit written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625, FAX number (202) 646–3524, e-mail addressmuriel.anderson@fema.gov.

FOR FURTHER INFORMATION CONTACT: Contact H. Robert Weiss, Acting Director, Grants and Acquisition Support Division, Office of Financial Management (202) 646–3748 for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection.

Mike Bozzelli,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 00–6986 Filed 3–20–00; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL TRADE COMMISSION

[File No. 991 0237]

Rhodia, et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 13, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert Tovsky, FTC/S–3105, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2634.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 14, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Rhodia, Donau Chemie AG (''Donau''), and Albright & Wilson PLC (''A&W'') (collectively ''respondents''). The Consent Agreement is intended to resolve anticompetitive effects stemming from Rhodia's proposed acquisition of A&W. The Consent Agreement includes a proposed Decision and Order (the ''Order''), that would require Rhodia to divest A&W's pure phosphoric acid business to Potash Corp. of Saskatchewan (''PCS''). For the last several years, A&W and PCS have been partners in a phosphates manufacturing joint venture (the ''Joint Venture''), which includes, among other assets, a pure phosphoric acid production facility in Aurora, North Carolina, and in phosphates manufacturing plant in Cincinnati, Ohio. The Consent Agreement also includes an Order to Maintain Assets that requires respondents to preserve the assets they are required to divest as a viable, competitive, and ongoing operation until the divestiture is achieved.

The Order, if finally issued by the Commission, would settle charges that Rhodia's proposed acquisition of A&W may have substantially lessened competition in the United States market for pure phosphoric acid. The Commission has reason to believe that Rhodia's proposed acquisition of A&W would have violated section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act. The proposed complaint, described below, relates the basis for this belief.

The proposed Order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will review the agreement and comments received and decide whether to withdraw its acceptance of the Consent Agreement or make final the proposed Order.

According to the Commission's proposed complaint, the relevant line of commerce in which to analyze the effects of Rhodia's proposed acquisition of A&W is pure phosphoric acid, and the relevant geographic market is the United States. Pure phosphoric acid is used as an input into a wide variety of consumer of industrial products, ranging from cola beverages to cleaning compounds and metal treatments. The proposed complaint alleges that the pure phosphoric acid market in the United States already is highly concentrated, and that the proposed acquisition of A&W by Rhodia would increase concentration in that market, as measured by the Herfindahl-Hirschman Index, by over 600 points, to a level close to 3000. The Commission's complaint further notes that Rhodia and A&W currently employ the low-cost solvent extraction process to produce pure phosphoric acid.

The proposed complaint also alleges that entry into the relevant market would not be timely, likely, or sufficient to deter or offset adverse effects of the acquisition on competition. Entry is difficult in this market because of the length of time it would take to build new construction facilities and enter the market; and because of the large minimum efficient scale of new production facilities, which would require a new entrant to sell large volumes of pure phosphoric acid into the North American market, driving down market prices to a level that would render new entry unprofitable. Significant expansion by smaller producers also is unlikely.

The proposed complaint alleges that Rhodia's proposed acquisition of A&W would lessen competition by making coordinated interaction among the remaining producers more likely. The complaint describes how Rhodia's documents project that the combination of Rhodia and Albright & Wilson would lead to higher prices for pure phosphoric acid.

The proposed Order is designed to remedy the anticompetitive effects of the acquisition in the United States market for pure phosphoric acid, as alleged in the complaint, by requiring the divestiture to PCS of A&W's United States pure phosphoric acid business, including A&W's interest in the Joint Venture, as well as joint venture manufacturing assets, including the Aurora pure phosphoric acid plant and the Cincinnati plant. The Order would also require respondents to provide PCS with technology A&W has developed for manufacturing pure phosphoric acid and for using it in certain applications. PCS would be able to use that technology to build pure phosphoric acid plant both within and outside of the United States, and to license the technology to other firms that sought to build pure phosphoric acid plants. The proposed Order would also require respondents to divest other assets related to A&W's pure phosphoric acid business, including customer lists, contracts, and other intangible assets. The proposed divestiture does not require divestiture of A&W's pure phosphoric acid plant in Mexico, which does not export pure phosphoric acid to customers in the United States. A&W's Mexican plant produces pure phosphoric acid used primarily in home laundry detergents in Mexico, an application that no longer exists in the United States.

PCS, based in Saskatoon, Saskatchewan, is the world's third-largest producer of phosphoric acid for fertilizer. It also produces other fertilizer materials such as nitrogen and potash. PCS entered the phosphates business in 1995, through its acquisition of Texasgulf. A publicly-traded Canadian company, PCS in 1998 had an operating income of $446 million and a net income of $261 million on sales of $2.3 billion. PCS mines phosphate rock at Aurora, North Carolina, and also produces ''green'' phosphoric acid at that site. Slightly over 10% of PCS's green acid production at Aurora is used as a feedstock for the manufacture of pure phosphoric acid.

If the Commission, at the time that it accepts the Order for public comment, notifies respondent that it does not approve of the proposed divestiture to PCS, or the manner of the divesture, the proposed Order provides that respondents would have 120 days to divest the A&W pure phosphoric acid business to a different acquirer. If respondents did not complete the divestiture in that period, a trustee would be appointed.

The proposed Order to Maintain Assets that is also included in the Consent Agreement requires that respondents preserve the A&W assets they are required to divest as a viable and competitive operation until those assets are transferred to the Commission-approved acquirer. It requires that respondents to maintain the viability and competitiveness of the assets, and to conduct the A&W pure phosphoric acid business in the ordinary course of business. Furthermore, the Order to Maintain Assets includes an obligation on respondents to build and maintain a sufficient inventory of pure phosphoric acid to ensure there is no shortage of supply during the period that the business is being transferred to the Commission-approved acquirer. The Order to Maintain Assets also requires respondents to provide necessary support services and maintain an adequate workforce for the A&W pure phosphoric acid business.

The Consent Agreement requires respondents to provide the Commission, within thirty (30) days of the date the Agreement is signed, with an initial report setting forth in detail the manner

in which respondents will comply with the provisions relating to the divestiture of assets. The proposed Order further requires respondents to provide the Commission with a report of compliance with the Order within thirty (30) days following the date the Order becomes final and every thirty (30) days thereafter until they have complied with the terms of the Order.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement and the proposed Order. This analysis is not intended to constitute an official interpretation of the Consent Agreement or the proposed Order or in any way to modify the terms of the Consent Agreement or the proposed Order.

By direction of the Commission.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Mozelle W. Thompson

In the matter of *Rhodia,* staff has presented to the Commission a complaint and consent order that would settle the section 7, Clayton Act and section 5, Federal Trade Commission Act concerns raised by Rhodia's acquisition of Albright & Wilson plc from Donau Chemie AG. The proposed complaint narrowly defines the relevant market for pure phosphoric acid (PPA) as within the boundaries of the United States. For the following reasons, I disagree.

The North American PPA market has operated in an oligopolistic manner for the past twenty years or more. The major North American competitors have successfully engineered the highest PPA prices in the world through a variety of actions, including signaling prices, retaliating selectively to enforce high prices, controlling imports through agreements with a foreign supplier, and eliminating domestic competitors through acquisition. Rhodia, a significant member of the North American oligopoly, now proposes to acquire Albright & Wilson. I believe such an acquisition would allow Rhodia to:

(1) Reinforce its world-wide dominant position among phosphates producers;

(2) Protect PPA prices and market share in North America; and

(3) Position itself to have the capacity to enforce market discipline in the North American market.

Evidence of Rhodia's view of the acquisition's impact on the North American market alone leads me to believe that the geographic scope of the PPA product extends to all of North America, thus including Albright & Wilson's Mexican plant in the market. Other evidence, however, also demonstrates that North America is the relevant market. Accordingly, the Commission should have fully considered ordering the sale of Albright & Wilson's interests in both of its North American PPA plants to Potash Corporation and/or another purchaser not saddled with the incentives and history Rhodia carries.

Shipment Decisions and the Scope of the Geographic Market

The complaint apparently limits the scope of the geographic market because Albright & Wilson, the owner of a Mexican PPA plant and part owner of a North Carolina plant, does not currently ship Mexican PPA into the United States even though the evidence convinces me that the Mexican capacity could be used to supply customers in the United States. Although this private business decision from a multi-plant supplier creates a shipment pattern that superficially supports finding a United States PPA market, one principle of geographic market analysis is that competition among geographically differentiated producers may be linked indirectly by the customers they can economically serve.

Despite the decision not to ship PPA into the United States from the Mexican plant, North American capacity is competitively linked—and North American PPA suppliers compete—because the Mexican plant's PPA is sold to customers in Mexico and Canada that U.S. domestic plants would otherwise supply. Moreover, Albright & Wilson's joint venture plant, as well as other competitors' U.S. plants, undoubtedly serve customers that Albright & Wilson's Mexican plant would otherwise serve, but for Albright & Wilson's decision concerning which of its plants would serve which North American customers.

Divestiture Policy and the Adequacy of the Ordered Relief

As a routine starting point, the Commission's ongoing policy concerns about merger relief generally leads us to consider requiring the complete divestiture of either one of the merging parties' overlapping businesses in the relevant market. This divestiture policy limits the potential adverse market consequences by maintaining the pre-acquisition market structure and by maximizing the potential that the purchaser would be viable and competitive.

I am concerned that we have not adhered to this policy here, where there is significant evidence that the market is acting noncompetitively, as well as compelling evidence supporting a challenge of the proposed acquisition. Rhodia is the dominant phosphates producer in the world and it will become—even taking into account the majority's relief—the leader in the North American PPA market. Thus, Rhodia, through this acquisition, would gain additional North American capacity that could be used to enforce higher prices.

Although the relief set forth in the consent order—which requires Rhodia to sell the current Albright & Wilson joint venture interest in the North Carolina plant—does limit the potential adverse market impact, I still am concerned that the relief does not go far enough. In looking forward, if we allow Rhodia to acquire the Mexican plant and become the competitor controlling the greatest amount of capacity in North America, it could leverage the Mexican plant's capacity to discipline competitors' pricing. Thus, a settlement that allows Rhodia to become the North American market leader by acquiring Albright & Wilson's interest in either of its two North American plants should be fully and cautiously scrutinized by the Commission to determine whether further relief is warranted. By alleging a United States geographic market here, the majority has unfortunately isolated itself from a full consideration of the appropriate divestiture and, when evaluating future possible PPA plant acquisitions, the Commission would face the additional burden of justifying a market redefinition.

One could argue that Rhodia's ownership of the Mexican plant, while providing it the capacity to attain the leading position in North America, ironically may well slightly improve the market concentration data. But the limited evidence before me suggests that the majority neither fully explored nor evaluated the consequences of this concentration data or the options available to the Commission. These options include ordering the sale of all of the Albright & Wilson assets to Potash, a North American-only competitor, or ordering the sale of the joint venture interest in the North Carolina plant to Potash and the Mexican plant to another independent purchaser. These options—when evaluated with the limited information presented to the Commission—appear no worse than allowing Rhodia to own the Mexican plant, and, in fact, either of these options might prove superior to the majority's relief.

Thus, by basing a complaint on a narrow United States market and avoiding direct confrontation of the issue whether Rhodia should be allowed

to purchase the Mexican plant, the majority permits Rhodia to acquire additional North American capacity and perhaps ensures that the PPA market will act noncompetitively in the future. In my view, the majority's unwillingness to make a minor correction now could squander a valuable opportunity to protect North American PPA consumers.

[FR Doc. 00–6988 Filed 3–20–00; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Minority Health; Notice of a Cooperative Agreement With the National Minority AIDS Council

AGENCY: Office of the Secretary, Office of Minority Health, HHS.

ACTION: Notice of a cooperative agreement with the National Minority AIDS Council.

The Office of Minority Health (OMH), Office of Public Health and Science, announces its intent to continue support of the umbrella cooperative agreement with the National Minority AIDS Council (NMAC). This cooperative agreement will continue the broad programmatic framework in which specific projects can be supported by various governmental agencies during the project period.

The purpose of this cooperative agreement is to assist NMAC in expanding and enhancing its activities relevant to HIV prevention, services, treatment, and research in racial and ethnic minority populations, with the ultimate goal of improving the health status of minorities and disadvantaged people.

The OMH will provide technical assistance and oversight as necessary for the implementation, conduct, and assessment of the project activities. On an as-needed basis, OMH will assist in arranging consultation from other government agencies and non-government agencies.

Authority: This cooperative agreement is authorized under Section 1707(e)(1) of the Public Health Service Act, as amended.

Background

Assistance will continue to be provided to NMAC. During the last 3 years, NMAC has successfully demonstrated the ability to work with health agencies on activities relevant to HIV prevention, services, treatment, and research in racial and ethnic minority populations, with the ultimate goal of improving the health status of minorities and disadvantaged people. The NMAC is uniquely qualified to continue to accomplish the purposes of this cooperative agreement because it has the following combination of factors:

- It has developed, expanded, and managed an infrastructure to coordinate and implement various educational programs within local communities and organizations that deal extensively with HIV in each of the four racial and ethnic minority populations served by OMH. The Council established national initiatives, e.g., conferences, public policy education programs (including policy forums), technical assistance programs, and publications (including newsletters, action alerts and training manuals), that provide a foundation upon which to develop, promote, and manage HIV-related education and health related programs aimed at preventing and reducing unnecessary morbidity and mortality rates among racial and ethnic minority populations.
- It has established itself and its members as a national association with professionals who serve as leaders and experts in planning, developing, implementing, promoting, and evaluating HIV-related education and policy campaigns, both nationally and locally, aimed at reducing the impact of HIV in minority communities.
- It has developed a base of critical knowledge, skills, and abilities related to serving minority individuals and organizations with a range of HIV-related health and social problems. Through collective efforts of its members, community-based organizations, and volunteers, NMAC has demonstrated (1) the ability to work with minority and non-minority organizations, the Federal Government, academic institutions, and health groups on mutually beneficial education, research, and health endeavors relating to the goal of health promotion and disease prevention among racial and ethnic minority populations; (2) the national leadership necessary to focus the nation's attention on minority-related HIV issues; and (3) the leadership needed to assist health-care professionals to work more effectively with racial/ethnic minority communities.
- It has developed a national network of individuals; community-based organizations; and state, regional, and national health and civil rights organizations committed to addressing the HIV prevention, service, treatment, and research needs of individuals affected and infected by HIV and AIDS.

This cooperative agreement will be continued for an additional five-year project period with 12-month budget periods. Depending upon the types of projects and availability of funds, it is anticipated that this cooperative agreement will receive approximately $100,000 per year. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this cooperative agreement, contact Ms. Cynthia Amis, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852 or telephone (301) 594–0769.

OMB Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number for this cooperative agreement is 93.004.

Dated: March 10, 2000.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 00–6896 Filed 3–20–00; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Minority Health; Availability of Funds for Grants for the Bilingual/Bicultural Service Demonstration Grant Program

AGENCY: Office of the Secretary, Office of Minority Health.

ACTION: Notice of Availability of Funds and Request for Applications for the Bilingual/Bicultural Service Demonstration Grant Program.

Authority: This program is authorized under section 1707(e)(1) of the Public Health Service Act, as amended by Public Law 105–392.

Purpose

The purpose of this Fiscal Year 2000 Bilingual/Bicultural Service Demonstration Grant Program is to:

(1) Improve and expand the capacity for linguistic and cultural competence of health care professionals and paraprofessionals working with limited-English-proficient (LEP) minority communities; and

(2) Improve the accessibility and utilization of health care services among the LEP minority populations.

These grants are intended to demonstrate the merit of programs that involve partnerships between minority community-based organizations and health care facilities in a collaborative effort to address cultural and linguistic barriers to effective health care service delivery and to increase access to effective health care for the LEP minority populations living in the United States.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a PHS-led national activity announced in January 2000 to eliminate health disparities and improve years and quality of life. More information on the Health People 2010 objectives may be found on the Healthy People 2010 web site: *http://www.health.gov/healthy people.* Copies of the Healthy People 2010: Conference Edition Volumes I and II can be purchased by calling (301) 468–5960 (cost $22.00). Another reference is the *Healthy People 2000 Review–1998–99.* One free copy may be obtained from the National Center for Health Statistics (NCHS), 6525 Belcrest Road, Room 1064, Hyattsville, MD 20782 or telephone (301) 436–8500 (DHHS Publication No. (PHS) 99–1256). This document may also be downloaded from the NCHS web site *http://www.cdc.gov/nchs.*

Background

Large numbers of LEP minorities are linguistically isolated. According to the 1990 U.S. Census, 31.8 million persons or 13 percent of the total U.S. population (ages 5 and above) speak a language other than English at home. Almost 2 million people do not speak English at all and 4.8 million people do not speak English well. The 1990 U.S. Census also found that various minority populations and subgroups are linguistically isolated: approximately 4 million Hispanics; approximately 1.6 million Asians and Pacific Islanders; approximately 282,000 Blacks; and approximately 77,000 Native Americans and Alaska Natives.

Research has suggested that culture provides a unique concept of disease, risk factors, and preventive actions.[1] Definitions of health and illness are often culturally determined and therefore, the study of culture and tradition is a valuable tool in understanding the underlying motives for health behavior.[2] The clients' understanding of the Western health care model and their cultural beliefs, influence their access to health care services, the acceptance of health education, and their compliance with health care advice.

Rural populations must contend with several characteristics that further exacerbate their health care needs. These include an uneven pattern of disease burden and an acute lack of health care resources compared to urban places. A little over 62 percent of all non-metropolitan counties are designated by DHHS as Primary Care Health Professional Shortage Areas.[3]

In FY 1993, the Office of Minority Health (OMH) launched the Bilingual/Bicultural Service Demonstration Grant Program to address the linguistic, cultural and social barriers the LEP minority populations encounter when accessing health services. In addition, the program recognized other factors which contribute to the poor health status of LEP minorities including:

- Inadequate number of health care providers and other health care professionals skilled in culturally competent and linguistically appropriate delivery of services;
- Scarcity of trained interpreters at the community level;
- Deficiency of knowledge about appropriate mechanisms to address language barriers in health care settings;
- Absence of effective partnerships between major mainstream provider organizations and LEP minority communities;
- Geographic isolation;
- Low economic status;
- Lack of health insurance, and
- Organizational barriers.

These barriers continue to impede the LEP populations' ability to access and attain quality health care. Therefore it is essential that care providers, health care professionals and other staff become informed about the diverse linguistic, cultural and medical perspectives of their clientele. Enhancement of cultural competency among these individuals should increase LEP minority populations' knowledge of the Western health care model, and increase their access to and willingness to accept appropriate health care. In FY 2000, the Bilingual/Bicultural program will concentrate on the Health People 2010 Focus Areas, six of which the Surgeon General has identified as priorities: cardiovascular disease, child and adult immunizations, HIV/AIDS, infant mortality, cancer screening and management, and diabetes.

Eligible Applicants

Public and private, nonprofit minority community-based organizations. The minority community-based organization must serve a targeted LEP minority community and have an established linkage with a health care facility. The linkage between the community-based organization and the health care facility must be documented in writing as specified under the project requirements described in this announcement. Local affiliates of national organizations which have an established link with a health care facility are eligible to apply.

National organizations are not eligible to apply. Other non-eligible entities are for-profit hospitals, universities and schools of higher learning. Organizations are not eligible to receive funding from more than one OMH grant program concurrently.

Funding Preference

There are rural areas which have much higher rates of illness and disease than non-rural areas. For instance, infant mortality rates (mirrored by birth weight rates) show a distinct regional distribution with up to 74.1 infant deaths per 1,000 births in rural and frontier counties.[4] Morbidity rates for Hepatitis A and tuberculosis in the Border are much higher than the respective national rates.[5] The OMH recognizes the special needs of minority LEP populations in certain geographic areas. To address these special needs, a preference in funding will be given to applications submitted by minority community-based organizations located in border areas, frontier areas, and rural areas (see the definitions of these areas in this announcement). This preference will only be applies to applications that rank above the 50th percentile of applications recommended for approval by the objective review committee.

Deadline

To receive consideration, grant applications must be received by the OMH Grants Management Office by May 22, 2000. Applications will be considered as meeting the deadline if they are: (1) Received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for orderly processing. A legibly

[1] Evans, P.E. (1988) Minorities and AIDS. Health Education Research, Vol 3, No. 1, pp 113–115

[2] Toumishey, H. (1993), Multicultural Health Care: An Introductory Course. In R. Masi, L. Mensah, & K. McLeod (eds.), Health and Cultures: Exploring the Relationships, pp 113–138. Mosaic Press, Ontario, Canada

[3] North Carolina Rural Health Research and Policy Analysis Center (1998), The University of North Carolina at Chapel Hill in Mapping Rural Health: The Geography of Health Care and Health Resources in Rural America.

[4] *Ibid.*

[5] Border Issues (updated April 1997); United States-Mexico Chamber of Commerce web site *http://www.usmcoc.org/borderl.html.*

dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will be accepted as proof of timely mailing. Applications submitted by facsimile transmission (FAX) or any other electronic format will not be accepted. Applications which do not meet the deadline will be considered late and will be returned to the applicant unread.

Addresses/Contacts

Applications must be prepared using Form PHS 5161–1 (Revised June 1999). Application kits and technical assistance on budget and business aspects of the application may be obtained from Ms. Carolyn A. Williams, Grants Management Officer, Division of Management Operations, Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, Maryland 20852, telephone (301) 594–0758. Completed applications are to be submitted to the same address.

Questions regarding programmatic information and/or requests for technical assistance in the preparation of grant applications should be directed to Ms. Cynthia H. Amis, Director, Division of Program Operations, Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, Maryland 20852, telephone number (301) 594–0769.

Technical assistance is also available through the OMH Regional Minority Health Consultants (RMHCs). A listing of the RMHCs and how they may be contacted will be provided in the grant application kit. Additionally, applicants can contact the OMH Resource Center (OMHRC) at 1–800–444–6472 for health information.

Availability of Funds

Approximately $1.5 million is available for award in FY 2000. It is projected that awards of up to $150,000 total costs (direct and indirect) for a 12-month period will be made to approximately 10 to 12 competing applicants.

Period of Support

The start date for the Bilingual/Bicultural Service Demonstration Program grants is September 30, 2000. Support may be requested for a total project period not to exceed 3 years. Noncompeting continuation awards of up to $150,000 will be made subject to satisfactory performance and availability of funds.

Definitions

For purposes of this grant announcement, the following definitions apply:

Border Area—The area lying 100 kilometers (62 miles) to the north of the 3,141 kilometer (1,952 mile) U.S.-Mexico boundary (as defined in Article 4 of the La Paz Agreement between the U.S. and the United Mexican States, entered into force February 16, 1984).

Community-Based Organization—Public and private, nonprofit organizations which are representative of communities or significant segments of communities, and which address health and human services.

Cultural Competency—a set interpersonal skills that allow individuals to increase their understanding and appreciation of cultural differences and similarities within, among and between groups. This requires a willingness and ability to draw on community-based values, traditions and customs, and to work with knowledgeable persons of and from the community in developing focused interventions, communications and other supports. (Orlandi, Mario A., 1992.)

Health Care Facility—a public nonprofit facility that has an established record for providing comprehensive health care services to a targeted, LEP racial/ethnic minority community. Facilities providing only screening and referral activities are not included in this definition. A health care facility may be a hospital, outpatient medical facility, community health center, migrant health center, or a mental health center.

Frontier Area—an area (borough, county or parish) with 6 or fewer persons per square mile.

Limited-English-Proficient Populations (LEP)—individuals (as defined in Minority Populations below) with a primary language other than English who must communicate in that language if the individual is to have an equal opportunity to participate effectively in and benefit from any aid, service or benefit provided by the health provider.

Minority Community-Based Organization—a public or private nonprofit community-based minority organization or a local affiliate of a national minority organization that has: a governing board composed of 51 percent or more racial/ethnic minority members, a significant number of minorities employed in key program positions, and an established record of service to a racial/ethnic minority community.

Minority Populations—American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or other Pacific Islander. (Revision to the Standards for the Classification of Federal Data on Race and Ethnicity, Federal Register, Vol. 62, No. 210, pg. 58782, October 30, 1997)

Rural Area—a borough, county or parish with a population less than 50,000 that is not included in a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget.

Project Requirements

Each project funded under this demonstration grant must address all of the following requirements.

1. Address at least one, but no more than three of the health focus areas referenced in the Background section of this announcement.

2. Carry out activities to improve and expand the capacity of health care providers and other health care professionals to deliver linguistically and culturally competent health care services to the target population. Potential activities may include: language and cultural competency training and curricula development; health promotion or health service access information in the native language of the target population; on-site interpretation services; or training products such as CD–ROMs, video tapes, or on-line distance based learning formats for continuing education.

3. Carry out activities to improve access to health care for the LEP population. Potential activities may include those that will: Educate the target population on the importance of health promotion and disease prevention; enhance the ability of the target population to communicate their health care concerns to health care providers; increase their understanding of health education information; and improve compliance with health care treatments. The applicant may utilize culturally and/or linguistically appropriate information or methods of communication, such as printed materials with pictorial messages, mass media, public service announcements and neighborhood outreach as educational tools. Forums, seminars or workshops to promote information exchange among the targeted LEP population and the health care professionals may also be considered activities for the education of both groups.

4. Have an established, formal linkage between the minority community-based organization and a health care facility,

prior to submission of an application. The linkage must be confirmed by a signed agreement between the applicant organization and the health care facility which specifies in detail the roles and resources that each entity will bring to the project, and state the duration and terms of the linkage. The document must be signed by individuals with the authority to represent the organization (*e.g.,* president, chief executive officer, executive director).

Use of Grant Funds

Budgets of up to $150,000 total cost (direct and indirect) per year may be requested to cover costs of: personnel, consultants, supplies (including screening and outreach supplies), equipment, and grant-related travel. Funds may not be used for medical treatment, construction, building alterations, or renovations. All budget requests must be fully justified in terms of the proposed goals and objectives and include a computational explanation of how costs were determined.

Criteria for Evaluating Applications

Review of Applications: Applications will be screened upon receipt. Those that are judged to be incomplete, non-responsive to the announcement or nonconforming will be returned without comment. Each organization may submit no more than one proposal under this announcement. If an organization submits more than one proposal, all will be deemed ineligible and returned without comment. Accepted applications will be reviewed for technical merit in accordance with PHS policies. Applications will be evaluated by an Objective Review Panel chosen for their expertise in minority health and their understanding of the unique health problems and related issues confronted by the racial/ethnic minority populations in the United States.

Applicants are advised to pay close attention to the specific program guidelines and general and supplemental instructions provided in the application kit.

Application Review Criteria: The technical review of applications will consider the following generic factors:

Factor 1: Background (15%)

Adequacy of: Demonstrated knowledge of the problem at the local level; demonstrated need within the proposed community and target population; demonstrated support and established linkage(s) in order to conduct the proposed model; and extent and documented outcome of past efforts and activities with the target population.

Factor 2: Objectives (15%)

Merit of the objectives, their relevance to the program purpose and stated problem, and their attainability in the stated time frames.

Factor 3: Methodology (35%)

Appropriateness of proposed approach and specific activities for each objective. Logic and sequencing of the planned approaches in relation to the objectives and program evaluation. Soundness of the established linkages.

Factor 4: Evaluation (20%)

Thoroughness, feasibility and appropriateness of the evaluation design, and data collection and analysis procedures. Potential for replication of the project for similar target populations and communities.

Factor 5: Management Plan (15%)

Applicant organization's capability to manage and evaluate the project as determined by: the qualification of proposed staff or requirements for ''to be hired'' staff; proposed staff level of effort; management experience of the lead agency; and experience of each member of the linkage as it relates to its defined roles and the project.

Award Criteria

Funding decisions will be determined by the Deputy Assistant Secretary of Minority Health, Office of Minority Health, and will take under consideration: the recommendations and ratings of the review panel; the funding preference; geographic and racial/ethnic distribution; and health problem areas having the greatest impact on minority health. Consideration will be given to projects proposed to be implemented in Empowerment Zones and Enterprise Communities.

Reporting and Other Requirements

General Reporting Requirements

A successful applicant under this notice will submit: (1) Bi-annual progress reports; (2) an annual Financial Status Report, and (3) a final progress report and final Financial Status Report in the format established by the Office of Minority Health, in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR Part 74, Subpart J.

Provision of Smoke-Free Workplace and Nonuse of Tobacco Products by Recipients of PHS Grants

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse 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.

Public Health System Reporting Requirements

This program is subject to Public Health Systems Reporting Requirements. Under these requirements, a community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based, nongovernmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate state and local health agencies in the area(s) to be impacted: (a) a copy of the face page of the applications (SF 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. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to the Office of Minority Health.

State Reviews

This program is subject to the requirements of Executive Order 12372 which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit to be made available under this notice will contain a listing of States which have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. Applicants (other than federally recognized Indian tribes) should contact their SPOCs as early as

possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline by the Office of Minority Health's Grants Management Officer. The Office of Minority Health does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR Part 100 for a description of the review process and requirements.)

OMB Catalog of Federal Domestic Assistance

The OMB Catalog of Federal Domestic Assistance Number for the Bilingual and Bicultural Service Demonstration Program is 93.105.

Dated: March 14, 2000.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 00–6897 Filed 3–20–00; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces a meeting of a scientific peer review group. The subcommittee listed below is part of the Agency's Health Services Research Initial Review Group.

The subcommittee meeting will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6). Grant applications are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Health Care Research Training

Date: April 13, 2000 (Open from 10 a.m. to 10:15 a.m. and closed for remainder of the meeting)

Place: AHRQ, Executive Office Center, 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852

Contact Person: Anyone wishing to obtain a roster of members or minutes of the meetings should contact Ms. Jenny Griffith, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: March 13, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–6964 Filed 3–20–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–157]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period from October through December 1999. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and also includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Assistant Surgeon General, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on January 11, 2000, (65 FR1637). This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (42 CFR Part 90). This rule sets forth ATSDR's procedures for conducting public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)).

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 am and 4:30 pm, Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605–6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between, October 1 and December 31 1999, public health assessments were issued for the sites listed below:

NPL Sites

Georgia

Camilla Wood Preserving Company—(a/k/a Escambia Treating Company Incorporated)—Camilla—(PB20–103266).

Illinois

Depue/Jersey Zinc/Mobil Chemical Corporation—Depue—(PB20–102450). Evergreen Manor Groundwater Contamination Plume—Roscoe—(PB20–102849). Savanna Army Depot Activity—Savanna—(PB20–102850).

Iowa

Iowa Army Ammunition Plant—Middletown—(PB20–102851).

Maryland

Fort George G. Meade—Fort Meade—(PB20–101390).

Michigan

West Beitz Creek Fill Area—(a/k/a Marshall Elementry School)—Livonia—(PB20–101391).

New Jersey

Fort Dix (Landfill Site)—Wrightstown—(PB20–100618).

Ohio

Wright-Patterson Air Force Base—Fairborn—(PB20–101405).

Texas

Austin City of Holly Street Power—Austin—(a/k/a Holly Street Power Plant)—(PB20–101712).

Washington

Port Hadlock Detachment (US Navy) [a/k/a US Navy Port Hadlock Detachment (Indian Island Depot)]—Port Hadlock—(PB20–102551).

Wyoming

F.E. Warren Air Force Base—Cheyenne—(PB20–101764).

Non NPL Petitioned Sites

Georgia

T.H. Agriculture and Nutrition (Albany)—Albany—(PB20–102004).

New Jersey

Atlantic State Cast Iron Pipe—Phillipsburg—(PB20–102003).

New York

Brookfield Avenue Landfill—Staten Island—(PB20–101763).

Dated: March 15, 2000.

Georgi Jones, Director,

Office of Policy and External Affairs Agency for Toxic Substances and Disease Registry.

[FR Doc. 00–6905 Filed 3–20–00; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Assessment of Hablemos en Confianza Materials

New—In the United States, Hispanic/Latinos present a disproportionately higher prevalence of alcohol, tobacco, cocaine, and marijuana use than other ethnic groups. In the Spring of 1995, the Secretary of the U. S. Department of Health and Human Services authorized the establishment of the Departmental Working Group on Hispanic Issues. Part of the Hispanic Agenda for Action calls for an increase in the Department's capacity to reach out and communicate with Hispanic/Latino populations using culturally and language appropriate techniques. In-depth literature review documented a lack of materials focusing on substance abuse prevention targeting Hispanic/Latino populations. Based on formative research, the ''Hablemos en Confianza'' kit (HEC) was designed specifically to respond to this need for culturally and language appropriate materials.

The HEC kit consists of five booklets addressing various aspects of communication between parents/caregivers with children, three fotonovelas with open-ended stories of Hispanic/Latino families who are learning to discuss and resolve the issue of alcohol and drug use by their children, and a poster for youth 13–17 years old. The dissemination of the materials was initiated in October, 1999 through the National Clearinghouse for Alcohol, and Drug Information (NCADI). The information resulting from the proposed survey will be employed by SAMHSA's Center for Substance Abuse Prevention (CSAP) to assess the quality of the materials regarding cultural adequacy and clarity, as well as the short term impact of the messages. This information will be instrumental in highlighting areas that should be addressed in future CSAP prevention/education materials targeting Hispanic/Latino audiences.

The adequacy of the prevention messages will be assessed by conducting a survey to collect data on five major areas: (1) Assess the degree to which the materials raise awareness in parents/caregivers about the potential communication problems with their children regarding substance use/abuse matters; (2) assess the degree to which the materials prompt parents/caregivers to generate intent or to pursue actions toward improving communication with their children; (3) assess the degree to which the materials are perceived as providing and/or increasing adults' capacity to communicate with youth; (4) assess the quality of the materials (clarity of the messages, cultural adequacy, and attractiveness of the materials); and (5) determine whether there are aspects to be modified and/or enhanced in the development of future materials focusing substance use/abuse targeted to Hispanic/Latino audiences. The study population is composed of parents or care givers (person responsible for the care of the children) who have requested the materials from NCADI.

The following table presents the response burden for this project.

Number of respondents	Responses/ Respondent	Hours/ Response	Total burden
1,375	1	.2	275

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 15, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–6906 Filed 3–20–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301)443–7978.

Treatment Improvement Protocol Evaluation: Addiction Technology Transfer Center Study

New—The ATTC Study is a special study under the ongoing TIPs Evaluation Project. Since 1993, SAMHSA's Center for Substance Abuse Treatment (CSAT) has published 36 Treatment Improvement Protocols, or TIPs, which provide consensus-based administrative and clinical practice guidance to the substance abuse treatment field; and 23 Technical Assistance Publications (TAPs), which are publications, manuals, and guides developed by experts with first-hand experience to offer practical responses to emerging issues and concerns in the substance abuse treatment field.

A qualitative study, the ATTC study will elicit data related to assessing both actual use, and usefulness, of TIPs, TAPs and other CSAT products in developing curricula and other knowledge application products for ATTCs. Data will be collected through intensive interviews with both ATTC faculty and curriculum developers at six of the 13 ATTCs. Purposive sampling will be used to identify appropriate participants; ATTC Directors will recommend faculty/curriculum developers for participation. Prior to the interview process, faculty and curriculum developers will be asked to complete a brief questionnaire. Measures will be primarily descriptive and process, for example, whether, and if so, which, TIPs and TAPs have been or are being used in development of ATTC curricula; how and to what extent TIPs and TAPs are used; faculty/trainers' and curriculum developers' perceptions regarding the advantages and disadvantages of using TIPs and TAPs; and their impressions and suggestions concerning the content and format of TIPs and TAPs.

Burden for faculty/trainers and curriculum developers includes participation in a study introduction phone call (15 minutes); written responses to a brief questionnaire, including mailing it back to the contractor (30 minutes); and subsequent participation in an indepth interview (1½ hours). Burden attributed to the ATTC Directors of the six selected ATTCs includes time spent assisting the study team with background information, site visit coordination, and identifying and discussing possible participants for interviews.

	No. of respondents	Responses/ respondent	Hours/ response	Burden hours
Faculty/Curriculum Developers	90	1	*2.25	202.50
ATTC Directors	6	1	0.50	3.00
Total	96			205.50

*includes travel time.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 15, 2000.

Richard Kopanda,

Executive Officer, SAMSHA.

[FR Doc. 00–6907 Filed 3–20–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301)443–7978.

Registration Form for the National Registry of Effective Prevention Programs

New—Section 515(d) of the Public Health Service Act (42 U.S.C. 290bb–21) requires that the Director of SAMHSA's Center for Substance Abuse Prevention (CSAP) establish a national data base providing information on programs for the prevention of substance abuse and specifies that the data base shall contain information appropriate for use by public entities and information appropriate for use by nonprofit private entities. Since 1994, CSAP has met this responsibility through the High Risk Populations Databank on programs for the prevention of substance abuse funded by direct CSAP grants. Because relatively few direct grants of this type have been issued in recent years, CSAP must expand its information collection to include voluntary submission of descriptions of effective substance abuse prevention conducted by state and local governments, nonprofit entities, and the private sector.

CSAP has developed a template to enable practitioners who have evidence that their program reduces risk factors or increases protective factors pertaining to substance abuse to nominate their own standardized program for the

Registry. Each program that is nominated should have been standardized (including curriculum manuals, implementation manuals, videotapes, etc.), well implemented, and findings should derive from well designed research efforts. Program models nominated will be reviewed and rated by experts annually to be recommended to the field.

CSAP will promote selected models by providing funds to support development of program materials for dissemination, by connecting program developers with organizations able to help in the dissemination efforts, and by promoting model programs nationally through CSAP's State Incentive Grant recipients and regional Centers for Applied Prevention Technology. Annual burden estimates for the Registry are shown in the table below.

Type of submission	No. of respondents	Responses/ respondent	Hours/ response	Total burden hours
Complete	250	1	1.25	313
Abbreviated	10	1	.25	2
Total	260			315

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 15, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–6908 Filed 3–20–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301)443–7978.

Survey of Vermont Employers to Assess the Effects of the Vermont Parity Act

New—In support of its mission to support activities related to improving mental health and substance abuse treatment and prevention through demonstration projects, evaluations and service system assessments, SAMHSA is taking advantage of the implementation of the Vermont Parity Act on January 1, 1998. The Vermont Parity Act provides SAMHSA with an important opportunity to study the health insurance coverage impacts of the nation's most comprehensive parity law and to provide useful data to state and federal policy makers, employers, health care providers, advocates, and consumers.

SAMHSA will conduct a telephone survey of private employers in Vermont to assess their responses to the state law. The employer survey will gather information on the effects of the Vermont parity lay on employer-sponsored health insurance coverage. As a study of the most comprehensive state parity law in the nation, this survey will provide SAMHSA its first opportunity to understand: (1) employer knowledge of and satisfaction with parity; (2) estimated effects of parity on employer health care costs; (3) effects of parity on employer health insurance purchasing decisions, such as decisions to self-insure, drop coverage, change insurance carriers, shift a higher share of costs to employees, or carve-out benefits and/or shift to managed care; (4) other changes brought about by parity, such as establishment of employee assistance plans or wellness programs; and (5) suggestions for improving the parity law in the future.

Data will be collected between June and October 2000, a period when employers typically re-evaluate their health insurance coverage decisions for the upcoming fiscal year. Upon completion of the data collection, descriptive and multivariate analyses of employer responses to and satisfaction with parity will be conducted. Responses will be analyzed by employer characteristics such as firm size, location, and type of industry. SAMHSA will use the survey results and survey data to advise governmental bodies such as the National Advisory Mental Health Council (NAMHC), which was charged by the Senate Appropriations Committee in 1996 to provide periodic reports on parity coverage in mental health services ''as more data throughout the country become available.'' The table below shows the total burden for this one-year study.

Type of interview	Number of respondents	Responses/ respondent	Hours/ response	Total burden hours
Businesses offering insurance(screener & full interview) [1]	600	1	.42	252
Uninsured businesses (screener & short interview only) [2]	222	1	.25	56
Ineligible/nonresponding businesses (screener only) [3]	489	1	.08	39
Total	1,311			347

[1] Businesses currently offering insurance to employees or that stopped offering insurance to employees after January 1, 1998.
[2] Businesses that either stopped offering insurance to employees before January 1, 1998 or never offered insurance to employees.
[3] Businesses that are no longer in operation or are owned by the state or federal government and non-responding businesses that effuse to participate.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated:March 12, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–6909 Filed 3–20–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FP–4561–N–13]

Notice of Submission of Proposed Information Collection to OMB; Family Self-Sufficiency Program (FSS)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 20, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0178) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission, including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information;

Title of Proposal: Family Self-Sufficiency Program (FSS).

OMB Approval Number: 2577–0178.

Form Numbers: HUD–52650 and HUD–52652.

Description of the Need for the Information and Its Proposed Use: The Family Self-Sufficiency Program (FSS) promotes development of local strategies that coordinate the use of public housing assistance and assistance under section 8 rental certificate and voucher programs with public-private resources to enable eligible families to eligible families to achieve economic independence and self-sufficiency. Housing agencies enter into a Contract of Participation with each eligible family that opts to participate in the program; consult with local officials to develop an Action Plan; and report annually to HUD on implementation of the FSS program.

Respondents: Individual or households, State or Local Government.

Frequency of Submission: On Occassion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Action plan	50		4,550		8.6		39,090

Total Estimated Burden Hours: 39,090.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 15, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–6990 Filed 3–20–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Interim Land Acquisition Priority System Criteria

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We are announcing the availability of and opportunity to comment on our Interim Land Acquisition Priority System criteria. These interim criteria replace the criteria developed in 1987 and modified in 1992. We will use the interim criteria to set land acquisition priorities for projects funded under the Land and Water Conservation Fund beginning with the FY 2002 budget cycle.

DATES: Submit comments on or before June 30, 2000.

ADDRESSES: You may obtain copies of the Interim Land Acquisition Priority System package or submit comments on the interim criteria by any one of several methods.

You may obtain the document from the Division of Realty's internet site at http://realty.fws.gov/laps.htm.

You may mail or hand-deliver requests for copies or comments to Andrew French, LAPS Team Leader, Division of Realty, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

You may send requests for copies or comments by electronic mail to Andrew French@fws.gov. Please submit internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: LAPS Comments'' and your name and return address in your message.

You may fax requests for copies or comments to (413) 253–8480.

FOR FURTHER INFORMATION CONTACT: Andrew French, Team Leader, U.S. Fish and Wildlife Service, telephone (toll free) (877) 289–8495 (ext. 8590)

SUPPLEMENTARY INFORMATION: We implemented Land Acquisition Priority System Criteria in 1987 and revised the criteria in 1992. In 1993, the National Research Council appointed the Committee on Scientific and Technical Criteria for Federal Acquisition of Lands for Conservation. In their report,

entitled ''Setting Priorities for Land Conservation,'' the committee affirmed the need for criteria by stating, ''Each agency should develop individual criteria to rank its own acquisitions, because no single set of criteria will work to satisfy fully the different agency missions.'' The interim criteria implement the National Wildlife Refuge System Improvement Act of 1997, which states, ''the Mission of the System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitat within the United States for the benefit of present and future generations of Americans.''

Interim Land Acquisition Priority System Criteria

The purpose of the Land Acquisition Priority System is: (1) To document land acquisition needs and opportunities for the Fish and Wildlife Service nationwide; (2) to prioritize land acquisition projects submitted by our Regions; and (3) to serve as a starting point for the annual land acquisition budget request. The criteria are one of the ''tools'' that we use to build our annual land acquisition priorities among the most important habitat projects in the Nation. The criteria consist of four components: Fisheries and Aquatic Resources, Endangered and Threatened Species, Bird Conservation, and Ecosystem Conservation.

The Fisheries and Aquatic Resources Component addresses: (1) The status and trends of aquatic populations; (2) species diversity for trust resources; (3) critical habitats, including free-flowing rivers and watersheds; (4) wetland types and trend status; and (5) wetland losses by percent of historic wetland base by State.

The Endangered and Threatened Species Component is: (1) Recovery oriented; (2) considers habitat and biological community integrity as well as species occurrences; and (3) focuses on actual habitat use.

The Bird Conservation Component consists of: (1) Regionally developed lists of 70 species of management concern for each region as well as Hawaii and Puerto Rico; (2) a population importance index; and (3) an avian diversity index. We give emphasis to Nongame Species of Management Concern and the North American Wetlands Conservation Act Priority Waterfowl Species.

The Ecosystem Conservation Component addresses: (1) Biodiversity through distribution and abundance of rare communities; (2) ecosystem decline and protection of native diversity of threatened ecosystems; (3) landscape conservation by preserving large, intact habitats through partnerships; and (4) contributions to national plans and designations.

Comment Solicitation

We seek public comments on this interim document and will take into consideration comments and additional information received during the comment period. 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 record, which we will honor to the extent allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your 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.

Authority

We issue this notice under the authority of the Land and Water Conservation Fund Act of 1995 as amended (16 U.S.C. 460l–4 *et seq.*) and the National Wildlife Refuge System Administration Act of 1966 as amended, (16 U.S.C. 668dd *et seq.*).

Dated: March 10, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–6985 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Cow Creek Band of Umpqua Tribe of Indians in Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed approximately 285.16 acres as an addition to the reservation of the Cow Creek Band of Umpqua Tribe of Indians on March 10, 2000. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, NW, Washington, DC 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the reservation of the Cow Creek Band of Umpqua Tribe of Indians for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Cow Creek Band of Umpqua Tribe of Indians

Parcel 1

A portion of the Southeast quarter of Section 11 and the Southwest quarter of Section 12, Township 29 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, described as follows: Beginning at an iron pipe from which point the corner to Sections 11, 12, 13 and 14, Township 29 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, bears South 7°44′ West 672.8 feet; thence South 86°43′30″ West 261.75 feet; thence North 69°43′ West 623.0 feet to the southeast corner of the lands of G.E. Clayton as described in deed, Recorder's No. 91854, Deed records of Douglas County, Oregon; thence North 7°47′ East 1633.33 feet along the east line of said Clayton lands to an iron pipe on the south right of way of Old State Highway No. 99, which point is also a P.C. of a 9°30′ curve left with central angle 5°05′; thence along the south right of way of said curve to the left, 53.5 feet to the P.C. of said curve; thence South 80°19′ East 812.3 feet along said south right of way of Old Highway No. 99 to an iron pipe; thence South 7°47′ West 1686.8 feet to the place of beginning.

EXCEPT that portion thereof lying Southerly of the following described line: Beginning at a point on the easterly line of the above described lands, which bears North 8°00′ East 689.17 feet from the section corner common to Sections 11, 12, 13 and 14, Township 29 South, Range 6 West, Willamette Meridian, Douglas County, Oregon; thence running North 77°28′40″ West 864.57 feet to the southeast corner of lands conveyed to G.E. Clayton by Deed recorded in Volume 167, Recorder's No.

91854, Deed Records of Douglas County, Oregon.

Said premises are also known as Parcel 2 of Land Partition No. 1991–10, Partition Plat Records of Douglas County, Oregon.

Together with an easement as granted in Recorder's No. 91–4911, Records of Douglas County, Oregon, containing 32.84 acres, more or less.

Parcel 2

All of that portion of the following described real property lying in the South half of Section 12, Township 29 South, Range 6 West, and in the Southwest quarter of Section 7, Township 29 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and within a parcel described by Warranty Deed, Recorder's No. 96–14413, Records of Douglas County, Oregon: Beginning at the section corner common to Sections 7 and 18, Township 29 South, Range 5 West, and to Sections 12 and 13, Township 29 South, Range 6 West, Willamette Meridian, Douglas County, Oregon: thence along the south boundary of said Section 12, Township 29 South, Range 6 West, South 86°25′08″ West 2557.11 feet to the quarter corner common to said Sections 12 and 13, Township 29 South, Range 6 West; thence continuing along said south boundary of said Section 12, North 88°47′15″ West 1294.35 feet to a ⅝ inch iron rod; thence leaving said south boundary of said Section 12 and running North 0°27′56″ West 27.41 feet to a ⅝ inch iron rod; thence North 84°12′23″ West 778.16 feet to a ⅝ inch iron rod; thence North 88°47′10″ West 21.05 feet to a ⅝ inch iron rod; thence North 70°09′59″ West 102.84 feet to a ⅝ inch iron rod; thence North 25°33′36″ West 112.45 feet to a ⅝ inch iron rod; thence North 17°14′59″ West 466.80 feet to a ⅝ inch iron rod; thence North 78°45′34″ West 68.44 feet to a ⅝ inch iron rod; thence North 7°19′04″ East 1678.92 feet to a ⅝ inch iron rod located on the southerly right of way of State Highway No. 99; thence along said southerly right of way, South 80°55′54″ East 773.94 feet to a ⅝ inch iron rod; thence continuing along said southerly right of way, South 80°58′54″ East 705.26 feet to a ⅝ inch iron rod; thence continuing along said southerly right of way, along the arc of a 1462.40 foot radius curve to the left, the long chord of which bears North 89°54′28″ East 463.13 feet to a ⅝ inch iron rod; thence continuing along said southerly right of way, North 80°47′49″ East 413.83 feet to a ⅝ inch iron rod; thence leaving said southerly right of way of said State Highway No. 99, and running South 16°36′07″ East 391.53 feet to a ⅝ inch iron rod; thence South 16° 17′28″ East 548.51 feet to a ⅝ inch iron rod; thence North 78°21′39″ East 177.48 feet to a ⅝ inch iron rod; thence North 7°01′04″ East 133.17 feet to a ⅝ inch iron rod; thence North 70°11′35″ East 329.53 feet to a ⅝ inch iron rod; thence North 76°52′25″ East 311.43 feet to a ⅝ inch iron rod; thence North 81°14′36″ East 273.93 feet to a ⅝ inch iron rod; thence North 81°16′41″ East 274.05 feet to a ⅝ inch iron rod; thence South 81°46′40″ East 262.71 feet to a ⅝ inch iron rod; thence North 48°59′59″ East 345.89 feet to a ⅝ inch iron rod; thence South 69°12′59″ East 669.35 feet to a ⅝ inch iron rod; thence South 46°09′21″ East 1463.80 feet to a ⅝ inch iron rod; thence South 28°46′18″ East 551.96 feet to a ⅝ inch iron rod; thence South 18°12′15″ East 87.52 feet to a ⅝ inch iron rod located on the south boundary of said Section 7, Township 29 South, Range 5 West, Willamette Meridian; thence along said south boundary of said Section 7, Township 29 South, Range 5 West, North 89°02′06″ West 1660.45 feet to the point of beginning. Containing 252.32 acres, more or less.

Together, Parcels 1 and 2 contain a total of 285.16 acres, more or less.

Title to the land described above is conveyed subject to any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other rights-of-way or reservations of record.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other rights-of-way or reservations of record.

Dated: March 10, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–6963 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–070–1210–00]

Notice of Emergency Off-Road Vehicle Closures in Wilderness Study Areas Located in the San Rafael Swell Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a temporary emergency closure pursuant to regulations at 43 CFR 8341.2(a) to off-road vehicles (ORVs), also commonly referred to as off-highway vehicles (OHVs), on public lands and existing vehicle ways within the boundaries of seven Wilderness Study Areas (WSAs).

SUMMARY: This notice closes public lands within the Muddy Creek, Sid's Mountain/Sid's Cabin, Devil's Canyon, Crack Canyon, San Rafael Reef, Horseshoe Canyon and Mexican Mountain WSAs, located in the San Rafael Swell region of central Utah, to motorized vehicles. An emergency closure order is necessary due to ORV-caused damage to soils, vegetation and other resources which is impairing wilderness values over extensive portions of the affected WSAs. The closure effects motorized vehicle use on all public lands in WSAs in the Price Field Office with the exception of ''four'' routes in Sid's Mountain WSA described as follows: (1) The wash bottom of Coal Wash, including the short dugway from the west which enters this wash, and North Fork Coal Wash south until it exits the WSA over ''Fix-It-Pass'', (2) the wash bottom of South Fork Coal Wash from its junction with the North Fork to and including the ''Eva Conover'' way, (3) the ''Devil's Racetrack'' way, and (4) the Justensen Flat access way, including lower Eagle Canyon southeast from the junction of this way. These routes will remain open on a conditional basis. This closure applies to all motor vehicle use with the exception of law enforcement and emergency personnel or administrative uses authorized by the BLM.

DATES: This emergency closure order is effective immediately and will remain in effect until adverse effects are eliminated and measures are implemented to prevent reoccurrence, as identified in 43 CFR 8341.2 (a). Should the rehabilitation work and non-impairment plan associated with Coal Wash, South Fork and North Fork of Coal Wash, the Eva Conover and Devil's Racetrack routes, the Justensen Flat access way and adjacent lands not result in abatement of adverse effects, the ways will be closed to motorized vehicle use. Authorities for the closure order are 43 CFR 8341.2(a).

FOR FURTHER INFORMATION CONTACT: Dick Manus, Price Field Office Manager, 125 South, 600 West, Price, Utah 84501. Telephone (435) 636–3600.

SUPPLEMENTARY INFORMATION: The establishment of WSAs in the San Rafael Swell region in 1980 placed lands under protective management as specified by the Interim Management Policy (IMP) for lands under wilderness review. Under the IMP, motor vehicle use could continue on existing vehicle ways as long as that use does not impair

wilderness values. The 1991 San Rafael Resource Management Plan (RMP) further addressed ORV use in the region by allocating all lands in the affected WSAs in either the ''limited use'' restricted to designated routes, or the ''closed'' to ORV use categories. Following the RMP, the BLM Price Office initiated a planning effort to designate the routes in the San Rafael planning unit, including lands in the affected WSAs within the limited use ORV category. This planning effort included extensive coordination with local governments and interest groups, as well as the formation of a citizen's team to advise on ORV route designations. Despite these efforts, route designation has remained a contentious issue and a travel plan for the San Rafael Swell, including the affected WSAs, has not been completed. Throughout this period, ORV use in the San Rafael Swell has increased tremendously. The proliferation of vehicle ways beyond the ways inventoried at the time of WSA designation has become a serious problem. Damage to soils, vegetation and other resources is occurring in many areas degrading naturalness and other wilderness qualities. The impairment of wilderness values necessitates this emergency closure order in the seven WSAs located in the San Rafael Swell region. The closure effects motorized vehicle use on all public lands in WSAs in the Price Field Office with the exception of ''four'' routes in Sid's Mountain WSA described as follows: (1) The wash bottom of Coal Wash, including the short dugway from the west which enters this wash, and North Fork Coal Wash south until it exits the WSA over ''Fix-It-Pass'', (2) the wash bottom of South Fork Coal Wash from its junction with the North Fork to and including the ''Eva Conover'' way, (3) the ''Devil's Racetrack'' way, and (4) the Justensen Flat access way, including lower Eagle Canyon southeast from the junction of this way. These routes will remain open on a conditional basis. Motorized use of these routes will be allowed to continue contingent upon the success of a rehabilitation and monitoring plan designed to restore areas to non-impairment conditions and prevent further travel off of these pre-described routes. Should the plan not restore the area, these areas will also be closed until adverse effects can be eliminated. The net effect of this action combined with previous land use decisions, is that all WSA's administered by the Price Field Office are closed to ORV use except for the routes specified as conditionally open in this notice.

Nothing in this order alters in any way legal rights which Emery County or the State of Utah may claim to assert R.S. 2477 highways, and to challenge in Federal court or other appropriate venue, any BLM road closures that they believe are inconsistent with their claims.

Sally Wisely,

State Director.

[FR Doc. 00–6796 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05;N–66181]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

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 public park.

Mount Diablo Meridian, Nevada

T. 20 S., R. 59 E., sec 1
W½NE¼SE¼NW½

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, 30 feet in width along the West boundary, 30 feet in width along the South boundary and 30 feet in width along the East boundary in favor of the City of Las Vegas for road, sewer, 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 public park. 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 public park.

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: March 8, 2000.

Judy A. Fry,

Acting Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 00–6892 Filed 3–20–00; 8:45 am]

BILLING CODE 4510–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930; 1430–ES, N–61015]

Notice of Realty Action: Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purpose Conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for 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.*). Clark County proposes to use the land for a solid waste convenience station.

Mount Diablo Meridian, Nevada

T. 15 S., R. 67 E., section 16,
S½SE¼NW¼SW¼NE¼,
NW¼SE¼NW¼SW¼NE¼.

Consisting of 1.88 acres.

The land is not required for any federal purpose. The conveyance is consistent with current Bureau planning for this area and would be in the public interest. The patents, 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 provisions and reservations to the United States:

1. Excepting and Reserving to the United States: 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.

3. SUBJECT TO: The patentee shall comply with all Federal and State laws applicable to the disposal, placement or release of hazardous substances as defined in 40 CFR part 302, and indemnify the United States against any legal liability or future cost that may arise out of any violation of such laws.

4. Under no circumstances will any portion of the lands that have been used for solid waste disposal, or for any other purpose that the authorized officer determines may result in disposal, placement, or release of any hazardous substance, be reconveyed to United States.

5. If, at any time the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and the approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvement thereon.

6. The above described land has been conveyed for utilization as a solid waste disposal site as follows:

T. 15 S., R. 67 E., section 16,
S½SE¼NW¼SW¼NE¼,
NW¼SE¼NW¼SW¼NE¼.

Upon closure, the site may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. 6901), as defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the linear or final cover of the landfill unless excavation is conducted subject to applicable State and Federal requirements.

7. All valid and existing rights.

8. Clark County, a political subdivision of the State of Nevada, and its assignees, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the United States) from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person growing out of, occurring, or attributable directly or indirectly, to the disposal of solid waste on, or the release of hazardous substances from the S½SE¼NW¼SW¼NE¼, NW¼SE¼NW¼SW¼NE¼, Section 16, T. 15 S., R. 67 E., regardless of whether such claims shall be attributable to: (1) The concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

9. In addition to the above the patent of the herein described land is subject to the following reservations, conditions, and limitations: The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241) and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein is used for the purpose for which the grant was issued pursuant to the act cited or for another purpose involving the provision of similar services or benefits.

10. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

11. The patentee or its successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document, signs or posters bearing legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the property conveyed.

12. The reservations, conditions and limitations contained in paragraphs 9 through 11 shall constitute a covenant running with the land, binding on the lessee and its successors in interest for the period for which the land herein is used for the purpose for which this grant was made or for another purpose involving the provision of similar services or benefits.

13. The assurances and covenant required by paragraphs 9 through 12 above shall not apply to ultimate beneficiaries under the program for which this patent is made. Ultimate beneficiaries are identified in 43 CFR 17.12(h). 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. 89108.

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 conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposal 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 conveyance for classification of the lands to the District Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a solid

waste convenience station. Comments on the classifications 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 solid waste convenience 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 conveyance until after the classification becomes effective.

Dated: March 8, 2000.

Judy A. Fry,

Acting Assistant Field Manager, Division of Lands, Las Vegas Field Office.

[FR Doc. 00–6893 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement/General Management Plan, Whiskeytown Unit, Shasta -Trinity-Whiskeytown National Recreation Area, Shasta County, California; Notice of Approval of Record of Decision

SUMMARY: Pursuant to 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L.91–190, as amended) and the regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service has prepared and approved a Record of Decision for the Final Environmental Impact Statement/General Management Plan for Whiskeytown National Recreation Area. The no-action period was initiated September 17, 1999, with the U.S. Environmental Protection Agency's **Federal Register** notification of the filing of the Final Environmental Impact Statement (FEIS).

Decision

As soon as practical the National Park Service will begin to implement the General Management Plan described as the Proposed Action (Alternative C) contained in the FEIS. This alternative was deemed to be the environmentally preferred alternative. This course of action and three alternatives were identified and analyzed in the Final and Draft Environmental Impact Statements (the latter was distributed on September 8, 1998). The full range of foreseeable environmental consequences were assessed, and appropriate mitigation measures identified.

Copies

Interested parties desiring to review the Record of Decision may obtain a copy by contacting the Superintendent, Whiskeytown National Recreation Area, P.O. Box 188, Whiskeytown, California 96095; or via telephone request at (530) 242–3400.

Dated: March 8, 2000.

John J. Reynolds,

Regional Director, Pacific West Region.

[FR Doc. 00–6912 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Trail of Tears National Historic Trail Advisory Council Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Trail of Tears National Historic Trail Advisory Council will be held April 26, 2000, 8:30 a.m., at the Holiday Inn, 2336 Highway 411N, White, Georgia.

The Trail of Tears National Historic Trail Advisory Council was established administratively under authority of section 3 of Public Law 91–383 (16 U.S.C. 1s–2(c)), to consult with the Secretary of the Interior on the implementation of a comprehensive plan and other matters relating to the Trail, including certification of sites and segments, standards for erection and maintenance of markers, preservation of trail resources, American Indian relations, visitor education, historical research, visitor use, cooperative management, and trail administration.

The matters to be discussed include:

—Plan Implementation Status
—Trail Association Status
—Cooperative Agreements Negotiation
—Trail Route and other Historical Research

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with David Gaines, Superintendent.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact David Gaines, Superintendent, Long Distance Trails Group Office-Santa Fe, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87504–0728, telephone 505/988–6888. Minutes of the meeting will be available for public inspection at the Office of the Superintendent, located in Room 205, Pinon Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

Dated: March 7, 2000.

David M. Gaines,

Superintendent.

[FR Doc. 00–6962 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 11, 2000. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by April 5, 2000.

Beth Boland,

Acting Keeper of the National Register.

ARIZONA

Coconino County: Grand Canyon Railway, From Williams, AZ, to Grand Canyon National Park, Williams, 00000319

ARKANSAS

Phillips County: Maple Hill Cemetery, N. Holly St., Helena, 00000318

CALIFORNIA

Mono County: Yellow Jacket Petroglyphs, Address Restricted, Bishop, 00000321

San Mateo County: Coxhead, Ernest, House, 37 E. Santa Inez Ave., San Mateo, 00000322

Stanislaus County: First National Bank of Oakdale Building, 338 East F St., Oakdale, 00000320

COLORADO:

Phillips County: Reimer—Smith Oil Station, 109 S. Campbell Ave, Holyoke, 00000323

CONNECTICUT

Fairfield County: Fourth Ward Historic District, Roughly along Church, Division, Northfield and William Sts.; and Putnam Court and Sherwood Place, Greenwich, 00000324

New Haven County: Birmingham Green Historic District, Roughly bounded by Fifth, Caroline, Fourth and Olivia Sts., Derby, 00000325

IDAHO

Idaho County: Big Creek Commissary, Yellow Pine, Payette National Forest, Big Creek, 00000327

IOWA

Emmet County: Brugield—Peterson Family Farmstead District, 2349 450th Ave., Wallingford, 00000326

KANSAS

Washington County: Washington County Courthouse, 214 C St., Washington, 00000328

LOUISIANA

Natchitoches Parish: Jones, John Carroll, House, (Louisiana's French Creole Architecture MPS) 473 LA 484, Natchez, 00000329

MISSISSIPPI

Bolivar County: Rosedale Historic District, Roughly along Main, Front, and Levee Sts., from Elizabeth Ave. to Brown St., Rosedale, 00000331

Jackson County: Pascagoula High School, Old, 2903 Pascagoula St., Pascagoula, 00000330

Madison County: Mt. Zion Baptist Church, 514 West North St., Canton, 00000333

Winston County: Foster—Fair House, 507 S. Columbus Ave., Louisville, 00000332

MISSOURI

Jackson County: Pilgrim Lutheran Church for the Deaf of Greater Kansas City and Parsonage, 3801–3807 Gilham Rd., Kansas City, 00000334

MONTANA

Missoula County: Mrs. Lydia McCaffery's Furnished Rooms, (Missoula MPS) 501 West Alder, Missoula, 00000335

NEVADA

Douglas County: Farmers' Bank of Carson Valley, 1596 Esmeralda Ave., Minden, 00000338

Washoe County:

Nystrom Guest House, 333 Ralston St., Reno, 00000339

Peavine Ranch, 11220 N. Virginia St., Reno, 00000337

Twaddle—Pedroli Ranch, 4970 Susan Lee Circle, Washoe Valley, 00000340

Withers Log Home, 344 Wassou, Crystal Bay, 00000341

NEW MEXICO

Rio Arriba County: Tierra Amarilla AFS P–8 Historic District, 9.0 mi. SE of Tierra Amarilla on NM 112, Tierra Amarilla, 00000342

NEW YORK

Greene County:

Fischel, Harry, House, 6302 Main St., Hunter, 00000348

Halcott Grange No. 881, Cty Rte. 3, Halcott, 00000351

Livingston County: Hemlock Fairground, East Ave., Hemlock, 00000347

Onondaga County: Southwood Two-Teacher School, 4621 Barker Hill Rd., Jamesville, 00000349

Orange County: Brotherhood Winery, Brotherhood Plaza, Washingtonville, 00000345

Rockland County:

Hopper, Edward, Birthplace and Boyhood Home, 82 North Broadway, Nyack, 00000352

Sloat's Dam and Mill Pond, Off of Station Rd., Sloatsburg, 00000344

Wayside Chapel, Former, 24 River Rd., Grand View-On-Hudson, 00000346

Sullivan County: Cochecton Center Methodist Episcopal Church, Skipperdine Rd., Cochecton Center, 00000343

Wyoming County: Epworth Hall, Perry Ave., Perry, 00000350

NORTH CAROLINA

Buncombe County: Fire Station Number 4, 300 Merrimon Ave., Asheville, 00000336

TENNESSEE

Williamson County: Roper's Knob Fortifications, (Civil War Historic and Historic Archeological Resources in Tennessee MPS) Off Liberty Pike, Franklin, 00000353

UTAH

Iron County: Lyman, William and Julia, House, 191 S. Main St., Parowan, 00000355

Salt Lake County: Green, Alvin and Annie, House, (Sandy City MPS) 8400 Danish Rd., Sandy, 00000356

Uintah County: Carter Road, Ashby National Forest, Ashby National Forest, 00000354

Utah County: Cedar Fort School, 40 E. Center St., Cedar Fort, 00000357

VERMONT

Caledonia County: Building at 143 Highland Avenue, 143 Highland Ave., Hardwick, 00000358

WISCONSIN

Dane County: Sun Prairie Water Tower, Jct. of Columbus, Church and Cliff Sts., Sun Prairie, 00000360

Green County: Chicago, Milwaukee and Saint Paul Railroad Depot, 418 Railroad St., New Glarus, 00000359

On March 13, 2000, the following resource was removed from the National Register of Historic Places; determined eligible for the National Register of Historic Places:

PENNSYLVANIA

Greene County: Kent, Thomas, Jr. Farm 208 Laurel Run Rd., Waynesburg, 98000444

[FR Doc. 00–6911 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Adaptive Management Work Group (AMWG) and Glen Canyon Technical Work Group (TWG)

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice; correction.

SUMMARY: The Bureau of Reclamation published a document in the **Federal Register** on February 24, 2000, concerning the announcement of an upcoming public meeting of the Glen Canyon Dam Adaptive Management Work Group. The meeting has been canceled.

FOR FURTHER INFORMATION CONTACT: Randall Peterson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102; telephone (801) 524–3758; faxogram (801) 524–3858; E-mail at rpeterson@uc.usbr.gov at least FIVE (5) days prior to the meeting. Any written comments received will be provided to the TWG and AMWG members at the meetings.

In the **Federal Register** of February 24, 2000, in FR Doc. 00–4205, on page 9296, in the third column, correct the information under April 4–5, 2000, Phoenix, Arizona, to read as follows:

April 4–5, 2000, Phoenix, Arizona—The AMWG Meeting has been canceled. For further information on future

meeting dates, please check out the Bureau of Reclamation web site at http://www.uc.usbr.gov/amp.

Dated: March 15, 2000.

Erica Petacchi,

Federal Register Liaison.

[FR Doc. 00–6899 Filed 3–20–00; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

Meeting; Sunshine Act

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: March 22, 2000 at 11 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv No. 731–TA–377 (Review) (Internal Combustion Industrial Forklift Trucks from Japan)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on April 4, 2000.)
5. Inv. Nos. 731–TA–474–475 (Review) (Chrome-Plated Lug Nuts from China and Taiwan)— briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on March 29, 2000.)
6. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: March 15, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–7071 Filed 3–17–00; 12:10 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Aerospace Vehicle Systems Institute (''AVSI'') Cooperative

Notice is hereby given that, on September 21, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Aerospace Vehicle Systems Institute (''AVSI'') Cooperative has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Hamilton Standard Division of United Technologies Corporation and Sunstrand Corporation have merged to form Hamilton Sunstrand Division of United Technologies Corporation, Windsor Locks, CT. Additionally, the AVSI Cooperative intends to work on the following joint research projects:

Systems Engineering and Information Management—To evaluate and develop systems engineering and information management processes and tools to be used at the aerospace vehicle and subsystem level for the efficient, industry-wide communication of requirements and configuration management information.

Certification Cost Minimization—To evaluate and recommend new standard industry-wide processes and guidelines for both design and compliance methods for aerospace vehicle electrical equipment hardware and software that will minimize both initial and subsequent qualification and certification costs and cycle times.

Defining Real Operating Environments—To establish aerospace vehicle system local environmental operating conditions to allow refinement of design requirements for subsystems, electrical and hardware components.

Rapid Prototyping Tools for Flight Deck Display Systems—To produce a common development process and associated interface standards to allow rapid prototyping of flight deck and cockpit display concepts and to efficiently transition these concepts into avionics systems.

Systems Bus Study—To determine whether a new databus technology should be developed for application to commercial aircraft and to evaluate the appropriate level of technologies needed in a new databus.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Aerospace Vehicle Systems Institute (''AVSI'') Cooperative intends to file additional written notification disclosing all changes in membership.

On November 18, 1998, Aerospace Vehicle Systems Institute (''AVSI'') Cooperative filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 18, 1999 (64 FR 8123).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6957 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Application Service Provider Industry Consortium, Inc.

Notice is hereby given that, on July 28, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Application Service Provider Industry Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are AT&T, San Jose, CA; AristaSoft Corp., Mountain View, CA; Boundless Technologies, Inc., Hauppauge, NY; Cisco Systems, Inc., San Jose, CA; Citrix Systems, Inc., Ft. Lauderdale, FL; Compaq Computer Corporation, Marlborough, MA; CyLex Systems, Inc., Boca Raton, FL, Ernst & Young, Calgary, Alberta, CANADA; Exodus Communications, Inc., Santa Clara, CA; FutureLink Distribution Corp., Calgary, Alberta, CANADA; GTE, Irving, TX; Great Plains Software, London, Ontario, CANADA; IBM Corp., White Plains, NY; Interpath Communications, Inc., RTP, NC; JAWS Technologies, Inc., Calgary, Alberta, CANADA; Marimba, Inc., Mountain View, CA; Onyx Software Corp., Bellevue, WA; SaskTel, Regina, Saskatchewan, CANADA; Sharp Electronics Corp., Mahwah, NJ; Sun Microsystems, Palo Alto, CA; Taylor Group, Bedford, NH; Telecomputing, Fort Lauderdale, FL; UUNET, Fairfax, VA; Verio, Englewood, CO; WYSE, San Jose, CA; Breakaway Solutions, Inc., Boston, MA; Daleen Technologies, Inc., Boca Raton, FL; ebaseOne Corp.,

Houston, TX; GraphOn Corp., Campbell, CA; National Semiconductor, Santa Clara, CA; Progress Software, Bedford, MA; Xanthon, Inc., Salt Lake City, UT; AboveNet, San Jose, CA; BlueSky, Delray Beach, FL; Interliant, Houston, TX; Mincom Limited, Brisbane, Q'Land, AUSTRALIA; US West, Denver, CO; Softblox, Atlanta, GA; Documentum, Pleasanton, CA; Netstore Group Ltd., Bracknell, Berkshire, UNITED KINGDOM; Learningstation.com, Charlotte, NC; SCO, Cambridge, UNITED KINGDOM; NaviSite, Inc., Andover, MA; Fujitsu Limited, Tokyo, JAPAN; Professional Advantage, North Sydney NSW, AUSTRALIA; Lucent Technologies, Warren, NJ; MetaSolv Software, Inc., Plano, TX; Microsoft Corporation, Redmond, WA; L.I.M.S. (USA) Inc., Hollywood, FL; Solution 6 Pty Ltd., Sydney, NSW, AUSTRALIA; Ensim Corporation, Mountain view, CA; Data General, Westboro, MA; Digital Island, Inc., San Francisco, CA; EpiCON, Inc., Waltham, MA; Sprint Corporation, Dallas, TX; Network Computing Devices, Mountain View, CA; Packeteer, Inc., Cupertino, CA; FirstSense Software, Inc., Burlington, MA; National Payroll Systems Pty Ltd., Malvern, Victoria, AUSTRALIA; Esoft Ltd., Stockport, Cheshire, UNTIED KINGDOM; Nortel Networks, RTP, NC; ChoicePoint, Tipton, PA; Hewlett-Packard, Roseville, CA; NTT America, Inc., Mountain View, CA; Imago ASP Services, Lenexa, KS; CIBER Enterprise Outsourcing, Columbia, SC; EMC,[2] Hopkinton, MA; Unisys, Blue Bell, PA; Aventail Corp., Seattle, WA; Netier Technologies, Inc., Carrollton, TX; Data Return Corporation, Arlington, TX; BCA it Ltd., Melbourne, Victoria, AUSTRALIA; SunGard Computer Services Inc., Wayne, PA; PBM Corp., Cleveland, OH; Eggrock Partners, LLC, Concord, MA; International Energy Services, Inc., Houston, TX; JustOn, Santa Clara, CA; Deloitte Consulting, East Brunswick, NJ; Madge Networks Ltd., Wexham, Slough, ENGLAND; X-Collaboration Software Corporation, Boston, MA; Abatis Systems Corporation, Burnaby, British Columbia, CANADA; ELF Technologies, Inc., Mercer Island, WA; Enterprise Development Services, Atlanta, GA; Compuware Corporation, Campbell, CA; Sequent Computer Systems, Beaverton, OR; Imagecom, Arlington Heights, IL; Avnet, Tempe, AZ; and Prologue Software, Les Ulis, FRANCE. The nature and objectives of the venture are to educate the market worldwide about the benefits of the ASP industry, provide common definitions for the industry, serve as a forum for discussion of issues that are related to, or may further, such goals, sponsor industry research, establish interoperability guidelines, and engage in such other activities (e.g., certification and/or branding programs) as may further such goals.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6961 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Enterprise Computer Telephony Forum

Notice is hereby given that, on July 8, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Enterprise Computer Telephony Forum (''ECTF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damage under specified circumstances. Specifically, CCS Trexcom, Inc., Norcross, GA; Witness Systems, Inc., Alpharetta, GA; Ariel Corporation, Cranbury, NJ; Blue Wave Systems, Leicestershire, United Kingdom; BST Communication Technology, Ltd., Guangzhou, China; Communiq ASA, Sola, Norway; Etex-Sprachsynthese AG, Frankfort, Germany; Global Communications Systems Research, Alexandria, VA; Industrial Technology Research Institute, Taejon, Korea; Inter-Tel, Inc., Chandler, AZ; and Logic Ltd., Aldermaston, United Kingdom have been added as parties to this venture. Also, Advanced Digital Telephony, Altadena, CA; Amteva Technologies, Inc., Glen Allen, VA; Computer Communication Specialists, Norcross, GA; British Telecom, Sundbury, United Kingdom; Comdial, Charlottesville, VA; and Systems Integration, Ltd., Aldermaston, United Kingdom have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Enterprise Computer Telephony Forum (''ECTF'') intends to file additional written notification disclosing all changes in membership.

On February 20, 1996, Enterprise Computer Telephony Forum (''ECTF'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 1996 (61 FR 22074).

The last notification was filed with the Department on April 1, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6954 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; J. Consortium, Inc.

Notice is hereby given that, on August 9, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), J. Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Advanced VLSL Engineering Inc., San Jose, CA; Advantisys, Upland, CA; Anacon Systems Inc., Mountain View, CA; Aonix, San Diego, CA; Brooks Automation Software Corp., Richmond, B.C., CANADA; Coactive Networks, Sausalito, CA; EIB Association scrl (EIBA), Brussels, BELGIUM; FI System, Paris, FRANCE; GraphOn, Campbell, CA; Groupe Silicomp Research Institute, Gieres, FRANCE; Hewlett Packard, Cupertino, CA; Hinditron Information Ltd., Andhen (East), MUMBAI; Icon Laboratories, Inc., West Des Moines, IA; KALKI Communications Technology, Koramangala, BANGALORE; Microsoft, Redmond, WA; Mitsubishi Electric Corp., Kobe, JAPAN; Murata Manufacturing Co., Ltd., Siga, JAPAN; Navia Maritime AS, division Autronica, Trondheim, NORWAY; NewMonics Inc., Ames, IA; Russell J. Richards, Woodbridge, VA; Octera Corporation, San Diego, CA; OMRON Corporation, Santa Clara, CA; Jack Xu, Milpitas, CA; Perennial, San Jose, CA; Plum Hall Inc.,

Kamuela, HI; Schlumberger Test & Transactions, Montrouge Cedex, FRANCE; Siemens A&D, Nurnberg, GERMANY; Transmedia Communications, Fremont, CA; WindRiver, Alameda, CA; Xerox PARC, Palo Alto, CA; Xycom Automation Inc., Chagrin Falls, OH; Yamatake Corporation, Kanagawa, JAPAN; Yokogawa Electric Corporation, Tokyo, JAPAN; and E. Douglas Jensen, Sherborn, MA. The nature and objectives of the venture are to promote the development and adoption of open, accessible standards and specifications relating to real-time and embedded applications for JAVA™ technologies, such as the Java Virtual Machine (JVM), Java Application Programming Interfaces (APIs, or packages), etc. (''Specifications''); to promote such specifications and solutions worldwide to ensure the ability for application developers to create soft- and hard-real-time applications for such technologies, to provide for testing and conformity assessment of implementations in order to ensure compliance with Specifications; to create and own distinctive trademarks; and to operate a branding program based upon distinctive trademarks to create high customer awareness of, demand for, and confidence in products designed in compliance with Specifications; and to undertake such other activities as may from time to time be appropriate to further the purposes and achieve the goals set forth above.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6958 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Medal, L.P.—High Performance Inorganic—Organic Mixed Matrix Composite Membranes

Notice is hereby given that, on July 7, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, U.S.C. 4301 *et seq.* (''the Act''), MEDAL, L.P.—High Performance Inorganic—Organic Mixed Matrix Composite Membranes has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identifies of the parties and (2) the nature and objectives of the venture. The notification were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are MEDAL, L.P., Newport, DE; and Chevron Research and Technology Company, Richmond, CA. The nature and objectives of the venture are to conduct research on high-performance inorganic-organic mixed matrix composite membranes for the separation of gases and liquids.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–6960 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Center for Manufacturing Sciences, Inc. (''NCMS''): Advanced Embedded Passives Technology

Notice is hereby given that, on August 5, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Center for Manufacturing Sciences, Inc. (''NCMS''): Advanced Embedded Passives Technology has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Electro Scientific Industries, Inc., Portland, OR; and MicroFab Technologies, Inc., Plano, TX have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences, Inc. (''NCMS''): Advanced Embedded Passives Technology intends to file additional written notification disclosing all changes in membership.

On October 7, 1998, National Center for Manufacturing Sciences, Inc. (''NCMS''): Advanced Embedded Passives Technology filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 22, 1999 (64 FR 3571).

The last notification was filed with the Department on February 3, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 1, 1999 (64 FR 29357).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6952 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Portland Cement Association (''PCA'')

Notice is hereby given that, on September 7, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Glacier Northwest Canadian Ltd., Vancouver, BC, Canada; and Bulk Materials International Company, Inc., Newton, CT; (an Associate Member) have been added as parties to this venture. Also, Holderbank Consulting Limited's corrected company name is Holderbank Engineering Canada Ltd., Mississauga, Ontario, Canada; and Polysius Corporation's corrected name is Krupp-Polysius Corp., Atlanta, GA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Portland Cement Association (''PCA'') intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Portland Cement Association (''PCA'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 1985 (50 FR 67591).

The last notification was filed with the Department on June 2, 1999. A

notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6955 Filed 3–21–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1933; Standard MEMS

Notice is hereby given that, on August 3, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Standard MEMS has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Microscan Systems, Inc., Renton, WA; Maxim Integrated Products, Sunnyvale, CA; Microcosm Technologies, Inc., Cambridge, MA; Optical Micro Systems, Inc., San Diego, CA; Standard MEMS, Hauppauge, NY; and Xerox Corporation, Webster, NY. The nature and objectives of the venture are to develop a manufacturing process and manufacturing infrastructure for Micro-Opto-Electro-Mechanical Systems. The activities of this project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce. The goals of this collaboration are to overcome the barriers that limit the application of low-cost Micro-Opto-Electro-Mechanical Systems (MOEMS) devices in commercial applications in telecommunications, data acquisition, and reprographics. The most important technical barriers are in the areas of packaging, systems partitioning, the optical and mechanical properties of thin film elements, and the assembly and alignment of free-space micro-optical systems. To overcome the technical barriers, Standard MEMS will develop a broadly enabling MOEMS fabrication process, and utilize this process to demonstrate prototype MOEMS devices at Optical Micro-Machines, Microscan Systems, and Xerox, to enable commercialization of the prototypes following the completion of the ATP collaboration.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6953 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Telemanagement Forum

Notice is hereby given that, on June 8, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 et seq. (''the Act''), Telemanagement Form has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Citizens Communications, Dallas, TX; Bea Systems, Inc., Sunnyvale, CA; Telstra Corporation, Melbourne, AUSTRALIA; Telecordia Technologies, Red Bank, NJ; and Metamor Industry Solutions, Birmingham, AL have been added as Corporate Members. ETIS, Brussels, BELGIUM has been added as an Affiliate Member. Level (3) Communications, Westminster, CO; Raychem Corp., Menlo Park, CA; Telecommunications Management Network de Mexico, Mexico City, MEXICO; Object-Mart, Inc., San Jose, CA; Pathnet, Washington, DC; ITS., Inc., Piscataway, NJ; Teledesic LLC, Kirland, WA; Accunet Ltd., Newbury, Berkshire, ENGLAND; Telekom Applied Business SDN BHD, Kuala Lumpur, MALAYSIA; Commtech Corp., Cranbury, NJ; Streamsoft, Inc., Fremont, CA; Hitachi Telecom (USA); Inc., Norcross, GA; ISR Global Telecom, Orlando, FL; Protek, Kokstad, Bergen, NORWAY; SITA, Neuilly-sur-Seine, FRANCE; and Fore Systems, Dublin, IRELAND have been added as Associate Members. Also, Hitachi Telecom (USA), Inc., Norcross, GA; ISR Global Telecom, Orlando, FL; ETIS, Brussels, BElGIUM; Bellcore, Red Bank, NJ; and Technology and Process Consulting, Inc., Birmingham, AL have been dropped as Corporate Members. SITA, Neuilly-sur-Seine, FRANCE has been dropped as an Affiliate Member. Bea Systems, Inc., Sunnyvale, CA; Telstra Corp., Melbourne, AUSTRALIA; Nera AS, Kokstad, Bergen, NORWAY; and Euristix Ltd, Dublin, IRELAND have been dropped as Associate Members.

Nera AS is no Protek; Sita/Equant is now Sita; Bellcore is now Telcordia Technologies; Euristix is now Fore Systems; and Technology Process and Consulting, Inc. is now Metamor Industry Solutions.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Telemanagement Forum intends to file additional written notification disclosing all changes in membership.

On October 21, 1988, Telemanagement Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on February 19, 1999. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–6956 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; United Defense, L.P. (''UDLP''): Crusader Advanced Field Artillery System Program

Notice is hereby given that, on October 15, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), United Defense, L.P. (''UDLP''): Crusader Advanced Field Artillery System Program has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are United Defense, L.P., Minneapolis, MN; and General Dynamics Corporation, Sterling Heights, MI. The nature and objectives of the venture are the U.S. Army currently is developing its next generation field artillery system,

which is called The Crusader Advanced Field Artillery System Program (''Crusader Program''). Development is being managed by a joint government-industry ''integrated product team'' that includes the U.S. Army Tank-automotive Armaments Command-Armaments Research, Development and Engineering Center (TACOM–ARDEC), Office of the Project Manager—Crusader (OPM–Crusader), and UDLP as the prime contractor for the Crusader Program. GD is a major subcontractor for the Program. The Army has approved a non-competitive acquisition strategy for the Crusader Program.

Contracts previously have been awarded to DULP for certain initial development phases of the Crusader Program, and additional contracts may be awarded for future phases and stages of the Program. The objectives of the parties' teaming agreement are to identify their respective and mutual roles, obligations and responsibilities pertaining to accomplishment of the Crusader Program. By this agreement, the parties intend to form an exclusive team for all phases and stages of the Crusader Program, including further system development and production, and to pursue Program-related sales to the U.S. Government and international customers. The parties will jointly prepare and submit proposals containing technical, management and cost information for implementation of the Crusader Program. UDLP will continue to perform as prime contractor under any contracts that have been or may be awarded and GD will perform as subcontractor.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–6959 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on December 27, 1999, Organichem Corporation, 33 Riverside Avenue, Renssalaer, New York 12144, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Meperidine (9230)	II

The firm plans to manufacture meperidine as bulk product for distribution to its customers and to manufacture methylphenidate for distribution to a customer.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 22, 2000.

March 13, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–6984 Filed 3–20–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS 2049–00]

Information Regarding the H–1B Numerical Limitation for Fiscal Year 2000

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice explains how the Immigration and Naturalization Service (the Service/INS) will process H–1B petitions for new employment for the remainder of this fiscal year now that it is clear that the demand for H–1B workers will exceed the statutory numerical limit (the cap) of 115,000 H–1B petitions for Fiscal Year 2000. This notice is published so that the public will understand the Service's procedure for processing H–1B petitions, as the procedure may affect the business decisions of some prospective H–1B petitioners. These procedures are intended to minimize the confusion and burden to employers who use the H–1B program, reduce the administrative burden at the Service Centers, and eliminate the need for employers to inquire about the status of pending H–1B petitions.

This notice also serves to inform the public that the Commissioner of the INS is exercising her authority under 8 CFR 214.2(f)(5)(vi) and (j)(1)(vi) for this fiscal year to extend the duration of stay for certain F and J nonimmigrants (students and exchange visitors) if their employer has filed a timely request for change of nonimmigrant status to that of an H–1B nonimmigrant alien and the petition was filed before October 1, 2000. This measure will prevent a lapse of status for these aliens before the Service is able to act on petitions to change their status.

DATES: This notice is effective March 21, 2000.

FOR FURTHER INFORMATION CONTACT: Tracy Renaud, Adjudications Officer, Immigration Services Division, Immigration and Naturalization Service, 801 I Street, NW, Room 980, Washington, DC 20536, telephone (202) 305–8010.

SUPPLEMENTARY INFORMATION:

What is an H–1B nonimmigrant?

An H–1B nonimmigrant is an alien employed in a specialty occupation or as a fashion model of distinguished merit and ability. A specialty occupation is an occupation that requires theoretical and practical application of a body of specialized knowledge and attainment of a bachelor's or higher degree in the specific specialty as a minimum for admission into the United States.

What is the cap or numerical limitation on the H–1B nonimmigrant classification?

Section 214(g) of the Immigration and Nationality Act (the Act) provides that the total number of aliens who may be issued H–1B visas or otherwise granted H–1B status during Fiscal Year 2000 may not exceed 115,000. As of February 29, 2000, the Service has recorded 74,300 petitions against the cap for Fiscal Year 2000. As of February 29, 2000, there are more than 45,000 H–1B cap petitions pending at the four Service Centers. Since on average the Service approved 90 percent (90%) of the H–1B petitions it receives, there now appears to be a sufficient number of H–1B petitions pending at the four Service Centers to reach the cap for this fiscal year. Therefore, as of [Date of publication in the **Federal Register**], the Service will reject any petitions requesting a start date prior to October 1, 2000.

What is the effect of this action?

This notice explains the Service's procedure for processing H–1B petitions for new employment that are filed by

employers seeking to employ H–1B aliens during the remainder of this fiscal year, *i.e.*, through September 30, 2000. The process described in this notice is similar to the process the Service used in the fiscal Year 1999 for handling H–1B petitions after the cap had been reached.

The Service also published a proposed regulation at 64 FR 32149 on June 15, 1999, that described the method that it would use in handling H–1B petitions in subsequent fiscal years. This notice contains the same language as in the proposed rule.

Does this procedure apply to all H–1B petitions filed for this fiscal year?

No. The procedure described in this notice relates only to H–1B petitions filed for new employment to commence on or before September 30, 2000. A petition for new employment includes a petition where the alien beneficiary is outside the United States when the H–1B petition is approved or where the alien is already in the United States and is seeking a change of nonimmigrant status to an H–1B nonimmigrant alien.

Amended petitions and petitions for extension of stay are not affected by this procedure because these petitions do not count against the cap. Likewise, petitions for aliens in the United States who already hold H–1B status, *i.e.*, petitions filed on behalf of an H–1B alien by a new or additional employer, are not affected by this procedure. This procedure does not relate to petitions filed before October 1,2000, for employment to commence on or after October 1, 2000.

What is the Service's procedure for processing H–1B petitions for new employment during the remainder of this fiscal year?

This notice inform the public that there are a sufficient number of H–1B petitions pending at the four Service Centers to reach the cap of 115,000 for this fiscal year. The Service will not accept for adjudication any H–1B petition for new employment containing a request for a work start date prior to October 1, 2000. These petitions will be rejected and returned (along with the filing fee) to the petitioner according to 8 CFR 214.2(h)(8)(ii)(E). However, such petitioners are free to refile those petitions with a new starting date of October 1, 2000, or later.

The Service will not reject a pending petition when the Fiscal Year 2000 allotment of 115,000 H–1B numbers has been exhausted. Just as in Fiscal Year 1999, the Service will proceed to adjudicate the petition based on a presumption that the employer will accept October 1, 2000, as the date from which the approved petition is valid and the first date on which the alien beneficiary may begin employment as an H–1B worker.

It must be noted that the Service received favorable comments from the public on this procedure when it was first implemented in Fiscal Year 1999. In view of these favorable comments, the Service will continue to use the same process this fiscal year.

Each Service Center will coordinate their adjudication of pending H–1B petitions to ensure that all petitions will be processed in order of receipt by the Service Center irrespective of the place of filing. The Service is currently adjudicating H–1B petitions which were filed as late as January 20, 2000. Thereafter ''pipeline'' cases (petitions filed prior to the date the cap was reached) will be adjudicated in the order of receipt, but will be assigned a work start date of October 1 of the new fiscal year or later.

What should a petitioner do if the October 1 start date for employment is not acceptable?

If the petitioner is unwilling to wait until the October 1 start date for employment of the H–1B alien and the Service has not yet adjudicated the petition, the petitioner should notify the Service in writing that he or she wishes to withdraw the petition. As noted below, the Service cannot refund the filing fee in such cases.

If the Service has approved a petition for work to begin as of October 1, 2000, and the petitioner determines that the date is not acceptable, the petitioner should notify the Service is writing immediately so that the Service can revoke the petition and recapture the number and return it to the pool of unused numbers of Fiscal Year 2001.

How should a petitioner notify the Service that it wishes to withdraw a petition?

If a petitioner wishes to withdraw a pending H–1B petition or an approved H–1B petition for new employment, the petitioner should fax a withdrawal request to the Immigration and Naturalization Service, Immigration Services Division, H–1B Withdrawal Section, Washington, DC, fax number: 202–514–2093. The request should be signed by the petitioner or authorized representative and include the filing receipt number and the names of both the petitioner and beneficiary. Employers seeking to request withdrawal of an H–1B petition should use this fax number and special procedure.

Does this process apply to H–1B petitions filed for employment to commence on or after October 1, 2000?

No. Those petitioners are not affected by the procedures described in this in this notice and will be adjudicated in the normal fashion, regardless of whether they are pending as of the date of this notice or filed after this year's cap is reached.

How will the Service process petitions that are revoked?

The Service will subtract revocations of any H–1B petitions for new employment from the total H–1B count in the fiscal year for which the new employment was approved. After the petition is revoked, the case number will be sent to the Immigration Services Division (ISD) where the number will be recaptured for use. The number will then be forwarded by ISD to a Service Center to be assigned to a pending petition. Priority will be given to approved petitions in the order they were received (*e.g.*, petitions that were originally denied but subsequently ordered approved by the Administrative Appeals Office).

Will the Service refund a filing fee if a petition is withdrawn or revoked?

No, the Service will not refund either the $110 filing fee or the additional $500 filing fee imposed by the American Competitiveness and Workforce Improvement Act of 1998 when a petition is revoked. The provisions contained in 8 CFR 103.2(a)(1) preclude the refunding of filing fees on I–129 petitions in this situation. The Service will refund a filing fee only if the filing of the petition was a result of Service error.

Will the Service allow certain F and J nonimmigrant aliens who are the beneficiaries of H–1B petitions to remain in the United States until they can change their status to H–1B on or after October 1, 2000?

Yes. The Service published an interim rule in the **Federal Register** of June 15, 1999, at 64 FR 32146 that amended its regulations to expand the definition of duration of status for certain F and J nonimmigrant aliens whose employer has filed a timely H–1B petition and application for change of nonimmigrant classification.

The interim rule provided that the Commissioner may extend the duration of status, by notice in the **Federal Register**, of any F or J nonimmigrant alien whose employer has filed a timely petition for change of nonimmigrant status to that of an H–1B nonimmigrant as described in 8 CFR part 248,

provided the alien has not violated the terms of his or her admission to the United States, at any time the Commissioner determines that the H–1B cap will be reached prior to the end of the fiscal year. This extension shall continue for such time as is necessary for the Service to approve a petition changing the alien's status to H–1B in the following fiscal year. An alien whose duration of status has been extended by the Commissioner under these regulations (and who continues to adhere to the other terms of the alien's F and J status) is considered to be maintaining lawful nonimmigrant status for all purposes under the Act.

When will the Commissioner exercise her authority to extend duration of status for this fiscal year?

This notice informs the public that the Commissioner has exercised her discretionary authority under 8 CFR 214.2(f)(5)(vi) and 8 CFR (j)(1)(vi) for this fiscal year. Accordingly, any F or J nonimmigrant whose employer has filed a timely request for change of nonimmigrant status to that of an H–1B nonimmigrant alien whose petition was filed or will be filed before October 1, 2000, is considered to be in a valid nonimmigrant status until October 1, 2000, or until the date the Service adjudicates the change of status application. Pursuant to 8 CFR 248.1(b) and 214.1(c)(4), the term ''timely filed'' refers to an application for a change of nonimmigrant status filed prior to the expiration of the alien's period of authorized stay in the United States. This provision also applies to the dependents of the affected F and J nonimmigrant aliens. An alien affected by this provision may not work for the petitioning employer or otherwise engage in activities inconsistent with the terms and conditions of the alien's nonimmigrant classification prior to the date for which the Service approves the request for a change of status.

May an F or J nonimmigrant whose stay is extended under this provision accept a hiring bonus before October 1, 2000?

Yes. An F–1 or J–1 nonimmigrant alien may receive a signing bonus before the validity date of the H–1B petition. A signing bonus does not represent a salary or a reimbursement for services rendered and, as a result, may be accepted by the alien.

Does the Fiscal Year 2000 cap include the cases that the Service approved in excess of the cap in Fiscal Year 1999?

No. Any cases that the Service may have approved in excess of the Fiscal Year 1999 cap were not counted against the Fiscal Year 2000 cap. While the numerical cap for the H–1B visa category was exceeded in Fiscal Year 1999, the Service has not yet conclusively determined the exact amount of that discrepancy. The Service will publish a future notice in the **Federal Register** addressing how these cases will be treated once the exact amount of the H–1B discrepancy in Fiscal Year 1999 has been determined.

Dated: March 14, 2000.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00–7074 Filed 3–17–00; 2:20 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 13, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov)

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Qualification and Certification Program.

OMB Number: 1219–0069 Extension.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 611.

Estimated Time Per Respondent:

Form	Total respondents	Estimated average time per respondent (in minutes)	Burden hours
5000–4	578	21	202
5000–7	33	19	11
Total	611	20	213

Total Burden Hours: 213.

Total Annualized Capital/startup Costs: $0.

Total Annual (operating/maintaining): $202.

Description: Persons performing tasks and certain required examinations at coal mines which are related to miner

safety and health, and which require specialized experience, are required to be either ''certified'' or ''qualified''. Forms for Qualification and Certification may be downloaded in Portable Document Format (PDF) at: www.msha.gov.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–6966 Filed 3–20–00; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission of OMB Review; Comment Request

March 14, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Optional Use Payroll Form Under the Davis-Bacon Act.

OMB Number: 1215–0149.

Frequency: Weekly.

Affected Public: Individuals or households; Business or other for-profit; Federal Government; and State, Local or Tribal Government

Number of Respondents: 106,960.

Estimated Time Per response: 56 minutes.

Total Burden Hours: 9,200,000.

Total Annualized capital/startup costs: $40.

Total annual costs (operating/maintaining systems or purchasing services): $354,000.

Description: Report is used by contractors to certify payrolls in accordance with requirements of Copeland and Davis-Bacon Acts, attesting that proper wage rates and fringe benefits were paid; reviewed by contracting agencies to verify that rates are legal and that employees are properly classified.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–6967 Filed 3–20–00; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

The Bureau of Labor Statistics 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.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before May 22, 2000.

ADDRESSES: Send comments to Sytrina D. Toon, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE, Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Sytrina D. Toon, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Proposed Collection

The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the Consumer Price Index (CPI) Housing Survey Computer Assisted Data Collection (CADC). A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the **ADDRESSES** section of this notice.

II. Background

The Consumer Price Index (CPI) is the only index compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is most widely used as a measure of inflation, and serves as an indicator of the effectiveness of Government economic policy. It also is used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars.

III. Current Actions

This request is for a three-year clearance of the collection of housing information based on 1990 Census data and new construction data on residential structures built in 1990 and later. In order to facilitate continuity and sufficiency of the housing indexes compiled through the collection of the CPI (CADC) Housing Survey, the survey will be collected through Calendar Year 2002.

Type of Review: REVISION.

Agency: The Bureau of Labor Statistics.

Title: Consumer Price Index Housing (CPI) Survey (CADC).

OMB Number: 1220—0163.

Affected Public: Individuals or Households; Business or other for-profit institutions.

Total Respondents: 128,081.

Frequency: Semi-annually.

Total Responses: 163,394.

Average Time Per Response: 5 minutes.

Estimated Total Burden Hours: 19,299 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 13th day of March 2000.

W. Stuart Rust, Jr.

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 00–6965 Filed 3–20–00; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: May 1–2, 2000, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation at 4201 Wilson Blvd., Arlington, VA 22230, Rm. 360.

Type of Meeting: Closed.

Contact Person: Greg Farber and Mary Jane Saunders, Program Directors, Biological Instrumentation and Instrument Development, National Science Foundation, Rm. 615, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposal for acquisition of Biological Instrumentation and Instrument Development for the Major Research Instrumentation (MRI) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6937 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Advisory Panel for biological Infrastructure (#1215).

Date and Time: April 17–18, 2000, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation at 4201 Wilson Blvd., Arlington, VA 22230, Rm. 360.

Type of Meeting: Closed.

Contact Persons: Greg Farber and Mary Jane Saunders, Program Directors, Biological Instrumentation and Instrument Development, National Science Foundation, Rm. 615, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposal for acquisition of biological Instrumentation and Instrument Development for the Major Research Instrumentation (MRI) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information for a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6938 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(1194).

Date and Time: April 12, 2000, 8 a.m.–5:30 p.m.

Place: Room 530, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. George Hazelrigg, Program Director, Design and Integration Engineering Program, (703) 306–1330, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Agenda: To review and evaluate Major Research Instrumentation (MRI) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters that are exempt under 5 U.S.C. 522b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6942 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications System (1196).

Date and Time: April 20–21, 2000: 8:30 a.m. to 5 p.m.

Place: Room 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Usha Varshney, Electronics, Photonics, and Device Technologies Program, Division of Electrical and Communications Systems, National Science Foundations, 4201 Wilson Boulevard, Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Purpose: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Major Research Instrumentation proposals in the Electronics, Photonics, and Device Technologies Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b(c), (4) and (6) the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6943 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental & Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental & Integrative Activities (1193).

Date/Time: April 17, 2000, 8:00 a.m.–5:00 p.m.

Place: Rooms 310, 330 & 380, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Dragana Brzzkovic, Research Infrastructure, Experimental and Integrative Activities, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Telephone: (703) 306–1981.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE Digital Government proposals submitted in response to the program announcement (NSF 00–5).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6939 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences (1204).

Date/Time: May 11–12, 2000; 8:00 a.m.–5:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Alvin I Thaler, Program Director, Infrastructure Program, Room 1025 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1870.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning Scientific Computing Research Environments for the Mathematical Sciences as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6940 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Methods, Cross-Directorate, and Science and Society; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Advisory Panel for Methods, Cross-Directorate, and Science and Society (1760).

Date/Time: April 6–7, 2000; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 390, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Bonney H. Sheahan and Joseph L. Young, Program Directors for Cross Directorate Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1733.

Purpose of Meeting: To provide advice and recommendations concerning support of research proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Professional Opportunities for Women in Research & Education POWRE proposals for Cross Disciplinary Activities as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6941 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Physiology and Ethology (1160).

Date and Time: April 10, 11 and 12, 2000, 8:30 a.m.–6 p.m.

Place: NSF, Room 370, 4201 Wilson Blvd., Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. Judith Verbeke, Program Director, Integrative Plant Biology, Division of Integrative Biology and Neuroscience, Room 685N, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1422.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 11, 2000, 4 p.m. to 5 p.m.—discussion on research trends, opportunities and assessment procedures in Integrative Plant Biology.

Closed Session: April 10, 2000, 8:30 a.m.–6 p.m.; April 11, 2000, 8:30 a.m. to 4 p.m. and 5 p.m. to 6 p.m.; and April 12, 2000, 8:30 a.m. to 6 p.m. To review and evaluate Integrative Plant Biology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Meeting Officer.

[FR Doc. 00–6944 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 93–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Physiology and Ethology (1160).

Date and Time: April 27 and 28, 2000, 8:30 a.m.–6 p.m.

Place: NSF, Room 380, 4201 Wilson Blvd., Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. Judith Verbeke, Program Director, Integrative Animal Biology, Division of Integrative Biology and Neuroscience, Room 685N, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 28, 2000, 1 p.m. to 2 p.m.—discussion on research trends, opportunities and assessment procedures in Integrative Animal Biology.

Closed Session: April 27, 2000, 8:30 a.m. to 6 p.m.; April 28, 2000, 8:30 a.m. to 1 p.m., and 2 p.m. to 6 p.m. To review and evaluate Integrative Animal Biology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 16, 2000.

Karen J. York,

Committee Meeting Officer.

[FR Doc. 00–6945 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Public Affairs Advisory Group; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Public Affairs Advisory Group (5292).

Date/Time: April 2, 2000; 6:00 p.m.—9:00 p.m.

Place: 2132 Florida Avenue, NW, Washington, DC 20008.

Type of Meeting: Open.

Contact Person: Mr. Michael Sieverts, Acting Director, Office of Legislative and Public Affairs, Room 1245, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1070.

Purpose of Meeting: To provide advice and recommendations concerning NSF science and engineering outreach activities.

Agenda: Review of Outreach Programs and Initiatives; Strategic Planning for 2000 and Beyond.

Meeting Minutes: May be obtained from the contact person listed above.

Dated: March 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–6935 Filed 3–20–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Omaha Public Power District (the licensee) to withdraw its March 18, 1998, application for proposed amendment to Facility Operating License No. DPR–40 for the Fort Calhoun Station, Unit 1, located in Washington County, Nebraska.

The proposed amendment would have revised Technical Specifications 2.15(4) and 2.15(5) to identify (1) all indication functions and control functions required for the alternate (remote) shutdown system (alternate shutdown panel and auxiliary feedwater panel), (2) panel locations of the functions, and (3) the number of channels required.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 9, 2000 (65 FR 6408). However, by letter dated March 1, 2000, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 18, 1998, and the licensee's letter dated March 1, 2000, 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 15th day of March 2000.

For the Nuclear Regulatory Commission.

L. Raynard Wharton,

Project Manager, Section 2, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–6915 Filed 3–20–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of March 20, 27, April 3, 10, 17, and 24, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 20

Friday, March 24

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Briefing on Evaluation of the Requirement for Licensee to Update Their Inservice Inspection and Inservice Testing Program Every 120 Months (Public Meeting) (Contact: Tom Scarbrough, 301–415–2794)

Week of March 27—Tentative

Thursday, March 30

8:55 a.m. Affirmation/Discussion and Vote (Public Meeting) (If needed)

9:00 a.m. Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301–415–7380)

Friday, March 31

9:30 a.m. Briefing on Risk-Informed Regulation Implementation Plan (Public Meeting) (Contact: Tom King, 301–415–5790)

Week of April 3—Tentative

There are no meetings scheduled for the Week of April 3.

Week of April 10—Tentative

There are no meetings scheduled for the Week of April 10.

Week of April 17—Tentative

There are no meetings scheduled for the Week of April 17.

Week of April 24—Tentative

There are no meetings scheduled for the Week of April 24.

The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: March 17, 2000.

William M. Hill, Jr.,

Secretary, Tracking Officer, Office of the Secretary.

[FR Doc. 00–7090 Filed 3–17–00; 2:15 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration (Ancor Communications, Incorporated, Common Stock, Par Value $.01 per Share); File No. 1–12982

March 15, 2000.

Ancor Communications, Incorporated (''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 Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

In addition to being listed and registered on the PCX pursuant to section 12(b) of the Act,[3] the Security has been registered pursuant to section 12(g) of the Act [4] and has been designated for quotation on the Nasdaq Stock Market, Inc. (''Nasdaq''). On July 27, 1999, the Security began trading on the Nasdaq National Market. In explaining its decision to withdraw its Security from listing and registration on the PCX at this time, the Company cited both the Security's limited trading on the Exchange and the better exposure and more liquid market afforded to its Security by the Nasdaq National Market.

The Company has stated that it has complied with the Rules of the PCX governing the withdrawal of its Security from listing and registration on the PCX and that the Exchange 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 PCX and shall have no effect upon the Security's continued designation for quotation and trading on the Nasdaq National Market. 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 April 5, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX 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.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–6950 Filed 3–20–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration (e-SIM Ltd., Ordinary Shares, Par Value NIS .10 per Share); File No. 1–14842

March 15, 2000.

E–SIM Ltd. (''Company''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934

[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.

[7] 17 CFR 200.30–3(a)(1).

(''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'' or ''Exchange'').

The Security has been listed on the Amex and registered pursuant to Section 12(b) of the Act[3] under a Registration Statement which became effective on July 7, 1998. Subsequently the Company has determined to transfer trading in its Security from the Amex to the Nasdaq stock Market, Inc. (''Nasdaq''). The Company has registered its Security pursuant to section 12(g) of the Act[4] under a Registration Statement on Form 8–A filed with the Commission on March 9, 2000. The Security became designated for quotation and began trading on the Nasdaq National Market on March 14, 2000.

In making the determination to transfer its Security from trading on the Amex to the Nasdaq National Market, the Company considered that the Security would benefit from better exposure and a more liquid market on the Nasdaq among other issuers whose primary business relates to Internet technology.

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 Exchange 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 National Market. 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 April 5, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the 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.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–6949 Filed 3–20–00; 8:45 am]

BILLING CODE 8010–01–M

[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.

[7] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42526; File No. SR–Amex–00–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by American Stock Exchange LLC and Order Granting Accelerated Approval of the Proposed Rule Change as Amended, Relating To Establishing a Fee Structure To Provide Daily Share Volume and Other Reports Via AmexTrader.com

March 13, 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 February 7, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') 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 the Exchange. On March 10, 2000, the Exchange filed Amendment No. 1 to the proposed rule change,[3] which supersedes and replaces entirely the initial proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and to grant accelerated approval of the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to establish a fee structure to provide daily share volume and other reports through the AmexTrader.com web site. Below is the text of the proposed rule change. All text is being added; there are no deletions.

* * * * *

Historical Research and Administrative Reports

The charge to be paid by the purchaser of separate Historical Research and Administrative Reports, shall be as follows:

(1) Daily Detailed Reports—$7 per day, per security and/or market participant for reports containing 15 fields or less. $15 per day, per security and/or market participant for reports exceeding 15 fields.

(2) Summary Level Activity Reports—$25 per report.

(3) Administrative Reports—$25 per user, per month.

* * * * *

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 self-regulatory organization 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 III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Historical Research Reports

Amex proposes to establish a fee to provide to investors, upon request, historical research reports in electronic formats pertaining to Amex issues. Until recently, Amex has provided these reports exclusively on an *ad hoc* basis to customers requesting this information by telephone. Under the current system, investors contact an Amex staff member via telephone, describe the type of customized report desired, and arrange for an appropriate billing and delivery method before having the Amex staff member compile the report. Reports are issued in hard copy formats for a fee, ranging from $10–$575 depending on the number of pages the report consists of, and the amount of effort taken to prepare and process the report. The fees consist of an administration fee of $10–

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1, which Amex filed pursuant to Section 19(b)(2) of the Act, replaces the initial proposal, which Amex filed pursuant to Section 19(b)(3)(A) of the Act. Because the fees which the Exchange intends to charge for historical research reports may be paid by non-members, the proposal is properly filed pursuant to Section 19(b)(2) of the Act. *See* 15 U.S.C. 78s(b)(1) and 15 U.S.C. 78s(b)(3)(A).

$150 depending on the number of pages in the report, a copy charge of $.25 per report page, and if the report is delivered via fax, a fax transmission fee of $.15 per page (faxed to one recipient) or $.40 per page (faxed to multiple recipients). The average report fee assessed is $20–$30. The Amex believes this is an inefficient and time-consuming arrangement that is both burdensome to Amex staff and an impediment to the accessibility of the information for the investor.

As the number of individual investors in today's market directing their own investment decisions has increased, the volume of requests for this information has also increased. To alleviate the demand upon staff resources and increase the quality, speed and availability of the information available to investors, Amex will develop an automated request and delivery system that will facilitate the delivery of these reports in a timely and systematic manner at a fixed price, based on a standardized pricing methodology. Investors will be able to access the reports via the Internet on the AmexTrader.com web site. Once at the proper location within the web site, the investor will choose from a list of standardized reports, input the necessary information pertaining to the desired security to market participant, and provide credit card information for payment.[4] Once completed, the report will be sent via e-mail directly to the investor.

Amex proposes to provide historical research reports that fall into two categories: ''Daily Detailed Reports'' and ''Summary Level Activity Reports.'' Examples of Daily Detailed Reports include a Time and Sales Report (provides a record of media-reported trades in the selected security, indicating the reported time, price and share volume) and a Sales and Quotes Report (provides trade information and inside quote information at trade time). Summary Level Activity Reports would provide trade and/or quote information over a monthly or quarterly period.

Fees for the Daily Detailed Reports would be set on a two-tiered basis to reflect the amount of information provided and give Amex a level of flexibility in developing new reports and modifying those currently envisioned. Amex proposes to assess a fee of $7 for reports with 15 or fewer fields of information[5] for each trading day requested.[6] Those reports with more than 15 fields would cost $15 per trading day of information. Some reports may be available for purchase on a single-day basis, while others may be available only as multiple-day packages with a corresponding charge based on the number of days provided. Fees for Summary Level Activity Reports would be fixed at $25 per report.

Amex believes that this pricing structure is a suitable assessment method that will facilitate the creation of an inexpensive and effective service for investors.

Administrative Reports

This second category of reports, available through AmexTrader.com, termed ''Administrative Reports'', will be available to Amex member firms only.

Administrative Reports would serve to assist members in auditing their own internal systems, verifying back-end processing, and projecting monthly costs. Subscribing member firms would be charged a $25 fee per user, per month, for access to each administrative report.[7]

2. Statutory Basis

Amex believes that the proposed rule change is consistent with the provisions of sections 6(b)(4)[8] and 6(b)(5)[9] of the Act. Section 6(b)(4)[10] requires the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities. Section 6(b)(5)[11] requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Amex believes that this service involves the implementation of reasonable fees, assessed only to users utilizing the service, while providing beneficial information to subscribers on a non-discriminatory basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate 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. 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 submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed 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 be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW, Washington DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file No. SR–Amex–00–08 and should be submitted by April 11, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Amex's proposed rule change, as amended, and finds, for the reasons set forth below, the proposal is consistent with the requirements of Section 6 of the Act[12] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that approval of the proposed rule change is consistent with Sections 6(b)(4)[13] and (5)[14] of the Act. Section 6(b)(4)[15] requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by an exchange. The Commission finds that the fees which Amex has proposed for the historical research and administrative

[4] Credit card information will be provided utilizing a secure web site connection.

[5] Examples of fields, depending on the type of report chosen, could include reported volume, reported price, reported time, inside bid/ask, short sale indicator, etc.

[6] For example, an investor requesting a report containing 12 fields of information for a three-trading-day period would be charged $21.

[7] After assessing the demand for this service, Amex may offer volume discounts to purchasers of multiple reports if such discounts are determined to be economically feasible.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(4).

reports delineated in the proposal are reasonable, given the reliability and accessibility of the information.

Furthermore, Section 6(b)(5) [16] requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Because the fees which Amex proposes to charge for the specified historical research and administrative reports will be assessed only to users of the service, the Commission finds that the proposal is both non-discriminatory and reasonable. The Commission also believes that the proposal may help to foster cooperation and coordination with persons engaged in facilitating transactions in securities by providing beneficial information to subscribers on a non-discriminatory basis for a reasonable fee. In doing so, the proposal may boost investor confidence, while contributing to the integrity of the securities markets.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval would afford investors the benefits to be realized under this proposal as soon as possible. Additionally, the Commission notes that the proposal is substantially similar to SR–NASD–99–70,[17] which was noticed for the full 21-day comment period, and for which no comments were received. The Commission finds, therefore, that good causes exists, consistent with Section 19(b)[18] and Section 6(b)[19] of the Act, to grant acclerated approval of the proposed rule change.

It is therefore ordered, pursuant Section 19(b)(2) of the Act,[20] that the proposed rule change be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6951 Filed 3–20–00; 8:45 am]

BILLING CODE 8010–01–M

[16] 15 U.S.C. 78f(b)(5).

[17] Securities Exchange Act Release No. 42341 (January 14, 2000), 65 FR 3513 (January 21, 2000).

[18] 15 U.S.C. 78s(b).

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice and Opinion; Certificate of Repossession of Encumbered Aircraft (AC Form 8050–4)

AGENCY: Federal Aviation Administration, DOT.

SUMMARY: This provides notice of a revised Certificate of Repossession of Encumbered Aircraft (AC Form 8050–4), and a legal opinion concerning certificates of repossession and their impact on aircraft registration.

FOR FURTHER INFORMATION CONTACT: Joseph R. Standell, Aeronautical Center Counsel (AMC–7), Post Office Box 25082, Oklahoma City, OK 73125 or telephone (405) 954–3296.

SUPPLEMENTARY INFORMATION: This is to provide notice of a revised Certificate of Repossession of Encumbered Aircraft (AC Form 8050–4) incorporating various changes and revisions to versions of the form dated 6/99 and earlier. A copy of the new form follows this opinion and is available to the public at http://registry.faa.gov/ or linked through http://www.mmac.jccbi.gov/MMAC/

The revised form dated 02–00, supersedes and replaces all previously dated versions of the form. Prior versions of the form will be accepted through the end of the regular business day on the 90th day after the date of publication of this Notice in the **Federal Register.**

The superseding form and the opinion cotnained herein are in response to general concerns about specific language contained in Certificate of Repossession of Encumbered Aircraft (AC Form 8050–4, 6/99 and earlier) and industry practices involving use of that form.

This opinion addresses the comments expressed by attorney John I. Karesh in a letter dated January 19, 1998, to Aeronautical Center Counsel.

This opinion also provides information concerning certificates of repossession and their impact on aircraft registration.

Although it is recognized that certain rights to repossess on default may exist in leases and other transactions, this opinion is limited to repossessions (whether physical or constructive to the extent permitted by applicable local law) and foreclosures which effect a change in ownership of an aircraft.

Opinion—Change of Ownership: An aircraft is eligible for registration only if, among other things, it is owned by a citizen of the United States (49 U.S.C. 44102(a)(1)(A)). Only the owner of an aircraft is eligible to make application for registration of that aircraft (49 U.S.C. 44103(a)).

Each person who submits an Aircraft Registration Application (AC Form 8050–1) must also submit evidence of ownership as required by § 47.11 of the Federal Aviation Regulations (14 CFR Part 47) (the Regulations). Where the applicant relies upon repossession as evidence of ownership, § 47.11(b) provides:

> The repossessor of an aircraft must submit—
>
> (1) A certificate of repossession on FAA Form 8050–4, or its equivalent, signed by the applicant and stating that the aircraft was repossessed or otherwise seized under the security agreement involved and applicable local law:
>
> (2) The security agreement (unless it is already recorded at the FAA Aircraft Registry), or a copy thereof certified as true under § 49.21 of this chapter; and
>
> (3) When repossession was through foreclosure proceedings resulting in sale, a bill of sale signed by the sheriff, auctioneer, or other authorized person who conducted the sale, and stating that the sale was made under applicable local law.

Based on information provided by the office of the National Conference of Commissioners on Uniform State Laws, it appears that all 50 states have adopted Article 9 of the Uniform Commercial Code (U.C.C.), albeit with some variations. Therefore, for purposes of this discussion, U.C.C. Article 9, as adopted, is cited as the applicable local law.

In his letter of January 19, 1998, Mr. Karesh states that ''it is standard practice for the repossessing Lender to file for recordation with the FAA the certificate of repossession at the time of repossession, in order to vest title to the aircraft in the name of the Lender.'' This practice is referred to in the aviation legal practice as a ''protective filing.''

Apparently this protective filing practice stems from reliance upon the following language contained in the earlier versions of the Certificate of Repossession of Encumbered Aircraft (AC Form 8050–4) which is typically submitted by a repossessor to the Civil Aviation Registry:

> by virtue of such act of repossession he divested the said debtor, and any and all persons claiming by, through or under him, of any and all claims they hand or may have had, and now holds title to the aforesaid aircraft, free and clear * * *.

This language may be causing some confusion; therefore, FAA has revised the form. The revisions emphasize that it is repossession and foreclosure under the applicable local law not the filing of the Certificate of Repossession of Encumbered Aircraft and the Aircraft

Registration Application which vests ownership of the aircraft for purposes of registration.

In that regard, U.C.C. 9–503 provides that ''unless otherwise agreed a secured party has on default the right to take possession of the collateral * * *'' This right of repossession refers to the taking back of an item, not displacement of all legal rights in and to the collateral (see Official Comment, U.C.C. 9–503).

Section 47.41(a)(4) of the Regulations provides that ''each Certificate of Aircraft Registration * * * is effective * * * until the date upon which ownership of the aircraft is transferred * * *.''

Repossession alone does not effect a change in or transfer of ownership of the aircraft for purposes of § 47.41(a)(4) of the Regulations. A creditor or secured party who has merely repossessed an aircraft without effecting foreclosure is not the owner and is not eligible to make application for registration of the aircraft (see 49 U.S.C. 44103(a)).

On the other hand, foreclosure for aircraft registration purposes effects a change of ownership.

Foreclosure, the process by which the ownership rights of a debtor in the collateral are terminated, may generally be accomplished in two ways:

The first, sometimes referred to as strict foreclosure, U.C.C. 9–505(2), after due process as required by the applicable local law, allows retention of the collateral by the creditor as follows:

> (i)n any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation.

The second, sometimes referred to as statutory foreclosure, U.C.C. 9–504(1), after due process as required by the applicable local law, allows foreclosure to be accomplished by sale of the collateral as follows:

> A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing.

Either way, fully divesting the debtor's rights in collateral requires both repossession and foreclosure, either by retention of the collateral or by sale to a third party, thereby resulting in a change of ownership under § 47.41(a)(4) of the Regulations.

In both situations, the repossessor must certify that he or she ''has performed all obligations imposed upon him by the terms of the financing agreement and all local laws * * *.'' (AC Form 8050–4, 6/92)

Evidence of Change in Ownership: When foreclosure has been accomplished by the repossessor's retention of the collateral, submission of a completed certificate of repossession or its equivalent, and an Aircraft Registration Application by the repossessor will support registration in the repossessor. FAA presumes that repossession and retention are in accordance with local law (*i.e.,* foreclosure by retention process described in U.C.C. 9–505(2) *et seq.*).

When foreclosure has been accomplished by sale of the collateral, submission of a completed certificate of repossession or its equivalent, a bill of sale stating that ''the sale was made under applicable local law'' (14 CFR 47.11(b)(3)), and an Aircraft Registration Application will support registration in the name of the buyer.

Dated: March 7, 2000.

Joseph R. Standell,

Aeronautical Center Counsel.

BILLING CODE 4910–13–M

AGENCY DISPLAY OF ESTIMATED BURDEN

The Federal Aviation Administration estimates that the average burden for this report is .5 hour per response. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to the Office of Management and Budget (OMB). You may also send comments to the Federal Aviation Administration, Civil Aviation Registry, P.O. Box 25504, Oklahoma City, OK 73125-0504, Attention: OMB number 2120-0042.

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

Aircraft Registration Branch
PO Box 25504
Oklahoma City, Oklahoma 73125-0504

CERTIFICATE OF REPOSSESSION OF ENCUMBERED AIRCRAFT

The undersigned hereby certifies that they are the true and lawful holder of a note or other evidence of indebtedness secured by a _____ on the following described aircraft:
(Type of Security Agreement)

Aircraft Manufacturer and Model _____

Aircraft serial number _____ FAA registration number _____

Said Security agreement on the above aircraft bears the date of _____ and was executed by _____ to _____ and assigned to _____. This Security agreement was recorded under Title 49, United States Code, Section 44107, on the _____ day of _____, _____, and was entered in the Civil Aviation Registry as document no. _____.

On the _____ day of _____, _____, the aforesaid _____ breached the obligations and promises contained in the Security agreement. The undersigned certifies that the secured party has performed all obligations imposed on the security agreement and applicable local laws; that in accordance with the terms of said security agreement, and pursuant to the pertinent laws of the state of _____, the undersigned repossessed the aircraft described above and foreclosed on the _____ day of _____, _____, and that pursuant to local law, divested the said debtor, and any and all persons claiming by, through or under them, of any and all title they had or may have had, and the secured party now owns the aforesaid aircraft, or the aircraft has been sold.

NOTE: If the agreement involved was not recorded with the Aircraft Registration Branch, the original or certified true copy should accompany this certificate of repossession

_____
NAME OF HOLDER OF SECURITY AGREEMENT

_____
SIGNATURE (IN INK)

_____
Title

ACKNOWLEDGMENT (Not required for purposes of FAA recording; however, may be required by local law for validity of the instrument.)

AC Form 8050-4 (2-00) Supercedes previous editions

CERTIFICATE OF REPOSSESSION INFORMATION

PRIVACY ACT OF 1974(PL 93-579) requires that users of this form be informed of the authority which allows the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purpose of which the information is intended to be used; the routine uses which may be made of the information gathered; and the effects, if any, of not providing all or any part of the requested information.

This form is to be completed by the holder of an encumbrance and submitted with an application for aircraft registration and required fee and/or a bill of sale as appropriate. This form meets the recording requirements of 49 USC Chap. 441 and the Federal Aviation Regulations. In addition to meeting these requirements, the form, the repossession and foreclosure must comply with local law. This form may be reproduced.

The following routine uses are made of the information gathered:

(1) To support investigative efforts of investigation and law enforcement agencies of Federal, state, and foreign governments.

(2) To serve as a repository of legal documents used by individuals and title search companies to determine the legal ownership of an aircraft.

(3) To provide aircraft owners and operators information about potential mechanical defects or unsafe conditions of their aircraft in the form of airworthiness directives.

(4) To provide supportive information in court cases concerning liability of individual in law suits.

(5) To serve as a data source for management information for production of summary descriptive statistics and analytical studies in support of agency functions for which the records are collected and maintained.

(6) To respond to general requests from the aviation community or the public for statistical information under the Freedom of Information Act or to locate specific individuals or specific aircraft for accident investigation, violation, or other safety related requirements.

(7) To provide data for the automated aircraft registration master file.

(8) To provide documents for microfiche backup record.

(9) To provide data for development of the aircraft registration statistical system.

(10) To prepare an aircraft register in magnetic tape and publication form required by ICAO agreement containing information on aircraft owners by name, address, N-number, and type aircraft, used for internal FAA safety program purposes and also available to the public (individuals, aviation organizations, direct mail advertisers, state and local governments, etc.) upon payment of user charges reimbursing the Federal Government for its costs.

AVAILABILITY OF RECORDS

The aircraft records maintained by the Civil Aviation Registry are public records and are open for inspection in room 122 of the Registry Building, Mike Monroney Aeronautical Center, 6425 S Denning, Oklahoma City, Oklahoma. Individuals interested in such information may make a personal search of the records or may avail themselves of the services of a company or attorney.

The records are filed by aircraft N-number, but may and are quite frequently retrieved by name of the individual aircraft owners or operators.

PREPARATION

This is not a mandatory form. Therefore, an equivalent form meeting local law and the recording requirements of the Federal Aviation Regulations may be used. This form may be reproduced. See Section 47.11 of the Federal Aviation Regulations (14 CFR 47.11) for guidance.

Except for signatures, all data should be typewritten or printed. Signatures must be in ink. If the agreement involved was not recorded with the Civil Aviation Registry, the original or certified true copy should accompany this form.

When aircraft registration requirements are met by retention of the collateral by foreclosing party (sometimes referred to as strict foreclosure), an Application for Aircraft Registration (AC Form 8050-1) in the name of the foreclosing party should accompany this form.

When aircraft registration requirements are met by sale of the collateral (sometimes referred to as statutory foreclosure), a Bill of Sale and an Application For Aircraft Registration in the name of the buyer should accompany this form.

FEE: A $5 fee is required to issue a certificate of aircraft registration.

[FR Doc. 00–6702 Filed 3–20–00; 8:45 am]
BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–11]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 11, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. , 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, D.C., on March 16, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29806.
Petitioner: Hawaiian Airlines, Inc.
Section of the FAR Affected: 14 CFR 47.49 and 91.203.
Description of Relief Sought: To permit Hawaiian to temporarily operate U.S.-registered aircraft to, from, and among the Hawaiian Islands without the registration or airworthiness certificates onboard.

Dispositions of Petitions

Docket No.: 29489.
Petitioner: Airline Training Center Arizona, Inc.
Section of the FAR Affected: 14 CFR 61.109(a)(2).
Description of Relief Sought/ Disposition: To permit certain students of ATCA to obtain a private pilot certificate with an airplane category and single-engine class rating without accomplishing the night flight-training requirements of § 61.109(a)(2). These students would be issued private pilot certificates with night-flying limitations.

DENIAL, 12/22/99, Exemption No. 7100

Docket No.: 29850.
Petitioner: New WorldAir Holdings, Inc.
Section of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit New World to operate its Falcon 20 (Registration No. N164NW, Serial No. 164) under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

GRANT, 1/11/00, Exemption No. 7101

Docket No.: 26012.
Petitioner: Federal Express Corporation.
Section of the FAR Affected: 14 CFR 121.583(a).
Description of Relief Sought/ Disposition: To permit Federal Express to transport medical personnel assigned to Project Orbis without complying with all the passenger-carrying requirements in §§ 121.291, 121.309(f), 121.310, and 121.391.

GRANT, 1/31/00, Exemption No. 5129E

Docket No.: 27118.
Petitioner: Air Logistics, L.L.C.
Section of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit ALG to operate under the provisions of part 135 without having a TSO–C112 (Mode S) transponder installed in its aircraft.

GRANT, 1/18/00, Exemption No. 6736A

Docket No.: 29821.
Petitioner: IHC Health Services, Inc.
Section of the FAR Affected: 14 CFR 135.299(a).
Description of Relief Sought/ Disposition: To permit IHC pilots to accomplish a line operational evaluation in a Level C or Level D flight simulator in lieu of a line check in an aircraft.

DENIAL, 2/3/00, Exemption No. 7110

Docket No.: 29184.
Petitioner: Arctic Air Service, Inc.
Section of the FAR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit Arctic Air to operate its Sikorsky S–76A helicopter (Registration No. N347AA, Serial No. 760006) without an approved digital flight data recorder installed on the helicopter.

GRANT, 1/31/00, Exemption No. 6854A

Docket No.: 29800.
Petitioner: Associated Air Center.
Section of the FAR Affected: 14 CFR 25.813(e).
Description of Relief Sought/ Disposition: To allow Associated Air Center to install interior doors between passenger compartments on Boeing Model 757–23A airplane s/n 24923 and Boeing Model 757–2J4 airplane s/n 25155.

PARTIAL GRANT, 1/25/00, Exemption No. 7107

Docket No.: 29583.
Petitioner: Dassault Aviation.
Section of the FAR Affected: 14 CFR 25.785(a).
Description of Relief Sought/ Disposition: To exempt Dassault Aviation from the requirements of § 25.785(a) Amendment 25–64, for the general occupant protection requirements for occupants of multiple place side-facing seats that are occupied during takeoff and landing for Falcon 2000 airplanes manufactured prior to January 1, 2004.

PARTIAL GRANT, 1/18/00, Exemption No. 7104

[FR Doc. 00–7002 Filed 3–20–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development (R,E&D) Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public

Law 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Researach, Engineering and Development (R,E&D) Advisory Committee.

Agency: Federal Aviation Administration.

Action: Notice of Meeting.

Name: Research, Engineering & Development Advisory Committee.

Time and Date: April 11—9 a.m.–4:30 p.m.; April 12—8 a.m.–5 p.m.; April 13—9 a.m.–12 noon.

Place: Holiday Inn Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209.

Purpose: the meeting agenda will include receiving guidance from the Committee for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, security, human factors and environment and energy. A joint session will be held on April 12 from 1:00 p.m. to 5:00 p.m. with NASA's Aero-Space Technology Advisory Committee. The agenda will include briefings on NASA's Icing Research, the Small Aircraft Transportation Systems (SATS) and a report from the Air Traffic Management Subcommittee.

Attendance is open to the interested public but limited to space available. Persons wishing to attend the meeting or obtain information should contact Lee Olson at the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–7358. Please inform us if you are in need of assistance or require a reasonable accommodation for this meeting.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on March 15, 2000.

Herman A. Rediess,

Director, Office of Aviation Research.

[FR Doc. 00–7003 Filed 3–20–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, INC.; "Government/Industry Certification Steering Committee;" Notice of Government/Industry Certification Steering Committee Meeting To Be Held March 17, 2000; Cancellation

AGENCY: Federal Aviation Administration.

ACTION: Cancellation.

SUMMARY: The Government/Industry Certification Steering Committee meeting scheduled to be held on March 17, 2000, announced in a notice published on page 11828 in the second column in the issue of March 6, 2000, volume 65, number 44, has been cancelled due to unforeseen circumstances. The meeting will be rescheduled. An announcement containing further details of the rescheduled meeting will be published within the next few days.

Issued in Washington, DC, on March 16, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00–6971 Filed 3–16–00; 4:33 pm]

BILLING CODE 4810–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 00–02–C–00–LYH To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lynchburg Regional Airport, Lynchburg, Virginia

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 Lynchburg Regional 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 20, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Arthur Winder, Project Manager, Washington Airports District Office, P.O. Box 16780, Washington, DC 20041–6780.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mark F. Courtney, Airport Manager of the City of Lynchburg at the following address: Lynchburg Regional Airport, 4308 Wards Road, Suite 100, Lynchburg, Virginia 24502–3532.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Lynchburg under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Arthur Winder, Program Manager, Washington Airport District Office, P.O. Box 16780, Washington, DC 20041–6780, (703) 661–1363. 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 Lynchburg Regional 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 14, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Lynchburg 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 16, 2000.

The following is a brief overview of the application.

PFC Application No.: 00–02–C–00–LYH.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 2000.

Proposed charge expiration date: June 30, 2002.

Total estimated PFC revenue: $924,756.

Brief description of proposed project(s):

—Overlay General Aviation Apron.

—PFC Program Formulation and Annual Administrative Costs.

—Overlay Runway 3–21.

—Acquire Land for Runway 21 RPZ.

—Relocate State Route 758 to recover full ERSA to Runway 21 (Design Only).

—Construct Airport Service Road.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: Fitzgerald Federal Building #111, Airports Division, AEA–610, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lynchburg Regional Airport.

Issued in Washington, DC, March 14, 2000.

Terry J. Page,

Manager, Washington Airports District Office.

[FR Doc. 00–7001 Filed 3–20–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Jemez Pueblo, Sandoval County, NM

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed transportation project near San Ysidro and the Jemez Pueblo in Sandoval County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Gregory D. Rawlings, Environmental Specialist, Federal Highway Administration, 604 W. San Mateo Road, Santa Fe, New Mexico 8705, (505) 820–2027; or Craig Conley, Environmental Program Manager, New Mexico State Highway and Transportation Department, P.O. Box 1149, Santa Fe, New Mexico 87504, (505) 827–5233.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Mexico State Highway and Transportation Department (NMSHTD) will prepare an environmental impact statement (EIS), for proposed improvements to the New Mexico Highway 4 (NM 4) Corridor between New Mexico Highway 44 (NM 44) and New Mexico Highway 290 (NM 290), Sandoval County, New Mexico. The study area is approximately six miles long from the junction with NM 44 through the town of San Ysidro, the Jemez Pueblo, and the town of Jemez Pueblo to the vicinity of the junction with NM 290. The current road alignment and grade of this section of NM 4 was constructed in the 1930's with a design speed of 30 mph, 12-foot driving lanes, and no or variable width shoulders. NM 4 is a two-lane rural highway that runs from the junction with NM 44 in San Ysidro north and east through the Jemez Mountains to connect with NM 502 near Los Alamos, New Mexico. No other improvements to the remainder of NM 4 are currently under consideration.

Several transportation problems exist within the project area. These are: (1) This section of NM 4 does not does not meet current Federal and State standards for width, shoulders, access characteristics (turnouts/entrances), cross-section or geometry; (2) The bridge over the Vallecito Creek is in need of replacement; (3) traffic congestion within the town of Jemez Pueblo; (4) the Jemez Pueblo's inability to control access to the town area; and (5) no accommodation for use of the road by pedestrians, bicyclists, and equestrians.

This study will evaluate the need for improvements and evaluate potential transportation alternatives that address the need. Alternatives for consideration include (1) the improvement of the existing alignment; (2) various new alignments within the corridor, and (3) the No-Action option. Options for a new alignment include one approximately 0.25 miles east of the current alignment, two at the southern end of Jemez Pueblo and three at the northern end of the study area. The northern options include potential relocation of the Vallecito bridge and the junction with NM 290.

Informal scoping for the proposal has included comments solicited from residents and groups within the affected area. Concerns have been expressed for preservation and protection of cultural, historic, religious, environmental and community resources. Additional public information and formal scoping meetings will be held to discuss the EIS and provide opportunity for public and agency input to aid in preparation of the documentation. Letters describing the proposed action and soliciting comments will be sent to Federal and state agencies, Native American groups, local governments, and the general public. All interested parties are encouraged to participate in this process and to submit written comments or suggestions. An agency scoping meeting is anticipated in the spring 2000. Additional meetings for the Jemez Pueblo and other local residents will take place in the same time frame. These and subsequent meetings throughout the development of the EIS will be announced via direct mail, locally-posted flyers, and advertisements in local media.

The availability of the Draft EIS will be announced in the **Federal Register**, local news media, and through direct contact with interested parties. To ensure that the full range of issues to this proposed action are addressed, comments or questions concerning this action and the EIS should be directed to the FHWA and NMSHTD at the address provided above.

(Catalogue of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities and 23 U.S.C. 315; 49 CFR 1.48 apply to this program.)

Issued on: March 15, 2000.

Gregory D. Rawlings,

Environmental Specialist, Santa Fe, New Mexico.

[FR Doc. 00–6910 Filed 3–20–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7075]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CALEDONIA.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S. build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before April 20, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7075.

Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of

Transportation, Maritime Administration, MAR 832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (less than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commentor's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S. Build Requirement

(1) Name of vessel and owner for which waiver is requested: CALEDONIA, USCG Documentation No. 679530 owner: Hydeman Boat Leasing Company, LLC.

(2) Size, capacity and tonnage of vessel: Documented length: 84.9 feet, actual length: 98 feet, breadth: 18.6 feet, capacity 6 passengers. The tonnage of the CALEDONIA is measured pursuant to 46 U.S.C. 14502. The U.S.C.G. documented tonnage is Gross 99 and Net 67.

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''The CALEDONIA will continue to offer crewed charter service departing from a port in the San Juan Islands of Washington State traveling to the Canadian Gulf Islands and Desolation Sound, British Columbia. Currently, service is either round-trip to the same point of departure or one way to a Canadian destination. New service will offer guests the opportunity to board at one port in the San Juan Islands and to depart at another port in the Islands. Typically the CALEDONIA is contracted to one individual with a party of no more than six for a minimum of seven (7) days. The average cost of a seven (7) day charter is $25,000 including expenses. Charters are offered in this region from June 1st to September 15th. The CALEDONIA offers charters in Mexico during the remaining months of the year.''

(4) Date and place of construction and (if applicable) rebuilding. Date of construction: 1973. Place of original construction: Bergen Op Zoom, Netherlands and was reconstructed/rebuilt in Marina Del Rey, California in 1996.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''This waiver will have minimal impact on other commercial vessel operators in the region. The CALEDONIA has offered charters in this region for 5 years at near capacity during the operating season. The charters currently offered in this region operate in the waters of the San Juan Islands and most spend a portion of a seven (7) day charter in British Columbia. The only benefit of this waiver will be one of convenience in arranging departing floatplane and ferry arrangements for CALEDONIA's passengers. This waiver will not substantially change the service offered by the CALEDONIA and will not affect the competition in the charter market in this region.

The tourist industry in this region is significant yet only five vessels offer multi-day private charters. Two of these spend a significant portion of the season operating outside the area directly affected by this waiver. In addition, despite the increased interest in water-based travel and the need for more charter companies, there are no cruise ship operations in this region except for small certified passenger ships cruising in the area in late spring on the way to Alaska. The other four charter vessels offered for service in this region and market are:

Name	Length	Rate/Week	Pax	Region
Jamal	74	$19,500	6	Seattle, San Juan Islands, British Columbia, Alaska.
Phantom	71	18,500 plus expenses	6	San Juan Islands, British Columbia.
Westward	86	15,000	6	Seattle, San Juan Islands, British Columbia.
Olympus	97	28,000	8	Seattle, San Juan Islands, British Columbia.

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''This waiver will not have a negative impact on U.S. shipyards. In fact, the $950,000 spent in the 1996 re-construction of the CALEDONIA in California exceeded the $760,000 purchase price and greatly benefited a U.S. shipyard. Further such benefits will be reaped by U.S. shipyards as the CALEDONIA repaired and re-fitted while engaging in coastwise trade.

Moreover, a U.S.-built vessel of this type would be difficult to obtain on the West Coast and prohibitively expensive. Most U.S. builders of this type of vessel are located on the East Coast or have recently moved production facilities to the Far East. Thus, with production low and demand high for a U.S. vessel, it would be too expensive for a charter operation of this type in the region of the San Juan Islands to acquire a U.S. built vessel.''

By Order of the Maritime Administrator.

Dated: March 15, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–6894 Filed 3–20–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7071]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the coastwise trade laws for the vessel GAFIA.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is

authorized to grant waivers of the U.S. build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before April 20, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7071.

Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW, Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR 832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (less than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commentor's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested: Name of vessel: GAFIA Owner: Donald A. Depoy.

(2) Size, capacity and tonnage of vessel: Size: 30′8″ LOA, beam 9′7″ draft 5′0″. Capacity and tonnage: measured by title 46 U.S.C. Sub-part E 69.207–209 Simplified Measurement System: 14.6 tons.

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Carry passenger for hire (6-pack) in the coastal waters of Maine, specifically the Penobscot and Frenchman Bay Region.''

(4) Date and place of construction and (if applicable) rebuilding. Date of construction: 1973, place of construction: Nortessund Shipyard, Orust, Sweden.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''This waiver will have little if any impact on the existing passenger vessel operators in the region. The vessel's port of call, Belfast, Maine has no passenger vessel operations of any type at the time of this application. Passengers using the services of this vessel will be departing from and returning to Belfast, Maine. The vessel will be used for 3-daily, 3-hour cruises and an occasional overnight passages beginning and ending in Belfast.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''It is inconceivable that there would be any impact on any U.S. shipyard. The vessel was built in 1973 and had a 1999 purchase cost of less than $25,000. No U.S. ship builder offers such a vessel at this price.''

By Order of the Maritime Administrator.

Dated: March 15, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–6895 Filed 3–20–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—The Connecticut Surety Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 17 to the Treasury Department Circular 570; 1999 Revision, published July 1, 1999, at 64 FR 35864.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–7102.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to The Connecticut Surety Company, of Hartford, Connecticut, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 64 FR 35871, July 1, 1999.

With respect to any bonds currently in force with The Connecticut Surety Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

The Treasury Department Circular 570 may be viewed and downloaded through the Internet (http://www.fms.treas.gov/c570/index.html). A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00527–6.

Questions concerning this notice may be directed to the U.S. Department of Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: March 9, 2000.

Judith R. Tillman,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 00–6881 Filed 3–20–00; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable On Federal Bonds: Safety National Casualty Corporation

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 16 to the Treasury Department Circular 570; 1999 revision, published July 1, 1999, at 64 FR 35864.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6905.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1999 Revision, on page 35887 to reflect this addition:

COMPANY NAME Safety National Casualty Corporation. BUSINESS ADDRESS: 2043 Woodland Parkway, Suite 200, St. Louis, Missouri 63146. PHONE: (314) 995–5300. UNDERWRITING LIMITATION b/: $13,387,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00527–6.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: March 8, 2000.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 00–6880 Filed 3–20–00; 8:45 am]

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Federal Register

Tuesday,
March 21, 2000

Part II

The President

Proclamation 7281—National Poison Prevention Week, 2000

Federal Register
Vol. 65, No. 55
Tuesday, March 21, 2000

Presidential Documents

Title 3—

The President

Proclamation 7281 of March 17, 2000

National Poison Prevention Week, 2000

By the President of the United States of America

A Proclamation

Children face many dangers growing up, including some which we cannot foresee or prevent. But the danger of accidental poisoning from medicines, household chemicals, or other substances used routinely in the home is something we can—and must—stop. Each year during National Poison Prevention Week, we assess our progress in saving lives and reaffirm our national commitment to preventing injuries or deaths from poisoning.

We have indeed made progress in the nearly 4 decades since the Congress first authorized this annual observance. In 1962, almost 450 children died of poisoning after swallowing medicines or household chemicals. By 1996, that tragic statistic had been reduced to 47. Our goal is to reduce it to zero.

The first and most effective means to achieving this goal is the proper use of child-resistant packaging, which the Consumer Product Safety Commission requires for many medicines and household chemicals. While this special packaging is child-resistant, however, it is not childproof; therefore, it is essential that adults keep potentially poisonous substances locked away from children.

Our second line of defense is America's poison control centers, where life-saving information is only a phone call away. If a poisoning does occur, parents or other caregivers can call one of these centers and immediately learn the appropriate actions to take to mitigate the poison's effects. Last month, I was proud to sign into law the Poison Control Center Enhancement and Awareness Act, which authorizes $140 million over the next 5 years to fund our Nation's poison control centers, to carry out a national public awareness campaign, and to establish a national toll-free poison control hotline. Each year, more than 2 million poisonings are reported, a million of which involve children, and this new funding will ensure that callers have immediate access to the vital services and information they need to save lives.

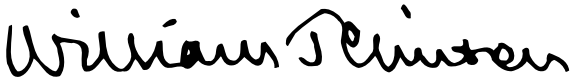
I thank the Poison Prevention Week Council, which brings together 35 national organizations to distribute poison prevention information to pharmacies, public health departments, and safety organizations nationwide, for its vital role in the progress Americans have made in reducing accidental poisonings. By following its lead, properly using child-resistant packaging, keeping poisonous substances locked away from children, and keeping the number of a poison prevention center close by the telephone, we can greatly reduce accidental poisonings.

To encourage the American people to learn more about the dangers of accidental poisonings and to take responsible preventive measures, the Congress, by joint resolution approved September 26, 1961 (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March of each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week beginning March 19, 2000, as National Poison Prevention Week. I call upon all Americans to observe

this week by participating in appropriate programs and activities and by learning how to protect our children from poisonous substances.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of March, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.



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S. 376/P.L. 106–180

Open-market Reorganization for the Betterment of International Telecommunications Act (Mar. 17, 2000; 114 Stat. 48)

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