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Title 3—

The President

Proclamation 7313 of May 24, 2000

Day of Honor, 2000

By the President of the United States of America

A Proclamation

Fifty-five years ago this month, the torch of freedom burned bright in Europe once again as Nazi Germany surrendered to the Allied Forces. Four months later, with the defeat of Imperial Japan, World War II—history's bloodiest and most destructive conflict—finally came to an end.

That war's unprecedented threat to world peace, freedom, and human rights called forth an unprecedented response from the American people. United and determined after the attack on Pearl Harbor in 1941, American men and women poured into factories and shipyards, working around the clock to build ships, planes, tanks, and guns. Millions of others risked their lives to defend our Nation and preserve the ideals of democracy. By the war's end, some 15 million had served in our Armed Forces, including more than 1,200,000 African Americans, 300,000 Hispanic Americans, 50,000 Asian Americans, 20,000 Native Americans, 6,000 Native Hawaiians and Pacific Islanders, and 3,000 Native Alaskans.

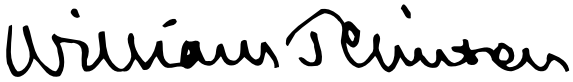
These minority members of our Armed Forces served with honor and distinction in battles around the globe. Many of them—like the Tuskegee Airmen, the Japanese American troops of the Army's ''Go For Broke'' regiment, and the Native American Code Talkers who played a vital role in winning the war in the Pacific—were renowned for their bravery and dedication. America's minority veterans fought other important battles as well—battles against prejudice, ignorance, and discrimination. Many gave their lives on foreign soil for the freedom they had never fully shared at home. Many of those who survived returned home from the war and worked to make real in America the ideals for which they had fought so hard and for which so many of their comrades in arms had died.

On this Day of Honor, we have the opportunity—and the responsibility—to acknowledge the contributions our minority veterans have made to the peace and freedom we enjoy today. I ask my fellow citizens to join me in saluting the African American, Hispanic American, Asian American, Native American, Native Hawaiian, Pacific Islander, Native Alaskan, and other minority members who served so valiantly in our Armed Forces during World War II and to remember those who died in service to our country. Their extraordinary devotion to duty is a reminder to us all that our Nation's diversity is not a cause for division, but rather one of our greatest strengths.

The Congress, by Senate Joint Resolution 44, has authorized and requested the President to issue a proclamation in recognition of the minority veterans who served in World War II.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 25, 2000, as the Day of Honor, 2000. I call upon all Americans to observe this day with appropriate programs, ceremonies, and activities paying tribute to the service and sacrifice of the minority veterans of our Armed Forces who served during World War II.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of May, 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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Federal Register

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY–99–002]

RIN 0581–AB60

Refrigeration Requirements for Shell Eggs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, without change, an interim final rule that amended the voluntary shell egg grading program regulations by adding a definition of the term ''ambient temperature,'' by amending the refrigeration requirements, and by adding a labeling requirement. Mandatory amendments to the Egg Products Inspection Act (EPIA) in 1991 and USDA Food Safety and Inspection Service (FSIS) regulations in 9 CFR part 590 implementing those amendments involved refrigeration and labeling requirements. We made changes to 7 CFR part 56 to conform to the FSIS requirements.

EFFECTIVE DATE: June 30, 2000.

FOR FURTHER INFORMATION CONTACT: Douglas C. Bailey, Chief, Standardization Branch, 202/720–3506.

SUPPLEMENTARY INFORMATION:

Background

An interim final rule effective October 25, 1999, was published in the **Federal Register** on October 22, 1999 (64 FR 56945–56947, Docket No. PY–99–002). We amended 7 CFR part 56 (the regulations) by adding a definition of the term ''ambient temperature,'' by amending the refrigeration requirements, and by adding a labeling requirement.

Comments

Comments on the interim final rule were required to be received on or before December 21, 1999. We received five comments. They were from a research firm, an organization representing State department of agriculture officials, a consumer organization, and two industry associations.

In the interim final rule, we explained that new FSIS temperature and labeling requirements in 9 CFR part 590 became effective August 27, 1999. These new requirements implemented mandatory 1991 amendments to the EPIA. The interim changes made by the Agricultural Marketing Service (AMS) to 7 CFR part 56 are deemed necessary to avoid a conflict between the temperature and labeling requirements published by FSIS and regulations of the AMS voluntary shell egg grading program.

The research firm that commented agreed with the temperature requirement, added a note of caution concerning storage temperature changes that can cause eggs to sweat, and recommended that this issue be addressed in the regulations. The regulations already contain the requirement that every reasonable precaution be exercised to prevent the ''sweating'' of eggs (§ 56.76(f)(2)).

The organization representing State department of agriculture officials supported the temperature requirement. The amendatory language states that eggs should be placed under refrigeration ''promptly after packaging.'' This organization suggested that the meaning of ''promptly'' be clarified in either the regulations or the instructions to the graders. The Agency provides detailed information and explanation concerning technical aspects of the grading program in its *Shell Egg Graders Handbook,* where this issue will be addressed.

The consumer organization, while supporting the temperature and labeling requirements, felt that they did not go far enough. In response to food safety concerns, this organization recommended that the temperature requirement should be 41 °F instead of 45 °F, that only one specific labeling statement should be allowed, and that the statement's size and placement should be mandated. As we explained in our interim final rule, FSIS has already finalized its rule concerning refrigeration in order to comply with the legislative amendment. This amendment, dealing with voluntary grading of shell eggs, is intended to conform to the FSIS requirements of refrigeration and labeling found in 9 CFR part 590. The organization also commented that AMS should set a specific time limit for processors to move packaged eggs into coolers. AMS will address this issue in its *Shell Egg Graders Handbook.*

One industry association expressed concern about the industry's ability to comply with the temperature requirements established by FSIS regulations. Those regulations have been in effect since August 27, 1999. Any questions concerning them should be addressed to FSIS. The main purpose of this rule is to conform to those regulations.

The other industry association supported the refrigeration and labeling requirements, but wanted them to cover all shell eggs regulated under the EPIA and monitored under the shell egg surveillance program, not just those under the voluntary shell egg grading program. Shell eggs regulated under the EPIA are already covered by FSIS refrigeration and labeling requirements mandated in 9 CFR part 590, and the changes made by the interim final rule to 7 CFR part 56 does not alter that coverage.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Small Business Administration defines small entities that produce and process chicken eggs as those whose annual receipts are less than $9,000,000 (13 CFR 121.201). Approximately 550,000 egg laying hens are needed to produce enough eggs to gross $9,000,000. Thus, entities with less than 550,000 laying hens would meet the small business definition.

The Agricultural Marketing Act of 1946, as amended, authorizes a voluntary grading program for shell eggs, with implementing regulations in 7 CFR part 56. Shell egg processors that

apply for service must pay for the services rendered. These user fees are proportional to the volume of shell eggs graded, so that costs are shared by all users. Shell egg processors who meet the facility and operating requirements are entitled to pack their eggs in packages bearing official USDA grade identification when AMS graders are present to certify that the eggs meet the requirements as labeled. Plants in which these grading services are performed are called official plants. There are about 700 shell egg processors registered with the Department that have 3,000 or more laying hens. Of these, 159 are official plants that use USDA's grading service and would be subject to this rule. Of these 159 official plants, the AMS believes approximately 25 would meet the small business definition.

The EPIA, enacted in 1970, authorizes the mandatory inspection of egg products operations and the mandatory surveillance of the disposition of shell eggs that are undesirable for human consumption, with implementing regulations in 7 CFR part 59. Congress amended the refrigeration and labeling requirements of the EPIA as part of the Food, Agriculture, Conservation and Trade Act Amendments of 1991.

In 1992, the AMS proposed changes to 7 CFR part 59 to implement the 1991 EPIA amendments and to 7 CFR part 56 to make its temperature and labeling requirements consistent with part 59. Before AMS published the final rule, however, the Department consolidated food safety responsibilities under FSIS. Egg products inspection functions under the EPIA were delegated to FSIS, while shell egg surveillance and grading functions continued to be administered by AMS. FSIS promulgated a final rule with request for comments to implement the 1991 EPIA amendments in 7 CFR part 59, later redesignated as 9 CFR part 590, which became effective August 27, 1999. Among other changes, the amendments require a storage temperature at no greater than 45 °F (7.2 °C) for eggs after they have been packed into containers destined for the ultimate consumer.

Since the proposed changes to the shell egg grading regulations were not finalized, AMS is revising 7 CFR part 56 to conform to the FSIS temperature and labeling requirements mandated by the 1991 EPIA amendments. Because the proposed rule was published some years ago, AMS published this rule as an interim final rule with request for comments. We are only making changes deemed necessary to avoid conflict between the requirements of the final rule published by FSIS and the AMS shell egg grading program.

All shell egg processors that currently use or are likely to use USDA grading service typically have over 3,000 layers and are therefore required to comply with the provisions of the EPIA. Accordingly, all eggs these processors pack into consumer containers for the ultimate consumer must comply with EPIA refrigeration and labeling requirements. Additionally, industry practice is to refrigerate all processed and graded eggs the same way, whether packed into containers destined for the ultimate consumer, or only officially identified as U.S. Grade AA, A, or B.

Therefore, AMS has determined that the provisions of this rule will not impose any additional requirements on small or large egg handlers. Accordingly, it will not have a significant economic impact on a substantial number of small entities that use USDA's voluntary shell egg grading service. In addition, FSIS discussed its RFA analysis when it published its final rule for 7 CFR part 59, and determined that it would not have a significant economic impact on a substantial number of all small entities that produce and process chicken eggs.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements that appear in part 56 have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581–0128. There are no new requirements provided for in this rulemaking action.

After consideration of all relevant material presented, including the comments received, we are finalizing the interim rule without change.

List of Subjects in 7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

PART 56—VOLUNTARY GRADING OF SHELL EGGS

Accordingly, the interim rule amending 7 CFR part 56 which was published at 64 FR 56945 on October 22, 1999, is adopted as a final rule without change.

Dated: May 24, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00–13481 Filed 5–30–00; 8:45 am]

BILLING CODE 3410–02–P

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Parts 1306, 1307 and 1309

Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Final rule.

SUMMARY: The Northeast Dairy Compact Commission amends the over-order price regulation to establish a milk supply management plan. This new program addresses the requirement in the Northeast Interstate Dairy Compact that the Commission take such action as necessary and feasible to ensure that the over-order price regulation does not create an incentive for milk producers to generate additional supplies of milk. This rule establishes an assessment/refund plan under which the Commission will withhold 7.5 cents from the per hundredweight producer price in each month there is a Compact payment, so long as the resultant Compact producer price is at least 25 cents per hundredweight. The Commission will, on an annual basis, return the withheld funds to only those Compact eligible producers who increased their milk production at a rate of one percent or less, as compared to the prior year's milk production. The refund will be paid to eligible producers by distributing one-half of the assessed funds on an equal payment to each eligible producer and one-half on a per hundredweight basis of the total milk production for the program year, up to a maximum per hundredweight refund of $12,000. The program year will be from July 1 through June 30. This supply management plan is intended to ensure that the over-order price regulation does not create an incentive

to generate additional supplies of milk and that it continues to meet the Commission's primary mission to assure the continued viability of dairy farming in the northeast and to assure New England consumers of an adequate and local supply of milk.

EFFECTIVE DATE: July 1, 2000.

ADDRESSES: Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, Vermont 05602.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229–1941, or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION:

I. Background

The Northeast Dairy Compact Commission (''Commission'') was established under authority of the Northeast Interstate Dairy Compact (''Compact''). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Pub. L. 93–320; Maine—Pub. L. 89–437, as amended, Pub. L. 93–274; Massachusetts—Pub. L. 93–370; New Hampshire—Pub. L. 93–336; Rhode Island—Pub. L. 93–106; Vermont—Pub. L. 93–57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104–127 (FAIR Act), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact. In November 1999, the Congressional consent to the Compact was extended through September 30, 2001. 7 U.S.C. 7256(3), as amended by Pub. L. 106–113 § 4.

Pursuant to its rulemaking authority under Article V, Section 11 of the Compact, the Commission concluded an informal rulemaking process and voted to adopt a compact over-order price regulation on May 30, 1997. [1] The Commission has subsequently amended and extended the compact over-order price regulation. The current compact over-order price regulation is codified at 7 CFR Chapter XIII.

The Compact requires the Commission, when establishing a compact over-order price, to ''take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk.'' Compact Article IV, Section 9(f). As required by this section, the Commission has taken several steps to monitor milk production in New England since implementation of the over-order price regulation. In 1997, the Commission contracted with two Universities to conduct various studies, including an assessment of the cost of milk production in New England and an analysis of milk supply in the Compact region. In 1998, the Commission's Committee on Regulations and Rulemaking held five regional meetings to obtain information from the region's farmers regarding the increase in milk production in the region and the Commission's responsibilities under Article IV, Section 9(f) of the Compact. The Commission also conducted an historical review of milk supply control methods that have been attempted in the past on a national or regional level. Finally, the Commission initiated a series of informal rulemaking proceedings.

The Commission began informal rulemaking proceedings relating to milk supply management by issuing a notice on November 27, 1998. In that notice the Commission requested public comment and testimony on several subjects and issues, including whether additional supply management policies and provisions should be incorporated into the over-order price regulation. [2] The Commission specifically solicited comments on four distinct methods of addressing milk supply management through the Compact producer price payment. The four options were: (1) to establish a cap that would limit the milk eligible for the Compact payments to up to 95,000 pounds of a producer's monthly milk production; (2) to establish a cap that would limit the milk eligible for the Compact payments at the 1998 production level for farms producing in excess of 600,000 pounds per month; (3) a refund/assessment plan that would withhold an assessment from each Compact monthly pool and refund the assessed funds to only producers who did not increase their milk production during the program period; and (4) a split pool proposal that would withhold a certain amount from each monthly pool and then redistribute those funds to all eligible producers by dividing the total and paying a set percentage to all farms on an equal basis and the remainder on a per hundredweight basis.

The Commission held a public hearing to receive testimony on December 11, 1998 in Boxborough, Massachusetts and comments were received until 5:00 p.m. on December 31, 1998. At its January 13, 1999 meeting, the Commission voted to close the subjects and issues rulemaking proceeding and to refer the issues and comments and testimony received to the Committee on Regulations and Rulemaking for review and analysis. The Committee was directed to return to the Commission with its recommendations no later than the May 1999 meeting.

The Committee presented its recommendations to the Commission at the April 7, 1999 meeting. The Commission voted to initiate an informal rulemaking proceeding and to propose a specific assessment and refund program to address its responsibilities under Article IV, Section 9(f) of the Compact.[3] The assessment and refund program proposed assessing a flat rate of $250,000, or approximately four cents per hundredweight, from each producer pool. The assessment obligation would have carried forward to the next pool in any month without a Compact payment. The refund of the assessments would have been paid to only those producers who increased their milk production at a rate of one percent or less. The refund would be paid in two parts, the first at a flat rate to each eligible producer, and the second part to only those producers who reduced their milk production based on the hundredweight of milk that the current year's production was less than the prior year's production. The Commission held a public hearing on May 5, 1999 in Concord, New Hampshire and received comments until May 19, 1999.

At its meeting on June 2, 1999, and after considering the testimony and comments submitted in the rulemaking proceeding, the Commission voted to reopen the proceeding and to propose as a second option a base/excess plan, in addition to a modified assessment/refund plan.[4] The proposed base/excess plan would establish a monthly base production level for each producer, using the prior year's production in that month as the base. The producer would then only be eligible for Compact payments on the volume of milk produced in the current month up to the base volume of milk produced in the same month in the prior year. There would be no Compact payment on milk produced in excess of the base. The amended assessment and refund plan would establish an assessment of five cents per hundredweight against the producer pay price, but only in months with a Compact payment.

[1] 62 FR 29626, May 30, 1997.

[2] 63 FR 65563, Nov. 27, 1998.

[3] 64 FR 19084, Apr. 19, 1999.

[4] 64 FR 33027, June 21, 1999.

The Commission held public hearings on July 7, 1999 in West Springfield, Massachusetts and August 4, 1999 in White River Junction, Vermont on the proposed base/excess and modified assessment/refund plans. The Commission received written comments through August 18, 1999.

At its September 1, 1999 meeting, the Commission voted to postpone deliberation on the proposed supply management rules pending resolution of legislation in Congress regarding reauthorization and expansion of the Compact. The Commission repeated this action at its October 6, 1999 and November 10, 1999 meetings.

Following Congressional reauthorization on November 29, 1999, the Commission began deliberations on the proposed supply management rules at its December 1, 1999 meeting. The Commission voted to reject the proposed base/excess plan, due to excessive administrative costs associated with that proposal, as demonstrated in the hearing record through testimony and comment, and to move forward with the analysis of the public comment on the proposed assessment/refund program. The Commission's Committee on Regulations and Rulemaking continued its analysis of the rulemaking record.

At the February 2, 2000 Commission meeting, because so much time had passed since the last public comment period and new milk production statistics were available, the Commission voted to close the pending supply management proceedings and instructed the Committee on Regulations to hold a public meeting and to return to the Commission's March meeting with a new proposed rule to address the Commission's responsibilities under Article IV, Section 9(f) of the Compact. The Committee held a public meeting on February 23, 2000 to discuss the Commission's supply management options.

On March 8, 2000 the Commission voted to propose a revised assessment/refund plan that would assess five cents against the producer price in each month with a Compact pool, and refund those funds to all producers who had maintained their milk production at or below one percent of the prior year's production. The refund would be distributed in two parts, with the first paid to all eligible producers at an equal payment to each producer and the second part on a per hundredweight basis of total milk production for the program year. The Commission held a public hearing on April 5, 2000 in Bedford, New Hampshire.[5] The Commission accepted written comments until April 19, 2000.

Based on the comments received in the public meetings on supply management in April and May 1998 and February 2000 and oral testimony and written comments and exhibits received in the December 1998 subjects and issues rulemaking proceeding, and the May, July and August 1999 and April 2000 public hearings and proposed rulemaking proceedings, the Commission implements a supply management plan through an assessment and refund payment to producers who maintain their milk production up to one percent of the prior year's production level. The comments and testimony received as part of the public participation in the rulemaking proceedings and the milk supply management plan are described in detail below.

II. Summary of Public Comments and Testimony

A. Summary of 1998 Proceedings

The Commission has closely monitored the milk supply in the New England states since the implementation of the over-order price regulation. In 1998, the Commission initiated a comprehensive investigation into the increase in milk production that occurred in the first three quarters of 1998 and to evaluate how best to address its obligations under Article IV, Section 9(f) of the Compact. These activities included holding five regional meetings of the Committee on Regulations and Rulemaking and the review and analysis of supply management options proposed for the United States Dairy Industry over the years. The Commission also initiated a subjects and issues rulemaking proceeding to obtain public comments and testimony regarding additional regulation of the New England milk supply.

The Commission held five regional meetings of its Committee on Regulations and Rulemaking in April and May of 1998. These meetings were held in Vermont, Massachusetts, Saratoga Springs, New York, Connecticut and Maine. The Commission received oral and written comments in response to those meetings. A summary of the oral[6] and written[7] comments is included in the December 1998 rulemaking record. Additional letters and telephone calls were received by the Commission in response to the regional meetings of the Committee on Regulations and Rulemaking and the letters are also included in the record.[8] The overwhelming opinion of dairy farmers was that the Compact over-order price was not responsible for the increase in milk supply, but rather that the favorable weather and grain prices and long term business plans were responsible. Still many individuals did express support for the adoption of a supply management plan by the Compact Commission.

In addition, the Commission reviewed the supply management options proposed for the United States dairy industry.[9] The review includes a discussion of Federal Milk Market Orders, The Dairy Price Support Program, Voluntary Supply Control Programs, such as the Milk Diversion Program, the Dairy Termination Program, and Refundable Assessment, as well as Mandatory Supply Control, such as allocating the ''right of production'' and a quota system. This review also includes a bibliography.

In December 1998, the Commission initiated a public hearing, at the request of the Massachusetts delegation to the Commission, to consider placing a limit on the amount of milk on which the Compact over-order producer price is paid. The purpose of the proposed limit, or cap, would be ''to increase the level of income stability for the average sized farmers and to limit the incentives for increased production in the Compact region.''[10] On November 27, 1998, the Commission published a notice of proposed rulemaking and requested testimony and comments on whether to amend the formula for distribution of monies from the producer-settlement fund, including whether to adopt a cap on the amount of milk, per producer, eligible for the Compact over-order producer price and whether additional supply management policies and provisions should be incorporated into the over-order price regulation.[11] The Commission held a public hearing on December 11, 1998 in Boxborough, Massachusetts and received written

[5] 65 FR 12146, Mar. 8, 2000.

[6] Summary of Testimony Concerning the Issue of Increased Milk Production in the Region, Written Comments December 1998 rulemaking record, hereinafter ''WC 12/98'' at 22–38.

[7] Written Statements Submitted at the Public Hearings, WC 12/98 at 57–163.

[8] Producer Letters and Phone Calls Concerning the Issue of Increased Milk Production, WC 12/98 at 164–257.

[9] Supply Management Options Proposed for the US Dairy Industry: Historical Review, WC 12/98 at 44–56.

[10] WC 12/98 at 39.

[11] 63 FR 65563, November 27, 1998.

comments and exhibits until December 31, 1998.

In its November 27, 1998 notice of proposed rulemaking, the Commission specifically solicited comments on four proposals: the Massachusetts Cap Proposal, a Proposal to Cap the Largest Producers, a Split Pool Proposal, and a Refund/Assessment Option. [12] These proposals were developed as a result of the Massachusetts delegation cap proposal and the comments submitted in response to the five regional meetings and the supply management option review.

The Commission's Regulations Administrator, Carmen Ross, prepared several comparison charts of the Massachusetts cap proposal and an additional split pool option, as an alternative method of addressing the concerns expressed by the Massachusetts delegation. [13] In addition, Mr. Ross included data from the Market Administrator Order #1 regarding the number of farms by size category and year for comparison purposes. [14] Using this data, Mr. Ross compiled another chart summarizing the milk production by farm size. [15]

The majority of the commenters addressed the cap proposal and supply management issues. Some commenters addressed the income distribution issues and others offered alternative proposals. A few commenters addressed the split pool and refund/assessment proposals.

1. Cap Proposals

The vast majority of the commenters opposed the cap proposals and a few commenters supported the cap. Other commenters simply recommended that the producer payment regulations should not be changed.

Most of the commenters who opposed a cap proposal were concerned that a cap would not be fair, would create a disincentive, would be divisive, and ultimately would not save the smaller farms, because farms go out of business for many reasons and not because of price in the short term. Many of these commenters emphasized the need for all size farms, that small farms benefit from the larger farms in their area, and the importance for individual farms to be able to decide how large, or small, they need or want to be.

2. Income Distribution

The majority of the commenters opposed changing the basic producer pay formula and expressed support for the Commission's current methodology. Many of the commenters who opposed a change in the income distribution formula emphasized that many of the so-called larger farms are family farms run by two or more family members and supporting several related families, and gave the same reasons as those opposing a cap proposal for their opposition such as the importance of fairness in the regulation and the concern that divisiveness among farmers would result from changing the income distribution formula.

3. Supply Management

Supply management was also opposed by a great majority of commenters, both at the hearing in Boxborough and at the Committee's hearings in the Spring of 1998. Many of those opposed to supply management also did not believe that the Compact was causing the increase in production in New England, but rather attributed the increase to warm weather and good quality feed at low prices. Others stated that they increased production as part of a long-term plan to expand. Many of the commenters, especially at the Spring 1998 meetings, expressed how helpful the Compact payments have been, but these same commenters also stated unequivocally that the Compact payments did not cause them to increase production. Other commenters questioned why supply management is needed when farms are still going out of business and New England continues to be dependent on milk from other states, primarily New York.

Some commenters did support the Compact Commission instituting some form of supply management. A few commenters did think that the Compact payments are the cause of increased production in New England.

4. Split Pool Proposal and Refund/Assessment Proposal

Few comments were received specifically addressing the split pool proposals or other two-tiered system, and these comments were offered only if the Commission determined that an amendment to the income distribution methodology was required. Similarly, the Refund and Assessment proposal received few comments.

B. Summary of 1999 Rulemaking Proceedings

At the January 13, 1999 Commission deliberative meeting, the December 1998 supply management rulemaking record was referred to the Committee on Regulations and Rulemaking for analysis and review. The Committee reported its recommendations to the Commission at the April 7, 1999 meeting and the Commission published a proposed rule on April 19, 1999. [16] The proposed rule would have established an assessment/refund program under which the Commission would withhold up to $3 million dollars per year, at the rate of $250,000 from each Compact monthly pool. In months without a Compact pool, the assessment would accrue to the next monthly pool. At the end of the calendar year, the Commission would refund the assessed funds to producers who had increased production of 1% or less, as compared to the prior year's production. One-half of the assessment would be refunded at a flat rate to each eligible producer. The remaining half would be refunded only to those producers who decreased production, on a per hundredweight payment based on the volume of reduced production. The Commission held a public hearing on May 5, 1999 in Bedford, New Hampshire and received written comments until May 19, 1999.

The Commission received testimony from its Regulations Administrator, Carmen Ross, and four other witnesses at the May 5, 1999 public hearing on the first proposed assessment/refund rule. Mr. Ross' testimony was an explanation of the Commission's proposed rule. [17]

One commenter generally supported the Commission's proposal, but offered an alternative approach involving an individual base for each farmer. Another commenter expressed the view that New England is not the cause of the national oversupply of milk. This commenter opposed a supply management plan, because the only producers to reduce production are those who had a bad year and felt the existing regulation works well. He expressed the view that the 2.8 percent of income that the Compact payments represent, is not enough to make management decisions. He felt that his farm is set up for a certain number of cows, and to reduce the number would start a domino effect of decreased production.

One commenter presented testimony on behalf of three farmer cooperatives, in which he generally felt a supply management plan was not necessary, but as an alternative offered a plan to establish a base for each producer. This commenter felt by making Compact payments only up to the prior year's production level would address the incentive aspect of Article IV, Section 9(f) of the Compact. This commenter also opposed making refund payments

[12] 63 FR 65564, November 27, 1998.

[13] Carmen Ross, Tr. 14 and WC 12/98 at 2–16; 63 FR 65564.

[14] Ross, WC 12/98 at 17–19.

[15] Ross, WC 12/98 at 20.

[16] 64 FR 19084 (April 19, 1999).

[17] Carmen Ross, May 1999 Transcript (''Tr. 5/99'') at 4–61.

on the volume of reduced production. This opinion was shared by another commenter.

The Commission also received eighteen written comments. Of these, eleven supported the Commission's actions to address milk supply issues and eight opposed any supply management plan. Of those opposing a supply management plan, the commenters expressed concern for how the plan would affect small or new farms or younger farmers trying to grow their businesses. Others felt that the Commission has already taken sufficient steps to ensure the Compact payments do not create an incentive to generate additional supplies of milk, through the payments to the Commodity Credit Corporation and refunding the balance to farmers who did not increase production, implementation of the diversion and transfer rule and by setting the Compact price at a floor of $16.94.

Many of the commenters supporting the proposed assessment and refund plan felt that the assessment would have to be higher than four cents, some recommended up to twenty cents or twenty per cent of the monthly Compact producer price, to be effective. Another commenter felt the five cent assessment was adequate, but should be capped at $2.5 million for the program year.

Several commenters objected to the proposed plan to make part of the refund payment on the reduced volume of milk production, instead of the historical dairy pricing policy of payments based on total milk produced. Many commenters urged the Commission to match the base of comparison, not to the prior year's production volume, but rather to a producers contribution to a milk supply volume balanced to the New England consumer demand. Other commenters objected to the accrual of the assessment obligation to the next pool, in months with no Compact payment.

At its June 2, 1999 meeting, the Commission considered the testimony and comments received and voted to modify the proposed assessment/refund rule and to alternatively propose a base/excess rule.[18] The assessment/refund plan was modified to withhold five cents from each Compact pool, without an assessment accruing in months without a Compact pool. The modified proposal also included a $12,000 cap on the amount of the refund to be paid out on a per hundredweight basis.[19]

The Commission also proposed, as an alternative, a base/excess plan. Under that proposal, all compact qualified producers would be assigned a base production level for each month. The base would be the equivalent of the volume of milk produced in the same month in the prior calendar year. Producers would then receive compact payments on only their base production volume, or actual production volume, whichever is less. Any amount of milk produced in excess of the base would not receive Compact payments. Adjustments to the base would be dependent on the rate of increased production in the Compact region as compared to the national average. The Commission held public hearings on July 7, 1999 in West Springfield, Massachusetts and on August 4, 1999 in White River Junction, Vermont. Both of these public hearings were held in the evening to accommodate summer farm work schedules and to encourage farmers to attend. Comments were received through August 18, 1999.

The Commission received testimony from twenty-seven witnesses in those two public hearings and received eleven additional written comments. Of these commenters, one commenter supported a supply management plan, and suggested that supply be matched to consumer demand and twenty-eight opposed the Commission taking any action regarding supply management, but nine would support the base/excess plan, if the Commission felt it was necessary. The reasons given for opposing a supply management plan included that it is not necessary because milk production is due to weather conditions and feed quality and price, the Commission has already taken sufficient actions and that milk supply is a national problem and the small amount of money represented by the Compact payments to New England milk producers cannot effect the national milk supply.

Two of the witnesses appeared at the request of the Commission. They were David Walker, Federal Order #4 Market Administrator and Eric Rasmussen, Federal Order #1 Market Administrator. These witnesses testified to their administrative experience with plans similar to those proposed by the Commission. Mr. Walker explained the heavy administrative aspect of implementing a base/excess plan and Mr. Rasmussen explained the experience with administering and auditing functions his office performed for the Commission in the 1999 refund of the balance in the Commodity Credit Corporation escrow account to producers who did not increase their milk production.

The Commission notes that the commenters participating in the rulemaking proceedings described above provided comments of exceptional quality. Many commenters thoroughly analyzed the charts presented by the Commission and of those who presented alternative proposals, many produced their own charts and compared the results to the charts presented by the Commission. The Commission appreciates the thoughtful participation and assistance offered by these commenters and has found the opinions, data and comments of great value.

C. Summary of Current Proceeding

The Commission proposed the instant rule on March 8, 2000.[20] The Commission proposed a revised assessment and refund plan that would withhold five cents from the producer price in each Compact monthly pool. The Commission would refund the assessment on an annual basis to those producers who had increased production at a rate of one percent or less, as compared to the prior calendar year's production. One-half of the assessed funds would be distributed to all eligible producers at a flat rate and one-half would be distributed based on the total volume of milk produced for the year, up to a maximum per hundredweight refund of $12,000. This proposed rule responded to previous comments by deleting the provision that would have the assessment accrue to the next pool, in months without a Compact payment and by paying the per hundredweight refund to all eligible producers, instead of only those who actually decreased production, and by making that payment on the total volume of milk produced, rather than on the volume of reduced production.

The Commission received testimony from three witnesses and three written comments. All those commenting supported a supply management plan. Three commenters felt the assessment should be higher than the proposed five cents, and suggested at least ten cents, and one commenter supported the proposal but only if the assessment is no more than five cents.

D. Analysis of Comments Received

The Commission concludes that the adopted milk supply management plan

[18] 64 FR 33027 (June 21, 1999).

[19] The proposal also indicated the Commission would modify the rule relative to the Commodity Credit Corporation to return remaining funds from a CCC reserve account to the producer-settlement fund. The current rule requires such funds to be returned to producers who did not increase their milk production and is not changed by this final rule.

[20] 65 FR 12146, Mar. 8, 2000.

is both necessary and feasible and is therefore required by Article IV, Section 9(f) of the Compact. The Commission further concludes that its responsibility under that section is met with this program and the other actions previously taken by the Commission to ensure that the over-order price regulation does not create an incentive to producers to generate additional supplies of milk, while assuring the viability of dairy farming in the northeast.

The Commission does not disagree with the many commenters who noted that a national milk supply management program should be considered and not just a program applicable in the northeast. However, the Commission notes its peculiar responsibility relative to milk supply in the northeast under the Compact and concludes that this program is appropriate.

The Commission also does not disagree with the numerous commenters that milk supply is greatly effected by weather conditions and feed quality and cost. Nevertheless, the Commission is charged with taking action that is necessary and feasible relative to milk supply and concludes that the assessment/refund plan adopted by this amendment meets that obligation.

The Commission also recognizes the many statements from producers that the Compact has not caused them to increase their milk production. The Commission does not disagree with their statements that good weather, good quality feed and low feed cost contributed to the milk production increase in the New England states in 1998 and 1999. However, the Commission also defers to the results of its commissioned study that concludes that even taking those factors into account, one percent of the milk production increase between July 1997 and June 1998 is attributable to the Compact payments.[21]

The Commission concludes that the assessment and refund plan is sufficient to meet the requirements of Article IV, Section 9(f) of the Compact. Many commenters suggested that the proposed rate of five cents per hundredweight was insufficient and some suggested up to twenty percent of the Compact producer price be set as the assessed rate. The Commission agrees that five cents may be insufficient, but that ten cents is more than necessary in light of current milk production data that shows New England production below the national average. Therefore, the Commission concludes that 7.5 cents reduction in the producer price for twelve months is sufficient to result in a supply management refund pool that will encourage producers to stabilize their milk production at one percent or less. A stable milk supply in New England is a goal for the Compact and will assure consumers of an adequate and local supply of milk. Therefore, the Commission adopts an assessment rate of 7.5 cents against the producer price in each month there is a Compact payment.

However, the Commission is concerned that when federal milk prices are high, that is a signal that more milk is needed, and therefore will not impose the 7.5 cents assessments when it would result in a producer pay price of less than 25 cents.

The Commission agrees with the numerous commenters that the refund should be paid on total production, and not on reduced production. The Commission understands the opposition of some commenters to the two-tier refund design of the supply management plan. However, the Commission recognizes the different impacts on different size farms and different pressures on farms in more populated states. The Commission concludes that the two-tier refund design will best assure a local supply of milk throughout New England.

The milk supply management plan implemented by this rule is a voluntary plan. This rule does not require young or new farmers to restrict their business growth plans. However, it does provide an incentive for farmers to stabilize their production.

The Commission has been very cognizant of the repeated requests from those participating in the public meetings and hearings that any plan be equitable and fair to all farmers. The Commission adopts this supply management plan after much careful consideration and deliberation and concludes that this plan allows many factors to be balanced while providing equity and fairness to all farmers through this voluntary supply management plan.

III. Milk Supply Management Plan

The milk supply management plan implemented by this rule is designed to meet the Commission's responsibilities under Article IV, Section 9(f) of the Compact. That provision provides that ''[w]hen establishing a compact over-order price, the commission shall take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk.'' The supply management plan is relatively straightforward to administer and implement and therefore the Commission concludes that it is a feasible method of addressing supply management. The proposed supply management plan is necessary to ensure that the Compact Over-order price does not create an incentive for producers to generate additional supplies of milk, as required by Article IV, Section 9(f) of the Compact.

Since promulgation of the Compact Over-order Price Regulation in 1997, the Commission has closely monitored milk production levels in New England. One of the main goals in initially promulgating the Over-order Price Regulation was to at least stabilize the dairy industry supplying the New England consumer milk markets and to increase the local supply of milk.[22]

The Commission received the results of a study, conducted by the University of Vermont, of the milk supply in the first year of the Compact Over-order Price Regulation. The study concluded that the Over-order Price Regulation was meeting its initial goal of stabilizing the milk supply and that one percent of the increase in milk supply between July 1997 and June 1998 was due to the Compact payments.[23] This study analyzed the milk supply in New England and factored in many variables, including weather and feed quality and prices in concluding that the Compact Over-order Price Regulation was increasing milk supply by one percent, a stated goal of the Commission in implementing the price regulation in 1997. The study does not include an analysis of the impact of the price regulation after June 1998.

Table 1 shows the total volume of milk in the Compact pool between July 1997 and December 1999. The volume of milk includes milk produced outside of New England, and distributed within New England, and does not include milk excluded pursuant to the Compact limitations on qualification of diverted and transferred milk.

[21] Executive Summary, Milk Market Impacts of the Northeast Dairy Compact, Department of Community Development and Applied Economics, University of Vermont November 1999.

[22] 62 FR 23039–40, April 28, 1997; 62 FR 29635, May 30, 1997; 62 FR 62814, Nov. 25, 1997.

[23] Impacts of the Northeast Interstate Dairy Compact on New England Milk Supply, Charles F. Nicholson, Budy Resosudarmo and Rick Wackernagel, Department of Community Development and Applied Economics, The University of Vermont.

TABLE 1.—VOLUME OF MILK IN THE COMPACT POOL JULY 1997 THROUGH DECEMBER 1999

[In million pounds]

Month	1997	1998	1999
Jan	.....	544.2	568.3
Feb	.....	508.1	528.3
Mar	.....	561.2	563.0
Apr	.....	541.8	568.5
May	.....	580.8	599.0
June	.....	552.1	569.2
July	531.0	567.9	564.3
Aug	532.2	551.3	559.8
Sept	503.9	529.5	530.4
Oct	517.3	544.3	545.9
Nov	498.0	527.3	525.3
Dec	535.1	566.0	560.7
Average	519.6	547.9	556.9

Table 2 shows the volume of milk that has been depooled, or excluded from qualification for Compact payments, pursuant to the Compact limitations on diverted and transferred milk.[24] The limitations on diverted and transferred milk became effective in January 1999 and applied to the first Compact pool in April 1999. The applicable regulations are codified at 7 CFR 1301.23(d) and 1304.2(c).

TABLE 2.—VOLUME OF DEPOOLED MILK JANUARY 1999 THROUGH DECEMBER 1999

[In million pounds]

Month	Depooled Milk
Jan	.....
Feb	.....
Mar	.....
Apr	4.3
May	1.2
June	.9
July	1.5
Aug	4.8
Sept	4.7
Oct	2.0
Nov	2.2
Dec	1.4
Total	23.0

Table 3 shows the total volume of milk qualified for Compact payments, after exclusions pursuant to the diverted and transferred milk limitations, by quarter. Table 3 also shows the percent increase in milk volume over the same quarter in the prior year.

TABLE 3.—COMPACT PRODUCER MILK BY QUARTER, JULY 1997 THROUGH DECEMBER 1999

Quarter	1997 million pounds	1998 million pounds	1999 million pounds	1997/1998 (percent)	1998/1999 (percent)
Jan-Mar	.....	1,613.5	1,659.6	.....	2.9
Apr-June	.....	1,674.7	1,736.7	.....	3.7
Jul-Sep	1,567.1	1,648.7	1,654.5	5.2	0.4
Oct-Dec	1,550.4	1,637.6	1,631.9	5.6	−0.4
Average	1,558.75	1,643.6	1,670.7	5.4	1.6

Table 4 shows the federal blend price, the Compact producer price and the percent of total producer price attributed to Compact payments.

TABLE 4.—TOTAL PRODUCER PRICE AND PERCENT ATTRIBUTED TO COMPACT PAYMENTS

Month	Federal blend price (zone 21)	Compact producer price	Total producer price	% of total due to compact
July 1997	11.97	1.28	13.25	9.66

[24] 63 FR 65517, Nov. 27, 1998.

TABLE 4.—TOTAL PRODUCER PRICE AND PERCENT ATTRIBUTED TO COMPACT PAYMENTS—Continued

Month	Federal blend price (zone 21)	Compact producer price	Total producer price	% of total due to compact
August	12.26	1.31	13.57	9.65
September	12.54	1.36	13.90	9.78
October	13.60	0.81	14.41	5.62
November	14.10	0.44	14.54	3.03
December	14.06	0.40	14.46	2.77
January 1998	14.02	0.34	14.36	2.37
February	14.30	0.04	14.34	0.28
March	14.10	0.16	14.26	1.12
April	13.96	0.14	14.10	1.00
May	13.38	0.33	13.71	2.41
June	13.68	0.71	14.39	2.41
July	13.14	1.02	14.16	7.20
August	15.00	0.24	15.24	1.57
September	16.47	0.00	16.47	0
October	16.76	0.00	16.76	0
November	16.67	0.00	16.67	0
December	17.18	0.00	17.18	0
January 1999	17.29	0.00	17.29	0
February	15.82	0.00	15.82	0
March	15.69	0.00	15.69	0
April	11.76	1.43	13.19	10.8
May	12.42	0.82	13.24	6.2
June	12.79	0.73	13.52	5.4
July	12.97	1.01	13.98	7.22
August	13.64	0.70	14.34	4.88
September	15.34	0.21	15.55	1.35
October	15.47	0.00	15.47	0
November	15.41	0.00	15.41	0
December	12.15	1.00	13.15	7.60
Average	14.26	0.49	14.75	3.32

In addition to the public comment and testimony discussed above, the Commission considered the data shown in Tables 1 through 4, and published as part of the proposed rule, and the data and conclusions provided in the University of Vermont Milk Supply studies, as well as milk production data published by the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) and milk supply and demand data and estimates published by the USDA World Agricultural Outlook Board (WAOB), to design a feasible supply management plan. The supply management plan adopted by the Commission, and approved by producers, is designed (1) to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk, and (2) to be consistent with the Commission's primary responsibility of assuring the viability of dairy farming in the northeast, and to assure consumers of an adequate, local supply of pure and wholesome milk. Compact Article I, Section 1 and Article IV, Section 9(f). The Commission concludes that establishing a voluntary supply management plan, that includes an allowance for an annual increase of one percent, will meet these dual objectives.

In implementing this program the Commission notes that the Compact producer price, since the inception of the price regulation in July 1997, has averaged only 3.3% of the total producer pay price, and therefore the Commission recognizes there are some limitations on the ability to affect producer decisions through the Compact price. The Commission also acknowledges that weather and other circumstances, such as feed quality, that affect milk production and supply, are unaffected by the Compact price.

The Commission finds, based on the University of Vermont studies, that changes in production technology, such as genetic advances and improvements to feeding systems, milking systems and other farm management practices, led to a 2% growth rate in average annual milk production per cow in New England for the ten-year period between 1988 and 1998.[25] Those same studies also found that milk production increased at a rate of 1.3% in the Compact region, between July 1997 and June 1998, of which 1% was attributable to the Compact producer price.

Therefore, the Commission recognizes that milk production is partially determined by price and partially determined by weather and other factors that are uncontrolled by the producer and unaffected by price levels. The Commission intends the supply management plan to affect, through the incentive aspects of the Compact price, the producer decisions regarding milk production that are directly related to the Compact price.

On the demand side, the Commission notes that USDA projects commercial disappearance of dairy products to grow at approximately 1% annually for the next decade.[26] The Commission finds that a 1% annual growth in demand justifies the conservative allowance of a 1% annual increase in supply to encourage a stable milk production level

[25] Impacts of the Northeast Interstate Dairy Compact on New England Milk Supply, Charles F. Nicholson, Budy Resosudarmo and Rick Wackernagel, Department of Community Development and Applied Economics, The University of Vermont.

[26] "USDA Agricultural Baseline Projections to 2009," Staff Report WAOB–2000–1, Office of the Chief Economist, USDA.

consistent with demand for milk in New England and to accomplish the expressed goals of the Compact.

The Commission also concludes that the 1% allowance is supported by the relative equilibrium between milk supply and demand in New England since the implementation, on January 1, 1999, [27] of the rule limiting Compact payments on milk diverted and transferred out of the region. Pursuant to that rule, some milk has been excluded from the monthly Compact pool, as reflected in Table 2. However, the low percentage of depooled milk (e.g. 0.15% in June 1999 and 0.7% in April 1999) indicates a relative equilibrium between supply and demand in the New England milk market.

This demonstrates that since the inception of the compact price regulation in July 1997, including the 1% increase in milk supply in New England attributable to the Compact producer price, as determined by the University of Vermont studies, a relative equilibrium between milk supply and demand in New England has been achieved.

The Commission finds, based on the public comment and testimony in this proceeding and the findings in prior rulemaking proceedings regarding price level, that the established level Compact Class I price of $16.94 per hundredweight will continue to be sufficient to ensure an adequate supply of milk to New England consumers. The Commission acknowledges that those producers who increase production greater than one percent will receive slightly less compact price at the end of the program year. However, those who maintain a stable level of milk production will receive slightly more. The Commission concludes that the adopted supply management program, as applied to all producers supplying the New England market, will ensure that the Compact producer price does not create an incentive to generate additional supplies of milk.

The supply management plan assesses 7.5 cents per hundredweight from the producer price in each monthly Compact pool. By taking an equal rate from each producer pool, the Commission intends that the impact on the monthly producer pay price will be minimized and predictable, thereby continuing to ensure a sufficient and stable pay price to producers to cover their costs of production. These funds will be accumulated in a separate interest-bearing account throughout the twelve-month plan year in a supply management-settlement fund.

At the conclusion of the plan year, producers will have 45 days to submit an application to the Commission for a refund from the supply management-settlement fund. Producers will be eligible for the refund if they maintained their milk production volume at a rate of increase of 1%, or less, compared to the prior year's production. One-half of the supply management-settlement fund will be distributed to eligible producers on a per producer basis, with each producer receiving an equal payment. The amount of the flat rate refund will be determined by dividing the total number of eligible producers into one-half the value of the supply management-settlement fund.

In addition, eligible producers will receive a refund amount based on a price per hundredweight of their total volume of milk produced in the plan year, up to a maximum of $12,000. The second-half of the supply management-settlement fund will be distributed on the per hundredweight basis. The amount of this half of the refund will be determined by dividing the total volume of milk produced by eligible producers into one-half the value of the supply management-settlement fund to determine the rate per hundredweight each eligible producer will receive.

The assessment/refund program will provide a reward to those producers who stabilize their milk production and will create an incentive for all producers to maintain a stable, local supply of milk for the New England milk market.

All producers will share equally in the burden of funding this program through a reduction in the producer pay price. Only those producers who reduce or maintain their production level at 1% or less will be eligible for a refund. However, the program will not otherwise restrict the milk production of those producers who, for business reasons unrelated to the compact payments, choose to increase their milk production at a rate greater than 1% per year. All producers, and in particular, young and new farmers must be permitted to operate their businesses according to their own plan. With improvements in genetics and farm efficiency, milk production volume on an individual farm will increase even if the same herd size is maintained. Therefore, the Commission has designed this supply management plan to be voluntary in nature.

It is the intention and judgment of the Commission that the combination of this supply management assessment/refund plan and the rules limiting compact payments on diverted and transferred milk will operate in coordination to regulate the supply of milk in New England relative to the consumer demand and to ensure that the compact payments do not create an incentive to generate supplies of milk in excess of the tolerance levels prescribed for diverted and transferred milk.

IV. Technical Amendments to the Over-Order Price Regulation

The Commission amends section 1306.3 and adds a new Part 1309 to provide the necessary regulations to implement the supply management assessment/refund plan. The Commission also makes corresponding technical changes required by the specific amendments and additions to the current regulations.

The Commission amends section 1306.3, by first redesignating existing paragraphs (e) through (g) as paragraphs (f) through (h) and adding a new paragraph (e). The new paragraph specifies that the Commission will withhold 7.5 cents from each monthly producer pool to fund the supply management-settlement fund, but only if the resultant over-order producer price is at least 25 cents.

A new Part 1309 is added to provide the regulations to implement the supply management plan. Section 1309.1 defines producer qualifications for the refund program and designates the plan year as between July 1 and June 30. Section 1309.2 defines the procedure for computing the refund prices to be paid to qualified producers. Section 1309.3 provides the authority for the establishment of a supply management-settlement fund and specifies that assessed funds will be returned to the producer-settlement fund if the supply management plan year is six months or less. Finally, section 1309.4 would describe the procedure for issuing payments to producers eligible for a refund under the supply management plan.

V. Summary of Required Findings

Article V, Section 12 of the Compact directs the Commission to make four findings of fact before an amendment of the Over-Order Price Regulation can become effective. Each required finding is discussed below.

A. Whether the Public Interest Will Be Served by the Amendments

The first finding considers whether the amendment of the Over-order Price Regulation serves the public interest. The Commission previously determined that an Over-order Price Regulation

[27] 63 FR 65517 (Nov. 27, 1998).

serves the public interest,[28] and the Commission reaffirms that determination. The Commission also finds that the public interest will be served by amendment of the Over-order Price Regulation to establish a milk supply management plan to ensure that the price regulation does not create an incentive to generate additional supplies of milk.

The Commission emphasizes that the amendments establishing a milk supply management plan do not impact on the New England milk consumers. The Over-order Price Regulation is structured so that assessments and obligations are based on Class I milk distributed in the New England market. The milk supply management plan affects only the distribution of the obligations collected to milk producers, and is therefore, cost-neutral to New England consumers.

B. The Impact on the Price Level Needed To Assure a Sufficient Price to Producers and an Adequate Local Supply of Milk

The second finding considers the impact of the amendments on the level of producer price needed to cover costs of production and to assure an adequate local supply of milk for the inhabitants of the regulated area.[29]

The Commission reaffirms its prior findings regarding the sufficiency of pay prices for milk needed to meet the New England market demand.[30] In adopting these amendments, the Commission notes that the primary impact of the assessment/refund plan will be to reduce the pay price to those producers whose milk production increased greater than one percent over the prior year's production level by 7.5 cents per hundredweight from the Compact Class I price of $16.94. Therefore, the Commission concludes that the amendments will not negatively impact on the price level paid to producers that is needed to assure an adequate local supply of milk for New England consumers. The Commission concludes that the over-order price regulation, including these amendments, will assure a sufficient price to producers and an adequate local supply of milk.

In reaching this conclusion, the Commission recognizes the vital role the Compact producer price has made in stabilizing the milk production in the New England region since implementation in July 1997 and the importance of ensuring that the Compact price does not create an incentive to producers to generate excessive amounts of milk. The Commission also recognizes that the historical supply of milk making up the New England milkshed requires substantial contributions of milk from outside the New England states.

The Commission notes that the Compact payments to producers are intended to assure the continued viability of dairy farming in the northeast. Compact Article 1, Section 1. The Over-order Price Regulation, as amended, balances this purpose with the equally important purpose of assuring an adequate, local supply of pure and wholesome milk for the Compact area consumers. Compact Article 1, Section 1. The Compact specifically charges the Commission to also ''take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk.'' Compact Article IV, Section 9(f). The Commission concludes that the amended regulation meets all three of these objectives and best preserves the integrity of the Compact by appropriately balancing these objectives.

C. Whether the Major Provisions of the Order, Other Than Those Fixing Minimum Milk Prices, Are in the Public Interest and Are Reasonably Designed To Achieve the Purposes of the Order

The third finding requires a determination of whether the provisions of the regulation other than those establishing minimum milk prices are in the public interest. The amendments establish a voluntary milk supply management plan. Therefore, the matter of the public interest is addressed under the first required finding and not under this finding. In any event, the Commission finds that the price regulation, as hereby amended, is in the public interest in the manner contemplated by this finding.

D. Whether the Terms of the Proposed Amendment Are Approved by Producers.

The fourth finding, requiring a determination of whether the amendment has been approved by producer referendum pursuant to Article V, Section 13 of the Compact is invoked in this instance given that the amendments will affect the level of the price regulation on the producer side. In this final rule, as in the previous final rules, the Commission makes this finding premised upon certification of the results of the producer referendum. The procedure for the producer referendum and certification of the results is set forth in 7 CFR part 1371.

Pursuant to 7 CFR 1371.3, and the referendum procedure certified by the Commission, a referendum was held during the period of May 12, 2000 through May 22, 2000. All producers who were producing milk pooled in the Federal Order #1, or for consumption in New England during December 1999, the representative period determined by the Commission, were deemed eligible to vote. Ballots were mailed to these producers on or before May 12, 2000 by the Federal Order #1 Market Administrator. The ballots included an official summary of the Commission's action. Producers were notified that, to be counted, their ballots had to be returned to the Commission offices by 5:00 p.m. on May 22, 2000. The ballots were opened and counted in the Commission offices on May 23, 2000 under the direction and supervision of Robert Starr, designated ''Referendum Agent.''

Ten Cooperative Associations were notified of the procedures necessary to block vote. Cooperatives were required to provide prior written notice of their intention to block vote to all members on a form provided by the Commission, and to certify to the Commission that (1) timely notice was provided, and (2) that they were qualified under the Capper-Volstead Act. Cooperative Associations were further notified that the Cooperative Association block vote had to be received in the Commission office by 5:00 p.m. on May 22, 2000. Certified and notarized notification to its members of the Cooperative's intent to block vote or not to block vote had to be mailed by May 16, 2000 with notice mailed to the Commission offices no later than May 18, 2000.

Notice of Referendum Results

On May 23, 2000 the duly authorized referendum agent verified all ballots according to procedures and criteria established by the Commission. A total of 3983 ballots were mailed to eligible producers. All producer ballots and cooperative block vote ballots received by the Commission were opened and counted. Producer ballots and cooperative block vote ballots were verified or disqualified based on criteria established by the Commission, including timeliness, completeness, appearance of authenticity, appropriate certifications by cooperative associations and other steps taken to avoid duplication of ballots.

[28] 62 FR 29638, May 30, 1997; 62 FR 62825, Nov. 25, 1997.

[29] As noted in prior rulemaking proceedings, the Commission limits its assessment to issues relating to the fluid milk market. See e.g., 62 FR 29632, May 30, 1997 and 62 FR 62812, Nov. 25, 1997.

[30] See e.g., 62 FR 29632–29637, May 30, 1997 and 62 FR 62812–622817, Nov. 25, 1997.

Block votes cast by Cooperative Associations were then counted. Producer votes against their cooperative associations block vote were then counted for each cooperative association. These votes were deducted from the cooperative association's total and were counted appropriately. Ballots returned by cooperative members who cast votes in agreement with their cooperative block vote were disqualified as duplicative of the cooperative block vote.

Votes of independent producers, not members of any cooperative association, were then counted.

The referendum agent then certified the following:

A total of 3983 ballots were mailed to eligible producers.

A total of 1700 ballots were returned to the Commission.

A total of 24 ballots were disqualified—late, incomplete or duplicate.

A total of 1648 ballots were verified.

A total of 1513 verified ballots were cast in favor of the price regulation.

A total of 135 verified ballots were cast in opposition to the price regulation.

Accordingly, notice is hereby provided that of the verified ballots cast, 1648, 91.8%, or 1513, a minimum of two-thirds were in the affirmative.

Therefore, the Commission concludes that the terms of the proposed amendment are approved by producers.

VI. Required Findings of Fact

Pursuant to Compact Article V, Section 12, the Compact Commission hereby finds:

(1) That the public interest will be served by the amendment of minimum milk price regulation to dairy farmers under Article IV to establish a milk supply management plan through an assessment and refund program.

(2) That a level price of $16.94 (Class I, Suffolk County, Massachusetts) to dairy farmers under Article IV will assure that producers supplying the New England market receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) That the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) That the terms of the proposed amendments are approved by producers pursuant to a producer referendum required by Article V. section 13.

List of Subjects in 7 CFR Parts 1306, 1307 and 1309

Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission amends 7 CFR parts 1306 and 1307 and adds a new part 1309 as follows:

PART 1306—COMPACT OVER-ORDER PRODUCER PRICE

1. The authority citation for part 1306 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. In § 1306.3 redesignate paragraphs (e) through (g) as paragraphs (f) through (h) and add a new paragraph (e) to read as follows:

§ 1306.3 Computation of basic over-order producer price.

* * * * *

(e) Subtract 7.5 cents per hundredweight from the basic over-order producer price computed pursuant to this section and deposit that amount in the supply management-settlement fund, provided that the resultant over-order producer price is at least 25 cents.

* * * * *

PART 1307—PAYMENTS FOR MILK

3. The authority citation for part 1307 continues to read as follows:

Authority: 7 U.S.C. 7256.

4. Section 1307.1 is amended in paragraphs (a), (b) and (c) by removing ''1306.3(f)'' and adding ''1306.3(h)'' in its place and by adding in paragraph (c) ''1306.3(d)'' after ''1306.3(c),''.

5. A new part 1309 is added to read as follows:

PART 1309—SUPPLY MANAGEMENT REFUND PROGRAM

Sec.

1309.1 Producer qualification for supply management refund program.
1309.2 Computation of supply management refund prices.
1309.3 Supply management-settlement fund.
1309.4 Payment to producers of supply management refund.

Authority: 7 U.S.C. 7256.

§ 1309.1 Producer qualification for supply management refund program.

A dairy farmer who is a qualified producer pursuant to § 1301.11(a) or (b) of this chapter for the entire refund year, July 1 through June 30, and the dairy farmer's milk production during the refund year is less than or the increase is not more than 1% of the milk production of the preceding refund year.

§ 1309.2 Computation of supply management refund prices.

The compact commission shall compute the supply management refund prices applicable to all qualified milk as follows:

(a) Combine into one total the values, including all interest earned, deducted pursuant to § 1306.3(e) of this chapter for the refund year;

(b) Subtract 50% from the total value computed pursuant to paragraph (a) of this section to be used for the per farm payments to producers who submitted documentation pursuant to § 1309.4(a);

(c) Divide the resulting amount by the sum of all milk production reported by producers qualified pursuant to § 1309.1 and who submitted documentation pursuant to § 1309.4(a).

§ 1309.3 Supply management-settlement fund.

(a) The compact commission shall establish and maintain a separate fund known as the supply management-settlement fund. It shall deposit into the fund all amounts deducted pursuant to § 1306.3(e) of this chapter. It shall pay from the fund all amounts due producers pursuant to § 1309.4;

(b) All amounts subtracted under § 1309.2(c), including interest earned thereon, shall remain in the supply management-settlement fund as an obligated balance until it is withdrawn for the purpose of effectuating § 1309.4;

(c) The compact commission shall place all monies subtracted under § 1306.3(e) of this chapter in an interest-bearing bank account or accounts in a bank or banks duly approved as a Federal depository for such monies, or invest them in short-term U.S. Government securities;

(d) If, after payments to producers of supply management refund pursuant to § 1309.4 there is a surplus in the fund, it is to be returned to the producer-settlement fund.

(e) The supply management program will continue through the operation of the compact over-order price regulation. If the refund year is six months or less, the supply management-settlement fund is to be returned to the producer-settlement fund.

§ 1309.4 Payment to producers of supply management refund.

(a) All producers who are qualified pursuant to § 1309.1 shall become eligible to receive payment of the supply management refund computed pursuant to § 1309.2 by submitting to

the compact commission documentation that the producer milk production during the refund year is less than or the increase is not more than 1% of the milk production of the preceding calendar year. Such documentation shall be filed with the commission not later than 45 days after the end of the refund year.

(b) The commission will make payment to all producers qualified pursuant to § 1309.1 and eligible pursuant to paragraph (a) of this section in the following manner:

(1) A per farm payment computed by dividing the amount subtracted pursuant to § 1309.2(b) by the total eligible producers; and

(2) The value determined by multiplying the supply management refund price computed pursuant to § 1309.2(e) by the producer's milk pounds, not to exceed $12,000.

Dated: May 24, 2000.

Kenneth M. Becker,

Executive Director.

[FR Doc. 00–13507 Filed 5–30–00; 8:45 am]

BILLING CODE 1650–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 714

Leasing

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final leasing rule updates and redesignates NCUA's long-standing policy statement on leasing, Interpretive Ruling and Policy Statement (IRPS) 83–3, as an NCUA regulation. IRPS 83–3 authorizes federal credit unions (FCUs) to engage in either direct or indirect leasing and either open-end or closed-end leasing of personal property to their members if such leasing arrangements are the functional equivalent of secured loans. In addition, the final rule formalizes NCUA's position, set forth in legal opinion letters, that FCUs do not have to own the leased property in an indirect leasing arrangement if certain requirements are satisfied.

DATES: This rule is effective June 30, 2000.

FOR FURTHER INFORMATION CONTACT: Paul M. Peterson, Staff Attorney, Division of Operations, Office of the General Counsel, (703) 518–6555.

SUPPLEMENTARY INFORMATION:

A. Background

In 1983, the NCUA Board issued Interpretive Ruling and Policy Statement (IRPS) 83–3, Federal Credit Union Leasing of Personal Property to Members, 48 FR 52560 (November 21, 1983), stating that FCUs may lease personal property to their members if the leasing of the personal property is the functional equivalent of secured lending. In 1997, the NCUA Board determined that IRPS 83–3 would be better suited as a regulation. 62 FR 11773 (March 13, 1997). In 1998, the Board issued a notice of proposed rulemaking (NPRM) and request for comment on leasing. 63 FR 57950 (October 29, 1998). The Board evaluated the comments received and incorporated many of the suggested changes. Due to these changes to the original proposed leasing regulation, the Board issued a second NPRM and request for comment. 64 FR 55866 (October 15, 1999). The comment period for the second NPRM expired on December 17, 1999.

B. Comments

NCUA received twelve comments on the second proposed leasing regulation. Comments were received from three federal credit unions, two credit union trade associations, four credit union leagues, one bank trade association, one insurance company, and one leasing company. In general, the commenters support the rule, although most commenters suggest modifications. Those commenters who compared the second proposed rule to the first think the second proposal is an improvement. Specific comments are addressed in the section-by-section analysis below.

C. Format

In drafting the proposed leasing regulation, the NCUA Board chose to use a plain English, question and answer format. The Board supports plain English as a means to increase regulatory comprehension and improve compliance among those affected by the regulation. Plain English drafting emphasizes the use of informative headings (often written as a question), lists and charts where appropriate, non-technical language, and sentences in the active voice. The NCUA wrote this proposed regulation as a series of questions and answers. The word ''you'' in an answer refers to an FCU.

D. Section-by-Section Analysis

This analysis contains a section-by-section summary of the second proposed rule; discusses the comments received on each section, if any; and describes any changes made as a result of those comments. The phrase ''proposed section'' as used below refers to draft language in the second NPRM.

Section 714.1—What Does This Part Cover?

Proposed § 714.1 stated that part 714 covers the standards and requirements that an FCU must follow when engaged in the lease financing of personal property. We received no comments and made no changes in the final rule.

Section 714.2—What are the Permissible Leasing Arrangements?

Proposed § 714.2 stated that FCUs may engage in direct or indirect leasing, and closed-end or open-end leasing.

Proposed § 714.2(c) provides ''[i]n an open-end lease, your member assumes the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end.'' Proposed § 714.2(d) provides that for a closed-end lease the FCU assumes the risk and responsibility for that same difference. Two commenters note that any excessive wear and tear on the leased property will be included in the difference between the estimated residual value and the actual value of the property at lease end so that the proposed rule apparently assigns the responsibility for excessive wear and tear differently depending on whether the lease is open-end or closed-end. One of these commenters suggests that § 714.2 be modified to place the risk and responsibility for excess wear and tear on the lessor FCU, regardless of the form of leasing. The other commenter suggests that the responsibility for excess wear and tear should always be with the member lessee.

As stated in the preamble to IRPS 83–3, the lessee is always responsible for a decrease in value due to excessive wear and tear. The lessee, with possession of the leased property, is in the best position to protect the property from excess wear and tear regardless of whether the lease is open-end or closed end. Accordingly, the Board amends § 714.2(d) to clarify that, in closed-end leasing, the member lessee will be responsible for excessive wear and tear and the FCU will be responsible for the remainder of the difference between the estimated residual value and the actual value. Proposed § 714.2(c) on open-end leasing already places the responsibility for excessive wear and tear on the member lessee and needs no modification in the final rule.

The following example illustrates the allocation of risks in closed-end leasing. Assume you, an FCU, lease a $12,000 car under a closed-end leasing arrangement. At lease inception, the car has an estimated residual value of $3,000. The lease is not covered by any

residual value insurance or third-party guarantee. Assume further that, during the term of the lease, the used car market for this particular make and model softens. When the car is returned at the end of the lease, you sell it at public auction for only $2,000, which is $1,000 less than your estimated residual value. If the car suffers from normal wear and tear, you are responsible for the entire difference between the estimated residual value and the actual residual value. If, however, excess wear and tear reduced the car's actual residual value by $500, the member will be responsible for $500 and you will be responsible only for the remaining $500 of residual value loss.

Section 714.3—Must You Own the Leased Property in an Indirect Leasing Arrangement?

Proposed § 714.3 stated that an FCU does not have to own the leased property in an indirect leasing arrangement if the FCU: (1) Receives a full assignment of the lease; (2) is named as the sole lienholder of the property; (3) enters into a security agreement with the leasing company to protect the FCU's lien on the property; and (4) takes all necessary steps to record and perfect the security interest.

One commenter supports the full assignment requirement. Three other commenters believe that the full assignment of the lease is unnecessary and decisions about how much of the lease should be assigned are best left to the discretion of the FCU. One of these three commenters noted that the Office of the Comptroller of the Currency (OCC) has no full assignment requirement in its leasing rules for national banks, and another argued that full assignment was unnecessary if the FCU ''can protect its interest by possession.'' The commenters opposed to full assignment did not specify any particular harm to FCUs arising from the requirement. Also, the Board notes that the one leasing company that commented on the second NPRM stated that full assignment was ''unnecessary but not objectionable.'' (emphasis added).

The final rule leaves the full assignment requirement intact. The full assignment requirement stems from two main concerns. First, in the event of a leasing company's bankruptcy, the failure to obtain a complete assignment of the lease may permit the bankruptcy trustee to argue that the trustee owns the lease and can treat it as an executory contract subject to repudiation. Second, the Board is concerned that advancing the funds to allow a nonmember leasing company to purchase property for leasing, and then allowing that nonmember to retain both lease and title to the underlying property, is tantamount to making a loan to a nonmember. While banks regulated by the OCC may lend money to anyone, FCUs may only lend money to members. 12 U.S.C. 1757. The second NPRM contains additional discussion of these concerns. 64 FR 55866, 55867 (October 15, 1999). Also, with regard to the comment about protection of its interest by ''possession,'' the FCU may protect its lease assignment by possession of the original lease documents or by an appropriate filing. U.C.C. § 9–102(1)(b) (sale of chattel paper), § 9–304(1), § 9–305. However, the FCU must still obtain a full assignment.

Two commenters object to the following statement in the preamble to the proposed § 714.3: ''It (the security agreement) must set forth the terms and conditions upon which the leasing company or the member may be in default and thus entitle the FCU to take immediate possession of the property.'' These commenters read the quoted language as requiring the security agreement to contain an exhaustive list of every obligation under the lease and every possible form of default.

The Board does not intend to mandate that every leasing security agreement include an exhaustive listing of obligations and defaults on those obligations. The Board does believe that an FCU ''should consider the contingencies that may seriously affect (its) security and see that the security agreement specifies them as events of default.'' James J. White and Robert S. Summers, Uniform Commercial Code, § 34–2 (4th ed. 1995). Section 714.3 provides that the FCU must have the right to take possession and dispose of the leased property in the event of ''a default by the lessee, a default in the leasing company's obligations to you, or a material adverse change in the leasing company's financial condition.'' Ultimately, the FCU must determine for itself how much detail about these and other default contingencies is included in the security agreement.

Another commenter asked whether NCUA intended to require a detailed security agreement for each lease, or whether the substance of a well-drafted security agreement could be subsumed into a lease program agreement. The Board believes that obligations and defaults may be described in the security agreement itself or may be incorporated by clear reference to some other document such as the master leasing agreement or contract. Also, a single security agreement may cover multiple leases, so long as the agreement sufficiently describes which leases are covered.

One commenter suggests that the rule should reinstate the requirement for an irrevocable power of attorney contained in the first NPRM but dropped from the second. The NCUA Board believes that a power of attorney is unnecessary for an FCU holding a well-defined and perfected security interest in the leased property. In the event of a default by a leasing company or lessee, an FCU should be able to take possession and dispose of the collateral without the power of attorney. Accordingly, the final rule no longer contains any requirement for a power of attorney. The Board notes, however, that the final rule does not prohibit an FCU from employing a power of attorney, in addition to a security agreement.

Section 714.4—What Are the Lease Requirements?

Proposed § 714.4 stated that leases must be net, full payout leases, with a maximum estimated residual value of 25% of the original cost of the leased property unless guaranteed. In a full payout lease, the FCU must recoup its entire investment in the leased property, plus the cost of financing that investment, from the lessee's payments and the estimated residual value of the leased property.

Numerous comments were directed to the guarantee requirement. Some commenters want the requirement eliminated, some want the 25% threshold raised, and others want the requirement maintained at 25% or lowered.

The commenters who want to eliminate the guarantee requirement cite the authority of national banks and federal thrifts to engage in certain leasing transactions without any guarantee. As discussed below, however, the legal authority supporting FCU leasing varies from that for national banks and federal thrifts. Unlike banks and thrifts, which have express authority to lease, FCUs have no express authority.

Prior to 1982, all federal depository institutions relied on the same source of legal authority for leasing: their express authority to lend money and the argument that leasing is incidental to this express lending authority. A lease under this incidental authority must be the equivalent of a secured loan. Dependence on the residual value to recover the depository institution's costs involves risks that are unlike those of secured lending and, hence, the residual value must ''contribute insubstantially'' to the institution's recovery of its costs. *M&M Leasing Corporation* v. *Seattle*

First National Bank, 563 F.2d 1377, 1384 (9th Cir. 1977), *cert. denied,* 436 U.S. 956 (1978). For national banks, the OCC quantified *M&M Leasing*'s ''insubstantial'' contribution at 25%, and required any reliance above 25% be guaranteed. 12 CFR 23.21(a)(2). The NCUA adopted this same 25% limit on the unguaranteed portion of the residual value in IRPS 83–3.

In the 1980s, Congress provided national banks and federal thrifts with additional, express statutory authority to conduct leasing activities in an aggregate amount not to exceed ten percent of assets. See the Garn—St. Germain Depository Institutions Act of 1982, Pub. L. No. 97–320, § 330(3), codified at 12 U.S.C. 1464(c)(2)(A); and the Competitive Banking Equality Act of 1987 (CEBA), Pub. L. No. 100–86, § 108, codified at 12 U.S.C. 24(Tenth). This express leasing authority empowers national banks and federal thrifts to assume increased risks in areas unique to leasing, including residual value risk. For example, in the Senate Report accompanying CEBA's grant of express authority to national banks, the Senate Committee on Banking, Housing, and Urban Affairs stated its expectation that with the express authority to lease ''the Comptroller will relax or eliminate the residual value limitation [on national banks] in the Comptroller's regulation in a manner consistent with sound banking practices.'' S. Rep. No. 100–19, at 42 (1987). Accordingly, neither OCC nor OTS require residual value guarantees for leases aggregating less than ten percent of assets and so covered by express leasing authority. See 12 CFR part 23, subpart B; 12 CFR 560.41(d). However, both the OCC and OTS still require residual value guarantees for banks and thrifts for leases in excess of ten percent of assets and thus subject to the restrictions on residual value risk enunciated in M&M Leasing. See 12 CFR part 23, subpart C; 12 CFR 560.41(c), (b)(2).

One commenter that supported elimination of the guarantee requirement asks, in the alternative, if credit unions with a demonstrated ability to handle risk could set the unguaranteed portion of the residual at some level higher than 25% of original cost. Other commenters support the guarantee at its current 25% level or feel that the 25% level should be lowered. The Board has carefully considered whether it should set the unguaranteed portion of the residual at some level other than the 25% figure contained in IRPS 83–3. As discussed below, the Board is not inclined to vary from the long-standing 25% limitation.

Any increase in the unguaranteed residual value above 25% may cause the unguaranteed residual to ''contribute substantially'' to the recovery of an FCU's costs and thus render the FCU's leasing program illegal under *M&M Leasing*. The line between ''substantial'' and ''insubstantial'' is imprecise and not susceptible to exact quantification. Nevertheless, the Board considers a 25% contribution to cost recovery as insubstantial, and any figure larger than 25% as problematic. The OCC has used the current 25% figure for decades.

Also, the Board believes that the economic impact of the guarantee requirement is not significant. Insurance companies offer reasonably-priced residual value insurance that satisfies the current 25% requirement. In vehicle leasing, for example, a policy with a 25% deductible can generally be obtained for a small, one-time premium of between one-half to one percent of the estimated residual value. In addition, the Board is aware of FCUs that purchase residual insurance in coverage amounts exceeding the requirements of the rule and yet remain competitive in their vehicle leasing markets.

The Board also considered the possibility of tightening the 25% guarantee requirement. The Board notes that, with the authority to put up to 25% of the original cost at risk, credit unions may still suffer significant losses if actual residual values fall short of estimates. Nevertheless, in the past FCUs have handled this risk well. The Board is willing to allow FCUs to use their business judgment in deciding how to handle residual value risks up to the 25% level.

One commenter suggests that instead of tying the guarantee to 25% of the original cost, it should be tied to ''a certain percentage of the blue book value.'' The Board believes that the guarantee requirement is best tied to an FCU's actual investment in the property, as the key to loss avoidance in leasing is recovery of costs. Also, the leasing regulation covers leasing of all personal property, not just vehicles. No particular publication such as the ''blue book'' provides property values on every form of personal property. The leasing rule's guarantee requirement is stated in terms flexible enough to cover all personal property leasing.

Five commenters request that any guarantee requirement extend only to the amount of the estimated residual needed to satisfy the full payout test. These commenters believe that the proposed rule, which separates the residual value guarantee requirement from the full payout test, is inconsistent with the OCC leasing rule and IRPS 83–3. The Board concurs with these commenters. The full payout test requires that FCUs plan to recover all leasing costs from the combination of lease payments and the estimated residual value. The guarantee requirement is intended to protect an FCU against the possibility of excessive residual losses. The Board believes that an FCU should only be required to guarantee the portion of the estimated residual value that is above 25% of the original investment that is needed to meet the full payout requirement, meaning the amount an FCU relies on to recover its costs. The Board has changed the final rule to connect the guarantee requirement clearly with the full payout test. This connection results in a lesser guarantee requirement and a corresponding reduction in the burden on FCUs. An illustration of the effect of the final rule follows.

Assume you, an FCU, pay $12,000 for a car and lease it under a closed-end leasing arrangement. Assume that your internal cost of financing is $2,000 and that lease payments over the life of the lease will be $8,500. To meet the full payout requirement, you must recover $14,000 (your investment and the cost of financing) from the lease payments and your estimated residual value. Thus, in addition to the $8,500 in lease payments, you will be relying on $5,500 in residual value to meet the full payout requirement. You only have to guarantee the portion of the residual value on which you rely to meet the full payout requirement that exceeds 25% of the cost of the car, in this case, $3,000. Thus, the amount of the residual value that must be guaranteed will be $2,500 ($5,500–$3,000).

For leases with estimated residual values in excess of 25% of original cost and subject to the guarantee requirement, two commenters were uncertain whether an FCU may assume the first dollars of residual risk or must guarantee the first dollars. These commenters request clarification.

Neither the proposed rule nor the IRPS require that FCUs guarantee the first dollars of residual risk. Conversely, neither the rule nor the IRPS require that FCUs assume the first dollar of residual risk. FCUs are free to guarantee or assume the first dollars of residual risk as they deem appropriate. The Board is aware that insurers offer residual value policies with deductibles that place the first dollars of risk on the FCU. Such policies are an acceptable form of guarantee.

The Board also notes that residual value insurance policies offer different payout formulae. For example, one form

of insurance pays the difference between the estimated residual value and the actual sales price of the property at the time of disposition. Another, more common form pays the difference between the estimated residual value and the average price being obtained for the given type of property at the time of disposition. Either of these payout formulae, with appropriate deductibles, is permissible for FCUs. However, if the FCU elects to purchase residual insurance that relies on average sale prices rather than the specific sale proceeds from the property at lease end, the FCU should ensure the terms of insurance are reasonable in relation to the method the FCU uses to dispose of the leased property. For example, if the FCU expects to dispose of leased vehicles at wholesale auction, it should use residual insurance that pays based on wholesale prices. Likewise, if the FCU expects to get most of its leased vehicles back in ''average'' condition, it should look for insurance tied to that condition.

Seven commenters object to language in the preamble to the second NPRM on the financing of certain costs associated with the lease. The preamble states that the financing of mechanical breakdown protection, credit life and disability premiums, and license and registration fees raised safety and soundness concerns and these services should not be financed. The preamble cites a specific concern that an FCU will have little or no value in the collateral to secure the financing of the additional costs. The commenters generally recognized the problem with undercollateralization but do not believe a blanket prohibition on the financing of particular items was the best response. As one commenter put it, ''the problem of undercollateralization is best determined by how much is financed relative to the collateral, not by what expenses are financed.'' Some commenters note that the current industry practice among banks and credit unions is to finance some or all of these costs in particular cases. Some commenters suggest that FCUs should adopt lease-to-value guidelines similar to the loan-to-value guidelines used in lending programs, such as a maximum lease investment (or loan investment) of 110% of the vehicle's MSRP.

The Board remains concerned that FCUs not overextend themselves but recognizes that a blanket prohibition on the financing of certain enumerated services is not the best approach to this issue. Instead, the Board recommends that FCUs take appropriate measures to ensure that their leases are properly collateralized and their leasing programs remain the functional equivalent of secured lending.

Section 714.5—What is Required if You Rely on an Estimated Residual Value Greater than 25% of the Original Cost of the Leased Property?

Proposed § 714.5 provided that an estimated residual value greater than 25% of the original cost of the leased property may be used if a financially capable party guarantees the amount above 25% of the original cost of the property. If the guarantor is an insurance company, the guarantor must have an A.M. Best rating of at least a B+ or the equivalent from another major rating company. The FCU must have financial documentation on hand demonstrating that the guarantor has the resources to meet the guarantee.

Two commenters object to the establishment of a minimum rating for insurance companies. One of these commenters cites state regulation of insurance companies as sufficient to establish any particular company's soundness. A third commenter agreed with the concept of a minimum rating but thought it should be tougher than B+, such as a minimum ''A'' or ''AA'' rating.

The NCUA Board believes that establishing a minimum rating standard ensures that an insurance company guarantor will have the resources to meet the guarantee. A Best's rating of B+ is the lowest rating that is considered by Best to be ''secure,'' while any rating lower than a B+ is considered to be ''vulnerable.'' FCUs that satisfy the guarantee requirement through residual insurance are dependent on the insurance company's ability to pay residual claims when the leases end, often years into the future. The Board believes that FCUs should not use insurers who are identifiable as financially vulnerable.

The requirement for a residual insurer to maintain a B+ rating also makes it easier for an FCU using an insurance company to satisfy the financial documentation requirement of § 714.5. An FCU that maintains a recent report indicating that their residual insurer is rated B+ or better would meet the minimum documentation requirements. If the FCU desires to use the Internet, an up-to-date rating can be obtained at any time both cheaply and quickly.

One commenter, citing IRPS 83–3 and current OCC rules, requests that § 714.5 be amended to specifically exclude an affiliate of the FCU from acting as residual value guarantor. The Board notes that credit union service organizations (CUSOs) have specified, limited powers. 12 CFR part 712. Although CUSOs may engage in insurance brokerage or agency activities, they have no authority to assume insurable risks, such as residual value risk, for FCUs or other entities. 12 U.S.C. 1757(7); 12 CFR 712.5, 712.6; 51 FR 10353, 10357 (March 26, 1986). The Board does not believe a modification to § 714.5 is necessary.

Section 714.6—Are You Required to Retain Salvage Powers Over the Leased Property?

Proposed § 714.6 states that an FCU must retain salvage powers over the leased property. NCUA received no comments on this section, and it remains unchanged.

Section 714.7—What are the Insurance Requirements Applicable to Leasing?

Proposed § 714.7 provides that the FCU must maintain a contingent liability insurance policy with an endorsement for leasing or be named as the co-insured. The insurance company must have a rating of at least B+. The lessee must carry the normal liability and collateral protection insurance on the leased property, and the FCU must be named as an additional insured on the liability insurance policy and as the loss payee on the collateral protection insurance policy.

Two commenters suggest that the phrase ''collateral protection insurance'' be replaced with ''physical damage'' or ''property insurance'' to more accurately reflect the type of insurance a lessee would purchase. The Board concurs with these commenters. The Board replaced the phrase ''collateral protection insurance'' with ''property insurance,'' which would include protection from physical damage, loss, or theft.

Section 714.8—What Rate of Interest May be Charged Under a Lease?

Proposed § 714.8 stated that the interest rate provisions of the NCUA lending rule are not applicable to lease transactions. Proposed § 714.8 also exempted lease transactions from the NCUA lending rules on early payment. NCUA received no comments on this section, and it remains unchanged in the final version.

Section 714.9—When Engaged in Indirect Leasing, Must You Comply With the Purchase of Eligible Obligation Rules Set Forth in § 701.23 of This Chapter?

Proposed § 714.9 provided that indirect leasing arrangements are not subject to the purchase of eligible obligation rules set forth in § 701.23 if the lease complies with the FCU's

leasing polices and the FCU receives a full assignment of the lease no more than five business days after it is signed by the member and the leasing company.

Two commenters object to the five-business-day requirement. One commenter believes the time required to transfer paper in indirect lending is similar to that required in indirect leasing and states that many retail installment contracts are not received within five days. This commenter recommends changing the five-business-day requirement to thirty business days. The other commenter states that the five-day language does not mirror the ''very soon'' language employed in the eligible obligations rule and that the difference may cause confusion. The eligible obligations rule has a provision specifying which indirect lending and indirect leasing obligations will be classified as loans and not as eligible obligations for purposes of the aggregate 5% limitation imposed on eligible obligations. 12 CFR 701.23(b)(3)(iv). One of the specified criteria for excluding indirect leasing arrangements from this 5% limitation is that the ''lease contract [be] assigned to the federal credit union very soon after it is signed.'' The latter commenter prefers that the ''very soon'' language of the eligible obligations rule be used in § 714.9, the corresponding provision of the leasing rule. For consistency between the leasing rule and the eligible obligations rule and to maintain flexibility, the Board has replaced the language of the proposed § 714.9 with a direct reference to § 701.23(b)(3)(iv) including a restatement of its requirements.

Section 714.10—What Other Laws Must You Comply With When Engaged in Leasing?

Proposed § 714.10 set forth the additional laws with which an FCU must comply when engaged in leasing. One commenter notes that national bank and federal thrift leasing activities are subject to lending limits and recommends that our regulatory limits on loans to one borrower and loans to officials limitations be incorporated into the final leasing regulation. The Board notes that the proposed § 714.10 already required FCUs engaged in leasing to comply with the greater part of the NCUA lending rule, § 701.21, including the lending limits found at §§ 701.21(c)(5) and (d). Accordingly, no change to § 714.10 was made in the final rule.

E. Other Comments

Two commenters ask that we address the risks of balloon lending in the leasing regulation. Assured-value balloon loans, or ''lease-look-alike'' loans, allow the borrower to return the financed property at the end of the loan term in lieu of making the remaining balloon payment. The commenters argue that these loans carry residual risks for FCUs very similar to those in traditional closed-end leasing and should be regulated similarly.

As was discussed in the preamble to the second NPRM, the primary distinction between a loan and a lease is who owns the underlying property. In a loan, the borrower owns the property and the lender is a lienholder. In a lease, the borrower-lessee has no ownership or lienhold interest in the property. Accordingly, it is the NCUA Board's position that programs, which involve loans and not leases, are significantly different from leasing arrangements, and should not be addressed in a leasing regulation.

F. Regulatory Procedures

Paperwork Reduction Act

The NCUA Board determined that the requirement in § 714.5 that an FCU must obtain or have on file statistics documenting that a guarantor has the resources to meet an estimated residual value guarantee constitutes a collection of information under the Paperwork Reduction Act. Both NPRMs contained a description of the requirement and an estimate of the associated workload. No comments were received on the estimated workload. OMB assigned control number 3133–0151 to this collection. 12 CFR part 795.

Regulatory Flexibility Act

The NCUA Board certifies that the proposed regulation will not have a significant economic impact on a substantial number of small credit unions. Small credit unions are defined by NCUA, pursuant to its authority to define ''small organizations,'' as those credit unions with assets of $1 million or less. 5 U.S.C. 601(4), (6); NCUA IRPS 81–4, 46 FR 29248 (1981); NCUA IRPS 87–2, 12 CFR 791.8(a). As of December 31, 1999, there were 1,069 FCUs that met the small organization standard. Of these 1,069 FCUs, only seven report any leasing activity, with a total of only 66 leases amongst these credit unions. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 13132

Executive Order 13132, Federalism, dated August 4, 1999, prescribes certain requirements for executive branch policies ''that have federalism implications.'' Policies that have federalism implications include any regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Independent regulatory agencies, such as NCUA, are not required to follow EO 13132 but are encouraged to do so, and NCUA voluntarily complies with EO 13132. The final leasing rule, however, will only apply to federally-chartered credit unions. The rule has no substantial direct effects on States or on the relationship or distribution of power and responsibility between the national government and the States. NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. No. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104–21) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and has determined that for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 it is not a major rule.

List of Subjects in 12 CFR Part 714

Credit unions, Leasing.

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

Becky Baker,

Secretary to the Board.

For the reasons set forth above, NCUA adds 12 CFR part 714 to read as follows:

PART 714—LEASING

Sec.

714.1 What does this part cover?
714.2 What are the permissible leasing arrangements?
714.3 Must you own the leased property in an indirect leasing arrangement?

714.4 What are the lease requirements?
714.5 What is required if you rely on an estimated residual value greater than 25% of the original cost of the leased property?
714.6 Are you required to retain salvage powers over the leased property?
714.7 What are the insurance requirements applicable to leasing?
714.8 Are the early payment provisions, or interest rate provisions, applicable in leasing arrangements?
714.9 Are indirect leasing arrangements subject to the purchase of eligible obligation limit set forth in § 701.23 of this chapter?
714.10 What other laws must you comply with when engaged in leasing?

Authority: 12 U.S.C. 1756, 1757, 1766, 1785, 1789.

§ 714.1 What does this part cover?

This part covers the standards and requirements that you, a federal credit union, must follow when engaged in the leasing of personal property.

§ 714.2 What are the permissible leasing arrangements?

(a) You may engage in direct leasing. In direct leasing, you purchase personal property from a vendor, becoming the owner of the property at the request of your member, and then lease the property to that member.

(b) You may engage in indirect leasing. In indirect leasing, a third party leases property to your member and you then purchase that lease from the third party for the purpose of leasing the property to your member. You do not have to purchase the leased property if you comply with the requirements of § 714.3.

(c) You may engage in open-end leasing. In an open-end lease, your member assumes the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end.

(d) You may engage in closed-end leasing. In a closed-end lease, you assume the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end. However, your member is always responsible for any excess wear and tear and excess mileage charges as established under the lease.

§ 714.3 Must you own the leased property in an indirect leasing arrangement?

You do not have to own the leased property in an indirect leasing arrangement if:

(a) You obtain a full assignment of the lease. A full assignment is the assignment of all the rights, interests, obligations, and title in a lease to you, that is, you become the owner of the lease;

(b) You are named as the sole lienholder of the leased property;

(c) You receive a security agreement, signed by the leasing company, granting you a sole lien in the leased property and the right to take possession and dispose of the leased property in the event of a default by the lessee, a default in the leasing company's obligations to you, or a material adverse change in the leasing company's financial condition; and

(d) You take all necessary steps to record and perfect your security interest in the leased property. Your state's Commercial Code may treat the automobiles as inventory, and require a filing with the Secretary of State.

§ 714.4 What are the lease requirements?

(a) Your lease must be a net lease. In a net lease, your member assumes all the burdens of ownership including maintenance and repair, licensing and registration, taxes, and insurance;

(b) Your lease must be a full payout lease. In a full payout lease, you must reasonably expect to recoup your entire investment in the leased property, plus the estimated cost of financing, from the lessee's payments and the estimated residual value of the leased property at the expiration of the lease term; and

(c) The amount of the estimated residual value you rely upon to satisfy the full payout lease requirement may not exceed 25% of the original cost of the leased property unless the amount above 25% is guaranteed. Estimated residual value is the projected value of the leased property at lease end. Estimated residual value must be reasonable in light of the nature of the leased property and all circumstances relevant to the leasing arrangement.

§ 714.5 What is required if you rely on an estimated residual value greater than 25% of the original cost of the leased property?

If the amount of the estimated residual value you rely upon to satisfy the full payout lease requirement of § 714.4(b) exceeds 25% of the original cost of the leased property, a financially capable party must guarantee the excess. The guarantor may be the manufacturer. The guarantor may also be an insurance company with an A.M. Best rating of at least a B+, or with at least the equivalent of an A.M. Best B+ rating from another major rating company. You must obtain or have on file financial documentation demonstrating that the guarantor has the resources to meet the guarantee.

§ 714.6 Are you required to retain salvage powers over the leased property?

You must retain salvage powers over the leased property. Salvage powers protect you from a loss and provide you with the power to take action if there is an unanticipated change in conditions that threatens your financial position by significantly increasing your exposure to risk. Salvage powers allow you:

(a) As the owner and lessor, to take reasonable and appropriate action to salvage or protect the value of the property or your interests arising under the lease; or

(b) As the assignee of a lease, to become the owner and lessor of the leased property pursuant to your contractual rights, or take any reasonable and appropriate action to salvage or protect the value of the property or your interests arising under the lease.

§ 714.7 What are the insurance requirements applicable to leasing?

(a) You must maintain a contingent liability insurance policy with an endorsement for leasing or be named as the co-insured if you do not own the leased property. Contingent liability insurance protects you should you be sued as the owner of the leased property. You must use an insurance company with a nationally recognized industry rating of at least a B+.

(b) Your member must carry the normal liability and property insurance on the leased property. You must be named as an additional insured on the liability insurance policy and as the loss payee on the property insurance policy.

§ 714.8 Are the early payment provisions, or interest rate provisions, applicable in leasing arrangements?

You are not subject to the early payment provisions set forth in § 701.21(c)(6) of this chapter. You are also not subject to the interest rate provisions in § 701.21(c)(7).

§ 714.9 Are indirect leasing arrangements subject to the purchase of eligible obligation limit set forth in § 701.23 of this chapter?

Your indirect leasing arrangements are not subject to the eligible obligation limit if they satisfy the provisions of § 701.23(b)(3)(iv) that require that you make the final underwriting decision and that the lease contract is assigned to you very soon after it is signed by the member and the dealer or leasing company.

§ 714.10 What other laws must you comply with when engaged in leasing?

You must comply with the Consumer Leasing Act, 15 U.S.C. 1667–67f, and its implementing regulation, Regulation M, 12 CFR part 213. You must comply with state laws on consumer leasing, but only to the extent that the state leasing laws are consistent with the Consumer

Leasing Act, 15 U.S.C. 1667e, or provide the member with greater protections or benefits than the Consumer Leasing Act. You are also subject to the lending rules set forth in § 701.21 of this chapter, except as provided in § 714.8 and § 714.9 of this part. The lending rules in § 701.21 address the preemption of other state and federal laws that impact on credit transactions.

[FR Doc. 00–13509 Filed 5–30–00; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 00F–0786]

Secondary Direct Food Additives Permitted in Food for Human Consumption

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 chlorine dioxide produced by treating an aqueous solution of sodium chlorite with hydrogen peroxide in the presence of sulfuric acid. This action is in response to a petition filed by Eka Chemicals, Inc.

DATES: This rule is effective May 31, 2000. Submit written objections and requests for a hearing by June 30, 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: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 2, 2000 (65 FR 11319), FDA announced that a food additive petition (FAP 0A4716) had been filed by Eka Chemicals, Inc., 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 § 173.300 *Chlorine dioxide* (21 CFR 173.300) to provide for the safe use of chlorine dioxide produced by treating an aqueous solution of sodium chlorite with hydrogen peroxide in the presence of sulfuric acid.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and, therefore, that the regulation in § 173.300 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.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

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 June 30, 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 objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives.

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, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

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

2. Section 173.300 is amended by revising paragraph (a) to read as follows:

§ 173.300 Chlorine dioxide.

* * * * *

(a) The additive is generated by one of the following methods: Treating an aqueous solution of sodium chlorite with either chlorine gas or a mixture of sodium hypochlorite and hydrochloric acid, or treating an aqueous solution of sodium chlorate with hydrogen peroxide in the presence of sulfuric acid. In either case, the generator effluent contains at least 90 percent (by weight) of chlorine dioxide with respect to all chlorine species as determined by Method 4500–ClO_2 E in the ''Standard Methods for the Examination of Water and Wastewater,'' 18th ed., 1992, or an equivalent method. Method 4500–ClO_2 E is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, and the American Public Health Association, 1015 Fifteenth St. NW., Washington, DC 20005, or may be examined at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

* * * * *

Dated: May 19, 2000.

L. Robert Lake,

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

[FR Doc. 00–13477 Filed 5–30–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 270

[RIN 0790–AG67]

Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam

AGENCY: Office of Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Final rule.

SUMMARY: This rule adopts as final an interim rule implementing section 657 of the National Defense Authorization Act for Fiscal Year 1997, which authorizes the Secretary of Defense to make payments to persons captured and incarcerated by the Democratic Republic of Vietnam. The rule established policy and procedures concerning the payments to these persons. The rule amended regulations to reflect changes necessary as a result of new language in section 658 of the FY99 National Defense Authorization Act. Section 658 expands the field of beneficiaries of the Vietnamese Commandos Compensation Commission to parents and siblings of deceased Commandos. It also added words ''notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement'' must be made directly to the person who is eligible for the payment. The rule also amended regulations to reflect necessary technical changes to accommodate the new language. The Department of Defense is adopting the Interim Final Rule as a Final Rule without change.

EFFECTIVE DATE: This rule is effective October 17, 1998.

FOR FURTHER INFORMATION CONTACT: LTC Frank Hudson, (703) 588–6570 or Mr. Chuck Witschonke, (703) 693–1059, Directorate of Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, DC, 20301

SUPPLEMENTARY INFORMATION: The Department of Defense published an Interim Final Rule with a request for comments on December 10, 1998 (63 FR 68194). The following comments were received:

Comment: *The Statute Requires Prompt Payment In A Manner Requested By The Awardee.*

Section 657(d)(2) of Pub. L. 104–201, as amended, states that ''Subject to subsection (f), if the Secretary determines that the claimant is eligible for the payment, the Secretary *shall promptly pay* the claim.'' (Emphasis added.) Subsection (f) provides notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement of a payment under this section may be made only to the person who is eligible for payment under subsection (a) or (b) and only—upon the appearance of that person, in person, at the designated distribution office in the United States or its territories; or as such other location or in such manner as that person may request in writing.

The only change made to this subsection by the FY 99 National Defense Authorization Act was the addition of ''[n]otwithstanding any agreement (including a power of attorney) to the contrary'' at the beginning of Subsection (f)(1).

The statutory requirements for disbursement are clearly stated. First, the payment must be disbursed to the person eligible for payment. Thus, the check must be made payable to the intended beneficiary and not to a third party, such as the person's attorney or another designee or assignee, regardless of any agreement to the contrary.

The second condition for payment is that it be made: (1) in person at a designated distribution office in the United States or its territories or, (2) if the beneficiary requests in writing, at such other location or in such other manner as that person may request. The statute recognizes that many payment recipients may not be able to appear in person to receive their payments. Many, for instance, still live in Vietnam under a repressive government that denies them the ability to travel or even to correspond freely. Hence the statute allows the eligible person to request alternative methods of payment.

The Secretary of Defense has complete discretion in determining whether a claim is justified and such determinations are considered final and conclusive. Pub. L. 104–201, section 6570). However, once DoD has determined that a person is eligible for payment under the provisions of the Vietnamese Commando Compensation Act, that discretion ends. The agency is mandated by statute to promptly pay the claim. DoD may not establish unreasonable regulations that hinder payments to those persons eligible for the compensation established by Congress. In fact, section 657(f)(2) provides that DoD shall hold funds in trust for eligible persons only until such time as ''*the person makes an election*'' (emphasis added) to appear in person at a disbursing office or to request payment at another location or in another manner.

Response: Section 657(f) provides that the actual disbursement of a payment may be made only to an eligible claimant, not withstanding any agreement to the contrary. The statute does not require that payment be made in any manner requested by a claimant; rather, it authorizes the Department, in its discretion, to grant requests by eligible claimants to receive their payments at a particular location or in a manner other than the personal appearance of the claimant at a designated distribution office. This provision does not negate the independent requirement that only eligible claimants may receive payments.

Comment: *The Interim Regulation Violates The Statute And Inflicts Hardship.*

The interim regulation drastically curtails the statutory right of eligible persons to receive their payments in the manner they request. As revised, regulation states that:

> The Commission [on Compensation] may, in its discretion, require the person who is eligible for the payment to appear at any designated Defense Finance Accounting Service disbursement office in the United States to receive payment. The Commission may, in its discretion, coordinate with other U.S. governmental agencies to facilitate disbursement of payments to persons eligible for payments who reside outside the United States. If an eligible person makes a written request that payment be made at an alternate location or in an alternative manner, the Commission may, in its discretion, grant such request, provided that the *actual payment (i.e., the physical delivery of the payment) is made only to the eligible person.* The Commission will not disburse payment to any person other than an eligible person, notwithstanding any written request, assignment of rights, power of attorney, or other agreement.

32 CFR 270.11. (Emphasis added.)

By requiring that all payments be made by ''physical delivery of the payment'' only to the eligible person, DoD has imposed an unreasonable burden on the intended beneficiaries of the Congressionally mandated compensation. By imposing such an arbitrary condition on payments, DoD set an unnecessary hurdle which many persons eligible for compensation will be unable to clear. Such arbitrary action violates DoD's statutory obligation to

promptly pay the claims after eligibility has been determined.

It does little good for DoD to state that it will hold the funds in trust for the person authorized to receive payment ''until such time as the person complies with the conditions for disbursement.'' 32 CFR 270.11. For the most part, the Commandos and their beneficiaries, especially those still living in Vietnam, are poor and need the money now. The Commandos themselves are middle-aged or older and many are in very poor health. Disbursing payments only if the awardees can figure out some way to get to a Defense Finance Accounting Service office or can arrange some other face-to-face meeting with a Defense Department representative authorized to disburse payments would frustrate the intent of Congress to pay claimants as fairly and expeditiously as possible.

In fact, the statutory language found in section 657(f)(2) does not authorize the Commission to withhold payment until ''the person complies with the conditions for disbursement'' but rather until ''the person makes an election under such paragraph (i.e., appear in person at a designated disbursement office or request payment at another location or in another manner).'' The statute gives the awardee, and not DoD, the right to elect how payment will be made. If that request is reasonable, i.e., if the eligible person will receive the funds to which he or she is entitled, DoD may not deny the request without a valid reason.

DoD states that it is required to make physical delivery of the payment to the eligible person because of new language in section 668 of the FY 99 National Defense Authorization Act, Pub. L. 105–261, which amended section 657(f)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201). The amendment simply added the words ''Notwithstanding any agreement (including a power of attorney) to the contrary'' before the description of how ''actual disbursement'' will be made. DoD's revised regulation, however, equates ''actual disbursement'' to ''the physical delivery of payment.'' 63 FR 68195. Such a distortion of the term ''actual disbursement'' is completely unreasonable.

''Disbursement'' does not equate to ''physical delivery.'' As defined in the American Heritage College Dictionary, to disburse means ''to pay out; expend.'' The Federal Government typically makes disbursements of payments by issuing checks or initiating electronic funds transfers (''EFTs''). *See, e.g.,* 31 CFR 205.3, 206.2, 208.2(c). The Department of Defense, as a matter of course, disburses payments by mail or EFT to service members and civilian employees, as well as to other persons eligible for government payments. *See, e.g.,* 32 CFR 63.6 (procedures for direct payment of retired pay to former spouses). Therefore, to equate disbursement with the actual physical delivery of a payment to the beneficiary is unreasonable and flies in the face of the Government's normal way of doing business.

The statutory language mandating payments to eligible individuals provides no authority for DoD to withhold payment until ''physical delivery'' of the payment can be made. DoD seems to believe that some remarks contained in the Congressional Record justify its avoidance of the statutory mandate to make prompt payment for approved claims. Such a position is entirely insupportable.

It is a basic canon of statutory construction that, absent a clearly expressed legislative intention to the contrary, the language of the statute must ordinarily be regarded as conclusive. *United States* v. *Turkette* 452 U.S. 576, 580 (1981); *Consumer Products Safety Comm'n* v. *GTE Sylvania, Inc*, 447 U.S. 102, 108 (1980). Given a ''straightforward statutory command, there is no reason to resort to legislative history.'' *United States* v. *Gonzales*, 520 U.S. 1, 10 (1997) (quoting *Connecticut Nat. Bank* v. *Germain* 503 U.S. 249, 254 (1992)). There is no ambiguity in the language of section 657(f) that would necessitate looking beyond the four corners of the statute to decipher its meaning.

Even if the statutory language were not clear regarding disbursement of payment, a review of the scant legislative history associated with the modification of the disbursement language in section 657(f)(1) lends no support to DoD's position that payments must be made physically to the eligible person. In remarks made on the floor of the Senate on June 23, 1998, Senator John McCain (R-Arizona), one of the sponsors of the amendment explained that the amendment ''would ensure that the Vietnamese commandos receive their rightful share of the funds authorized and appropriated by Congress.'' 142 Cong. Rec. S6849 (daily ed. July 23, 1998). Senator McCain stated that the amendment ''seeks to clarify that the actual disbursement of a payment under our 1996 legislation may be made only to the person eligible for the payment, notwithstanding any agreement, including a power of attorney, to the contrary.'' *Id.*

Nothing in the Senator's brief remarks supports a conclusion that payments must be made by means of ''physcial delivery'' to the eligible persons. The statute and the Senator's remarks clearly establish that payments can be made only to the eligible recipients. Hence, a payment check could not be made out to a third person for later payment to the recipient. However, an eligible recipient can request that his or her check be mailed to a particular address or that the funds be electronically transferred to a particular account. Unless DoD had a reasonable basis for concluding that the recipient would not receive the payment to which he or she was entitled if the payment request were honored, the statute *requires* the Commission to follow the reasonable payment request of an eligible recipient.

Response: As discussed above, the regulation implements the plain language of the statute, and ensures that eligible claimants receive all of the money they are owed in the most secure and expeditious manner possible.

Comment: *The Regulation Can Be Revised To Comply With The Statute.*

For all of these reasons, the amendment to 32 CFR 270.11 must be modified. In order to comply with Section 657(f) of Pub. L. 104–201, as amended, the following revised language is suggested:

§ 270.11 Limitation on disbursement

(a) Subject to subparagraph (b) below, if the Secretary determines that a claimant is eligible for the payment of compensation, the Commission shall promptly pay the claim.

(b) Notwithstanding any agreement (including a power of attorney) to the contrary, the Commission will make a disbursement of a payment under this part only to the person who is eligible for payment. Payment will be made only in one of the following ways:

(1) Upon appearance of the eligible person, in person at any designated Defense Finance Accounting Service disbursement office in the United States or its territories;

or

(2) At such other location or in such other manner as the eligible person may request in writing.

The Commission will comply with any reasonable request for payment, as described in (2) above, unless the Commission believes that the requested method of payment is likely to result in the eligible person not receiving his or her rightful share of the funds authorized and appropriated by Congress. Methods of payment approved by a Federal court or agency of appropriate jurisdiction will be considered as reasonable *per se.*

(c) In the case of a claim approved for payment but not disbursed as the result of operation of paragraph (b) above, the Commission shall hold the funds in trust for the eligible person in an interest bearing account until such time as the person makes an election under paragraph (b).

This revised language would allow the Commandos and their beneficiaries to receive their rightful share of the money Congress intended them to have, while at the same time allowing DoD to exercise control if the payments are not in conformance with the law. DoD is strongly urged to implement this proposed revision in place of the unfair, unworkable, and unreasonable language proposed in the Interim Final Rule.

Response: The suggested change to the regulation is not consistent with or required by the statute. This statute makes clear that the compensation must be paid directly to the claimants, notwithstanding a power of attorney indicating that another disposition is preferred.

Executive Order 12866, Regulatory Planning and Review

It has been determined that 32 CFR part 270 is not a major rule. It does not have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities.

Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that 32 CFR part 270 is not subjet to the Regulatory Flexibility Act (5 U.S.C. 601) because it does not, it promulgated, have a significant economic impact on a substantial number of small entities. The primary reason for this rule is to provide compensation for a limited number of Vietnamese Commandos who were incarcerated in North Vietnam, and as such, does not affect small entiites.

Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 270 does not impose reporting and recordkeepting requirements under the Paperwork Reduction Act of 1995. The reporting and recordkeeping requirements are exempt from this Act, as it directly involves active litigation in which the U.S. is a party.

The specific exemption from the Paperwork Reduction Act is found in 5 CFR part 1320. The information collection in this final rule is exempt from OMB approval under Section 1320.4(a)(2), ''Controlling Paperwork Burdens on the Public; Regulatory Chnges Reflecting Recodification of the Paperwork Reduction Act''.

Public Law 104–4, Unfunded Mandates Report Act of 1995 (UMRA)

It has been determined that 32 CFR part 270 does not contain a federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year.

Accordingly, the interm rule amending 32 CFR Part 270, which was published at 63 FR 68194 on December 10, 1998, is adopted as a final rule without change.

Dated: May 22, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–13285 Filed 5–30–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 990922260–0141–02; I.D. 083199E]

RIN 0648–AM84

Designating the Cook Inlet, Alaska, Stock of Beluga Whale as Depleted Under the Marine Mammal Protection Act (MMPA)

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule, response to comments.

SUMMARY: Based upon the available information regarding the status of the Cook Inlet stock of beluga whales, NMFS has determined that the Cook Inlet stock of beluga whales is below its Optimum Sustainable Population (OSP) levels and, therefore, is depleted as defined in the MMPA. This action is a step in the process under the MMPA to address the sharp decline in the number of Cook Inlet beluga whales. It is intended as a conservation measure to reverse the decline and to promote recovery of the stock of beluga whales.

DATES: Effective June 30, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Payne, NOAA/NMFS, Alaska Region, (907) 586–7235, Barbara Mahoney, NOAA/NMFS, Alaska Region, Anchorage Field Office, (907) 271–5006, or Thomas Eagle, Office of Protected Resources, (301) 713–2322, ext. 105.

SUPPLEMENTARY INFORMATION:

Background

Section 3(1) of the MMPA (16 U.S.C. 1362(1))defines the term, ''depletion'' or ''depleted'', as

> * * *any case in which
>
> (A) The Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals * * *determines that a species or population stock is below its optimum sustainable population.
>
> (B) A state, to which authority for the conservation and management of a species or population stock is transferred * * *determines that such species or population stock is below its optimum sustainable population.
>
> (C) A species or population stock is listed as an endangered species or a threatened species under the Endangered Species Act of 1973 * * *

Section 3(9) of the MMPA (16 U.S.C. 1362(9)) further defines OSP as '' * * *with respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity (K) of the habitat and the health of the ecosystem of which they form a constituent element.''

NMFS regulations at 50 CFR 216.3 clarify the definition of OSP as a population size that falls within a range from the population level of a given species or stock that is the largest supportable within the ecosystem (K) to its maximum net productivity level (MNPL). Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population from reproduction, less losses due to natural mortality.

Section 2 of the MMPA (13 U.S.C. 1361) states that marine species, populations and/or stocks should not be permitted to fall below their OSP level. Historically, MNPL has been expressed as a range of values (generally 50 to 70 percent of K) determined theoretically by estimating what size stock in relation to the original stock size will produce the maximum net increase in population (42 FR 12010, 1 March 1977). In 1977, the midpoint of this range (60 percent) was used to determine whether dolphin stocks in the eastern tropical Pacific Ocean were depleted (42 FR 64548, 27 December 1977). The 60–percent value was included in the final rule governing the taking of marine mammals incidental to commercial fishing operations (45 FR 72178, 31 October 1980).

On November 19, 1998, NMFS initiated a Status Review of the Cook Inlet beluga whale stock (63 FR 64228). The comment period on the status

review extended from November 19, 1998, through January 19, 1999, and was initiated at the same time that workshops were being convened to review beluga whale stocks throughout Alaska. The workshops were held by the Alaska Beluga Whale Committee (November 16–17, 1998) and the Alaska Scientific Review Group (November 18–20, 1998), a body established under the MMPA to provide scientific advice to NMFS and the U.S. Fish and Wildlife Service. Additionally, NMFS received a petition from the State of Alaska on January 21, 1999, to designate this stock as depleted under the MMPA.

NMFS also received two petitions, one on March 3, 1999, and another on March 10, 1999, to list Cook Inlet beluga whales as endangered under the Endangered Species Act (ESA). One petition requested emergency listing under section 4(b)(7) of the ESA and designation of critical habitat. Both petitions requested immediate action to implement regulations for the subsistence harvest. This notice addresses neither these petitions nor comments received relating solely to the possible ESA listing. NMFS determined that the petitioned actions may be warranted (64 FR 17347, April 9, 1999), but no determination on whether listing this stock as a threatened or endangered species under the ESA has been made at this time.

To further ensure that the status review was comprehensive and based on the best available scientific data, the comment period was followed by a NMFS-sponsored workshop on March 8–9, 1999, that provided a review of relevant scientific information on this stock. At this workshop, NMFS received additional public comments and recommendations. The proceedings and abstracts of presentations from this workshop are available (NMFS, 1999).

Following a review of public comments and of the available information presented at the workshops, NMFS published a proposed rule to designate the Cook Inlet stock of beluga whales as depleted (64 FR 56298, 19 October 1999) and allowed a 60-day comment period, which was later extended until January 19, 2000. NMFS also conducted a public hearing on November 22, 1999, on the proposed designation of the Cook Inlet stock of beluga whales as depleted under the MMPA.

NMFS received 800 letters from the public during the comment period on the proposed rule. Many letters contained comments regarding a finding under the ESA; however, comments and responses in this notice are limited only to those related to the depletion designation under the MMPA.

Comments and Responses

Comment 1: Many comments (783) concurred with NMFS' decision to designate the Cook Inlet beluga whale stock as depleted under the MMPA. Many commenters further recommended that NMFS proceed immediately in listing the stock as endangered under the ESA and in designating critical habitat.

Response: With regard to the depleted determination, NMFS concurs with the comment. The Cook Inlet beluga whale stock is below OSP and, therefore, depleted under the MMPA. This final rule designates the stock as depleted. No final determination has been made under the ESA at this time.

Comment 2: Seven commenters supported a depleted designation only, and five would add their support only if it is necessary to help regulate a hunt under a co-management agreement with Alaska Native organizations and until the population recovers.

Response: NMFS has determined that the stock is below its OSP; therefore, the stock meets the definition of depleted under the MMPA. NMFS is designating the stock as depleted. The MMPA provides that, while the Alaska Native subsistence harvest is generally exempt from its provisions, the Federal government can restrict subsistence harvests of populations or stocks that are depleted.

Comment 3: Ten commenters were opposed to designating the Cook Inlet beluga whale as depleted under the MMPA or threatened or endangered under the ESA.

Response: Because the stock meets the definition of depleted under the MMPA, NMFS must designate the stock as depleted and begin developing conservation and management strategies for the stock's recovery.

Comment 4: Two commenters stated that NMFS has the authority and responsibility to manage the beluga harvest in Cook Inlet without listing the stock under either the MMPA or the ESA.

Response: NMFS recognizes its responsibility to conserve all stocks of marine mammals regardless of their status; however, the MMPA establishes a specific procedure for the Federal government to regulate subsistence harvest, which has been identified as the major factor responsible for the decline of the stock, once a stock is designated as depleted.

Comment 5: Four commenters urged NMFS to expeditiously enter into a co-management agreement for the beluga harvest, and three of these stated that this should be the ultimate application of the depleted listing.

Response: NMFS is pursuing a co-management agreement for the conservation of Cook Inlet beluga and the management of the beluga harvest. The depletion finding is a necessary component of an effective co-management agreement because enforceable harvest restrictions are dependent upon a depleted determination.

Comment 6: Three commenters urged NMFS to enter into a co-management agreement with the Cook Inlet Marine Mammal Council (CIMMC).

Response: During 1999, NMFS engaged in negotiations with CIMMC for the management of the beluga harvest. Although these negotiations have not yet produced an agreement, NMFS plans to continue to work with CIMMC to complete an enforceable co-management agreement to conserve the stock and co-manage subsistence use.

Comment 7: One commenter noted NMFS failure to enter into a co-management agreement and stated that NMFS should give the co-management process a chance before making a depleted determination.

Response: NMFS will continue to negotiate with Alaska Native organizations to enter a co-management agreement to promote recovery of the stock. Please see response to comment 5.

Comment 8: One commenter stated that NMFS refused CIMMC's attempts to negotiate a co-management agreement.

Response: NMFS has not refused CIMMC's attempts to negotiate a co-management agreement. NMFS and CIMMC met in January 1997 to discuss a draft co-management agreement that CIMMC had prepared. During this meeting, NMFS and CIMMC discussed limitations on authority to restrict the harvest of Cook Inlet beluga and agreed that negotiations on stock or area-specific agreements should be postponed until after NMFS and the Indigenous Peoples' Council for Marine Mammals completed an umbrella co-management agreement. Since then, NMFS and CIMMC have held several discussions to promote conservation of Cook Inlet beluga, including those that resulted in NMFS's contracting with CIMMC to provide an estimate of annual harvest; however, these discussions have not yet produced an agreement on the harvest of Cook Inlet beluga.

Comment 9: One commenter urged NMFS to promulgate regulations to control the harvest before the Congressional moratorium expires in September of 2000.

Response: This final rule is the first step in promulgating such regulations. NMFS intends to consult closely with affected Alaska Native organizations in preparing such regulations to avoid misunderstanding that could slow their completion. Regulations to restrict subsistence harvest of marine mammals cannot be completed until a formal rulemaking hearing has been held in accordance with section 103(d) of the MMPA.

Comment 10: One commenter asked why NMFS has not proposed new emergency policies or enforcement strategies to protect Cook Inlet beluga.

Response: The MMPA and ESA establish a specific regulatory process for limiting subsistence harvest, and neither statute includes emergency provisions to eliminate portions of the process. No cause other than the subsistence harvest has been directly linked to the decline; therefore, other emergency polices, strategies, or actions would not likely promote recovery. Special legislation has protected Cook Inlet beluga whales from subsistence harvest since May 21, 1999. This final rule is the first step in promulgating regulations governing the subsistence harvest when the special legislation expires on October 1, 2000.

Comment 11: One commenter stated that beluga hunting should be limited to personal and family subsistence needs, and two others suggested that NMFS prohibit the sale of beluga products.

Response: The MMPA has specific provisions related to

Alaska Native use of marine mammals for subsistence or handicraft purposes, and these include a limited sale of edible products within Alaska Native villages or for Native consumption.

Comment 12: One commenter stated that the MMPA does not permit the wasteful taking or the primarily commercial harvest of beluga. Further, Congress intended that NMFS regulate any commercial sale beyond that which constitutes a limited cash economy.

Response: Comment noted.

Comment 13: One commenter urged NMFS to use its full authority under the MMPA to implement protective measures on areas of ecological significance to beluga.

Response: The MMPA allows NMFS to implement conservation or management measures to alleviate impacts on rookeries, mating grounds, or other areas of similar significance to marine mammals where it can be demonstrated that the impacts may be causing a decline or impeding recovery of a strategic stock. Other than subsistence harvest, NMFS has not identified impacts that are having such an effect on the stock.

Comment 14: Five commenters asked NMFS to publish clearly defined criteria for delisting beluga.

Response: Although delisting is an action under the ESA, NMFS interprets the comment to mean criteria for determining the stock has recovered from depletion. The criterion for determining that the stock has recovered would be that the stock is no longer below the lower bound of its OSP.

Comment 15: Many commenters stated that Cook Inlet beluga face threats from anthropogenic sources, urged NMFS to evaluate the possible effects of these activities on beluga in Cook Inlet, and suggested that NMFS consider any impacts in a conservation plan. These commenters cited a variety of threats, including the following: contaminants (toxins such as PCBs, pesticides, heavy metals, hydrocarbons); oil and gas development with associated seismic activity, drilling and refineries; chemical plants; noise pollution (Anchorage Airport); mass strandings; commercial fishery interactions (entanglements) and food competition; shipping/vessel traffic; urban runoff/non-point source pollution; municipal wastewater/sewage discharges; recreational and commercial (whale watching) boat traffic/personal water craft; killer whale predation; forestry activities/logging; fish farms; dredging; and development.

Response: NMFS is currently preparing a draft Environmental Impact Statement (DEIS) that reviews the impacts of a range of anthropogenic activities on Cook Inlet beluga. This DEIS will also evaluate the impacts of subsistence harvest on the beluga whale recovery. A conservation plan will be prepared unless it would not promote the conservation of the stock.

Comment 16: Two commenters stated that pollutants or commercial and industrial activities are not a factor in the ''alleged'' decline of Cook Inlet beluga.

Response: These factors will be evaluated within the DEIS.

Comment 17: Two commenters stated that water and sediment studies demonstrate that the oil and gas industry is not contaminating Cook Inlet. Additional studies show that oil and gas activities are not influencing the distribution of beluga in the inlet.

Response: Comment noted.

Comment 18: Four commenters stated that data from the municipality of Anchorage water monitoring and other water quality studies show no impact to Cook Inlet from industrial activities. Further, Federal and state studies have demonstrated that pollution is not a factor in the beluga decline.

Response: Comment noted.

Comment 19: One commenter stated that local, state and Federal studies have demonstrated that industrial activity is not a detriment to Cook Inlet beluga.

Response: Comment noted.

Comment 20: Several commenters expressed concern that a depleted designation would restrict commercial and industrial activity in Cook Inlet, with widespread economic repercussions.

Response: A depleted designation does not, in itself, mandate any restrictions on these or any other activities within the Cook Inlet region. Rather, it formally recognizes that the stock is below its OSP.

Comment 21: One commenter stated that, although NMFS presumes that the subsistence harvest is the cause of the beluga decline, no research has been conducted on the impacts to beluga from oil and gas discharges, sewage discharges, or non-point source runoff on beluga.

Response: Although NMFS has not initiated research specifically to determine whether or not these factors were affecting the stock, the Status Review (NMFS, 1999) examined existing information and indicated that habitat modification related to these activities could not account for the decline in the stock. Details of this analysis are included in the DEIS.

Comment 22: One commenter stated that the entire decline of beluga in Cook Inlet cannot be attributed to subsistence harvest alone; other factors need to be evaluated.

Response: The information included in the Status Review clearly shows that the harvest from 1994 through 1998, the period when reliable abundance estimates were available, was sufficient to account for the decline.

Comment 23: One commenter stated that Cook Inlet is the only U.S. drilling area exempt from regulations prohibiting the dumping of certain toxins and heavy metals.

Response: Comment noted.

Comment 24: One commenter recommended that NMFS refine its capacity to adequately assess and diagnose declines in the Cook Inlet beluga whale population.

Response: Since 1994, when NMFS first became aware that mortality of Cook Inlet beluga was exceeding sustainable levels, NMFS directed substantial resources into scientific research assessing the trend of the stock, determining stock boundaries, and estimating annual mortality. The resulting program produced a series of

abundance estimates from 1994 through 1998, and these estimates have met scientific scrutiny. Reviews of these NMFS projects have been conducted through the peer-review process inherent in completing scientific publications and through comments received from annual meetings of the Alaska Scientific Review Group (which was established specifically to provide a critical review of NMFS research). Aerial surveys are conducted under standardized protocols, which were established in 1994. These protocols allow reliable inter-year comparisons of estimates. Analytical procedures were improved during the period from 1994 to 1998, and these improvements were applied to all of the abundance estimates from 1994 to 1999 to maintain consistence when trends in abundance are estimated. Thus, NMFS has, indeed, improved its capacity to assess this stock.

Comment 25: One commenter stated that NMFS must take the time to improve the quality of the science before considering any listing of this species.

Response: NMFS interpreted the phrase ''any listing'' in this comment and any subsequent comment to mean a listing as threatened or endangered under the ESA or a designation as depleted under the MMPA. The MMPA requires that NMFS base its determination on the best available scientific information. The scientific basis for the determination is discussed in the response to comment 24, and it is clearly sufficient to determine that the stock is below its OSP and, therefore, is depleted.

Comment 26: One commenter stated that data on beluga are scarce and derived from questionable methodologies and that a listing determination should be delayed until better data can be obtained.

Response: NMFS disagrees that the existing data are inadequate to be used as a basis for the depleted determination. The data from 1994 through 1998 indicate a high probability that the stock has declined below its OSP. Furthermore, the limited information from the 1960s through the 1980s suggest the actual historical abundance exceeded the estimate from 1994, and the stock is even farther below its OSP than the data from 1994 through 1999 indicate.

Comment 27: One commenter stated that NMFS is currently relying on ineffective and inadequate methods for assessing the beluga population.

Response: See previous response to comment 24.

Comment 28: One commenter noted that the 1998 draft abundance estimate was revised abruptly to a level far lower than the original and that a critical analysis of the new estimate was not made available for public scientific review.

Response: The 1998 abundance estimate was revised after analyses of the survey data from 1994 through 1998 were completed. These revised estimates have been thoroughly reviewed in the scientific community and constitute the best available scientific information.

Comment 29: One commenter asserted that, since previous (historical) uncorrected counts of Cook Inlet Beluga have ranged between 300 to 500 whales, NMFS should base OSP at 500 animals rather than at 1,000 animals, the agency's current use for OSP.

Response: Uncorrected counts are not an accurate estimate of population abundance because they fail to include estimates of animals that were present but not counted during surveys, such as animals that are below the surface at the time of the count. Such estimates of animals present but not counted are commonly used in the scientific literature and are accepted statistical practices for making conservation or management decisions.

Uncorrected counts are valuable for assessing population trends, and those available for the Cook Inlet beluga population show variation but no specific trend prior to the 1994–1999 surveys. Therefore, NMFS concluded that the abundance was relatively stable during the period for which the Alaska Department of Fish and Game conducted its surveys.

Comment 30: Two commenters stated that a new abundance estimate formula was used on the uncorrected (raw) counts from each year resulting in a percentage decline ranging from 38 percent to 62 percent between 1994 and 1998 depending upon which analysis (old or new) was used on the raw count. This new formula should be published and reviewed before it is used as the basis of any new listing.

Response: See previous response to comment 24 for a discussion of formulas and survey design for estimating abundance of Cook Inlet beluga. NMFS used one analytical technique in the initial abundance estimates (e.g., 1994) and reported these estimates. By 1998, NMFS had improved the analytical technique and used the new technique to re-analyze all abundance estimates during the period 1994 through 1999. Such an approach allowed NMFS to make its determination on estimates that were collected under a standard protocol and analyzed by the same analytical techniques. The formulas upon which the analytical techniques were based and the specific application of these analytical techniques to the 1994 through 1998 beluga surveys has been subjected to peer review.

Comment 31: Two commenters stated that NMFS has used a number of different population numbers, including raw counts, abundance estimates, minimum abundance estimates, and anecdotal accounts in making listing decisions and that the agency should halt this practice and choose one value for evaluation.

Response: When making a finding on a stock of marine mammals that is used for subsistence harvest, NMFS must, by statutory requirement, ensure that the finding is supported by substantial evidence on the basis of the record as a whole. Therefore, NMFS has considered all sources of evidence in evaluating the status of Cook Inlet beluga.

Comment 32: One commenter states that NMFS's population trend data is imprecise and that beluga in Cook Inlet may not be depleted.

Response: Although the estimates and data upon which they are based are not perfect, they are sufficient to conclude that the stock is depleted. As explained in the previous response to comment 24, NMFS supports the abundance estimates upon which this determination is based.

Comment 33: One commenter questioned why NMFS used the most recent population estimate of 347 and not the more conservative figure of 217 beluga whales as its 1998 population estimate.

Response: NMFS scientists counted 193 beluga during its 1998 aerial survey and 217 during the 1999 survey. These counts are not abundance estimates. Instead, abundance estimates include calculations for the number of animals that were not seen during the count but were present during the survey. Such an approach is a standard statistical practice and is overwhelmingly supported in the scientific literature. The abundance estimate from the 1998 surveys is 347 beluga.

Comment 34: One commenter stated that the abundance estimates are confusing and questionable.

Response: NMFS understands that statistical procedures used in abundance estimates are often complex; however, they provide the best available scientific information.

Comment 35: One commenter stated that the data and conclusions do not match when applying NMFS harvest figures against NMFS population estimates.

Response: The relationship between the harvest and the population trend is within the margins of error for the estimates.

Comment 36: One commenter stated that more research is needed on food resource availability for beluga especially in regard to the Susitna River salmon stocks.

Response: Comment noted.

Comment 37: Two commenters suggested that NMFS establish a research protocol for the Cook Inlet beluga that involves an advisory committee of Federal and state agencies, CIMMC, oil and gas industry, fishing, transportation, municipality, tourism, and environmental groups.

Response: Comment noted. NMFS also notes that the Alaska Scientific Review Group was established specifically to review and advise NMFS on research protocols and other scientific matters on marine mammals in Alaska. Although the Review Group does not include representatives from all the entities suggested in the comment, its meetings and workshops are open to the public.

Comment 38: One commenter stated that NMFS should take the time to improve the quality of its data before making any listing decisions.

Response: See response to comments 24 through 35.

Comment 39: One commenter stated that NMFS should direct resources for the collection of more biological data on beluga, including data to estimate life history parameters.

Response: Comment noted.

Comment 40: One commenter stated that more research is needed to determine where Cook Inlet beluga go during the winter months.

Response: Such information would improve our understanding of Cook Inlet beluga; however, winter distribution likely has little effect on the size and trend of the breeding population that is found in Cook Inlet. This comment, however, did cause NMFS to realize that the proposed rule would have included individuals from the stock only when they were in Cook Inlet. NMFS realizes that beluga may leave the confines of Cook Inlet during the winter and perhaps at other times during the year. To correct this oversight, NMFS has revised the final rule to modify the definition of the stock so that Cook Inlet beluga are included when they are outside of the inlet.

Comment 41: One commenter stated that NMFS needs to conduct additional DNA studies of beluga in Cook Inlet and Bristol Bay, as well as DNA studies of other whales sighted in Prince William Sound to determine whether the Cook Inlet Beluga population is isolated and unique.

Response: The models used to distinguish between aggregations of animals are very sensitive to animals moving between areas; thus, if more than a handful of individuals dispersed between the groups during an entire generation, the models would not distinguish them as separate. The existing data support a significant difference among all 5 stocks of beluga in Alaska, and the Cook Inlet stock is the most distinct. Given these findings, additional information is not likely to add meaningfully to the question of whether or not the stocks are distinct. Beluga occurrence in Prince William Sound is too rare to justify a dedicated sampling effort, but, when one or more beluga are seen there, NMFS will attempt to obtain tissue samples for genetic analysis as the opportunity arises.

Comment 42: One commenter stated that a better method for counting beluga whales needs to be developed and more aerial surveys of Cook Inlet beluga need to be performed in the summer months.

Response: Comment noted. NMFS plans to continue aerial surveys of Cook Inlet beluga in the late spring and early summer.

Comment 43: One commenter stated that limited food supplies might be affecting beluga health in Cook Inlet and that reports indicated that the beluga appeared thin.

Response: Comment noted.

Comment 44: Two commenters offered assistance to NMFS to improve assessment methods and provide practical, enhanced data collection methods.

Response: NMFS appreciates offers of assistance. Currently, NMFS is satisfied with its beluga assessment methods; however, NMFS staff are open to new ideas to improve assessment or conduct the assessments more efficiently.

Comment 45: One commenter stated that the extensive subsistence harvest is to blame for the decline in beluga.

Response: Comment noted.

Comment 46: One commenter expressed concern over the impact the depleted listing will have on their subsistence way of life.

Response: NMFS recognizes that subsistence harvests are important to Alaska Native culture and supports the provisions of the MMPA that enable such harvests to continue. Conservation measures may restrict harvest of the stock temporarily; however, the lack of conservation measures could lead to a continued decline or extirpation of the stock, which would have a profound and long-term effect on local subsistence harvest. Furthermore, NMFS does not intend to promulgate conservation measures unilaterally. Rather, NMFS intends to work with the local Alaska Native community through the co-management process to design conservation measures that would sustain the beluga population for subsistence use by future generations.

Comment 47: One commenter stated that tribal knowledge should be used to determine OSP and that the tribes should collect and analyze this data.

Response: NMFS welcomes information based upon tribal knowledge to be presented for use in conservation decisions. Tribal knowledge would be incorporated into the entire body of evidence supporting management decisions. NMFS, however, is directed to use the best available scientific information in making findings under the MMPA and would have to follow this direction in its decisions.

Comment 48: One commenter stated that NMFS cites Traditional Knowledge for its K in determining OSP, yet the agency does not adequately consider Traditional Knowledge when identifying the cause of the beluga decline and the appropriate remedies. The commenter noted that it is not appropriate for NMFS to use Traditional Knowledge to support one point while failing to consider it in other regards.

Response: NMFS considered all information available in making the depletion finding. The tangible evidence for historical abundance of Cook Inlet beluga is sparse and not well documented, and NMFS concluded that the historical abundance, which is used as an estimate of K, is unknown. Several lines of evidence, including observations by Alaska Natives and weakly-supported abundance estimates, were considered to estimate historical abundance.

For the purposes of the depletion finding, assigning the cause of the decline is of less importance than establishing whether the population is below its OSP. Addressing the cause or causes of the decline will be more critical in designing and implementing conservation measures to promote recovery of the stock. NMFS will give due consideration to all sources of information and intends to work closely with the affected Alaska Native community, as well as with other affected constituents, in identifying and designing appropriate conservation measures.

Comment 49: One commenter stated that NMFS has acknowledged that many hunters do not belong to organized native organizations and that they have

not been cooperative about reducing the harvest of beluga.

Response: NMFS agrees that voluntary efforts have not been effective in limiting harvest to sustainable levels; however, NMFS has observed an overall cooperative approach to recognizing the problem and the need to promote recovery.

Comment 50: One commenter stated that NMFS decided to list the beluga as depleted because of pressure from conservation groups.

Response: NMFS is basing its depleted determination on the basis of the best available scientific information, as required by the MMPA. The best available scientific information indicates that the stock is below its OSP.

Comment 51: One commenter stated that NMFS's review of factors in the beluga's decline (other than harvest) was cursory. While NMFS's assumptions may prove to be correct, it appears that NMFS was pressured by political and commercial entities to downplay the role of anthropogenic factors in the beluga's decline.

Response: NMFS acknowledges that there is little information available to evaluate the range of factors (other than harvest) that may be involved in the decline. Thus, it is not surprising that such an evaluation appears cursory. NMFS maintains, however, that there is sufficient information available to conclude that the stock is depleted.

Comment 52: One commenter advised NMFS that if Cook Inlet and Bristol Bay beluga are found to co-mingle, the depleted determination should be revoked.

Response: If NMFS were to learn that individuals from Cook Inlet and Bristol Bay mix temporarily during the non-breeding seasons, NMFS would still not have the evidence upon which to conclude that the stock is no longer depleted. The genetic analyses demonstrate conclusively that there is insufficient interbreeding among the various stocks of beluga in Alaska to mask the genetic distinction of each stock or to have a measurable effect on population status and trends.

Comment 53: One commenter disagreed with NMFS's assertion that the Cook Inlet stock of beluga is an isolated stock that lives yearround in the Inlet.

Response: NMFS has not asserted that all members of the stock remain within the inlet yearround (see response to comment 40). NMFS has asserted, and continues to assert, that the stock within Cook Inlet is genetically distinct from other aggregations of beluga in Alaska, which inhabit areas north of the Aleutian Peninsula.

Comment 54: One commenter expressed a fear that, if NMFS designates the Cook Inlet beluga whale as depleted, it will regulate the harvest with little regard for the opinions of Native Alaskan hunters.

Response: NMFS recognizes the importance of beluga whales to the Cook Inlet communities and will work with local Alaska Natives to promote recovery of the beluga stock so that a sustainable harvest can be maintained for future generations.

Comment 55: One commenter stated that the MMPA does not provide sufficient habitat protection to Cook Inlet beluga.

Response: Comment noted.

Comment 56: One commenter urged NMFS to develop a regional contingency stranding plan under 16 U.S.C. 1421*c*(b).

Response: NMFS intends to develop a contingency stranding plan for the region.

Comment 57: One commenter expressed concern that beluga blubber from Cook Inlet is a source of significant contaminant exposure for human subsistence consumers.

Response: Comment noted.

Comment 58: One commenter urged NMFS to conduct studies on beluga tissue samples to assess the health of the population, determine contaminant body burdens, and determine the effects of various pollutants on the Cook Inlet stock of beluga whales.

Response: NMFS has conducted health, contaminant, and life-history studies on Cook Inlet beluga and intends to continue such studies.

Comment 59: One commenter, concerned about incidental mortality in fishing operations, suggested that NMFS reclassify fisheries in Cook Inlet from Category III to Category II fisheries to allow for additional data collection to assess the fisheries' impact on the beluga.

Response: These fisheries are currently included in Category III because NMFS believes they have only a remote likelihood of seriously injuring marine mammals. Because these fisheries have such a low mortality rate, NMFS would more likely use its limited resources to evaluate other mortality factors than to direct them into such an expensive activity that would likely provide little additional information.

Comment 60: Three commenters stated that NMFS lacks the data to determine the level of incidental take in fisheries. They recommended that NMFS place observers on Category III fishing vessels to determine the accurate level of incidental take, if any. The commenter insisted that these actions would help NMFS to better assess incidental take of beluga and to better understand what is happening to their food supply.

Response: See response to comment 59.

Comment 61: One commenter urged NMFS to expeditiously prepare a conservation plan under the MMPA for Cook Inlet beluga.

Response: NMFS will prepare a conservation plan as quickly as limited resources will allow. Initial conservation efforts will not, however, be delayed until such a plan is final.

Determination of ''Population Stock'' or ''Stock''

To designate the Cook Inlet population of beluga whales as a depleted stock under the MMPA, it must first qualify as a ''population stock'' or ''stock''. Based on the best available information as discussed below, NMFS determined that beluga whales in Cook Inlet are a population stock or stock as defined by the MMPA.

Section 3(11) of the MMPA defines a population stock or stock as a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature. Although this definition is in part a legal interpretation, stocks, species, and populations are biological concepts that must be defined on the basis of the best scientific data available.

NMFS considered several lines of evidence regarding the population structure of Cook Inlet beluga whales in the proposed designation. They are summarized in the following discussion.

Distribution of beluga whales within Cook Inlet: The summer or open water distribution of Cook Inlet beluga whales is considered to be largely confined to waters of Cook Inlet (Laidre et al., In press). Analysis of aerial surveys for beluga whales and other survey data for the northern Gulf of Alaska suggests no large, persistent group of beluga whales exists other than in Cook Inlet. This distribution pattern is consistent with western and Arctic beluga whale stocks in Alaska, which regularly return to discrete coastal summering areas. Additionally, the Cook Inlet area is physically separated from the remaining four Alaskan beluga whale stocks by the Alaskan Peninsula, which may act as a partial barrier restricting movement between stocks.

Genetic Isolation: Genetic profiles have been obtained from approximately 470 beluga whales in Alaska and Canada, including 64 animals from Cook Inlet. Mitochondrial DNA analysis of beluga whale stocks from Cook Inlet, Bristol Bay, eastern Chukchi Sea,

eastern Bering Sea, and Beaufort Sea indicated that they are all significantly different from each other (O'Corry-Crowe, *et al.*, 1997). Of these, the Cook Inlet beluga whales were found to be the most distinct.

Final Determination under the MMPA

Based on the best available scientific information available as discussed below, NMFS has determined that the Cook Inlet stock of beluga whales is below OSP and is, therefore, depleted.

Historical Abundance: The true K, which is the basis for OSP determinations, for this stock is unknown. Furthermore, reliable historical abundance estimates, which may be used as a substitute for K, are not available.

The available evidence for historical abundance prior to the 1994 surveys includes counts from the 1960s through the early 1980s conducted by the Alaska Department of Fish and Game. These counts ranged from about 200 to about 500 individuals. Based upon reports from these counts, Gehringer and Greenwalt (1978) concluded that the abundance in Cook Inlet was about 500 beluga and that the stock was considered to be at carrying capacity. More recent information and evaluation of the data upon which Gehringer and Greenwalt (1978) based their conclusions show that their conclusions were not correct.

There is a large body of literature on estimating the abundance of wild animals, including marine mammals. The literature is conclusive that direct counts are not an accurate estimate of actual abundance because animals are missed due to a variety of reasons: marine mammals may be underwater when the aircraft is in the area; wind and water conditions may be so rough that animals are missed; animals may be so close to one another that they are counted as one; and some animals (particularly juveniles) may be so small that they are missed in the count. To expand counts to an estimate of the actual abundance, the literature contains a variety of statistical models to estimate the number of individuals that were in the area, but were not counted during a survey. These models result in correction factors to expand direct counts into estimates of abundance.

Calkins (1984) used such a correction factor of 2.7, which was developed for beluga surveys in Bristol Bay. By applying this correction factor to his maximum count of 479 beluga in August 1979, Calkins estimated the abundance to be about 1,300 beluga in Cook Inlet.

NMFS scientists advise that, when a survey includes locating and counting animals on a single pass in an airplane, the correction factor may be as high as 3. Thus, Calkins's estimate of about 1,300 beluga in August 1979 appears reasonable. Furthermore, applying such a correction factor to other counts by the Alaska Department of Fish and Game suggests the historical abundance may have been 1,000 or more animals.

Additional evidence also supports an estimate of historical abundance exceeding 1,000 beluga. NMFS biologists have discussed beluga biology, distribution, and abundance with experienced Alaska Native hunters in the Cook Inlet region, and these hunters agreed that there may have been 1,000 or more beluga in the 1970s and early 1980s. Huntington (1999) interviewed Alaska Native elders and hunters regarding their knowledge of Cook Inlet beluga and reported their observation that fewer Cook Inlet beluga have appeared in upper Cook Inlet in recent years.

Recent Abundance: More recently, Hobbs *et al.* (in press) designed a research program to establish a reliable method to estimate the number of beluga in Cook Inlet and to provide such estimates of abundance. Their methods included repeated counts of groups of beluga by multiple observers and video-taping groups for an extended period to reduce the number of whales that were missed during the counts. The video, along with another enlarged image, was used to identify beluga that surfaced during the counting period and to distinguish between small animals that may have been counted as a single individual. Their survey design also used radio-tagged whales to estimate the duration of dives by individual whales so the abundance estimate could be further corrected to account for whales that were underwater for the entire period that the group was counted and video-taped.

Hobbs *et al.* (in press) flew standardized surveys of beluga whales in Cook Inlet during June/July of 1994–1999. An aerial survey was also conducted in 1993; however, the objectives of the 1993 survey were to establish optimal survey timing and conditions and to refine survey methods. The data collected in 1993 were insufficient for a reliable abundance estimate. Abundance estimates derived from their sighting data declined from 653 in 1994 to 347 in 1998 (Table 1). The 1999 abundance estimate was 357.

TABLE 1.—ESTIMATED ABUNDANCE OF BELUGA WHALES IN COOK INLET, ALASKA

Section	1994		1995		1996		1997		1998	
Northwest	580	(0.47)	444	(0.48)	542	(0.30)	362	(0.09)	292	(0.32)
Northeast	48	(1.08)	31	(0.43)	52	(0.37)	76	(0.69)	55	(0.60)
South	25	(0.19)	17	(0.43)	0	(0.00)	2	(0.43)	0	(0.00)
Total	653	(0.43)	491	(0.44)	594	(0.28)	440	(0.14)	347	(0.29)

Note: Numbers in parentheses are the coefficients of variation of each estimate.

Under ideal conditions, NMFS would compare the current population estimate with the true K and MNPL to make a determination whether a stock is depleted. However, such conditions do not exist in this case, and NMFS must make the determination considering the uncertainty that exists in the available evidence. Therefore, NMFS considered whether the reliable information available from the standardized surveys from 1994 through 1998 indicated that the population had declined more than 40 percent during that period. If this limited series of abundance estimates indicated such a decline, the stock would clearly be below its MNPL and, thus, depleted.

Monte Carlo simulations indicate a 71–percent probability that a 40–percent decline occurred between the June 1994 abundance survey of the Cook Inlet beluga whales and the June 1998 survey. The support for a depleted determination is strengthened by the fact that K was assumed to be the highest of NMFS's abundance estimates, in this case the 1994 estimate of 653 animals. The actual K, as represented by the historical abundance, of Cook Inlet is probably higher than this number based on previous counts, discussions with local Native Alaskan hunters, and

anecdotal estimates of 1,000 or more animals in the early 1980s. Native subsistence harvest occurred throughout the 1980s and 1990s, which suggests that the 1994 abundance estimate likely reflected a population that had already been significantly reduced. If the historical abundance, thus K, were above 1,000 beluga, then the decline would be even greater. If K for the stock is more than 1,000, which is likely the situation, the stock would be less than 35 percent of its historical abundance, which is far below the MNPL.

References

Calkins, D.G. 1984. Belukha whale. Vol. IX, in Susitna hydroelectric project; final report; big game studies. Alaska Department of Fish and Game. Doc. No. 2328.

Gehringer, J.W. and L.A. Greenwalt. 1978. Final Environmental Impact Statement: Consideration of a waiver of the moratorium and return of management of certain marine mammals to the State of Alaska, Vol. 1, summary and text. U.S. Dep0artment of Commerce, NOAA, NMFS and U.S. Department of the Interior, Fish and Wildlife Service, Washington, DC.

Hobbs, R.C., D.J. Rugh, and D.P. Demaster. In press. Abundance of beluga whales, *Delphinapterus leucas*, in Cook Inlet, Alaska. Marine Fisheries Review.

Laidre, K.L., K.E.W. Shelden, D.J. Rugh, and B.A. Mahoney. In press. Distribution of beluga whales and survey effort in the Gulf of Alaska. Marine Fisheries Review.

National Marine Fisheries Service. 1999. Synthesis of available information on the Cook Inlet stock of beluga whales. Processed Report 99–06, National Marine Mammal Laboratory, Alaska Fisheries Science Center, NMFS, December 1999. 22 pp.

O'Corry Crowe, G.M., R.S. Suydam, A. Rosenberg, K.J. Frost, and A.E. Dizon. 1997. Phylogeography, population structure and dispersal patterns of the beluga whale *Delphinapterus leucas* in the western Nearctic revealed by mitochondrial DNA. Molecular Ecology 6:955–970.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has determined that this is not a significant rule under E.O. 12866. The regulations are not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

NMFS has determined that the depleted designation of this stock under the MMPA is excluded from the requirements of the National Environmental Policy Act of 1969 and that an Environmental Assessment or Environmental Impact Statement is not required. This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act of 1980.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Exports, Imports, Marine mammals, Transportation.

Dated: May 19, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216–REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.* unless otherwise noted.

2. In § 216.15, a new paragraph (g) is added to read as follows:

§ 216.15 Depleted species.

* * * * *

(g) Cook Inlet, Alaska, stock of beluga whales (*Delphinapterus leucas*). The stock includes all beluga whales occurring in waters of the Gulf of Alaska north of 58° North latitude including, but not limited to, Cook Inlet, Kamishak Bay, Chinitna Bay, Tuxedni Bay, Prince William Sound, Yakutat Bay, Shelikof Strait, and off Kodiak Island and freshwater tributaries to these waters.

[FR Doc. 00–13371 Filed 5–30–00; 8:45 am]

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Proposed Rules

Federal Register
Vol. 65, No. 105
Wednesday, May 31, 2000

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 99–038–4]

Tuberculosis in Cattle, Bison, Goats, and Captive Cervids; State and Zone Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening and extension of comment period; notice of public hearings.

SUMMARY: We are reopening and extending the comment period for our proposed rule that would amend the bovine tuberculosis regulations to establish new levels of tuberculosis risk classifications to be applied to States and zones within States. The proposed rule would also classify States and zones according to their tuberculosis risk with regard to captive cervids. Additionally, it would amend the regulations to specify that the regulations apply to goats as well as to cattle, bison, and captive cervids, and would increase the amount of testing that must be done before certain cattle, bison, and goats may be moved interstate. This action will allow interested persons additional time to prepare and submit comments. We are also advising the public that we are hosting two public hearings on the proposed rule.

DATES: We invite you to comment on Docket No. 99–038–1. We will consider all comments that we receive by June 16, 2000. We will also consider comments made at public hearings to be held in Albuquerque, NM, on June 14, 2000, from 8 a.m. to noon, and in Lansing, MI, on June 15, 2000, from 6 p.m. to 9 p.m.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–038–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–038–1.

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

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

The public hearings will be held at the following locations:

(1) Albuquerque, NM: Racing Commission Conference Room, Lower Level, 300 San Mateo Boulevard NE, Albuquerque, NM.

(2) Lansing, MI: The Forum, 1st Floor, Michigan Library and Historical Center, 717 West Allegan Street, Lansing, MI.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Van Tiem, Senior Staff Veterinarian, VS, APHIS, USDA, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7716.

SUPPLEMENTARY INFORMATION: On March 7, 2000, we published in the **Federal Register** (65 FR 11912–11940, Docket No. 99–038–1) a proposal to amend the bovine tuberculosis regulations, contained in 9 CFR part 77. We proposed to: (1) Establish several new levels of tuberculosis risk classifications to be applied to States and zones within States; (2) classify States and zones according to their tuberculosis risk with regard to captive cervids; (3) apply the regulations to goats as well as to cattle, bison, and captive cervids; and (4) increase the amount of testing required for the interstate movement of certain cattle, bison, and goats.

Comments on the proposed rule were required to be received on or before April 21, 2000. On March 24, 2000, we published in the **Federal Register** (65 FR 15877–15878, Docket No. 99–038–2) a correction to Docket No. 99–038–1. Comments on the proposed rule as corrected were required to be received on or before April 21, 2000.

In response to requests from commenters that we extend the comment period on Docket No. 99–038–1, we published a notice in the **Federal Register** on May 1, 2000 (65 FR 25292, Docket No. 99–038–3), that we were reopening and extending the comment period until May 8, 2000.

During the extended comment period, a number of commenters requested that we further extend the comment period to allow additional time for members of the public to review the proposed rule and to submit comments. In response to these requests, we are reopening and extending the comment period on Docket No. 99–038–1 until June 16, 2000. This action will allow interested persons additional time to prepare and submit comments.

Public Hearings

We are advising the public that we are hosting two public hearings on Docket No. 99–038–1. The first public hearing will be held in Albuquerque, NM, on Wednesday, June 14, 2000, in the Racing Commission Conference Room, Lower Level, 300 San Mateo Boulevard NE. The second public hearing will be held in Lansing, MI, on Thursday, June 15, 2000, at The Forum, 1st Floor, Michigan Library and Historical Center, 717 West Allegan Street.

A representative of the Animal and Plant Health Inspection Service (APHIS) will preside at the public hearings. Any interested persons may appear and be heard in person, by an attorney, or by another representative. Written statements may be submitted and will be made part of the hearing record. Persons who wish to speak at either of the public hearings will be asked to sign in with their name and organization to establish a record for the hearing. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing.

The public hearing in Albuquerque will begin at 8 a.m and is scheduled to end at noon, local time. The public hearing in Lansing will begin at 6 p.m. and is scheduled to end at 9 p.m., local time. However, the hearings may be terminated at any time if all persons desiring to speak have been heard.

If the number of speakers at a hearing warrants it, the presiding officer may limit the time for each presentation so

that everyone wishing to speak has the opportunity.

The purpose of the hearings is to give interested persons an opportunity for oral presentation of data, views, and arguments. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to comments at the hearing, except to clarify or explain provisions of the proposed rule.

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 25th day of May 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–13589 Filed 5–30–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. 96–034–2]

Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; withdrawal.

SUMMARY: We are withdrawing a proposed rule to amend the regulations regarding the packaging and labeling of veterinary biological products. The proposed rule would have required the Animal and Plant Health Inspection Service product code number as well as an appropriate consumer contact telephone number to appear on labeling. In addition, the proposed rule would have clarified label requirements with respect to overshadowing the true name of the product and requirements for products shipped to a foreign country. The proposed rule also contained label requirements concerning the minimum age for product administration and the potential for maternal antibody interference. We are withdrawing the proposed rule due to the comments we received following its publication.

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Licensing and Policy Development, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 112 set forth packaging and labeling requirements for veterinary biological products. On March 18, 1999, we published in the **Federal Register** (64 FR 13365–13368, Docket No. 96–034–1) a proposed rule to amend the regulations. First, we proposed to require labels for veterinary biological products to include the Animal and Plant Health Inspection Service (APHIS) product code number and a consumer contact telephone number. Second, we proposed to require labels for veterinary biological products to bear the true name of the product in a prominent fashion and more prominently than the trade name. Third, we proposed to amend the requirements for labels for exported products to state that labels that do not conform to the regulations may be used with an exported product if the labels do not contain false or misleading information and are acceptable to the appropriate regulatory officials of the foreign country to which the products are exported. We proposed that verification of foreign regulatory acceptance of the labels could be supplied to APHIS through the submission of a label mounting prepared as described in § 112.5(d)(2) that bears a stamp or other mark of approval of the appropriate foreign regulatory agency. Finally, we proposed to require labels for veterinary biological products, as described in the proposed rule, to consider the potential for maternal antibody interference with product efficacy and to specify a minimum age for product administration that is consistent with the efficacy and safety data developed for the product.

We solicited comments concerning our proposal for 60 days ending May 17, 1999. We received 11 comments by that date. The comments were from licensed veterinary biologics manufacturers, a national trade association representing U.S. manufacturers of animal health products, an organization representing veterinarians, and a university. Most of the commenters expressed concerns and opposition regarding certain provisions of the proposed rule, including concerns regarding the economic effects of the proposed provisions on veterinary biologics manufacturers and the estimated burden for information collection that was provided in the Paperwork Reduction Act section of the proposed rule.

After considering all of the comments we received, we have concluded that we must reevaluate the provisions of the proposed rule. Therefore, we are withdrawing the March 18, 1999, proposed rule referenced above. The concerns and recommendations of all of the commenters will be considered if any new proposed regulations regarding the packaging and labeling of veterinary biological products are developed.

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 24th day of May 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–13549 Filed 5–30–00; 8:45am]

BILLING CODE 3410–34–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–71]

Nuclear Energy Institute; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Energy Institute. The petition was docketed on April 12, 2000, and has been assigned Docket No. PRM–50–71. The petitioner requests that the NRC amend its regulations to allow nuclear power plant licensees to use zirconium-based cladding materials other than zircaloy or ZIRLO, provided the cladding materials meet the requirements for fuel cladding performance and have received approval by the NRC staff. The petitioner believes the proposed amendment would improve the efficiency of the regulatory process by eliminating the need for individual licensees to obtain exemptions to use advanced cladding materials which have already been approved by the NRC.

DATES: Submit comments by August 14, 2000. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

The petition, this notice of receipt, and any comments received on the petition are available on the NRC's rulemaking website at http://ruleforum.llnl.gov. This site also provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (*e-mail:cag@nrc.gov*).

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–7162 or Toll Free: 1–800–368–5642 or email: DLM1@nrc.gov.

SUPPLEMENTARY INFORMATION:

The Petitioner

The petitioner is the Nuclear Energy Institute (NEI). NEI claims representational responsibility for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

The Petitioner's Request

The petitioner states that the NRC's current regulations require uranium oxide fuel pellets, used in commercial reactors, be contained in cladding material made of zircaloy or ZIRLO. The petitioner indicates that the requirement to use either of these materials is stated in 10 CFR 50.44 and 10 CFR 50.46.

The petitioner notes that subsequent to promulgation of these regulations, commercial fuel vendors have developed and continue to develop materials other than zircaloy or ZIRLO that NRC reviews and approves for use in commercial power reactors. Each of these approvals requires the NRC to grant an exemption to the license of the utility that requests use of fuel in these cladding materials. The petitioner requests that NRC amend its regulations to allow licensees discretion to use zirconium-based cladding materials other than zircaloy or ZIRLO, provided that the cladding materials meet the fuel cladding performance requirements and have been reviewed and approved by NRC staff.

Petitioner's Interest

The petitioner states that safe and reliable operation of nuclear power plants, including fuel performance is very important to its members, the country, and the international community. The petitioner states that the NRC regulates the use of radioactive materials and allows nuclear power plant licensees to use a variety of cladding materials once the material has been determined to have the required characteristics. The petitioner states that for the past nine years, NRC has permitted the use of cladding materials other than zircaloy or ZIRLO after approving a formal exemption request. The petitioner further notes there have been at least eight requests for exemptions during that time frame and each exemption costs in excess of $50,000. The petitioner states that the requests for exemption have become increasingly more frequent, causing significant administrative confusion and a potentially adverse affect on efficient and effective use of NRC, licensee, and vendor resources.

Justification for Petition

Sections A through D below contain the detailed discussion provided by the petitioner to support his request. The text contained in each of these sections reflects the petitioner's point of view word for word.

A. The Current Regulation Given the Diversity of Commercially Available Fuel Cladding Materials is too Narrow and Restrictive

The beneficial use of zirconium (Zr) has been recognized for many years. It has a very low neutron cross-section when separated from hafnium with which it is typically found in nature. It also has excellent corrosion resistance to oxidizing environments, such as steam and water. Certain impurities were found to decrease this corrosion resistance and early programs were established to develop alloys that produced more consistent corrosion resistance.

Primary additives were tin, as used initially in a variety of zirconium-based alloys commonly referred to as zircaloy, and niobium (Nb) favored in Canada and Russia.

Beginning in approximately the mid-1980's, nuclear fuel vendors began developing new alloy variations to improve cladding corrosion resistance in support of higher burnup fuel management strategies. The new alloy variants were initially within the ASTM [American Society for Testing and Materials] specifications for existing zirconium-based cladding. As fuel cycle burnups were projected to increase further, additional alloys were developed, some of which involved formulations outside the ASTM specifications for existing cladding material.

The tin (Sn) additive-based alloys were generally favored in the U.S. and were successfully developed in both BWR [boiling water reactor] and PWR [pressurized water reactor] reactors. Early Zr-Sn alloys tended to use relatively high tin concentrations until long term corrosion tests showed that there was an increase in the corrosion rate as a function of time. Subsequent developments of the alloy, currently defined as Zircaloy-2 and Zircaloy-4, limited tin concentration to between 1.2 percent and 1.7 percent. Most of the early zircaloy compositions were at a nominal 1.5 percent Sn. Subsequent testing of the alloy in high rated PWR plants has shown that the lower tin concentrations provide even better performance. Current zircaloy compositions tend to focus on a mean Sn composition of about 1.3 percent. That value has been established by producers to minimize the risk of manufacturing a product below the ASTM specified range. However, there is significant data to show that lower Sn compositions would provide even better corrosion resistance.

Excellent corrosion performance has also been achieved with the niobium additive-based alloys; however, these appear to be more sensitive to the coolant composition. For example, the corrosion resistance is superior to the tin additive-based alloy under PWR environments but tends to suffer from nodular-type oxidation under BWR conditions. The alloy is much less temperature sensitive and the oxide thickness is generally less than that of the corresponding corrosion layer on zircaloy irradiated under identical conditions. The optimum niobium content is probably about one percent, or such as is found in M5 or ZIRLO cladding alloys.

The major variant on the Zr-Sn and Zr-Nb systems is the Zr-Sn-Nb system developed in the US as ZIRLO and in Russia as E635.

As a result of these development programs, cladding materials now available include zircaloy, ZIRLO, Alloy A, M5, and Duplex. All of these alloys are zirconium-based. Since zircaloy and ZIRLO are currently the only cladding materials provided for in the regulations, utilities must obtain an exemption from the applicable regulatory requirements to use these other cladding materials. Exemption requests will become more frequent as use of new cladding materials becomes more prevalent. Once a specific cladding material is approved for use by NRC, the subsequent exemption requests do not increase safety or confidence in the performance of the cladding. They are strictly an administrative process necessitated by the restrictive language of the current regulations.

The rule should be modified to address the currently available alloys as well as those that may be developed in the future.

B. A More General Description of Cladding Material Facilitates Technical Improvements

Currently, a licensee desiring to use fuel with cladding materials other than zircaloy or ZIRLO must obtain NRC approval through an exemption request. The time delay in obtaining approval as well as expenses incurred in preparing exemption requests might cause some licensees to defer adopting new cladding materials despite performance advantages to be gained. The proposed amendments would permit use of improved cladding materials without expending NRC, licensee, and vendor resources to develop, review, and approve exemption requests for cladding materials that fully meet NRC performance requirements.

Since the current industry interest focuses on cladding materials for which the performance criteria in § 50.46(b) remain applicable, a new § 50.46(e) is proposed that provides a clear tie between the approved cladding material alloy mentioned in §§ 50.44 and 50.46 with the criteria noted in § 50.46(b).

Similarly, to facilitate technical innovation, the NRC staff often encourages licensees and vendors to conduct Lead Test Assembly (LTA) Programs to demonstrate the performance of the new fuel assembly materials. It has been the past practice of the NRC not to require licensees to obtain approval of the LTA Program before placing the LTAs in the reactor. It is not the intent of industry to change that practice by making reference to approved cylindrical zirconium-based alloys in §§ 50.44 and 50.46.

C. The Regulation as Applied to Nuclear Power Plant Fuel Loading Incurs Unwarranted Implementation Costs

The implication of the current rule language that only the use of zircaloy or ZIRLO clad fuel is appropriate requires utilities to request, and NRC to approve, exemptions to use other cladding materials. Each exemption request is estimated to cost approximately $50,000, exclusive of NRC's cost. It is also estimated that the proposed change to the regulations could avoid at least thirty exemption requests over the next 8 to 9 years.

D. The Proposed Amendment Allows the Use of Alternative Materials That Meet the Cladding Performance Requirements

The existing regulations address only zircaloy and ZIRLO cladding materials. The regulation needs to be generalized to avoid unnecessary burdens on the developers of new cladding alloys and utilities who will use those alloys. The language of this proposed amendment will encompass all zirconium-based cladding material for which the ECCS performance criteria of § 50.46(b) are applicable.

The proposed wording does not eliminate current NRC practices regarding review and approval of new cladding materials brought forward by fuel vendors. It does permit the NRC regulation to be more efficiently applied to those cladding materials demonstrated to meet the acceptance criteria of §§ 50.46(b)(1) and (b)(2).

Experience has shown that qualification of an acceptable material can only be achieved by testing. An applicant must perform high-temperature oxidation and quenching tests of the cladding material to demonstrate that the 2200-degrees F peak cladding temperature and 17 percent oxidation limits protect the cladding against embrittlement and prevent the oxidation from becoming autocatalytic. This is demonstrated by heating the cladding to various high temperatures for a variety of time periods and quickly quenching the cladding in a cold water bath.

These tests must demonstrate that failure did not occur until beyond the temperature limits and that no autocatalytic oxidation was observed. As long as the tests confirm that the 2200-degrees F and 17 percent oxidation are conservative for the cladding material, then the material design is acceptable for LOCA [loss-of-coolant accident] licensing analyses up to currently approved burn up limits.

Providing a new more general description of the fuel cladding is consistent with the NRC movement toward a performance-based, rather than prescriptive, regulatory philosophy.

Conclusion

The petitioner believes the foregoing reasons support why NRC should amend §§ 50.44 and 50.46, as stated above, to allow the use of other zirconium-based alloys in addition to those specified in the current regulation.

The petitioner recognizes that the stated goal of the existing regulations is to ensure adequate coolability for reactor fuel in case of a design-basis accident. However, the petitioner asserts that the proposed amendment does not degrade the ability to meet that goal. Rather, it removes an unwarranted licensing burden without increasing risk to public health and safety.

Proposed Amendments

According to the petitioner, the proposed amendments would continue to allow nuclear power plant licensees the discretion to use zircaloy or ZIRLO cladding to encase the uranium dioxide fuel pellets. The proposed amendments also would allow nuclear power plant licensees to use other cladding materials with material properties that meet accepted requirements for fuel cladding performance. The petitioner identifies the proposed amendments as follows:

PART 50—[AMENDED]

1. Section 50.44, paragraphs (a), (b), and (c)(1) are revised to read as follows:

§ 50.44 Standards for combustible gas control system in light-water-cooled nuclear power reactors.

(a) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within approved cylindrical zirconium-based alloy cladding, must . . .

(b) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within approved cylindrical zirconium-based alloy cladding must . . .

(c)(1) For each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within approved cylindrical zirconium-based alloy cladding, it must be shown that . . .

2. Section 50.46(a)(1)(i) is revised to read as follows:

§ 50.46 Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors.

(a)(1)(i) Each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within approved cylindrical zirconium-based alloy cladding must be provided with an

emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section.

. . .

3. In Section 50.46, a new paragraph (e) is added to read as follows:

(e) Approved cylindrical zirconium-based alloys are those whose performance has been evaluated and determined by the NRC to conform to the acceptance criteria of paragraphs § 50.46(b)(1) and (b)(2).

Dated at Rockville, Maryland this 24th day of May, 2000.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 00–13515 Filed 5–30–00; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–15–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Artouste II and Artouste III Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Turbomeca Artouste II and Artouste III series turboshaft engines. This proposal would require installation of modification TU 24, TU 167 or TU 164, depending on the specific engine model. These modifications would prevent uncommanded partial closing or total closing of the electrical fuel cock, which would prevent uncommanded in-flight engine shutdown. From the effective date of this AD, and until the modifications are installed, this proposal would also limit the duration of the engine operating cycle. This proposal is prompted by reports of unexpected power loss during test flights. The actions specified by the proposed AD are intended to prevent unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing.

DATES: Comments must be received by July 31, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–15–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be submitted to the Rules Docket by using the following Internet address: ''9-ane-adcomment@faa.gov''. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Turbomeca, 40220 Tarnos, France; telephone 33 05 59 64 40 00, fax 33 05 59 64 60 80. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Glorianne Niebuhr, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299, telephone (781) 238–7132, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–15–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–15–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Director General de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Turbomeca Artouste II and Artouste III series turboshaft engines. The DGAC advises that it has received reports of unexpected power loss in service. This power loss is due to closing of the electrical fuel cock. This condition, if not corrected, could result in unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing.

Service Information

Turbomeca has issued Artouste II Service Bulletin (SB) No. 223 72 0070, dated January 21, 1999, that specifies procedures for installing modification TU 24, which provides an equipped relay inside the control unit. Turbomeca has also issued Artouste III SB No. 218 80 0098, dated January 14, 1999 and SB No. 218 80 0093, Revision 2, dated January 14, 1999 which state similar requirements and specify procedures for installation of modifications TU 164 and TU 167 respectively. The DGAC classified these SB's as mandatory and issued Airworthiness Directive (AD) 1999–005(A), dated January 13, 1999, and AD 1999–090(A), dated February 24, 1999, in order to ensure the airworthiness of these engines in France.

Bilateral Airworthiness Agreement

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

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other engines used on helicopters of the same type design registered in the United States, the proposed AD would require installation of modification TU 24, TU 164 or TU 167 at the earliest of the following:

- The next shop visit after the effective date of this AD, or
- Within 30 days after the effective date of this AD, or
- Within 120 cycles-in-service after the effective date of this AD.

The actions would be required to be accomplished in accordance with the SB's described previously. This proposal will also limit the duration of the engine operating cycle, from the effective date of this AD, to a two-hour cycle (engine start/stop) until the modifications are installed.

Economic Analysis

There are approximately 3,102 engines of the affected design in the worldwide fleet. The FAA estimates that 213 engines installed on aircraft of US registry would be affected by this proposed AD, that it would take approximately 2 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $630 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $159,750. The manufacturer has advised the DGAC that it may provide modifications TU 164 and TU 167 at no cost to the operator, thereby substantially reducing the cost impact of this proposed rule.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Turbomeca: Docket No. 2000–NE–15–AD.

Applicability: This airworthiness directive (AD) applies to Turbomeca Artouste II and Artouste III B, B1 and D series turboshaft engines. These engines are installed on, but not limited to, Alouette II SE 3130, Alouette II SE 313 B, Eurocopter SA 315 LAMA and SA 316 Alouette III series helicopters.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing, accomplish the following:

For Artouste II Engines

(a) As of the effective date of this AD, the duration of the operating cycle (start-up to shutdown) is limited to two hours total until modification TU 24 is installed in accordance with Turbomeca Artouste II Service Bulletin 218 80 0070, Section 2, dated January 21, 1999.

(b) At the next shop visit, within 30 days, or within 120 cycles after the effective date of this AD, whichever occurs first, install modification TU 24 in accordance with Turbomeca Artouste II Service Bulletin 218 80 0070, Section 2, dated January 21, 1999.

For Artouste III B and Artouste III B1 Engines

(c) As of the effective date of this AD, the duration of the operating cycle (start-up to shutdown) is limited to two hours total until modification TU 167 is installed in accordance with Turbomeca Artouste III Service Bulletin 218 80 0093, Revision 2, Section 2, dated January 14, 1999.

(d) At the next shop visit, within 30 days, or within 120 cycles after the effective date of this AD, whichever occurs first, install modification TU 167 in accordance with Turbomeca Artouste III Service Bulletin 218 80 0093, Revision 2, Section 2, dated January 14, 1999.

For Artouste III D Engines

(e) As of the effective date of this AD, the duration of the operating cycle (start-up to shutdown) is limited to two hours total until modification TU 164 is installed in accordance with Turbomeca Artouste III Service Bulletin 218 80 0098, Section 2, dated January 14, 1999.

(f) At the next shop visit, within 30 days, or within 120 cycles after the effective date of this AD, whichever occurs first, install modification TU 164 in accordance with Turbomeca Artouste III Service Bulletin 218 80 0098, Section 2, dated January 14, 1999.

Definition

(g) For the purpose of this AD, a shop visit is defined as any time when the engine is removed from the helicopter for maintenance.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive,

if any, may be obtained from the Engine Certification Office.

Special Flight Permits

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

Issued in Burlington, Massachusetts, on May 23, 2000.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–13567 Filed 5–30–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–206–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200, –300, –400, and 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that would have required a one-time inspection to determine whether H–11 steel bolts are installed as attach and support bolts at the trailing edge flap transmissions, and replacement of any H–11 steel bolt with an Inconel bolt. That proposal was prompted by reports of fracturing or cracking of H–11 steel bolts at the flap transmissions. This new action revises the proposed rule by expanding the applicability to include additional airplanes. The actions specified by this new proposed AD are intended to prevent loss of a flap transmission, which could reduce lateral controllability of the airplane.

DATES: Comments must be received by July 5, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–206–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–206–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–206–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 28, 1999 (64 FR 72582). That NPRM would have required a one-time inspection to determine whether H–11 steel bolts are installed as attach and support bolts at the trailing edge flap transmissions, and replacement of any H–11 steel bolt with an Inconel bolt. That NPRM was prompted by reports of fracturing or cracking of H–11 steel bolts at the flap transmissions. That condition, if not corrected, could result in loss of a flap transmission, which could reduce lateral controllability of the airplane.

Comments

Due consideration has been given to the comments received in response to the NPRM. Certain comments have resulted in changes to the NPRM.

Request To Expand Applicability

One commenter, an operator, requests that the FAA expand the applicability of the proposed rule to include all Model 747 series airplanes. The commenter points out that, though only Model 747 series airplanes having line numbers 1 through 871 inclusive were delivered with the affected bolts, the affected bolts may have been installed as spares on Model 747 series airplanes after line number 871. The commenter states that it found the subject bolts installed on airplanes in its fleet that are not included in the applicability of the proposed rule. The FAA concurs with the commenter's request and has revised the applicability statement of this supplemental NPRM to include all Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, and 747SR series airplanes.

Request To Revise ''Cost Impact'' Section

Several commenters request that the FAA revise the cost impact information provided in the preamble of the NPRM. One commenter states that the cost information in the NPRM is not consistent with the service bulletin, and requests that the cost impact information be revised to reflect the estimates in the service bulletin. Another commenter states that it does not understand the estimate of 6 work hours per airplane and estimates a total of 24 work hours will be necessary to accomplish both the inspection and

replacement described in the NPRM. The same commenter further states, ''The NPRM cost estimate does not include replacement costs nor does it even include the access costs required for the inspection. This is not industry-accepted practice.''

The FAA partially concurs with the commenters' request. The cost impact information in AD rulemaking actions describes only the ''direct'' costs of the specific actions required by this AD. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur ''incidental'' costs in addition to the ''direct'' costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate.

The estimate of 6 work hours in the NPRM is based on the figures in the service bulletin of 0.25 work hour for inspection and 0.50 work hour for replacement of bolts, for a total of 0.75 hour per transmission, and 6.0 work hours per airplane. However, based on the comments received, the FAA finds that clarification of the breakdown of the costs associated with the proposed AD is necessary. Therefore, the FAA has revised the cost impact information in this supplemental NPRM to separate the cost estimates for inspection and bolt replacement (if necessary). In addition, the estimated parts cost has been included.

Request To Revise Language in ''Discussion'' Section

One commenter, the manufacturer, requests that the FAA revise certain language in the ''Discussion'' section of the NPRM. The subject sentence reads, ''Broken bolts could lead to loss of a flap transmission, which could result in flap asymmetry, flap skew, or collateral system damage.'' The commenter requests that the sentence be revised to read, ''* * * flap skew, *and/or* collateral system damage.'' The commenter states, ''* * * in addition to the flap skew or asymmetry, a reduction in flight control system capability is also possible due to potential adjacent systems damage (e.g., hydraulic lines, cables, wiring, etc.).''

The FAA concurs with the intent of the commenter's request. However, the ''Discussion'' section is not restated in this supplemental NPRM; therefore, no change is necessary in this regard.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 1,240 airplanes of the affected design in the worldwide fleet. The FAA estimates that 281 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $33,720, or $120 per airplane.

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

Should an operator be required to accomplish the bolt replacement, it will take approximately 4 work hours per airplane (0.5 hours per transmission) to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $5,049 per airplane. Based on these figures, the cost impact of the replacement is estimated to be $5,289 per airplane.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–206–AD.

Applicability: All Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, and 747SR series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of a flap transmission, which could reduce lateral controllability of the airplane, accomplish the following:

Replacement

(a) Within 1 year after the effective date of this AD, perform a one-time general visual inspection to determine whether H–11 steel bolts are installed as attach and support bolts at the trailing edge flap transmissions, in accordance with Boeing Alert Service Bulletin 747–27A2376, dated July 1, 1999.

(1) If no H–11 steel bolt is found, no further action is required by this AD.

(2) If any H–11 steel bolt is found, prior to further flight, replace with an Inconel bolt, in accordance with the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of

access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on May 24, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–13568 Filed 5–30–00; 8:45 am]

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DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Parts 4, 4a and 4b

[Docket No. 990723201–9201–01]

RIN 0605–AA14

Public Information, Freedom of Information and Privacy

AGENCY: Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed revisions of Department of Commerce (Department) regulations regarding the Freedom of Information Act (FOIA), Privacy Act (PA), and declassification and public availability of national security information. It contains new provisions implementing the Electronic Freedom of Information Act (EFOIA) Amendments of 1996, reflects the principles established by President Clinton and Attorney General Reno in their FOIA Policy Memoranda of October 4, 1993, incorporates updated cost figures to be used in charging fees, and streamlines and clarifies the regulations. The proposed PA revisions update and clarify certain provisions, and make technical changes. The proposed revisions of the regulations regarding declassification and public availability of national security information implement Executive Order 12958, and streamline and clarify the regulations.

DATES: Comments must be received on or before June 30, 2000.

ADDRESSES: Address all comments concerning this proposed rule to Andrew W. McCready, Attorney-Advisor, U.S. Department of Commerce, Office of the Assistant General Counsel for Administration, Room 5875, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Andrew W. McCready, 202–482–8044.

SUPPLEMENTARY INFORMATION: The Department issued a proposed rule to revise its FOIA and PA regulations on February 21, 1996 (61 FR 6585–6587), but will not issue that rule in final form because of the subsequent passage of the Electronic Freedom of Information Act (EFOIA) Amendments of 1996 (Pub. L. 104–231). Relevant portions of that proposed rule are incorporated into the proposed rule below.

The proposed amendment to 15 CFR part 4 adds new provisions to implement the EFOIA Amendments of 1996. New provisions implementing the amendments are found at § 4.2(b) (electronic reading rooms), § 4.6(b) (timing of responses), § 4.6(d) (multitrack processing), § 4.6(e) (expedited processing), § 4.7(a), (b)(3) (deletion marking and estimation of volume of information withheld), § 4.11(b)(3) (format of disclosure), and § 4.11(b)(8) (electronic searches).

Proposed revisions of the Department's fee schedule are at § 4.11. The duplication charge will increase from $.07 to $.15 per page. Section 4.1(a) includes a new statement of discretionary disclosure policy, which reflects the principles established by President Clinton and Attorney General Reno in their FOIA Memoranda of October 4, 1993.

The Department proposes to remove part 4b, which contains the Department's PA regulations, and to incorporate revised PA provisions as a new subpart B to part 4. The proposed subpart B expands the list of PA officers to include all FOIA officers; changes the official responsible for adjudicating PA appeals of denials of requests for access, correction, and amendment from the General Counsel to the Assistant General Counsel for Administration; and streamlines and clarifies the regulations.

Appendix A to part 4 is being removed. Appendix B and C are being redesignated as appendices A and B to part 4, and are being revised to include updated addresses and telephone numbers of public inspection facilities, and updated addresses for requests for records under the FOIA and PA. Appendices A and C to part 4b are being removed, and appendix B is being redesignated as appendix C to part 4.

The proposed amendment to 15 CFR part 4a implements Executive Order 12958; eliminates the requirement that the Department's Office of Security coordinate with the Office of the Assistant General Counsel for Administration with respect to declassification and FOIA matters; and streamlines and clarifies the regulations.

It has been determined that this rule is significant under Executive Order 12866.

This rule does not contain a ''collection of information'' as defined by the Paperwork Reduction Act.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chief Counsel for Regulation has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, the fees the Department assesses are ordinarily nominal. Further, the number of ''small entities'' that make FOIA requests is relatively small compared to the number of individuals who make such requests.

List of Subjects

15 CFR Part 4

Administrative practice and procedure, Freedom of Information, Privacy, Public information.

15 CFR Part 4a

Administrative practice and procedure, Classified information.

15 CFR Part 4b

Privacy.

For the reasons stated in the preamble, the Department of Commerce proposes to amend 15 CFR Subtitle A as set forth below:

1. Revise Part 4 to read as follows:

PART 4—DISCLOSURE OF GOVERNMENT INFORMATION

Subpart A—Freedom of Information Act

Sec.

4.1 General.
4.2 Public reference facilities.
4.3 Records under the FOIA.
4.4 Requirements for making requests.
4.5 Responsibility for responding to requests.

4.6 Time limits and expedited processing.
4.7 Responses to requests.
4.8 Classified information.
4.9 Business Information.
4.10 Appeals from initial determinations or untimely delays.
4.11 Fees.

Subpart B—Privacy Act

4.21 Purpose and scope.
4.22 Definitions.
4.23 Procedures for making inquiries.
4.24 Procedures for making requests for records.
4.25 Disclosure of requested records to individuals.
4.26 Special procedures: Medical records.
4.27 Procedures for making requests for correction or amendment.
4.28 Agency review of requests for correction or amendment.
4.29 Appeal of initial adverse agency determination on correction or amendment.
4.30 Disclosure of record to person other than the individual to whom it pertains.
4.31 Fees.
4.32 Penalties.
4.33 General exemptions.
4.34 Specific exemptions.
Appendix A to Part 4—Freedom of Information Public Inspection Facilities, and Addresses for Requests for Records Under the Freedom of Information Act and Privacy Act, and Requests for Correction or Amendment Under the Privacy Act
Appendix B to Part 4—Officials Authorized to Deny Requests for Records Under the Freedom of Information Act and Requests for Correction or Amendment under the Privacy Act
Appendix C to Part 4—Systems of Records Noticed by Other Federal Agencies and Applicable to Records of the Department, and Applicability of this Part Thereto

Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 553; 44 U.S.C. 3101, 3717; Reorganization Plan No. 5 of 1950.

Subpart A—Freedom of Information Act

§ 4.1 General.

(a) The information in this part is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552). This part sets forth the procedures the Department of Commerce (Department) and its components follow to make publicly available the materials and indices specified in 5 U.S.C. 552(a)(2) and records requested under 5 U.S.C. 552(a)(3). Information routinely provided to the public as part of a regular Department activity (for example, press releases issued by the Office of Public Affairs) may be provided to the public without following this part. The Department's policy is to make discretionary disclosures of records or information exempt from disclosure under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

(b) As used in this subpart, *component* means any office, division, bureau or other unit of the Department listed in Appendix A to this part.

§ 4.2 Public reference facilities.

(a) The Department maintains public reference facilities (listed in Appendix A to this part) that contain the records the FOIA requires to be made regularly available for public inspection and copying; furnish information and otherwise assist the public concerning Department operations under the FOIA; and receive and process requests for records under the FOIA. Each component of the Department is responsible for determining which of its records are required to be made available for public inspection and copying, and for making those records available either in its own public reference facility or in the Department's Central Reference and Records Inspection Facility. Each component shall maintain and make available for public inspection and copying a current subject-matter index of its public inspection facility records. Each index shall be updated regularly, at least quarterly, with respect to newly included records. In accordance with 5 U.S.C. 552(a)(2), the Department has determined that it is unnecessary and impracticable to publish quarterly or more frequently and distribute copies of the index and supplements thereto.

(b) Components shall also make public inspection facility records created by the Department on or after November 1, 1996 available electronically through the Department's World Wide Web site (http://www.doc.gov). Information available at the site shall include:

(1) Each component's index of its public inspection facility records, which indicates which records are available electronically; and

(2) The general index referred to in paragraph (c)(3) of this section.

(c) The Department maintains and makes available for public inspection and copying:

(1) A current index providing identifying information for the public as to any matter that is issued, adopted, or promulgated after July 4, 1997, and that is retained as a record and is required to be made available or published. Copies of the index are available upon request after payment of the direct cost of duplication;

(2) Copies of records that have been released and that the agency determines, because of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records;

(3) A general index of the records described in paragraph (c)(2) of this section;

(4) Final opinions and orders, including concurring and dissenting opinions made in the adjudication of cases;

(5) Those statements of policy and interpretations that have been adopted by the component and are not published in the **Federal Register**; and

(6) Administrative staff manuals and instructions to staff that affect a member of the public.

§ 4.3 Records under the FOIA.

(a) Records under the FOIA include all Government records, regardless of format, medium or physical characteristics, and include electronic records and information, audiotapes, videotapes, and photographs.

(b) There is no obligation to create, compile, or obtain from outside the Department a record to satisfy a FOIA request. With regard to electronic data, the issue of whether records are created or merely extracted from an existing database is not always apparent. When responding to FOIA requests for electronic data where creation of a record or programming becomes an issue, the Department shall undertake reasonable efforts to search for the information in electronic format.

(c) Department officials may, upon request, create and provide new information pursuant to user fee statutes, such as the first paragraph of 15 U.S.C. 1525, or in accordance with authority otherwise provided by law. This is outside the scope of the FOIA.

(d) Components shall preserve all correspondence pertaining to the requests they receive under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Components shall not dispose of records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 4.4 Requirements for making requests.

(a) A request for records of the Department which are not customarily made available to the public as part of the Department's regular informational services must be in writing, and shall be

processed under the FOIA, regardless whether the FOIA is mentioned in the request. Requests should be sent to the Department component identified in Appendix A to this part that maintains those records (records the FOIA requires to be made regularly available for public inspection and copying are addressed in § 4.2(c)). If the proper component cannot be determined, the request should be addressed to the central facility identified in Appendix A to this part. The central facility will forward the request to the component(s) it believes most likely to have the requested records. For the quickest handling, the request letter and envelope should be marked ''Freedom of Information Act Request.'' For requests for records about oneself, § 4.24 contains additional requirements. For requests for records about another individual, either a written authorization signed by that individual permitting disclosure of those records to the requester or proof that that individual is deceased (for example, a copy of a death certificate or an obituary) facilitates processing the request.

(b) The records requested must be described in enough detail to enable Department personnel to locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record, and the name and location of the office where the record is located. Also, if records about a court case are sought, the title of the case, the court in which the case was filed, and the nature of the case should be included. If known, any file designations or descriptions for the requested records should be included. In general, the more specifically the request describes the records sought, the greater the likelihood that the Department will locate those records. If a component determines that a request does not reasonably describe records, it shall inform the requester what additional information is needed or why the request is otherwise insufficient. The component also shall give the requester an opportunity to discuss the request so that it may be modified to meet the requirements of this section.

§ 4.5 Responsibility for responding to requests.

(a) *In general.* Except as stated in paragraph (b) of this section, the proper component of the Department to respond to a request for records is the component that first receives the request and has responsive records, or the component to which the central facility identified in Appendix A to this part assigns responsibility for responding to the request, based on which component it believes has the majority of responsive records. In determining records responsive to a request, a component shall include only those records within the component's possession and control as of the date it receives the request.

(b) *Consultations and referrals.* If a component receives a request for a record in its possession in which another Federal agency subject to the FOIA has the primary interest, the component shall refer the record to that agency for direct response to the requester. A component shall consult with another Federal agency before responding to a requester if the component receives a request for a record in which another Federal agency subject to the FOIA has a significant interest, but not the primary interest; or another Federal agency not subject to the FOIA has the primary interest or a significant interest. Ordinarily, the agency that originated a record will be presumed to have the primary interest in it (see § 4.8 for additional information about referrals of classified information).

(c) *Notice of referral.* Whenever a component refers a document to another Federal agency for direct response to the requester, it ordinarily shall notify the requester in writing of the referral and inform the requester of the name of the agency to which the document was referred.

(d) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled according to the date the FOIA request was received by the first Federal agency.

(e) *Agreements regarding consultations and referrals.* Components may make agreements with other Federal agencies to eliminate the need for consultations or referrals for particular types of records.

§ 4.6 Time limits and expedited processing.

(a) *In general.* Components ordinarily shall respond to requests according to their order of receipt.

(b) *Initial response and appeal.* Subject to paragraph (c)(1) of this section, an initial response shall be made within 20 working days (i.e., excluding Saturdays, Sundays, and days on which Federal offices are closed) of the receipt of a request for a record under this part by the proper component identified in accordance with § 4.5(a), and an appeal shall be decided within 20 working days of its receipt by the Office of the General Counsel.

(c) *Unusual circumstances.* (1) In unusual circumstances as specified in paragraph (c)(2) of this section, an official listed in Appendix B to this part may extend the time limits in paragraph (b) of this section by notifying the requester in writing as soon as practicable of the unusual circumstances and of the date by which processing of the request is expected to be completed. Extensions of time for the initial determination and extensions on appeal may not exceed a total of ten working days, unless the requester agrees to a longer extension, or the component provides the requester with an opportunity either to limit the scope of the request so that it may be processed within the applicable time limit, or to arrange an alternative time frame for processing the request or a modified request.

(2) As used in this section, *unusual circumstances* means, but only to the extent reasonably necessary to properly process the particular request:

(i) The need to search for and collect the requested records from field facilities or other establishments separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are the subject of a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another component or Federal agency having a substantial interest in the determination of the request.

(3) Unusual circumstances do not include a delay that results from a predictable agency workload of requests, unless the Department demonstrates reasonable progress in reducing its backlog of pending requests. Refusal to reasonably modify the scope of a request or arrange an alternate time frame may affect a requester's ability to obtain judicial review.

(4) If a component reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, the component may aggregate them. Multiple requests involving unrelated matters will not be aggregated.

(d) *Multitrack processing.* (1) A component may use two or more processing tracks by distinguishing

between simple and more complex requests based on the number of pages involved, or some other measure of the amount of work and/or time needed to process the request, and whether the request qualifies for expedited processing as described in paragraph (e) of this section.

(2) A component using multitrack processing may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing. A component doing so shall contact the requester by telephone or by letter, whichever is most efficient in each case.

(e) *Expedited processing.* (1) Requests and appeals shall be taken out of order and given expedited treatment whenever it is determined they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) The loss of substantial due process rights;

(iii) A matter of widespread and exceptional media interest in which there exist questions about the Government's integrity which affect public confidence; or

(iv) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing should be sent to the component listed in Appendix A to this part that maintains the records requested.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category described in paragraph (e)(1)(iv) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category described in paragraph (e)(1)(iv) of this section must also establish a particular urgency to inform the public about the Government activity involved in the request, beyond the public's right to know about Government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of its receipt of a request for expedited processing, the proper component shall decide whether to grant it and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously.

§ 4.7 Responses to requests.

(a) *Grants of requests.* If a component makes a determination to grant a request in whole or in part, it shall notify the requester in writing. The component shall inform the requester in the notice of any fee charged under § 4.11 and disclose records to the requester promptly upon payment of any applicable fee. Records disclosed in part shall be marked or annotated to show the applicable FOIA exemption(s) and the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted shall also be indicated on the record, if feasible.

(b) *Adverse determinations of requests.* If a component makes an adverse determination regarding a request, it shall notify the requester of that determination in writing. An adverse determination is a denial of a request in any respect, namely: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought by the requester; a determination that what has been requested is not a record subject to the FOIA (except that a determination under § 4.11(j) that records are to be made available under a fee statute other than the FOIA is not an adverse determination); a determination against the requester on any disputed fee matter, including a denial of a request for a fee waiver; or a denial of a request for expedited treatment. Each denial letter shall be signed by an official listed in Appendix B to this part, and shall include:

(1) The name and title or position of the denying official;

(2) A brief statement of the reason(s) for the denial, including applicable FOIA exemption(s);

(3) An estimate of the volume of records or information withheld, in number of pages or some other reasonable form of estimation. This estimate need not be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable FOIA exemption; and

(4) A statement that the denial may be appealed, and a list of the requirements for filing an appeal under § 4.10(b).

§ 4.8 Classified information.

In processing a request for information classified under Executive Order 12958 or any other executive order concerning the classification of records, the information shall be reviewed to determine whether it should remain classified. Ordinarily the component or other Federal agency that classified the information should conduct the review, except that if a record contains information that has been derivatively classified by a component because it contains information classified by another component or agency, the component shall refer the responsibility for responding to the request to the component or agency that classified the underlying information. Information determined to no longer require classification shall not be withheld on the basis of FOIA Exemption 1 (5 U.S.C. 552(b)(1)). Appeals involving classified information shall be processed in accordance with § 4.10(c).

§ 4.9 Business information.

(a) *In general.* Business information obtained by the Department from a submitter will be disclosed under the FOIA only under this section.

(b) *Definitions.* For the purposes of this section:

(1) *Business information* means commercial or financial information, obtained by the Department from a submitter, which may be protected from disclosure under FOIA exemption 4 (5 U.S.C. 552(b)(4)).

(2) *Submitter* means any person or entity outside the Federal Government from whom the Department obtains business information, directly or indirectly. The term includes corporations; state, local and tribal governments; and foreign governments.

(c) *Designation of business information.* A submitter of business information should designate by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under FOIA exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(d) *Notice to submitters.* A component shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information whenever required under paragraph (e) of this section, except as provided in paragraph (h) of this section, in order to give the submitter an opportunity under paragraph (f) of this section to object to disclosure of any specified portion of that information. Such written notice shall be sent via certified mail, return receipt request, or similar means. The notice shall either describe the business information requested or include copies of the requested records containing the information. When notification of a large number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish notification.

(e) *When notice is required.* Notice shall be given to the submitter whenever:

(1) The information has been designated in good faith by the submitter as protected from disclosure under FOIA exemption 4; or

(2) The component has reason to believe that the information may be protected from disclosure under FOIA exemption 4.

(f) *Opportunity to object to disclosure.* A component shall allow a submitter seven working days (i.e., excluding Saturdays, Sundays, and days on which Federal offices are closed) from the date of receipt of the written notice described in paragraph (d) of this section to provide the component with a detailed statement of any objection to disclosure. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of exemption 4, it must show why the information is a trade secret or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to disclosure of the information. Information a submitter provides under this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* A component shall consider a submitter's objections and specific grounds under the FOIA for nondisclosure in deciding whether to disclose business information. If a component decides to disclose business information over the objection of a submitter, the component shall give the submitter written notice via certified mail, return receipt requested, or similar means, which shall include:

(1) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(2) A description of the business information to be disclosed; and

(3) A statement that the component intends to disclose the information seven working days from the date the submitter receives the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) The component determines that the information should not be disclosed;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with Executive Order 12600; or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous, in which case the component shall provide the submitter written notice of any final decision to disclose the information seven working days from the date the submitter receives the notice.

(i) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the component shall promptly notify the submitter.

(j) *Corresponding notice to requesters.* Whenever a component provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, the component shall also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the component shall notify the requester(s).

§ 4.10 Appeals from initial determinations or untimely delays.

(a) If a request for records is initially denied in whole or in part, or has not been timely determined, or if a requester receives an adverse initial determination regarding any other matter under this subpart (as described in § 4.7(b)), the requester may file a written appeal, which must be received by the Office of General Counsel within thirty calendar days of the date of the written denial or, if there has been no determination, may be submitted anytime after the due date, including the last extension under § 4.6(c), of the determination.

(b) Appeals shall be decided by the Assistant General Counsel for Administration (AGC-Admin), except that appeals for records which were initially denied by the AGC-Admin shall be decided by the General Counsel. Appeals should be addressed to the AGC-Admin, or the General Counsel if the records were initially denied by the AGC-Admin. The address of both is: U.S. Department of Commerce, Office of General Counsel, Room 5875, 14th and Constitution Avenue NW, Washington, DC 20230. Both the letter and the appeal envelope should be clearly marked ''Freedom of Information Appeal''. The appeal must include a copy of the original request and the initial denial, if any, and may include a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No opportunity for personal appearance, oral argument or hearing on appeal is provided.

(c) Appeals involving records initially denied on the basis of FOIA exemption 1 (5 U.S.C. 552(b)(1)) shall be forwarded to the Deputy Assistant Secretary for Security (DAS) for a declassification review. The DAS may overrule previous classification determinations in whole or in part when, in his judgment, continued protection in the interest of national security is no longer required, or no longer required at the same level. The DAS shall advise the AGC-Admin, or the General Counsel, as appropriate, of his decision.

(d) If an appeal is granted, the person making the appeal shall be immediately notified and copies of the releasable documents shall be made available promptly thereafter upon receipt of appropriate fees determined in accordance with § 4.11.

(e) If no determination of an appeal has been sent to the requester within the twenty working day period specified in § 4.6(b) or the last extension thereof, the requester is deemed to have exhausted his administrative remedies with respect to the request, giving rise to a right of judicial review under 5 U.S.C. 552(a)(6)(C). If the person making a request initiates a court action against the Department based on the provision in this paragraph, the administrative appeal process may continue.

(f) A determination on appeal shall be in writing and, when it denies records in whole or in part, the letter to the requester shall include:

(1) A brief explanation of the basis for the denial, including a list of applicable FOIA exemptions and a description of how the exemptions apply;

(2) A statement that the decision is final for the Department;

(3) Notification that judicial review of the denial is available in the district in which the requester resides or has his

principal place of business, the district in which the agency records are located, or the District of Columbia; and

(4) The name and title or position of the official responsible for denying the appeal.

§ 4.11 Fees.

(a) *In general.* Components shall charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except when fees are limited under paragraph (d) of this section or when a waiver or reduction of fees is granted under paragraph (k) of this section. A component shall collect all applicable fees before sending copies of requested records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use of purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. Components shall determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because a component has reasonable cause to doubt a requester's stated use, the component shall provide the requester a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses a component incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the labor costs of the employee performing the work (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits). Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(3) *Duplication* means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies may take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. A component shall honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format by the component responding to the request.

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution, and that the records are sought to further scholarly research rather than for a commercial use.

(5) *Noncommercial scientific institution* means an institution that is not operated on a ''commercial'' basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research rather than for a commercial use.

(6) *Representative of the news media, or news media requester* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only if they can qualify as disseminators of ''news'') that make their products available for purchase or subscription by the general public. For ''freelance'' journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but components shall also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for a commercial use. However, a request for records supporting the news-dissemination function of the requester shall not be considered to be for a commercial use.

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure—for example, doing all that is necessary to redact it and prepare it for disclosure. Review costs are recoverable even if a record ultimately is not disclosed. Review time does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Components shall ensure that searches are done in the most efficient and least expensive manner reasonably possible.

(c) *Fees.* In responding to FOIA requests, components shall charge the fees summarized in chart form in paragraphs (c)(1) and (c)(2) of this section and explained in paragraphs (c)(3) through (c)(5) of this section, unless a waiver or reduction of fees has been granted under paragraph (k) of this section.

(1) The four categories and chargeable fees are:

Category	Chargeable fees
(i) Commercial Use Requesters	Search, Review, and Duplication.
(ii) Educational and Non-commercial Scientific Institution Requesters	Duplication (excluding the cost of the first 100 pages).
(iii) Representatives of the News Media	Duplication (excluding the cost of the first 100 pages).
(iv) All Other Requesters	Search and Duplication (excluding the cost of the first 2 hours of search and 100 pages).

(2) Uniform fee schedule.

Service	Rate
(i) Manual search	Actual salary rate of employee involved, plus 16 percent of salary rate.
(ii) Computerized search	Actual direct cost, including operator time.
(iii) Duplication of records:	
(A) Paper copy reproduction	$.15 per page.
(B) Other reproduction (*e.g.,* computer disk or printout, microfilm, microfiche, or microform).	Actual direct cost, including operator time.
(iv) Review of records (includes preparation for release, *i.e.*, excising)	Actual salary rate of employee conducting review, plus 16 percent of salary rate.

(3) *Search.* (i) Search fees shall be charged for all requests—other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media—subject to the limitations of paragraph (d) of this section. Components shall charge for time spent searching even if they do not locate any responsive record or if they withhold the record(s) located as entirely exempt from disclosure. Search fees shall be the direct costs of conducting the search by the involved employees.

(ii) For computer searches of records, requesters will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (d)(1) of this section) will be charged no search fee and certain other requesters (as provided in paragraph (d)(3) of this section) are entitled to the cost equivalent of two hours of manual search time without charge. These direct costs include the costs, attributable to the search, of operating a central processing unit and operator/programmer salary.

(4) *Duplication.* Duplication fees will be charged to all requesters, subject to the limitations of paragraph (d) of this section. For a paper photocopy of a record (no more than one copy of which need be supplied), the fee shall be $.15 cents per page. For copies produced by computer, such as tapes or printouts, components shall charge the direct costs, including operator time, of producing the copy. For other forms of duplication, components will charge the direct costs of that duplication.

(5) *Review.* Review fees shall be charged to requesters who make a commercial use request. Review fees shall be charged only for the initial record review—the review done when a component determines whether an exemption applies to a particular record at the initial request level. No charge will be made for review at the administrative appeal level for an exemption already applied. However, records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies, and the costs of that review are chargeable. Review fees shall be the direct costs of conducting the review by the involved employees.

(d) *Limitations on charging fees.*

(1) No search fee will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(3) Except for requesters seeking records for a commercial use, components will provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent); and

(ii) The first two hours of search (or the cost equivalent).

(4) Whenever a total fee calculated under paragraph (c) of this section is $20.00 or less for any request, no fee will be charged.

(5) The provisions of paragraphs (d)(3) and (4) of this section work together. This means that for requesters other than those seeking records for a commercial use, no fee will be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $20.00.

(e) *Notice of anticipated fees over $20.00.* When a component determines or estimates that the fees to be charged under this section will be more than $20.00, the component shall notify the requester of the actual or estimated fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee. If the component has notified a requester that actual or estimated fees are more than $20.00, the component shall not consider the request received or process it further until the requester agrees to pay the anticipated total fee. Any such agreement should be memorialized in writing. A notice under this paragraph shall offer the requester an opportunity to discuss the matter with Departmental personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(f) *Charges for other services.* Apart from the other provisions of this section, components shall ordinarily charge the direct cost of special services. Such special services could include certifying that records are true copies or sending records by other than ordinary mail.

(g) *Charging interest.* Components shall charge interest on any unpaid bill starting on the 31st calendar day following the date of billing the requester. Interest charges shall be assessed at the rate provided in 31 U.S.C. 3717 and accrue from the date of the billing until payment is received by the component. Components shall follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(h) *Aggregating requests.* If a component reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the component may aggregate those requests and charge accordingly. Components may presume that multiple requests of this type made within a 30 calendar day period have been made in order to avoid fees. If requests are separated by a longer period, components shall aggregate them only if a solid basis exists for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters shall not be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraphs (i)(2) and (3) of this section, a component shall not require the requester to make an advance payment: a payment made before work is begun or continued on a request. Payment owed for work already completed (i.e., a payment before copies are sent to a requester) is not an advance payment.

(2) If a component determines or estimates that a total fee to be charged under this section will be more than

$250.00, it shall require the requester to pay the entire anticipated fee before beginning to process the request, unless it receives a satisfactory assurance of full payment from a requester who has a history of prompt payment.

(3) If a requester has previously failed to pay a properly charged FOIA fee to any component or other Federal agency within 30 calendar days of the date of billing, a component shall require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the component begins to process a new request or continues to process a pending request from that requester.

(4) In cases in which a component requires payment under paragraphs (i)(2) or (3) of this section, the request shall not be considered received and further work will not be done on it until the required payment is received.

(5) Upon the completion of processing of a request, when a specific fee is determined to be payable and appropriate notice has been given to the requester, a component shall make records available to the requester only upon receipt of full payment of the fee.

(j) *Other statutes specifically providing for fees*. The fee schedule of this section does not apply to fees charged under any statute (except for the FOIA) that specifically requires an agency to set and collect fees for particular types of records. If records responsive to requests are maintained for distribution by agencies operating such statutorily based fee schedule programs, components shall inform requesters of how to obtain records from those sources.

(k) *Requirements for waiver or reduction of fees*. (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section if a component determines, based on all available information, that the requester has demonstrated that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government; and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) To determine whether the first fee waiver requirement is met, components shall consider the following factors:

(i) *The subject of the request*: whether the subject of the requested records concerns the operations or activities of the Government. The subject of the requested records must concern identifiable operations or activities of the Federal Government, with a connection that is direct and clear, not remote or attenuated.

(ii) *The informative value of the information to be disclosed*: whether the disclosure is ''likely to contribute'' to an understanding of Government operations or activities. The disclosable portions of the requested records must be meaningfully informative about Government operations or activities in order to be ''likely to contribute'' to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be likely to contribute to such understanding.

(iii) *The contribution to an understanding of the subject by the public likely to result from disclosure*: whether disclosure of the requested information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media satisfies this consideration. It shall be presumed that a requester who merely provides information to media sources does not satisfy this consideration.

(iv) *The significance of the contribution to public understanding*: whether the disclosure is likely to contribute ''significantly'' to public understanding of Government operations or activities. The public's understanding of the subject in question prior to the disclosure must be significantly enhanced by the disclosure.

(3) To determine whether the second fee waiver requirement is met, components shall consider the following factors:

(i) *The existence and magnitude of a commercial interest*: whether the requester has a commercial interest that would be furthered by the requested disclosure. Components shall consider any commercial interest of the requester (with reference to the definition of ''commercial use request'' in paragraph (b)(1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters shall be given an opportunity to provide explanatory information regarding this consideration.

(ii) *The primary interest in disclosure*: whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.'' A fee waiver or reduction is justified if the public interest standard (paragraph (k)(1)(i) of this section) is satisfied and the public interest is greater than any identified commercial interest in disclosure. Components ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market Government information for direct economic return shall not be presumed to primarily serve the public interest.

(4) If only some of the records to be released satisfy the requirements for a fee waiver, a waiver shall be granted for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (k)(2) and (3) of this section, insofar as they apply to each request.

Subpart B—Privacy Act

§ 4.21 Purpose and scope.

(a) The purpose of this subpart is to establish policies and procedures for implementing the Privacy Act of 1974, as amended (5 U.S.C. 552a). The main objectives are to facilitate full exercise of rights conferred on individuals under the Act and to ensure the protection of privacy as to individuals on whom the Department maintains records in systems of records under the Act. The Department accepts the responsibility to act promptly and in accordance with the Act upon receipt of any inquiry, request or appeal from a citizen of the United States or an alien lawfully admitted for permanent residence into the United States, regardless of the age of the individual. Further, the Department accepts the obligations to maintain only such information on individuals as is relevant and necessary to the performance of its lawful functions, to maintain that information with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness in determinations made by the Department about the individual, to obtain information from the individual to the extent practicable, and to take every reasonable step to protect that information from unwarranted disclosure. The Department will maintain no record describing how an individual exercises rights guaranteed by the First Amendment unless expressly

authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity. An individual's name and address will not be sold or rented by the Department unless such action is specifically authorized by law; however, this provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(b) This subpart applies to all components of the Department. Components may promulgate supplementary orders and rules not inconsistent with this subpart.

(c) The Assistant Secretary for Administration is delegated responsibility for maintaining this subpart, for issuing such orders and directives internal to the Department as are necessary for full compliance with the Act, and for publishing all required notices concerning systems of records.

(d) Matters outside the scope of this subpart include the following:

(1) Requests for records which do not pertain to the individual making the request, or to the individual about whom the request is made if the requester is the parent or guardian of the individual;

(2) Requests involving information pertaining to an individual which is in a record or file but not within the scope of a system of records notice published in the **Federal Register**;

(3) Requests to correct a record where a grievance procedure is available to the individual either by regulation or by provision in a collective bargaining agreement with the Department or a component of the Department, and the individual has initiated, or has expressed in writing the intention of initiating, such grievance procedure. An individual selecting the grievance procedure waives the use of the procedures in this subpart to correct or amend a record; and,

(4) Requests for employee-employer services and counseling which were routinely granted prior to enactment of the Act, including, but not limited to, test calculations of retirement benefits, explanations of health and life insurance programs, and explanations of tax withholding options.

(e) Any request for records which pertains to the individual making the request, or to the individual about whom the request is made if the requester is the parent or guardian of the individual, shall be processed under the Act and this subpart and under the Freedom of Information Act and the Department's implementing regulations at subpart A of this part, regardless whether the Act or the Freedom of Information Act is mentioned in the request.

§ 4.22 Definitions.

(a) All terms used in this subpart which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this subpart:

(1) *Act* means the ''Privacy Act of 1974, as amended (5 U.S.C. 552a)''.

(2) *Appeal* means a request by an individual to review and reverse an initial denial of a request by that individual for correction or amendment.

(3) *Department* means the Department of Commerce.

(4) *Inquiry* means either a request for general information regarding the Act and this subpart or a request by an individual (or that individual's parent or guardian) that the Department determine whether it has any record in a system of records which pertains to that individual.

(5) *Person* means any human being and also shall include but not be limited to, corporations, associations, partnerships, trustees, receivers, personal representatives, and public or private organizations.

(6) *Privacy Officer* means those officials, identified in Appendix B to this part, who are authorized to receive and act upon inquiries, requests for access, and requests for correction or amendment.

(7) *Request for access* means a request by an individual or an individual's parent or guardian to see a record which is in a particular system of records and which pertains to that individual.

(8) *Request for correction or amendment* means the request by an individual or an individual's parent or guardian that the Department change (either by correction, amendment, addition or deletion) a particular record in a system of records which pertains to that individual.

(9) *Component* means any office, division, bureau or other unit of the Department listed in Appendix A to this part.

§ 4.23 Procedures for making inquiries

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit an inquiry to the Department. The inquiry should be made either in person or by mail addressed to the appropriate component identified in Appendix A to this part or to the official identified in the notification procedures paragraph of the systems of records notice published in the **Federal Register.** If an individual believes the Department maintains a record pertaining to that individual but does not know which system of records might contain such a record and/or which component of the Department maintains the system of records, assistance in person or by mail will be provided at the first address listed in Appendix A to this part.

(b) Inquiries submitted by mail should include the words ''PRIVACY ACT INQUIRY'' in capital letters at the top of the letter and on the face of the envelope. If the inquiry is for general information regarding the Act and this subpart, no particular information is required. The Department reserves the right to require compliance with the identification procedures appearing at § 4.24(d) where circumstances warrant. If the inquiry is a request that the Department determine whether it has, in a given system of records, a record which pertains to the individual, the following information should be submitted:

(1) Name of individual whose record is sought;

(2) Individual whose record is sought is either a U.S. citizen or an alien lawfully admitted for permanent residence;

(3) Identifying data that will help locate the record (for example, maiden name, occupational license number, period or place of employment, etc.);

(4) Record sought, by description and by record system name, if known;

(5) Action requested (that is, sending information on how to exercise rights under the Act; determining whether requested record exists; gaining access to requested record; or obtaining copy of requested record);

(6) Copy of court guardianship order or minor's birth certificate, as provided in § 4.24(f)(3), but only if requester is guardian or parent of individual whose record is sought;

(7) Requester's name (printed), signature, address, and telephone number (optional);

(8) Date; and,

(9) Certification of request by notary or other official, but only if

(i) Request is for notification that requested record exists, for access to requested record or for copy of requested record;

(ii) Record is not available to any person under 5 U.S.C. 552; and

(iii) Requester does not appear before an employee of the Department for verification of identity.

(c) Any inquiry which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in paragraph (b) of this section will be so addressed and marked

by Department personnel and forwarded immediately to the responsible Privacy Officer. An inquiry which is not properly addressed by the individual will not be deemed to have been ''received'' for purposes of measuring the time period for response until actual receipt by the Privacy Officer. In each instance when an inquiry so forwarded is received, the Privacy Officer shall notify the individual that his or her inquiry was improperly addressed and the date the inquiry was received at the proper address.

(d)(1) Each inquiry received shall be acted upon promptly by the responsible Privacy Officer. Every effort will be made to respond within ten working days (*i.e.,* excluding Saturdays, Sundays and days on which Federal offices are closed) of the date of receipt. If a response cannot be made within ten working days, the Privacy Officer shall send an acknowledgment during that period providing information on the status of the inquiry and asking for such further information as may be necessary to process the inquiry. The first correspondence sent by the Privacy Officer to the requester shall contain the Department's control number assigned to the request, as well as a note that the requester should use that number in all future contacts in order to facilitate processing. The Department shall use that control number in all subsequent correspondence.

(2) If the Privacy Officer fails to send an acknowledgment within ten working days, as provided above, the requester may ask the Assistant General Counsel for Administration to take corrective action. No failure of a Privacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(e) An individual shall not be required to state a reason or otherwise justify his or her inquiry.

(f) Special note should be taken of the fact that certain agencies are responsible for publishing notices of systems of records having Government-wide application to other agencies, including the Department. The agencies known to be publishing these general notices and the types of records covered therein appear in Appendix C to this part. These general notices do not identify the Privacy Officers in the Department to whom inquiries should be presented or mailed. The provisions of this section, and particularly paragraph (a) of this section, should be followed in making inquiries with respect to such records. Such records in the Department are subject to the provisions of this part to the extent indicated in Appendix C to this part. The exemptions, if any, determined by the agency publishing a general notice shall be invoked and applied by the Department after consultation, as necessary, with that other agency.

§ 4.24 Procedures for making requests for records.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request for access to records to the Department. The request should be made either in person or by mail addressed to the appropriate office listed in Appendix A to this part.

(b) Requests submitted by mail should include the words ''PRIVACY ACT REQUEST'' in capital letters at the top of the letter and on the face of the envelope. Any request which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in this paragraph will be so addressed and marked by Department personnel and forwarded immediately to the responsible Privacy Officer. A request which is not properly addressed by the individual will not be deemed to have been ''received'' for purposes of measuring time periods for response until actual receipt by the Privacy Officer. In each instance when a request so forwarded is received, the Privacy Officer shall notify the individual that his or her request was improperly addressed and the date when the request was received at the proper address.

(c) If the request follows an inquiry under § 4.23 in connection with which the individual's identity was established by the Department, the individual need only indicate the record to which access is sought, provide the Department control number assigned to the request, and sign and date the request. If the request is not preceded by an inquiry under § 4.23, the procedures of this section should be followed.

(d) The requirements for identification of individuals seeking access to records are as follows:

(1) *In person.* Each individual making a request in person shall be required to present satisfactory proof of identity. The means of proof, in the order of preference and priority, are:

(i) A document bearing the individual's photograph (for example, driver's license, passport or military or civilian identification card);

(ii) A document, preferably issued for participation in a federally sponsored program, bearing the individual's signature (for example, unemployment insurance book, employer's identification card, national credit card, and professional, craft or union membership card); and,

(iii) A document bearing neither the photograph nor the signature of the individual, preferably issued for participation in a federally sponsored program (for example, Medicaid card). In the event the individual can provide no suitable documentation of identity, the Department will require a signed statement asserting the individual's identity and stipulating that the individual understands the penalty provision of 5 U.S.C. 552a(i)(3) recited in § 4.32(a). In order to avoid any unwarranted disclosure of an individual's records, the Department reserves the right to determine the adequacy of proof of identity offered by any individual, particularly when the request involves a sensitive record.

(2) *Not in person.* If the individual making a request does not appear in person before a Privacy Officer or other employee authorized to determine identity, a certification of a notary public or equivalent officer empowered to administer oaths must accompany the request under the circumstances prescribed in § 4.23(b)(9). The certification in or attached to the letter must be substantially in accordance with the following text:

City of ____

County of ____:ss

(Name of individual), who affixed (his) (her) signature below in my presence, came before me, a (title), in and for the aforesaid County and State, this ____ day of _____, 20 ____, and established (his) (her) identity to my satisfaction.

My commission expires ____.

(Signature)

(3) *Parents of minors and legal guardians.* An individual acting as the parent of a minor or the legal guardian of the individual to whom a record pertains shall establish his or her personal identity in the same manner prescribed in either paragraph (d)(1) or (d)(2) of this section. In addition, such other individual shall establish his or her identity in the representative capacity of parent or legal guardian. In the case of the parent of a minor, the proof of identity shall be a certified or authenticated copy of the minor's birth certificate. In the case of a legal guardian of an individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, the proof of identity shall be a certified or authenticated copy of the court's order. For purposes of the Act, a parent or legal guardian may represent only a

living individual, not a decedent. A parent or legal guardian may be accompanied during personal access to a record by another individual, provided the provisions of § 4.25(f) are satisfied.

(e) When the provisions of this subpart are alleged to impede an individual in exercising his or her right to access, the Department will consider, from an individual making a request, alternative suggestions regarding proof of identity and access to records.

(f) An individual shall not be required to state a reason or otherwise justify his or her request for access to a record.

§ 4.25 Disclosure of requested records to individuals.

(a)(1) The responsible Privacy Officer shall act promptly upon each request. Every effort will be made to respond within ten working days (*i.e.,* excluding Saturdays, Sundays and days on which Federal offices are closed) of the date of receipt. If a response cannot be made within ten working days due to unusual circumstances, the Privacy Officer shall send an acknowledgment during that period providing information on the status of the request and asking for any further information that may be necessary to process the request. ''Unusual circumstances'' shall include circumstances in which:

(i) A search for and collection of requested records from inactive storage, field facilities or other establishments is required,

(ii) A voluminous amount of data is involved,

(iii) Information on other individuals must be separated or expunged from the particular record, or

(iv) Consultations with other agencies having a substantial interest in the determination of the request are necessary.

(2) If the Privacy Officer fails to send an acknowledgment within ten working days, as provided above, the requester may ask the Assistant General Counsel for Administration to take corrective action. No failure of a Privacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(b) *Grant of access*—(1) Notification. An individual shall be granted access to a record pertaining to him or her, except where the provisions of paragraph (g)(1) of this section apply. The Privacy Officer shall notify the individual of a determination to grant access, and provide the following information:

(i) The methods of access, as set forth in paragraph (b)(2) of this section;

(ii) The place at which the record may be inspected;

(iii) The earliest date on which the record may be inspected and the period of time that the records will remain available for inspection. In no event shall the earliest date be later than thirty calendar days from the date of notification;

(iv) The estimated date by which a copy of the record could be mailed and the estimate of fees pursuant to § 4.31. In no event shall the estimated date be later than thirty calendar days from the date of notification;

(v) The fact that the individual, if he or she wishes, may be accompanied by another individual during personal access, subject to the procedures set forth in paragraph (f) of this section; and,

(vi) Any additional requirements needed to grant access to a specific record.

(2) Methods of access. The following methods of access to records by an individual may be available depending on the circumstances of a given situation:

(i) Inspection in person may be had in the office specified by the Privacy Officer granting access, during the hours indicated in Appendix A to this part;

(ii) Transfer of records to a Federal facility more convenient to the individual may be arranged, but only if the Privacy Officer determines that a suitable facility is available, that the individual's access can be properly supervised at that facility, and that transmittal of the records to that facility will not unduly interfere with operations of the Department or involve unreasonable costs, in terms of both money and manpower; and,

(iii) Copies may be mailed at the request of the individual, subject to payment of the fees prescribed in § 4.31. The Department, at its own initiative, may elect to provide a copy by mail, in which case no fee will be charged the individual.

(c) Access to medical records is governed by the provisions of § 4.26.

(d) The Department shall supply such other information and assistance at the time of access as to make the record intelligible to the individual.

(e) The Department reserves the right to limit access to copies and abstracts of original records, rather than the original records. This election would be appropriate, for example, when the record is in an automated data media such as tape or disc, when the record contains information on other individuals, and when deletion of information is permissible under exemptions (for example, 5 U.S.C. 552a(k)(2)). In no event shall original records of the Department be made available to the individual except under the immediate supervision of the Privacy Officer or his designee.

(f) Any individual who requests access to a record pertaining to that individual may be accompanied by another individual of his or her choice. ''Accompanied'' includes discussion of the record in the presence of the other individual. The individual to whom the record pertains shall authorize the presence of the other individual in writing. The authorization shall include the name of the other individual, a specific description of the record to which access is sought, the Department control number assigned to the request, the date, and the signature of the individual to whom the record pertains. The other individual shall sign the authorization in the presence of the Privacy Officer. An individual shall not be required to state a reason or otherwise justify his or her decision to be accompanied by another individual during personal access to a record.

(g) *Initial denial of access*—(1) *Grounds.* Access by an individual to a record which pertains to that individual will be denied only upon a determination by the Privacy Officer that:

(i) The record is exempt under § 4.33 or 4.34, or exempt by determination of another agency publishing notice of the system of records, as described in § 4.23(f);

(ii) The record is information compiled in reasonable anticipation of a civil action or proceeding;

(iii) The provisions of § 4.26 pertaining to medical records temporarily have been invoked; or,

(iv) The individual unreasonably has failed to comply with the procedural requirements of this part.

(2) *Notification.* The Privacy Officer shall give notice of denial of access to records to the individual in writing and shall include the following information:

(i) The Privacy Officer's name and title or position;

(ii) The date of the denial;

(iii) The reasons for the denial, including citation to the appropriate section of the Act and this part;

(iv) The individual's opportunities, if any, for further administrative consideration, including the identity and address of the responsible official. If no further administrative consideration within the Department is available, the notice shall state that the denial is administratively final; and,

(v) If stated to be administratively final within the Department, the individual's right to judicial review provided under 5 U.S.C. 552a(g)(1), as limited by 5 U.S.C. 552a(g)(5).

(3) *Administrative review.* When an initial denial of a request is issued by the Privacy Officer, the individual's opportunities for further consideration shall be as follows:

(i) As to denial under paragraph (g)(1)(i) of this section, two opportunities for further consideration are available in the alternative:

(A) If the individual contests the application of the exemption to the records, review procedures in § 4.25(g)(3)(ii) shall apply; or,

(B) If the individual challenges the exemption itself, the procedure is a petition for the issuance, amendment, or repeal of a rule under 5 U.S.C. 553(e). If the exemption was determined by the Department, such petition shall be filed with the Assistant Secretary for Administration. If the exemption was determined by another agency (as described in § 4.23(f)), the Department will provide the individual with the name and address of the other agency and any relief sought by the individual shall be that provided by the regulations of the other agency. Within the Department, no such denial is administratively final until such a petition has been filed by the individual and disposed of on the merits by the Assistant Secretary for Administration.

(ii) As to denial under paragraphs (g)(1)(ii), (g)(1)(iv) of this section or (to the limited extent provided in paragraph (g)(3)(i)(A) of this section) paragraph (g)(1)(i) of this section, the individual may file for review with the Assistant General Counsel for Administration, as indicated in the Privacy Officer's initial denial notification. The procedures appearing in § 4.28 shall be followed by both the individual and the Department to the maximum extent practicable.

(iii) As to denial under paragraph (g)(1)(iii) of this section, no further administrative consideration within the Department is available because the denial is not administratively final until expiration of the time period indicated in § 4.26(a).

(h) If a request is partially granted and partially denied, the Privacy Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 4.26 Special procedures: Medical records.

(a) No response to any request for access to medical records by an individual will be issued by the Privacy Officer for a period of seven working days (i.e., excluding Saturdays, Sundays and days on which Federal offices are closed) from the date of receipt.

(b) The Department has published as a routine use, for all systems of records containing medical records, consultations with an individual's physician or psychologist if, in the sole judgment of the Department, disclosure could have an adverse effect upon the individual. The mandatory waiting period set forth in paragraph (a) of this section will permit exercise of this routine use in appropriate cases. The Department will pay no cost of any such consultation.

(c) In every case of a request by an individual for access to medical records, the Privacy Officer shall:

(1) Inform the individual of the waiting period prescribed in paragraph (a) of this section;

(2) Obtain the name and address of the individual's physician and/or psychologist, if the individual consents to give them;

(3) Obtain specific, written consent for the Department to consult the individual's physician and/or psychologist in the event that the Department believes such consultation is advisable, if the individual consents to give such authorization;

(4) Obtain specific, written consent for the Department to provide the medical records to the individual's physician or psychologist in the event that the Department believes access to the record by the individual is best effected under the guidance of the individual's physician or psychologist, if the individual consents to give such authorization; and,

(5) Forward the individual's medical record to the Department's medical officer for review and a determination on whether consultation with or transmittal of the medical records to the individual's physician or psychologist is warranted. If the consultation with or transmittal of such records to the individual's physician or psychologist is determined to be warranted, the Department's medical officer shall so consult or transmit. Whether or not such a consultation or transmittal occurs, the Department's medical officer shall provide instruction to the Privacy Officer regarding the conditions of access by the individual to his or her medical records.

(d) If an individual refuses in writing to give the names and consents set forth in paragraphs (c)(2) through (c)(4) of this section and the Department has determined that disclosure could have an adverse effect upon the individual, the Department shall give the individual access to said records by means of a copy, provided without cost to the requester, sent registered mail return receipt requested.

§ 4.27 Procedures for making requests for correction or amendment.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request for correction or amendment to the Department. The request should be made either in person or by mail addressed to the Privacy Officer who processed the individual's request for access to the record, and to whom is delegated authority to make initial determinations on requests for correction or amendment. The offices of Privacy Officers are open to the public between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday (excluding days on which Federal offices are closed).

(b) Requests submitted by mail should include the words ''PRIVACY ACT REQUEST'' in capital letters at the top of the letter and on the face of the envelope. Any request which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in this paragraph will be so addressed and marked by Department personnel and forwarded immediately to the responsible Privacy Officer. A request which is not properly addressed by the individual will not be deemed to have been ''received'' for purposes of measuring the time period for response until actual receipt by the Privacy Officer. In each instance when a request so forwarded is received, the Privacy Officer shall notify the individual that his or her request was improperly addressed and the date the request was received at the proper address.

(c) Since the request, in all cases, will follow a request for access under § 4.25, the individual's identity will be established by his or her signature on the request and use of the Department control number assigned to the request.

(d) A request for correction or amendment should include the following:

(1) Specific identification of the record sought to be corrected or amended (for example, description, title, date, paragraph, sentence, line and words);

(2) The specific wording to be deleted, if any;

(3) The specific wording to be inserted or added, if any, and the exact place at which to be inserted or added; and,

(4) A statement of the basis for the requested correction or amendment, with all available supporting documents and materials which substantiate the statement. The statement should identify the criterion of the Act being

invoked, that is, whether the information in the record is unnecessary, inaccurate, irrelevant, untimely or incomplete.

§ 4.28 Agency review of requests for correction or amendment.

(a)(1)(i) Not later than ten working days (i.e., excluding Saturdays, Sundays and days on which Federal offices are closed) after receipt of a request to correct or amend a record, the Privacy Officer shall send an acknowledgment providing an estimate of time within which action will be taken on the request and asking for such further information as may be necessary to process the request. The estimate of time may take into account unusual circumstances as described in § 4.25(a). No acknowledgment will be sent if the request can be reviewed, processed and the individual notified of the results of review (either compliance or denial) within the ten working days. Requests filed in person will be acknowledged in writing at the time submitted.

(ii) If the Privacy Officer fails to send the acknowledgment within ten working days, as provided in paragraph (a)(1)(i) of this section, the requester may ask the Assistant General Counsel for Administration to take corrective action. No failure of a Privacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(2) Promptly after acknowledging receipt of a request, or after receiving such further information as might have been requested, or after arriving at a decision within the ten working days, the Privacy Officer shall either:

(i) Make the requested correction or amendment and advise the individual in writing of such action, providing either a copy of the corrected or amended record or a statement as to the means whereby the correction or amendment was effected in cases where a copy cannot be provided (for example, erasure of information from a record maintained only in magnetically recorded computer files); or,

(ii) Inform the individual in writing that his or her request is denied and provide the following information:

(A) The Privacy Officer's name and title or position;

(B) The date of the denial;

(C) The reasons for the denial, including citation to the appropriate sections of the Act and this subpart; and,

(D) The procedures for appeal of the denial as set forth in § 4.29, including the address of the Assistant General Counsel for Administration.

(3) The term *promptly* in this section means within thirty working days (i.e., excluding Saturdays, Sundays and days on which Federal offices are closed). If the Privacy Officer cannot make the determination within thirty working days, the individual will be advised in writing of the reason therefor and of the estimated date by which the determination will be made.

(b) Whenever an individual's record is corrected or amended pursuant to a request by that individual, the Privacy Officer shall be responsible for notifying all persons and agencies to which the corrected or amended portion of the record had been disclosed prior to its correction or amendment, if an accounting of such disclosure required by the Act was made. The notification shall require a recipient agency maintaining the record to acknowledge receipt of the notification, to correct or amend the record, and to apprise any agency or person to which it had disclosed the record of the substance of the correction or amendment.

(c) The following criteria will be considered by the Privacy Officer in reviewing a request for correction or amendment:

(1) The sufficiency of the evidence submitted by the individual;

(2) The factual accuracy of the information;

(3) The relevance and necessity of the information in terms of purpose for which it was collected;

(4) The timeliness and currency of the information in light of the purpose for which it was collected;

(5) The completeness of the information in terms of the purpose for which it was collected;

(6) The degree of risk that denial of the request could unfairly result in determinations adverse to the individual;

(7) The character of the record sought to be corrected or amended; and,

(8) The propriety and feasibility of complying with the specific means of correction or amendment requested by the individual.

(d) The Department will not undertake to gather evidence for the individual, but does reserve the right to verify the evidence which the individual submits.

(e) Correction or amendment of a record requested by an individual will be denied only upon a determination by the Privacy Officer that:

(1) The individual has failed to establish, by a preponderance of the evidence, the propriety of the correction or amendment in light of the criteria set forth in paragraph (c) of this section;

(2) The record sought to be corrected or amended is part of the official record in a terminated judicial, quasi-judicial or quasi-legislative proceeding to which the individual was a party or participant;

(3) The information in the record sought to be corrected or amended, or the record sought to be corrected or amended, is the subject of a pending judicial, quasi-judicial or quasi-legislative proceeding to which the individual is a party or participant;

(4) The correction or amendment would violate a duly enacted statute or promulgated regulation; or,

(5) The individual unreasonably has failed to comply with the procedural requirements of this part.

(f) If a request is partially granted and partially denied, the Privacy Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 4.29 Appeal of initial adverse agency determination on correction or amendment.

(a) When a request for correction or amendment has been denied initially under § 4.28, the individual may submit a written appeal within thirty working days (i.e., excluding Saturdays, Sundays and days on which Federal offices are closed) after the date of the initial denial. When an appeal is submitted by mail, the postmark is conclusive as to timeliness.

(b) An appeal should be addressed to the Assistant General Counsel for Administration, U.S. Department of Commerce, Room 5875, 14th and Constitution Avenue, NW, Washington, DC 20230. An appeal should include the words ''PRIVACY APPEAL'' in capital letters at the top of the letter and on the face of the envelope. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the Assistant General Counsel for Administration. An appeal which is not properly addressed by the individual will not be deemed to have been ''received'' for purposes of measuring the time periods in this section until actual receipt by the Assistant General Counsel for Administration. In each instance when an appeal so forwarded is received, the Assistant General Counsel for Administration shall notify the individual that his or her appeal was improperly addressed and the date when the appeal was received at the proper address.

(c) The individual's appeal shall include a statement of the reasons why the initial denial is believed to be in

error and the Department's control number assigned to the request. The appeal shall be signed by the individual. The record which the individual requests be corrected or amended and all correspondence between the Privacy Officer and the requester will be furnished by the Privacy Officer who issued the initial denial. Although the foregoing normally will comprise the entire record on appeal, the Assistant General Counsel for Administration may seek additional information necessary to assure that the final determination is fair and equitable and, in such instances, disclose the additional information to the individual to the greatest extent possible, and provide an opportunity for comment thereon.

(d) No personal appearance or hearing on appeal will be allowed.

(e) The Assistant General Counsel for Administration shall act upon the appeal and issue a final determination in writing not later than thirty working days (i.e., excluding Saturdays, Sundays and days on which Federal offices are closed) from the date on which the appeal is received, except that the Assistant General Counsel for Administration may extend the thirty days upon deciding that a fair and equitable review cannot be made within that period, but only if the individual is advised in writing of the reason for the extension and the estimated date by which a final determination will issue. The estimated date should not be later than the sixtieth working day after receipt of the appeal unless unusual circumstances, as described in § 4.25(a), are met.

(f) If the appeal is determined in favor of the individual, the final determination shall include the specific corrections or amendments to be made and a copy thereof shall be transmitted promptly both to the individual and to the Privacy Officer who issued the initial denial. Upon receipt of such final determination, the Privacy Officer promptly shall take the actions set forth in § 4.28(a)(2)(i) and (b).

(g) If the appeal is denied, the final determination shall be transmitted promptly to the individual and state the reasons for the denial. The notice of final determination also shall inform the individual of the following:

(1) The right of the individual under the Act to file a concise statement of reasons for disagreeing with the final determination. The statement ordinarily should not exceed one page and the Department reserves the right to reject a statement of excessive length. Such a statement shall be filed with the Assistant General Counsel for Administration. It should provide the Department control number assigned to the request, indicate the date of the final determination and be signed by the individual. The Assistant General Counsel for Administration shall acknowledge receipt of such statement and inform the individual of the date on which it was received.

(2) The facts that any such disagreement statement filed by the individual will be noted in the disputed record, that the purposes and uses to which the statement will be put are those applicable to the record in which it is noted, and that a copy of the statement will be provided to persons and agencies to which the record is disclosed subsequent to the date of receipt of such statement;

(3) The fact that the Department will append to any such disagreement statement filed by the individual, a copy of the final determination or summary thereof which also will be provided to persons and agencies to which the disagreement statement is disclosed; and,

(4) The right of the individual to judicial review of the final determination under 5 U.S.C. 552a(g)(1)(A), as limited by 5 U.S.C. 552a(g)(5).

(h) In making the final determination, the Assistant General Counsel for Administration shall employ the criteria set forth in § 4.28(c) and shall deny an appeal only on the grounds set forth in § 4.28(e).

(i) If an appeal is partially granted and partially denied, the Assistant General Counsel for Administration shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

(j) Although a copy of the final determination or a summary thereof will be treated as part of the individual's record for purposes of disclosure in instances where the individual has filed a disagreement statement, it will not be subject to correction or amendment by the individual.

(k) The provisions of paragraphs (g)(1) through (g)(3) of this section satisfy the requirements of 5 U.S.C. 552a(e)(3).

§ 4.30 Disclosure of record to person other than the individual to whom it pertains.

(a) The Department may disclose a record pertaining to an individual to a person other than the individual to whom it pertains only in the following instances:

(1) Upon written request by the individual, including authorization under § 4.25(f);

(2) With the prior written consent of the individual;

(3) To a parent or legal guardian under 5 U.S.C. 552a(h);

(4) When required by the Act and not covered explicitly by the provisions of 5 U.S.C. 552a(b); and

(5) When permitted under 5 U.S.C. 552a(b)(1) through (12), as follows: [1]

(i) To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(ii) Required under 5 U.S.C. 552;

(iii) For a routine use as defined 5 U.S.C. 552a(a)(7) and described under 5 U.S.C. 552a(e)(4)(D);

(iv) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13;

(v) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(vi) To the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(viii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(x) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(xi) Pursuant to the order of a court of competent jurisdiction; or

[1] 5 U.S.C. 552a(b)(4) has no application within the Department.

(xii) To a consumer reporting agency in accordance with section 3711(e) of Title 31.

(b) The situations referred to in paragraph (a)(4) of this section include the following:

(1) 5 U.S.C. 552a(c)(4) requires dissemination of a corrected or amended record or notation of a disagreement statement by the Department in certain circumstances;

(2) 5 U.S.C. 552a(d) requires disclosure of records to the individual to whom they pertain, upon request; and

(3) 5 U.S.C. 552a(g) authorizes civil action by an individual and requires disclosure by the Department to the court.

(c) The Privacy Officer shall make an accounting of each disclosure by him of any record contained in a system of records in accordance with 5 U.S.C. 552a(c) (1) and (2). Except for a disclosure made under 5 U.S.C. 552a(b)(7), the Privacy Officer shall make such accounting available to any individual, insofar as it pertains to that individual, on request submitted in accordance with § 4.24. The Privacy Officer shall make reasonable efforts to notify any individual when any record in a system of records is disclosed to any person under compulsory legal process, promptly upon being informed that such process has become a matter of public record.

§ 4.31 Fees.

The only fees to be charged to or collected from an individual under the provisions of this part are for duplication of records at the request of the individual. Components shall charge fees for duplication of records under the Act in the same way in which they charge duplication fees under § 4.11, except as provided in this section.

(a) No fees shall be charged or collected for the following: Search for and retrieval of the records; review of the records; copying at the initiative of the Department without a request from the individual; transportation of records and personnel; and first-class postage.

(b) It is the policy of the Department to provide an individual with one copy of each record corrected or amended pursuant to his or her request without charge as evidence of the correction or amendment.

(c) As required by the United States Office of Personnel Management in its published regulations implementing the Act, the Department will charge no fee for a single copy of a personnel record covered by that agency's Government-wide published notice of systems of records.

§ 4.32 Penalties.

(a) The Act provides, in pertinent part:

Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000. (5 U.S.C. 552a(i)(3)).

(b) A person who falsely or fraudulently attempts to obtain records under the Act also may be subject to prosecution under such other criminal statutes as 18 U.S.C. 494, 495 and 1001.

§ 4.33 General exemptions.

(a) Individuals may not have access to records maintained by the Department but which were provided by another agency which has determined by regulation that such information is subject to general exemption under 5 U.S.C. 552a(j). If such exempt records are within a request for access, the Department will advise the individual of their existence and of the name and address of the source agency. For any further information concerning the record and the exemption, the individual must contact that source agency.

(b) The general exemptions determined to be necessary and proper with respect to systems of records maintained by the Department, including the parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justification for the exemption, are as follows:

(1) *Individuals identified in Export Administration compliance proceedings or investigations*—COMMERCE/ITA–1. Pursuant to 5 U.S.C. 552a(j)(2), these records are hereby determined to be exempt from all provisions of the Act, except 5 U.S.C. 552a (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). These exemptions are necessary to insure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to maintain the integrity of the law enforcement process, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, to prevent interference with law enforcement proceedings, to avoid disclosure of investigative techniques, and to avoid the endangering of law enforcement personnel. Section 7(c) of the Export Administration Act of 1969, as amended, also protects this information from disclosure.

(2) *Fisheries Law Enforcement Case Files—COMMERCE/NOAA–11.* Pursuant to 5 U.S.C. 552a(j)(2), these records are hereby determined to be exempt from all provisions of the Act, except 5 U.S.C. 552a (b), (c) (1) and (2), (e) (4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). These exemptions are necessary to insure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with law enforcement proceedings, to avoid the disclosure of investigative techniques, to avoid the endangering of law enforcement personnel, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process.

(3) *Investigative Records—Contract and Grant Frauds and Employee Criminal Misconduct—COMMERCE/DEPT.–12.* Pursuant to 5 U.S.C. 552a(j)(2), these records are hereby determined to be exempt from all provisions of the Act, except 5 U.S.C. 552a (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). These exemptions are necessary to insure the proper functions of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with law enforcement proceedings, to avoid the disclosure of investigative techniques, to avoid the endangering of law enforcement personnel, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process.

§ 4.34 Specific exemptions.

(a)(1) Some systems of records under the Act which are maintained by the Department contain, from time to time, material subject to the exemption appearing at 5 U.S.C. 552a(k)(1), relating to national defense and foreign policy materials. The systems of records published in the **Federal Register** by the Department which are within this exemption are:

COMMERCE/ITA–1, COMMERCE/ITA–2, COMMERCE/ITA–3, COMMERCE/NOAA–11, COMMERCE/PAT–TM–4, COMMERCE/PAT–TM–6, COMMERCE/PAT–TM–7, COMMERCE/PAT–TM–8, COMMERCE/PAT–TM–9, COMMERCE/DEPT–12, COMMERCE/DEPT–13, and COMMERCE/DEPT–14.

(2) The Department hereby asserts a claim to exemption of such materials wherever they might appear in such systems of records, or any systems of records, at present or in the future. The

materials would be exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The reason therefore is to protect the materials required by Executive order to be kept secret in the interest of the national defense and foreign policy.

(b) The specific exemptions determined to be necessary and proper with respect to systems of records maintained by the Department, including the parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justification for the exemption, are as follows:

(1) Exempt under 5 U.S.C. 552a(k)(1). The systems of records exempt hereunder appear in paragraph (a) of this section. The claims for exemption of COMMERCE/DEPT–12, COMMERCE/ITA–1, and COMMERCE/NOAA–11 under this paragraph are subject to the condition that the general exemption claimed in § 4.33(b)(3) is held to be invalid.

(2)(i) Exempt under 5 U.S.C. 552a(k)(2). The systems of records exempt (some only conditionally), the sections of the Act from which exempted, and the reasons therefor are as follows:

(A) Individuals identified in Export Administration compliance proceedings or investigations—COMMERCE/ITA–1, but only on condition that the general exemption claimed in § 4.33(b)(1) is held to be invalid;

(B) Individuals involved in export transactions—COMMERCE/ITA–2;

(C) Fisheries Law Enforcement Case Files—COMMERCE/NOAA–11, but only on condition that the general exemption claimed in § 4.33(b)(2) is held to be invalid;

(D) Investigative Records—Contract and Grant Frauds and Employee Criminal Misconduct—COMMERCE/DEPT–12, but only on condition that the general exemption claimed in § 4.33(b)(3) is held to be invalid;

(E) Investigative Records—Persons Within the Investigative Jurisdiction of the Department—COMMERCE/DEPT–13;

(F) Litigation, Claims and Administrative Proceeding Records—COMMERCE/DEPT–14; and

(G) Non-Registered Persons Rendering Assistance to Patent Applicants—COMMERCE/PAT–TM–5.

(ii) The foregoing are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The reasons for asserting the exemption are to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel. Special note is taken of the fact that the proviso clause in this exemption imports due process and procedural protections for the individual. The existence and general character of the information exempted will be made known to the individual to whom it pertains.

(3)(i) Exempt under 5 U.S.C. 552a(k)(4). The systems of records exempt, the sections of the Act from which exempted, and the reasons therefore are as follows:

(A) Agricultural Census Records for 1964 (partial), 1969, and 1974—COMMERCE/CENSUS–1;

(B) Individual and Household Statistical Surveys and Special Census Studies Records—COMMERCE/CENSUS–3;

(C) Minority-Owned Business Enterprises Survey Records—COMMERCE/CENSUS–4;

(D) Population and Housing Census Records for 1960 and 1970—COMMERCE/CENSUS–5;

(E) Population Census Personal Service Records for 1900 and All Subsequent Decennial Censuses—COMMERCE/CENSUS–6; and

(F) Special Censuses of Population Conducted for State and Local Government—COMMERCE/CENSUS–7.

(ii) The foregoing are exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G) (H), and (I), and (f). The reasons for asserting the exemption are to comply with the prescription of Title 13, United States Code, especially sections 8 and 9 relating to prohibitions against disclosure, and to avoid needless consideration of these records whose sole statistical use comports fully with a basic purpose of the Act, namely, no adverse determinations may be made from these records as to any identifiable individual.

(4)(i) Exempt under 5 U.S.C. 552a(k)(5). The systems of records exempt (some only conditionally), the sections of the act from which exempted, and the reasons therefor are as follows:

(A) Applications to U.S. Merchant Marine Academy (USMMA)—COMMERCE/MA–1;

(B) USMMA Midshipman Medical Files—COMMERCE/MA–17;

(C) USMMA Midshipman Personnel Files—COMMERCE/MA–18;

(D) USMMA Non-Appropriated fund Employees—COMMERCE/MA–19;

(E) Applicants for the NOAA Corps—COMMERCE/NOAA–4;

(F) Commissioned Officer Official Personnel Folders—COMMERCE/NOAA–7;

(G) Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT–3;

(H) Investigative Records—Contract and Grant Frauds and Employee Criminal Misconduct—COMMERCE/DEPT–12, but only on condition that the general exemption claimed in § 4.33(b)(3) is held to be invalid;

(I) Investigative Records—Persons Within the Investigative Jurisdiction of the Department—COMMERCE/DEPT–13; and

(J) Litigation, Claims, and Administrative Proceeding Records—COMMERCE/DEPT–14.

(ii) The foregoing are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The reasons for asserting the exemption are to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted. The existence and general character of the information exempted will be made known to the individual to whom it pertains.

(c) At the present time, the Department claims no exemption under 5 U.S.C. 552a(k) (3), (6) and (7).

Appendix A to Part 4—Freedom of Information Public Inspection Facilities, and Addresses for Requests for Records Under the Freedom of Information Act and Privacy Act, and Requests for Correction or Amendment Under the Privacy Act

Each address listed below is the respective component's mailing address for receipt and processing of requests for records under the Freedom of Information Act and Privacy Act, for requests for correction or amendment under the Privacy Act and, unless otherwise noted, its public inspection facility for records available to the public under the Freedom of Information Act. Public inspection facilities are open to the public Monday through Friday (except for days on which Federal offices are closed) between 9 a.m. and 4 p.m. local time of the facility at issue. Requests should be addressed to the component the requester knows or has reason to believe has possession, control, or primary concern with the records sought. Otherwise, requests should be addressed to the Central Reference and Records Inspection Facility. The telephone number for each facility is included after its address.

(1) Department of Commerce Freedom of Information Central Reference and Records Inspection Facility, U.S. Department of Commerce, Room 6020, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–4115. This facility serves the Office of the Secretary, all other components of the Department not identified below, and those components identified below which do not have separate public inspection facilities.

(2) Bureau of the Census, Program and Policy Development Office, U.S. Department of Commerce, Federal Building 3, Room 2430, Suitland, Maryland 20233; (301) 457–2520. This agency maintains a separate public inspection facility in Room 2455, Federal Building 3, Suitland, Maryland 20233.

(3) Bureau of Economic Analysis/ Economics and Statistics Administration, Office of the Under Secretary for Economic Affairs, Department of Commerce, Room 4838, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–3308. This component does not maintain a separate public inspection facility.

(4) Economic Development Administration, Office of the Chief Counsel, U.S. Department of Commerce, Room 7005, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–4687. Mailing addresses of Regional EDA offices:

(i) Philadelphia Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Curtis Center, Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106.

(ii) Atlanta Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308.

(iii) Denver Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Room 670, 1244 Speer Boulevard, Denver, Colorado 80204.

(iv) Chicago Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 111 North Canal Street, Suite 855, Chicago, IL 60606.

(v) Seattle Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle WA 98174.

(vi) Austin Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Grant Building, Suite 201, 611 East 6th Street, Austin, Texas 78701.

(5) Bureau of Export Administration, Office of Administration, U.S. Department of Commerce, Room 4525, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–0109.

(6) International Trade Administration, Office of Organization and Management Support, U.S. Department of Commerce, Room 4001, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–3756.

(7) Minority Business Development Agency, Data Resources Division, U.S. Department of Commerce, Room 5084, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–2025. This agency does not maintain a separate public inspection facility.

(8) National Institute of Standards and Technology, Office of the Director, Room A–1105, Gaithersburg, Maryland 20234; (301) 975–2389. This agency maintains a separate public inspection facility in Room E–106, Administration Building, Gaithersburg, Maryland.

(9) National Oceanic and Atmospheric Administration, Central FOIA Facility, 1305 East-West Highway, SSMC–4, 8th floor, Station 8627, Silver Spring, Maryland 20910; (301) 713–3540.

(10) National Technical Information Service, Office of Administrative Management, Room 209, Forbes Building, Springfield, Virginia 22161; (703) 487–4736. This agency does not maintain a separate public inspection facility.

(11) National Telecommunications and Information Administration, Office of the Chief Counsel, U.S. Department of Commerce, Room 4713, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–1816. This agency maintains a separate public inspection facility in Room 1609.

(12) Office of Inspector General, Counsel to the Inspector General, U.S. Department of Commerce, Room 7892, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–5992. This component does not maintain a separate public inspection facility.

(13) Technology Administration, Office of the Under Secretary, U.S. Department of Commerce, Room 4835, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–1984. This component does not maintain a separate public inspection facility.

Appendix B to Part 4—Officials Authorized to Deny Requests for Records Under the Freedom of Information Act, and Requests for Records and Requests for Correction or Amendment Under the Privacy Act

The following officials of the Department, and their superiors, have been delegated authority with respect to the records for which each is responsible, to deny requests for records under the Freedom of Information Act, and requests for records and requests for correction or amendment under the Privacy Act. The Director for Executive Budgeting and Assistance Management is authorized to revise this appendix to reflect organizational changes or new delegations.

Office of the Secretary

Office of the Secretary: Executive Secretary
Freedom of Information Officer
Office of the Deputy Secretary: Associate Deputy Secretary
Office of Business Liaison: Director
Office of Consumer Affairs: Director
Office of the Press Secretary: Press Secretary; Deputy Press Secretary
Office of Public Affairs: Director
Office of Space Commerce: Director
Office of the Assistant Secretary for Legislative and Intergovernmental Affairs: Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
Office of the Inspector General: Counsel to the Inspector General; Deputy Counsel to the Inspector General
Office of the General Counsel: Deputy General Counsel; Assistant General Counsel for Administration
Office of Intelligence Liaison: Director

Assistant Secretary for Administration

Office of the Administrative Law Judge: Office Manager
Office of Civil Rights: Director
Office of Budget, Planning and Organization: Director
Office of Management and Organization: Director
Office of Budget: Director
Office of Information Policy and Technology: Director
Office of Information Planning and Review: Director
Office of Executive Budgeting and Assistance Management: Director
Office of Executive Assistance Management: Director
Office of Grants Administration: Office Manager
Departmental Freedom of Information Officer
Office of Financial Management: Director
Office of Human Resources Management: Director; Deputy Director
Office of Workforce Effectiveness and Executive Resources: Director
Office of Labor and Employee Relations: Director
Office of Automated Systems and Pay Administration: Director
Office of Administrative Services: Director
Office of Security: Director, Deputy Director
Office of Acquisition Management: Director
Office of Acquisition Services: Director
Office of Small and Disadvantaged Business Utilization: Director

Economics and Statistics Administration

Office of Administration: Director
Bureau of Economic Analysis: Director
Bureau of the Census: Chief, Program and Policy Development Office

Economic Development Administration

Freedom of Information Act Officer

Export Administration

Under Secretary
Deputy Under Secretary
Director for Administration
Director, Office of Planning, Evaluation and Management
Assistant Secretary for Export Administration
Deputy Assistant Secretary for Export Administration
Director, Office of Strategic Industries and Economic Security
Director, Office of Chemical and Biological Controls and Treaty Compliance
Director, Office of Nuclear and Missile Technology Controls
Director, Office of Strategic Trade and Foreign Policy Controls
Director, Office of Exporter Services
Assistant Secretary for Export Enforcement
Deputy Assistant Secretary for Export Enforcement
Director, Office of Export Enforcement

Director, Office of Enforcement Analysis
Director, Office of Antiboycott Compliance

International Trade Administration

Deputy Under Secretary for International Trade

Counselor to the Department
Director, Office of Public Affairs
Director, Office of Legislative and Intergovernmental Affairs

Administration

Director, Office of Organization and Management Support
Director, Office of Human Resources Management
Director, Office of Financial Management
Director, Office of Information Resources Management

U.S. and Foreign Commercial Service

Deputy Assistant Secretary for International Operations
Deputy Assistant Secretary for Export Promotion Services
Deputy Assistant Secretary for Domestic Operations
Director, Human Resources Development Staff
Director, Office of Planning

Market Access and Compliance

Director, Office of Multilateral Affairs
Director, Trade Compliance Center
NAFTA Secretary
Director, Office of Policy Coordination
Director, Office of Africa
Director, Office of the Near East
Director, Office of European Union and Regional Affairs
Director, Office of Eastern Europe, Russia and Independent States
Director, Office of Latin America and the Caribbean
Director, Office of NAFTA
Director, Office of Inter-American Affairs
Director, Office of China Economic Area
Director, Office of Korea and Southeast Asia
Director, Office of South Asia and Oceania
Director, Office of Japan Trade Policy
Director, Office of Japan Commercial Programs

Trade Development

Deputy Assistant Secretary for Environmental Technologies Exports
Deputy Assistant Secretary for Tourism Industries
Director, Trade Information Center
Director, Advocacy Center
Director, Office of Trade and Economic Analysis
Director, Office of Planning, Coordination and Resource Management
Director, Office of Aerospace
Director, Office of Computers and Business Equipment
Director, Office of Microelectronics, Medical Equipment and Instrumentation
Director, Office of Telecommunications
Director, Office of Textiles and Apparel
Director, Office of Consumer Goods
Director, Office of Automotive Affairs
Director, Office of Materials, Metals and Chemicals
Director, Office of Energy, Infrastructure and Machinery
Director, Office of Export Trading Company Affairs
Director, Office of Finance
Director, Office of Service Industries

Import Administration

Director of Policy and Analysis
Director, Foreign Trade Zones Staff
Director, Statutory Import Programs Staff
Director, Office of AD/CVD Enforcement I
Director, Office of AD/CVD Enforcement II
Director, Office of AD/CVD Enforcement III
Director, Office of AD/CVD Enforcement IV
Director, Office of AD/CVD Enforcement V
Director, Office of AD/CVD Enforcement VI
Director, Office of AD/CVD Enforcement VII
Director, Office of AD/CVD Enforcement VIII
Director, Office of AD/CVD Enforcement IX

Minority Business Development Administration

Freedom of Information Officer

National Oceanic and Atmospheric Administration

Under Secretary
Assistant Secretary
Director, Office of Public Affairs
Director, NOAA Corps
General Counsel
Assistant Administrator for Ocean Services and Coastal Zone Management
Assistant Administrator for Fisheries
Assistant Administrator for Weather Services
Assistant Administrator for Environmental Satellite, Data and Information Services
Assistant Administrator for Oceanic and Atmospheric Research
Director, Environmental Research Laboratories
Director, Office of Finance and Administration
Director, Eastern Administrative Support Center
Director, Western Administrative Support Center
Director, Mountain Administrative Support Center
Director, Central Administrative Support Center
Director, Procurement, Grants, and Administrative Services Office
Director, Systems Acquisition Office
NOAA FOIA Officer

National Telecommunications and Information Administration

Deputy Assistant Secretary
Chief Counsel
Deputy Chief Counsel

Technology Administration

Under Secretary for Technology
Deputy Under Secretary for Technology
Assistant Secretary for Technology Policy
Chief Counsel
Deputy Chief Counsel
National Institute of Standards and Technology: Director of Administration; Deputy Director of Administration
National Technical Information Service: Director; Director: Office of Administration

Appendix C to Part 4—Systems of Records Noticed by Other Federal Agencies and Applicable to Records of the Department and Applicability of This Part Thereto

Category of records	Other Federal agency
Federal Personnel Records.	Office of Personnel Management.[1]
Federal Employee Compensation Act Program.	Department of Labor.[2]
Equal Employment Opportunity Appeal Complaints.	Equal Employment Opportunity Commission.[3]
Formal Complaints/ Appeals of Adverse Personnel Actions.	Merit Systems Protection Board.[4]

[1] The provisions of this part do not apply to these records covered by notices of systems of records published by the Office of Personnel Management for all agencies. The regulations of OPM alone apply.

[1] The provisions of this part apply only initially to these records covered by notices of systems of records published by the U.S. Department of Labor for all agencies. The regulations of that Department attach at the point of any denial for access or for correction or amendment.

[3] The provisions of this part do not apply to these records covered by notices of systems of records published by the Equal Employment Opportunity Commission for all agencies. The regulations of the Commission alone apply.

[4] The provisions of this part do not apply to these records covered by notices of systems of records published by the Merit Systems Protection Board for all agencies. The regulations of the Board alone apply.

2. Part 4a is revised to read as follows:

PART 4a—CLASSIFICATION, DECLASSIFICATION, AND PUBLIC AVAILABILITY OF NATIONAL SECURITY INFORMATION

Sec.
4a.1 General
4a.2 Deputy Assistant Secretary for Security
4a.3 Classification levels
4a.4 Classification authority
4a.5 Duration of classification
4a.6 General
4a.7 Mandatory review for declassification
4a.8 Access to classified information by individuals outside the Government

Authority: E.O. 12958; 47 FR 14874, April 6, 1982; 47 FR 15557, April 12, 1982.

§ 4a.1 General.

Executive Order 12958 provides the only basis for classifying information within the Department of Commerce, except as provided in the Atomic Energy Act of 1954, as amended. The policy of the Department of Commerce is to make information concerning its activities available to the public consistent with the need to protect the national defense or foreign relations as required by the interests of the United

States and its citizens. Accordingly, security classification shall be applied only to protect the national security.

§ 4a.2 Deputy Assistant Secretary for Security.

The Deputy Assistant Secretary for Security (DAS) is responsible for implementing E.O. 12958 and this part.

§ 4a.3 Classification levels.

Information may be classified as national security information by a designated original classifier of the Department when it is determined that the information concerns one or more of the categories described in § 1.5 of E.O. 12958. The levels established by E.O. 12958 (Top Secret, Secret, and Confidential) are the only terms which may be applied to national security information. Except as provided by statute, no other terms shall be used within the Department of Commerce in conjunction with any of the three classification levels.

§ 4a.4 Classification authority.

Authority to originally classify information as Secret or Confidential may be exercised only by the Secretary of Commerce and by officials to whom such authority is specifically delegated. No official of the Department of Commerce is authorized to originally classify information as Top Secret.

§ 4a.5 Duration of Classification.

(a) Information shall remain classified no longer than ten years from the date of its original classification, except as provided in § 1.6(d) of E.O. 12958. Under E.O. 12958, information may be exempted from declassification within ten years if the unauthorized disclosure of such information could reasonably be expected to cause damage to the national security for more than ten years and meets one of the eight criteria listed in § 1.6(d).

(b) Department of Commerce originally classified information marked for an indefinite duration of classification under predecessor orders to E.O. 12958 shall be declassified after twenty years. Classified information contained in archive records determined to have permanent historical value under title 44, United States Code, shall be automatically declassified no longer than 25 years from the date of its original classification, except as provided in § 3.4(d) of E.O. 12958.

§ 4a.6 General.

National security information over which the Department of Commerce exercises final classification jurisdiction shall be declassified or downgraded as soon as national security considerations permit. When information is declassified, it may continue to be exempt from public disclosure by the Freedom of Information Act (5 U.S.C. 552) or other applicable law.

§ 4a.7 Mandatory review for declassification.

(a) *Requests.* Classified information under the jurisdiction of the Department of Commerce is subject to review for declassification upon receipt of a written request that describes the information with sufficient specificity to locate it with a reasonable amount of effort. Requests must be submitted to the Deputy Assistant Secretary for Security, U.S. Department of Commerce, Room 1069, 14th and Constitution Avenue, NW, Washington, DC 20230.

(b) *Exemptions.* The following are exempt from mandatory review for declassification:

(1) Information that has been reviewed for declassification within the past two years;

(2) Information that is the subject of pending litigation;

(3) Information originated by the incumbent President, the incumbent President's White House Staff, committees, commissions, or boards appointed by the incumbent President, or other entities within the Executive Office of the President that solely advise and assist the incumbent President; and

(4) Information specifically exempt from such review by law.

(c) *Processing requirements.* (1) The DAS shall acknowledge receipt of the request directly to the requester. If a request does not adequately describe the information sought in accordance with paragraph (a) of this section, the requester shall be notified that unless additional information is provided, no further action will be taken. The request shall be forwarded to the operating unit or office which originated the information or which has primary interest in the subject matter. The unit or office assigned action shall review the information in accordance with § 4a.7(c)(2) through (4) within twenty working days.

(2) The action office shall determine whether, under the declassification provisions of the Department of Commerce National Security Manual, the entire document or portions thereof may be declassified. Declassification of the information shall be accomplished by a designated declassification authority. Upon declassification the information shall be remarked. If the information is not partially or entirely declassified, the reviewing official shall provide the reasons for denial by citing the applicable provisions of E.O. 12958. When the classification is a derivative decision based on classified source material of another Federal agency, the action office shall provide the information to the originator for review.

(3) If information is declassified, the action office shall also determine whether it is releasable under the Freedom of Information Act. If the information is not releasable, the action office shall advise the DAS that the information has been declassified but that it is exempt from disclosure, citing the appropriate exemption of the Freedom of Information Act.

(4) If the request for declassification is denied in whole or in part, the requester shall be notified of the right to appeal the determination within sixty calendar days and of the procedures for such an appeal. If declassified information remains exempt from disclosure under the Freedom of Information Act, the requester shall be advised of those appellate procedures.

(d) *Fees.* If the request requires the rendering of services for which fees may be charged, the unit assigned action may calculate the anticipated fees to be charged and ascertain the requester's willingness to pay the allowable charges as a precondition to taking further action on the request in accordance with § 4.11 of the Department of Commerce Freedom of Information Act rules and § 4.31 of the Department's Privacy Act rules.

(e) *Right of appeal.* (1) A requester may appeal to the DAS when information requested under this section is not completely declassified and released after expiration of the applicable time limits. Within thirty working days (i.e., excluding Saturdays, Sundays, and days on which Federal offices are closed) of receipt of a written appeal,

(i) The DAS shall determine whether continued classification of the requested information is required in whole or in part; if information is declassified;

(ii) Determine whether it is releasable under the Freedom of Information Act; and

(iii) Notify the requester of his determination, making available any information determined to be releasable. If continued classification is required under the provisions of the Department of Commerce National Security Manual, the DAS shall notify the requester of his determination, including the reasons for denial based on applicable provisions of E.O. 12958, and of the right of final appeal to the Interagency Security Classification Appeals Panel.

(2) During the declassification review of information under appeal the DAS may overrule previous determinations

in whole or in part when, in his judgment, continued protection in the interest of national security is no longer required. If the DAS determined that the information no longer requires classification, it shall be declassified and, unless it is otherwise exempt from disclosure under the Freedom of Information Act, released to the requester. The DAS shall advise the original reviewing Commerce office or unit of his decision.

§ 4a.8 Access to classified information by individuals outside the Government.

(a) *Industrial, Educational, and Commercial Entities.* Certain bidders, contractors, grantees, educational, scientific, or industrial organizations may receive classified information under the procedures prescribed by the National Industrial Security Program Operating Manual.

(b) *Access by historical researchers and former Presidential appointees.* An individual engaged in historical research projects or who has previously occupied a policy-making position to which he or she was appointed by the President may be authorized access to classified information for a limited period, provided that the head of the component with jurisdiction over the information:

(1) Determines in writing that:

(i) Access is consistent with national security,

(ii) The individual has a compelling need for access, and

(iii) The Department's best interest is served by providing access;

(2) Obtains in writing from the individual:

(i) Consent to a review by the Department of their resultant notes and manuscripts for the purpose of determining that no classified information is contained in them, and

(ii) Agreement to safeguard classified information in accordance with applicable requirements; and

(iii) A detailed description of the individual's research;

(3) Ensures that custody of classified information is maintained at a Department facility;

(4) Limits access granted to former Presidential appointees to items that the individual originated, reviewed, signed, or received while serving as a Presidential appointee; and

(5) Receives from the DAS:

(i) A determination that the individual is trustworthy; and

(ii) Approval to grant access to the individual.

(c) An individual seeking access should describe the information with sufficient specificity to locate and compile it with a reasonable amount of effort. If the access requested by a historical researcher or former Presidential appointee requires rendering services for which fair and equitable fees may be charged, the responsible component shall notify the individual in advance.

(d) This section applies only to classified information originated by the Department, or to information in the sole custody of the Department. Otherwise, the individual shall be referred to the classifying agency.

PART 4b—PRIVACY ACT [REMOVED]

3. Remove Part 4b.

Dated: May 17, 2000.

Susan Sutherland,

Acting Director for Executive Budgeting and Assistance Management.

[FR Doc. 00–13161 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–BW–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–225–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky regulations pertaining to permitting, abating violations, and constructing roads above highwalls. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: If you submit written comments, they must be received by 4 p.m., (e.d.t.) on June 30, 2000. If requested, a public hearing on the proposed amendment will be held on June 26, 2000. Requests to speak at the hearing must be received by 4 p.m. (e.d.t.) on June 15, 2000.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to William J. Kovacic, Field Office Director, at the address listed below.

You may review copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503; telephone: (859) 260–8400. E-Mail: bkovacic@osmre.gov.

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601; telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (859) 260–8400.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated May 9, 2000 (Administrative Record No. KY–1473), Kentucky submitted a proposed amendment to its program consisting of enacted House Bills (HB) 502 (partial), 599, and 792.

HB 502 is a budget bill and only Part IX, Item 36(b), which pertains to surface coal mining permits, was submitted. It provides that the permit block provisions of KRS 350.085(6) apply to either the applicant or any person who owns or controls the applicant who is currently in violation. It requires the cabinet to continue in effect the current administrative regulations on ownership and control, provided that a due process hearing is afforded at the time the cabinet makes a preliminary determination to impose a permit block. It requires the cabinet to conditionally issue a permit, permit renewal, or

authorization to conduct surface coal mining and reclamation operations, if it finds that a direct administrative or judicial appeal is presently being pursued in good faith to contest the validity of the determination of ownership and control linkage. It requires the cabinet to conditionally issue permits if the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing State or Federal agency. If the initial judicial appeal affirms the ownership and control linkage, the applicant has 30 days to submit proof that the violation has been or is in the process of being corrected. The applicant is not precluded from seeking further judicial relief.

HB 599 creates a new section of KRS Chapter 350. Subsection (1) recognizes an easement of necessity on behalf of the permittee or operator for the limited purposes of abating a violation if the permittee or operator has been issued a notice or order directing abatement of the violation on the basis of an imminent danger to health and safety of the public or significant imminent environmental harm. The notice or order must also require access to property for which the permittee or operator does not have legal right of entry and the landowner or legal occupant has refused access for this provision to apply.

Subsection (2) establishes conditions under which the cabinet shall terminate a notice of noncompliance or cessation order for a violation (other than a violation described in Subsection (1)), if the permittee or operator responsible for abatement of the violation has been denied access to the land necessary to allow abatement of the violation.

Subsection (3) prohibits the cabinet from terminating a notice or order under this section if it determines that the denial of access has been procured through collusion between the permittee or operator and the landowner or legal occupant who is refusing access. It defines ''collusion'' and provides that any such act shall subject the permittee or operator to penalties under KRS Chapter 350 for willful and knowing refusal to correct the violation.

Subsection (4) prohibits termination of a notice or order under this section if there is any common ownership or control between the permittee or operator and the landowner or legal occupant. It also prohibits termination if there is any other legal relationship between the permittee or operator and the landowner or legal occupant except where a court of competent jurisdiction has determined that the legal relationship does not provide for a right of access.

Subsection (5) requires the cabinet to direct abatement measures to be taken by the permittee or operator to prevent damage to lands for which access has not been denied.

Subsection (6) provides that termination of a notice or order under this section shall not affect the assessment of a civil penalty for the violation and provides that nothing in this section affects a person's right for damages or injunctive relief.

HB 792 amends KRS 350.445(3). It provides that the land above the highwall may be disturbed for construction of a permanent road only if the applicant affirmatively demonstrates, and the cabinet makes a detailed written determination, that the proposed disturbance facilitates compliance with KRS Chapter 350. It also requires that the land disturbed be limited to that amount necessary to facilitate compliance. The cabinet's determination must be made upon the applicant's demonstration that certain specific requirements will be met.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, be confined to issues pertinent to the notice, and explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file and avoid using special characters and any form of encryption. Please also include ''Attn: SPATS No. KY–225–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859) 260–8400.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you want 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.

Public Hearing: If you want to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. (local time), on June 15, 2000. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak, and who wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866 .

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, 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.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 19, 2000.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 00–13551 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA57

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Methodology for Coverage of NIH-Sponsored Clinical Trials

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule modifies the general prohibition against CHAMPUS cost-sharing of unproven drugs, devices, and medical treatments or procedures by adding a provision allowing a waiver of the prohibition in connection with clinical trials sponsored or approved by the National Institutes of Health, if it is determined that such a waiver will promote access by covered beneficiaries to promising new treatments, and contribute to the development of such treatments.

DATES: Public comments must be received by July 31, 2000.

ADDRESSES: TRICARE Management Activity (TMA), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Kathleen Larkin, Office of the Assistant Secretary of Defense (Health Affairs)/ TRICARE Management Activity, telephone (703) 681–3628.

SUPPLEMENTARY INFORMATION:

I. Proposed Changes

Introduction and Background

On January 24, 1996, the Department provided notice in the **Federal Register** (61 FR 1899) of an expansion of an existing demonstration to provide coverage for all cancer treatment clinical trials under approved National Cancer Institute (NCI) clinical trials. The demonstration's purpose was to improve beneficiary access to promising new therapies, assist in meeting the National Cancer Institute's clinical trial

goals, and arrival at conclusions regarding the safety and efficacy of emerging therapies in the treatment of cancer. The demonstration was further expanded on June 21, 1999 (64 FR 109) to include cancer prevention clinical trials. Based on the improved beneficiary access to these trials, and the contributions to the development of such treatments, it is in the best interest of the Department and its beneficiaries to continue to provide access through an authorized waiver as outlined in the proposed rule.

This proposed rule implements title 10, United States Code, section 1079(a)(13) which provides for a waiver of the general prohibition on coverage of unproven medical treatments or procedures in connection with clinical trials sponsored or approved by the National Institutes of Health if the Secretary of Defense so determines that a waiver will promote access to promising new treatments and contributes to the development of such treatments.

II. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

The proposed rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the permanent final rule, anticipated approximately 60 days after the end of the comment period.

List of Subjects in 32 CFR Part 199

Claims, Fraud, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. Chapter 55.

2. Section 199.4 is proposed to be amended by adding new paragraph (e)(21) and revising paragraph (g)(15) introductory text to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(e) * * *

(21) *National Institutes of Health clinical trials.* By law, the general prohibition against CHAMPUS cost-sharing of unproven drugs, devices, and medical treatments or procedures may be waived in connection with clinical trials sponsored or approved by the National Institutes of Health if it is determined that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments. A waiver shall only be exercised as authorized under this paragraph.

(i) *Demonstration waiver.* A waiver may be granted through a demonstration project established in accordance with § 199.1(o).

(ii) *Continuous waiver.* (A) *General.* As a result of a demonstration project under which a waiver has been granted in connection with a National Institutes of Health clinical trial, a determination may be made that it is in the best interest of the government and CHAMPUS beneficiaries to end the demonstration and continue to provide a wiaver for CHAMPUS cost-sharing of the specific clinical trial. Only those specific clinical trials identified under paragraph (e)(21)(ii) of this section have been authorized a continuous waiver under CHAMPUS.

(B) *National Cancer Institute (NCI) Sponsored Cancer Prevention, Screening, and Early Detection Clinical Trials.* A continuous waiver under paragraph (e)(21) of this section has been granted for CHAMPUS cost-sharing for those CHAMPUS-eligible patients selected to participated in NCI sponsored Phase II and Phase III studies for the prevention and treatment of cancer.

(*1*) CHAMPUS will cost-share all medical care and testing required to determine eligibility for an NCI-sponsored trial, including the evaluation for eligibility at the institution conducting the NCI-sponsored study. CHAMPUS will cost-share all medical care required as a result of participation in NCI-sponsored studies. This includes purchasing and administering all approved chemotherapy agents (except for NCI-funded investigational drugs), all inpatient and outpatient care, including diagnostic and laboratory services not otherwise reimbursed under an NCI grant program if the following conditions are met:

(*i*) The provider seeking treatment for a CHAMPUS-eligible patient in an NCI approved protocol has obtained preauthorization for the proposed treatment before initial evaluation; and,

(*ii*) Such treatments are NCI sponsored Phase II or Phase III protocols; and,

(*iii*) The patient continues to meet entry criteria for said protocol; and

(*iv*) The institutional and individual providers are CHAMPUS authorized providers.

(*2*) CHAMPUS will not provide reimbursement for care rendered in the National Institutes of Health Clinical Center or costs associated with non-treatment research activities associated with the clinical trials.

(*3*) Cost-shares and deductibles applicable to CHAMPUS will also apply under the NCI-sponsored clinical trials.

(*4*) The Director, OCHAMPUS, shall issue procedures and guidelines establishing NCI sponsorship of clinical trials and the administrative process by which individual patients apply for and receive cost-sharing under NCI sponsored cancer clinical trials.

* * * * *

(g) * * *

(15) *Unproven drugs, devices, and medical treatments or procedures.* By law, CHAMPUS can only cost-share medically necessary supplies and services. Any drug, device, or medical treatment or procedure, the safety and efficacy of which have not been established, as described in this paragraph (g)(15), is unproved and cannot be cost-shared by CHAMPUS *except* as authorized under § 199.4(e)(20) of this part.

* * * * *

Dated: May 24, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–13520 Filed 5–30–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2930, 3800, 8340, 8370, 8560, and 9260

[WO–250–1220–PA–24 1A]

RIN 1004–AD25

Permits for Recreation on Public Lands; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; correction.

SUMMARY: The Bureau of Land Management (BLM) published in the **Federal Register** of May 16, 2000 (65 FR 31234), a proposed rule on permits for recreation on public lands. In the Preamble of the proposed rule, a section number conversion table inadvertently listed several incorrect new section numbers. This document corrects those numbers.

DATES: The public comment period on the proposed rule ends on July 17, 2000.

FOR FURTHER INFORMATION CONTACT: Lee Larson at (202) 452–5168 as to the substance of the proposed rule, or Ted Hudson at (202) 452–5042 as to procedural matters. Persons who use a telecommunications device for the deaf (TDD) may contact either individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (BLM) published in the **Federal Register** of May 16, 2000 (65 FR 31234), a proposed rule on permits for recreation on public lands. In the Preamble of the proposed rule, the section number conversion table on page 31235 inadvertently listed several incorrect new section numbers. To make the proposed rule clearer, we need to correct those numbers.

In proposed rule FR Doc. 00–12124, published on May 16, 2000 (65 FR 31234), make the following corrections. On page 31235, in the first column, in the Section Conversion Table, for the following old section numbers, the correct new section numbers are:

Old section	New section
* * *	* *
§ 8372.2(a)	§ 2932.24(a)(1) and (2).
§ 8372.2(b)	§ 2932.24(a)(3).
* * *	* *
§ 8372.5(a)(1)	§ 2932.56(a), 2933.32.
* * *	* *
§ 8372.5(f)	§ 2932.56(b)(2).
* * *	* *

Michael H. Schwartz,

Group Manager, Regulatory Affairs.

[FR Doc. 00–13513 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 99–216; FCC 00–171]

2000 Biennial Review; Streamlining Technical Criteria and Registration for Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to streamline most elements of the process by which technical criteria are established for customer premises equipment (CPE or terminal equipment) that, once approved, local exchange carriers must allow to be connected to the public switched telephone network (PSTN). The document also proposes to minimize Commission assessment of product compliance with technical criteria for such equipment. The intended effect of this document is to seek comment on various options for streamlining these processes.

DATES: Comments are to be filed on or before June 23, 2000, and reply comments are due on or before July 7, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before July 31, 2000.

ADDRESSES: Federal Communications Commission, Secretary, 445 12th Street, SW., Room TW–B204F, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov,* and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *edward.springer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, (202) 418–2320 or email at *smagnott@fcc.gov* or Staci Pies at (202) 418–2794 or email at *spies@fcc.gov.* For additional information concerning the information collections contained in this NPRM contact Judy Boley at (202) 418–0214, or email at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted on May 15, 2000, and released on May 22, 2000. The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center. The complete text may also be obtained through the world wide web, at *http:/www.fcc.gov/Bureaus/Common Carrier/Orders,* or may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036.

Paperwork Reduction Act

1. This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due 60 days from date of publication of this NPRM in the **Federal Register**. Comments should address: (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 estimates; (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.

OMB Control Number: 3060–0056.

Title: Registration of Telephone and Data Terminal Equipment.

Form No.: FCC Form 730.

Type of Review: Revision of existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 2400.

Estimated Time Per Response: 24 hours.

Total Annual Burden: 57,600 hours.

Cost to Respondents: $2,700,000.

Needs and Uses: This information is needed to ascertain compliance of customer premises equipment with technical criteria designed to protect the public switched network from certain specific types of harm. The information would be used by the Commission in the event of a need for an adjudicatory proceeding regarding the level of compliance of specific pieces of customer premises equipment. It would be used by the public to locate the manufacturer of a specific piece of customer premises equipment. It would also be used by the U.S. Customs Service to determine whether customer premises equipment may be legally imported.

Synopsis of Notice of Proposed Rulemaking

2. CPE currently is regulated by part 68 of the rules, which establishes technical criteria designed to ensure that the CPE does not harm the PSTN or telephone company personnel and a registration process to verify which CPE complies with these criteria. Part 68 requires local exchange carriers to allow CPE that is registered as part 68 compliant to be connected to their networks. As part of the Commission's overall mandate to reduce regulation wherever possible, consistent with the public interest, the Commission proposes in this Notice largely to privatize two of part 68's functions—first, the establishment of technical criteria for CPE to ensure it will not harm the PSTN and, second, the registration process used to determine whether a particular model of equipment meets those standards. The reduction of governmental involvement in the setting of technical criteria and registration of CPE is expected to have a beneficial impact upon the pace of new or competitive CPE deployment, and therefore it is expected to increase the choices available to consumers.

3. The proposals in this Notice are based on positions that emerged from a series of industry fora the Commission held in July 1999 to explore the extent to which regulations in part 68, other than the hearing aid compatibility and volume control (HAC/VC) rules, may no longer be necessary. The Commission also includes proposals patterned after the rules establishing interconnection rules for cable television devices. In this Notice, the Commission proposes to retain in the rules proscriptions against certain harms to the PSTN that can be caused by offending CPE. The Commission also proposes that the rules continue to require that local exchange carriers (LECs) allow CPE that meets technical criteria for network protection to be connected freely to their networks. However, rather than the Commission's continuing to set such technical criteria, the Commission proposes in this Notice to use one of several potential industry standards-setting processes. The only technical criteria that the Commission proposes to retain in the rules are those that ensure access to telecommunications and services by persons with disabilities and those that deal with network demarcation and inside wire. To ensure that the public interest is adequately protected, the Commission proposes to provide for de novo Commission review and enforcement, where necessary, of the industry-established technical criteria in the event of an appeal regarding the criteria. The Commission expects, however, that such involvement would be extremely limited.

4. The Commission proposes three options for an industry standards-setting process. Under Option A the Commission would choose a ''gatekeeper'' SDO that will establish and publish technical criteria for CPE developed pursuant to American National Standards Institute (ANSI) procedures for consensus bodies. Thus, LECs would have to permit connection to the PSTN of any CPE that meets the technical criteria endorsed by the ''gatekeeper'' SDO. This option would not modify the existing industry standards setting process and the excellent cooperation that today exists among standards groups. Ideally, commenters that prefer this option would agree on what entity the Commission should designate as the ''gatekeeper'' SDO. Under Option B, we would rely directly on consensus positions achieved under standards development processes and organizations. This is essentially the same policy the Commission adopted for television ''set top boxes'' used in cable television and similar systems. The Commission's rules would establish general requirements that networks are to be protected from harms that could be caused when terminal equipment is connected and that customers have a right to connect terminal equipment that will not harm networks. The Commission's rules also would provide that terminal equipment that complies with technical specifications that are designed to protect networks from harm and that are consensus positions recommended by any national standards-setting organization would be presumed to comply with the Commission's general requirements on networks and customers' rights. Under Option C, the Commission proposes that interconnection standards be developed by national standards organizations and that specific standards be incorporated by reference into the Commission's rules.

5. The Commission also proposes to assign to private industry the process of verifying that specific CPE meets the established technical criteria. The Commission has already established a procedure whereby CPE manufacturers may submit their products to private Telecommunications Certifications Bodies (TCBs), rather than the Commission, for part 68 registration. In this Notice, the Commission proposes to replace Commission registration entirely with either expanded use of the TCBs for certification, or self-certification or verification.

6. The Commission maintains a data base of terminal equipment registered pursuant to part 68. Consistent with the proposal in this Notice to privatize many of the Commission's current part 68 functions, the Commission proposes that a private entity be responsible for sponsoring and maintaining a similar database. Entities obtaining equipment approval from TCBs and entities using either DoC or verification would be required to submit pertinent information regarding their identity and approved equipment to a database administrator. The only standards proposed for the database of approved CPE are that it be accurate and that it be readily available at a reasonable cost to users.

7. The Anti-Drug Abuse Act (ADAA), 21 USC 862; 47 CFR 1.2001 through 1.2003, requires an entity receiving a ''federal benefit'' to certify compliance with ADAA requirements. In its decision implementing the ADAA, the Commission applied the definition of ''license'' found in the APA to determine the scope of the term ''license'' as used in 47 U.S.C. section 5301 and thus to define the scope of federal benefits, see Amendment of Part 1 of the Commission's Rules to Implement Section 5301 of the Anti-Drug Abuse Act of 1988, Gen. Docket No. 90–312, Report and Order, 6 FCC Rcd 7551 (1991) (ADAA Report and Order). The APA defines ''license'' as including ''the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission,'' 5 USC 551(8). Pursuant to this definition, Commission Part 68 registration of equipment was found to

be included within the scope of the ADAA.

8. The Commission seeks comment on whether the proposed DoC or verification procedures require ADAA certification. In addition, the Commission requests comment on whether any conflict would exist between use of the TCB procedure on the one hand, which currently requires certification under the ADAA, and the use of DoC and/or verification procedures on the other hand, which potentially might not be subject to ADAA requirements. The Commission requests comment on whether any ADAA certification continues to be required if it adopts the proposed privatization/streamlining proposals.

9. The Commission is committed to ensuring that persons with disabilities and other consumers continue to receive the full level of enforcement that they currently receive. There was, however, some discussion in the fora regarding the effect of changing the registration process to DoC or verification on compliance with rules intended to protect access by persons with disabilities. The Commission requests comment on whether changes in the registration process proposed in this Notice may unintentionally affect compliance with consumer protection and HAC/VC provisions of part 68. The Commission seeks comment on whether any of the changes to part 68 proposed in this Notice will have an adverse impact on consumer protection or part 68 HAC/VC rules.

10. In addition, any complaints regarding compliance with the technical criteria relating to part 68 HAC/VC and consumer protection in part 68 would come directly to the Commission, as they do now. The Commission seeks comment on whether the present part 68 complaint procedures regarding the HAC/VC rules should be replaced or augmented with the procedures developed pursuant to section 255 of the Communications Act, parts 6 and 7 of the Commission's Rules.

11. Parties generally agree, and the Commission so proposes, that the Commission should retain ultimate responsibility to enforce compliance with its rules, which would include industry-developed technical criteria that it may, upon appeal, review and enforce through a de novo review process. Moreover, the Commission proposes these enforcement policies notwithstanding which option for establishment of technical criteria it chooses, and which equipment approval option it chooses.

12. The Commission requests comment on whether it would be appropriate for the Commission to revise the part 68 complaint rules, solely for complaints arising from HAC/VC rules, to incorporate procedures recently adopted pursuant to section 255 and 225 of the Act. See Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996—Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities, WT Docket No. 96–198, FCC 99–181, Report and Order and Further Notice of Inquiry, 64 FR 63235 (Nov. 19, 1999); see also Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, FCC 00–56, Report and Order and Further Notice of Proposed Rulemaking,—FCC Rcd. (rel. Mar. 6, 2000). In these proceedings, the Commission made it easier for consumers to file complaints and for subject entities to move quickly to resolve them. Accordingly, the Commission requests comment on whether a similar approach would be beneficial for enforcement of part 68 HAC/VC rules.

13. The Commission proposes, solely for complaints arising from compliance with the technical criteria intended to prevent harm to the PSTN, that prior to filing a complaint with the Commission a party must follow an alternative dispute resolution process designed to minimize the number of complaints needing Commission de novo review. This provision requires the complainant to certify that it has made a good faith effort to discuss the possibility of settlement with each entity against which it is filing a complaint, and/or with the local exchange carrier. The Commission further requests comment on an alternative step: for equipment registered by a TCB, would it be appropriate to refer the complaint to the TCB that issued the registration? If these alternative dispute resolution procedures do not resolve the complaint, the complainant may then petition the Commission under the applicable complaint procedures.

Procedural Matters

A. Ex Parte Presentations

14. The matter in CC Docket No. 99–216, initiated by this NPRM, shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in the rules as well.

B. Initial Regulatory Flexibility Act Analysis

15. The following is a summary of the Initial Regulatory Flexibility Analysis (IRFA) created for the Notice. *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice of Proposed Rulemaking. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the **Federal Register**. *See id.*

16. *Need for, and Objectives of, the Proposed Rules.* This Notice of Proposed Rulemaking is a significant step forward in the Commission's initiative to largely privatize the process by which technical criteria are established for customer premises equipment (CPE or terminal equipment) that may be sold for connection to the public switched telephone network (PSTN), and for the registration of such equipment. The proposals in this Notice largely are based on the consensus positions of the participants in a series of industry forums the Commission held in July 1999 to explore the extent to which regulations in part 68, other than the HAC/VC rules, may no longer be necessary. The majority of commenters and forum participants generally argued that: (a) Carriers' networks must be protected; (b) one uniform set of national technical standards is necessary; (c) there are few, if any, unnecessary technical requirements in Part 68 at present; (d) the Commission should retain the authority to ensure that the telephone network is protected;

and (e) the functions of technical criteria development, laboratory qualification, and registration of equipment, currently performed by the Commission, largely can be privatized.

17. In this Notice, the Commission proposes that the new part 68 would contain no detailed technical criteria for protection of the network, no descriptions and schematics of connectors, and none of the existing rules that pertain to application by manufacturers and importers directly to the Commission for equipment registration. The Commission proposes, in place of these rules, that local exchange carriers must permit connection to the PSTN of any CPE that meets the technical criteria set by an industry standards body or bodies. This Notice proposes alternative ways that the determination might be made whether a piece of CPE meets the industry's criteria, including certification by a telecommunications certification body (TCB) and self-certification by the manufacturer. Both the industry's technical criteria and the certification of individual CPE would be subject to a Commission de novo review or enforcement process. While the industry would make its determinations regarding technical criteria under the guidance of the Commission's policies and regulations, its technical criteria would not be binding on the Commission in the event of de novo review or enforcement. The industry's administration activity would assist us in the implementation of the Commission's objectives to permit connection of CPE to the PSTN without causing harm, but the industry standards body or bodies would not determine the final outcome of technical criteria matters. Therefore, as administrator of its technical criteria program governing the prevention of harm to the PSTN, the industry standards body or bodies would not be performing a Commission policy function. Although the proposals, to transfer the responsibility for the development and maintenance of CPE technical criteria from this Commission to an industry body subject to de novo review or enforcement, represent a new paradigm for part 68 regulation, this procedure is in fact a logical progression of the Commission's historic regulation of CPE and is similar to other deregulatory initiatives the Commission has used.

18. In addition, the Commission proposes to largely privatize equipment registration by devolving this function, currently performed solely by this Commission, to Telecommunications Certification Bodies (TCBs), which the Commission has previously established to streamline and privatize some of the regulatory processes. TCBs would use the technical criteria developed by industry to determine whether equipment meets the requirements for registration. The Commission also proposes to establish new procedures for manufacturer self-declaration of conformity or verification pursuant to the technical criteria, and the Commission requests comment on the details pertaining to these options. Thus, under the proposed new rules for part 68, if CPE meets the technical criteria, and if it is registered pursuant to the new privatized registration rules, then wireline telephone companies must permit the equipment to be connected to the PSTN.

19. *Legal Basis.* In this Notice of Proposed Rulemaking, the Commission tentatively concludes that the Commission has the necessary statutory authority to adjust the part 68 program as proposed herein. For example, the proposed changes are entirely in furtherance of the Commission's statutory mission ''to make available . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate facilities. . . . 47 U.S.C. 151; see also North Carolina Utilities Commission v. FCC, 537 F.2d 787, 793–94 (4th Cir. 1976). Further, the proposed changes are justified, at least in part, on the basis of the same statutory authority which was relied upon in 1975 when the part 68 program was originally implemented, e.g., sections 4(i), 4(j), and 201–205. Finally, as noted previously, the proposed changes, if adopted, will further the competitive goals of the 1996 Act.

20. The proposal herein is further supported by the past regulatory framework for part 68. The part 68 First Report and Order stressed that the Commission's guiding objective for competitive CPE registration is that it would remain ''simple and easy to administer as is reasonably possible with a minimum of government intervention.'' The Commission's goals were to produce an absolute minimum of expense to both the government and private industry, to the benefit of the ultimate consumer, while at the same time protecting the PSTN from harms that could be caused by the connection of faulty terminal equipment. Accordingly, the Commission tentatively concludes in this Notice of Proposed Rulemaking that, in view of the changes in the industry and the market for CPE over the past twenty-five years, the key objectives that led to the original adoption of the part 68 program can better be served through a different mix of government and private industry involvement.

21. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The Regulatory Flexibility Act defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under section 3 of the Small Business Act. Id. 601(3). A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Id. 632.

22. RFA analyses and certifications need only address the impact of rules on small entities directly regulated by those rules, Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327, 342–43 (D.C. Cir. 1985). The Commission's equipment authorization rules directly regulate only manufacturers of equipment, which must satisfy the Commission's product approval requirements. Small test laboratories are not directly regulated by the proposed Commission rules. Thus, to the extent that any testing laboratories would be affected by these proposed rules, such entities are not addressed in this IRFA.

23. The Commission has not developed a definition of small manufacturers of telephone terminal equipment. The closest applicable definitions under SBA rules is for manufacturers of telephone and telegraph apparatus (SIC 3661), which defines a small manufacturer as one having 1,000 or fewer employees. 13 CFR 121.201, Standard Industrial Classification (SIC) Code 3661.

24. According to 1992 Census Bureau data, there were 479 such manufacturers, and of those, 436 had 999 or fewer employees, and seven had between 1,000 and 1,499 employees. 1992 Economic Census, Industry and Employment Size of Firm, Table 1D (prepared by U.S. Census Bureau under contract to the U.S. Small Business Administration). The Commission estimates that there are fewer than 443 small manufacturers of terminal equipment that may be affected by the proposed rules.

25. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* The Commission is proposing to remove the requirement that applicants for

equipment authorization apply to the Commission, and instead propose that they apply to designated Telecommunications Certification Bodies. The Commission is proposing that instead of submitting part 68 application information to the Commission, the TCBs would be required to submit the data to a nationwide database instead, which shall be administered by a private entity. The Commission is also proposing to offer responsible parties the option to use either a Self-Declaration of Conformity or a verification process for equipment authorization. Such parties would have to submit data concerning their equipment to a nationwide database.

26. Further, the Commission is proposing to privatize development and maintenance of technical criteria for terminal equipment, other than those technical criteria required for compliance with the HAC/VC and consumer protection rules, which the Commission proposes to retain. Small entities with an interest in the development, interpretation, and waiver of such technical criteria would be required to seek the ruling of the standard development organization responsible for the standard at issue in the first instance. The Commission, however, proposes to retain full de novo review procedures for any industry decision.

27. The Commission also proposes to require that certain information regarding the equipment authorized under part 68 would be placed into a publicly available database. This information would be available for review of technical parameters of specific equipment, including parameters required for compliance with hearing aid compatibility, volume control, and other HAC/VC requirements. This requirement would not be a new information requirement since application data is currently required and kept in a Commission database.

28. Finally, the Commission proposes to unify the numbering system and the logo that must be imprinted on customer premises equipment. Currently, part 15 and part 68 have different labeling and different registration numbering systems.

29. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

30. The proposals in this Notice are designed to reduce the length of time for new technology to reach the market. This may benefit small entities especially because the proposals would cut any manufacturer's cost to bring an equipment design to market. Alternatives for making these reductions are included in the form of options for different methods of (1) industry development and maintenance of technical standards and (2) equipment registration. The Commission requests comment on these options.

31. The Commission requests comment on whether small entities would be adversely affected by the proposals herein, particularly whether the proposed enforcement procedures or any of the proposed options for establishing technical criteria would have a significant economic impact. The Commission believes that the proposals would have either no impact, or would reduce, any economic burdens on small entities.

32. *Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules.* None.

C. Comment Filing Procedures

33. Interested parties may file comments on or before June 23, 2000 and reply comments on or before July 7, 2000. Parties must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, Room TW–B204F, Washington, DC 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 68 FR 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, CC Docket No. 99–216.

34. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before July 31, 2000. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov* and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *edward.springer@omb.eop.gov.*

35. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554.

List of Subjects in 47 CFR Part 68

Administrative practice and procedure, Communications common carriers, Communications equipment, Labeling, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–13588 Filed 5–30–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 052300A]

New England Fishery Management Council; Public Meeting

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

ACTION: Notification of public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting on June 14 and 15, 2000, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, June 14, 2000, beginning at

9:30 a.m. and Thursday, June 15, beginning at 8:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH 03801; telephone (603) 431–2300. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Wednesday, June 14, 2000

After introductions, the meeting will begin with a report from the Chairman of the Council's Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) Committee (committee). The committee will seek Council guidance on issues to be considered for the development of comments during the Magnuson-Stevens Act reauthorization process and may ask for approval of preliminary draft comments. This agenda item will be followed by two presentations to be discussed by NMFS staff: An overview of the Vessel Monitoring System Program in the Northeast; and Applications of Vessel Monitoring Systems for Improved Fisheries Science and Management. Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and related topics will be discussed during the second half of the day. The Scallop Committee will present proposed Amendment 10 management alternatives. Alternatives selected for further development will be analyzed in terms of their scallop, habitat, bycatch, gear conflict, enforcement, and social and economic impacts in a Draft Supplemental Environmental Impact Statement. Under consideration are proposals for: Rotational area management (which would also require a re-estimation of the overfishing definition reference points, consistent with the expected change in size selection and other factors); a requirement for scallop nets to be modified to achieve the same selectivity and/or equivalent fishing mortality as dredges; a change in the fishing year and the annual review process; and possibly adjusting the present crew size limits. The Scallop Committee also will provide an update on the development of the annual adjustment to management measures for the FMP (Framework Adjustment 14) scheduled to take effect in March 2001.

Thursday, June 15, 2000

The second day of the meeting will begin with reports on recent activities from the Council Chairman, Executive Director, the Regional Administrator, Northeast Region, NMFS (Regional Administrator), Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard, NMFS Enforcement, and the Atlantic States Marine Fisheries Commission.

Announcement of Experimental Fishery Application

The Regional Administrator will discuss, during the reports portion of the agenda, the receipt of an experimental fishing proposal submitted by the Massachusetts Division of Marine Fisheries (MADMF) for which the issuance of Exempted Fishing Permits (EFPs) is required. The Regional Administrator has made a preliminary determination that the application is complete and warrants further consideration. The public may comment during the discussion at the Council meeting, or may submit comments in writing. Written comments must be received by June 15, 2000, and should be submitted to: Patricia Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Written comments may be submitted by facsimile (fax) to (978) 281–9135, but may not be submitted via e-mail or the Internet. The proposal is summarized here.

The MADMF proposes to continue the work they conducted beginning in 1997 to show that small-mesh whiting fishing with a raised footrope trawl configuration can effectively target whiting in areas east of Cape Cod. The experimental area, formerly referred to as Area 3 during the 1999 experiment, is proposed to be modified this year by shifting the western boundary farther west to the port of Chatham, MA (see coordinates below).

Point Number	Latitude	Longitude
4	42°14.05'	70°08.80'
7	42°09.20'	69°47.80'
8	41°54.85'	69°35.20'
9	41°41.50'	69°32.85'
10	41°39.00'	69°44.30'
11	41°45.60'	69°51.80'
12	41°52.30'	69°52.55'
13	41°55.50'	69°53.45'
4	42°14.05'	70°08.80'

This change in area would likely expand the participating fleet and improve our understanding of bycatch levels in the area through increased data collection and gear experimentation. The industry cooperative experiment is proposed to take place from September 1 to December 30, 2000. The experiment is likely to involve approximately 20 vessels; 5 vessels in the early part of the season (September through November) and an additional 15 beginning in late November through to December 2000. Enrollment would be established by the MADMF similar to last year, when historical participation and previous experience with the raised footope trawl gear operation played a role in the selection process conducted by the MADMF. It is expected that 100 percent of the participants would be vessels from Chatham, MA, during the early part of the season beginning in September through to October. In November and December, it is expected that approximately 50 percent of the participants would be from the ports of Gloucester and Provincetown, MA, with the remaining vessels continuing to be from Chatham. The purpose of the experimental fishery is to document bycatch levels in this area. If they are below the 5–percent regulated multispecies bycatch standard, the fishery could be found to be an exempted fishery.

The Council approved an exemption request for an area comprising the experimental Areas 2B and 4 under Framework 35 to the Northeast Fishery Management Plan (Framework 35). The MADMF did not request that Area 3 be included in the exemption due to the low sample size and inconclusive data results from previous year's experiments. Therefore, this year's experiment proposes to increase the sampling size (fleet size expansion) and improve the confidence level of data on bycatch of regulated multispecies, overall effort, species composition and gear performance.

The MADMF has stated that the gear specifications would be identical to those approved under Framework 35, including the minimum mesh size requirement of 2.5 inches (6.35 cm), the headrope, ground gear, footrope and drop chains settings and configurations, option to use the sweepless trawl, and a prohibition on use of net strengtheners. Also, net possession restrictions would be amended to allow fishermen to leave their large-mesh groundfish net aboard the vessel (in addition to the small mesh raised footrope trawl) when enrolled in the fishery.

The area defined by the MADMF for the experiment overlaps a portion of the Gulf of Maine Rolling Closure Area V (Rolling Closure Area) from October 1—November 30, 2000. NMFS is also requesting comments on MADMF's request that participants in the experimental fishery be allowed to fish in the Rolling Closure Area. The MADMF hopes that this overlap would help define a continuous exemption area including the area proposed in Framework 35 and the area proposed in this experiment.

The MADMF personnel would sea sample approximately 10–20 percent of the total trips during the course of the experimental fishery season; September through December of 2000. In addition, participants would be required to record catch information on a tow-by-tow basis on MADMF-supplied logs and submit all logs weekly to MADMF. If bycatch problems should develop, MADMF would take the appropriate remedial actions to amend the problem, as they have in past years.

EFPs would be issued to participating federally permitted whiting vessels to exempt them from DAS, mesh size and other gear restrictions required as part of the Northeast Multispecies FMP during the specified season.

Following reports and consideration of the experimental fishery proposal, the Groundfish Committee will report on the development of Amendment 13 to the Northeast Multispecies FMP. The Habitat Committee will report during the afternoon session. Included will be a presentation on the 2000 Habitat Annual Review Report, discussion and possible approval of recommendations concerning the establishment of one or more dedicated habitat research areas, and review and possible approval of a letter to the Minerals Management Service about proposed sand mining off the New Jersey coast.

Prior to addressing any other outstanding business, the Capacity and Herring Committees will update the Council on their most recent activities.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal 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 Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of two Council meetings before making recommendations to the Regional Administrator on any framework adjustment to a fishery management plan. If she concurs with the adjustment proposed by the Council, the Regional Administrator has the discretion to publish the action either as proposed or final regulations in the **Federal Register**. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 24, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–13569 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000524153–0153–01; I.D. 042100C]

RIN 0648–AO11

Fisheries off West Coast States and in the Western Pacific; Highly Migratory Species Fishery; Control Date

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

ACTION: Advance Notice of Proposed Rulemaking; Notice of a control date for Pacific Coast Highly Migratory Species Fisheries; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) is developing a Fishery Management Plan (FMP) for Highly Migratory Species (HMS) off the Pacific Coast that would place HMS species such as tuna, billfish, and sharks under Federal management. This document announces a control date of March 9, 2000, after which vessels participating in the commercial (troll, long line, drift gillnet, harpoon, purse seine), and charter boat fisheries for HMS may not be qualified if the Council determines that a program to limit entry to the fisheries is appropriate. The intended effect of this announcement is to discourage speculative entry into the Pacific Coast HMS fisheries while the Council determines whether, it will limit participation in the fisheries in the future. If the Council decides to limit future participation, it will decide on criteria at that time.

DATES: Comments must be submitted by June 30, 2000.

ADDRESSES: Comments on this advance notice of proposed rulemaking may be mailed to Jim Lone, Chairman, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Sustainable Fisheries Division, Southwest Region, NMFS, 562–980–4040.

SUPPLEMENTARY INFORMATION: The Council was established under section 302(a)(1)(F)) of the Magnuson-Stevens Fishery Conservation and Management Act. The Council has concluded that an HMS FMP is needed and has named a plan development team. The Council sponsored scoping sessions to obtain

public comment on matters that should be considered in the FMP. Several people strongly supported the development of the FMP, but urged the Council to establish a control date so that there would not be a rush to enter the fishery during the plan development process. These persons were especially concerned that recent tight restrictions in the groundfish fishery and continued restrictions in the ocean salmon fishery might encourage entry to the HMS fisheries. The Council subsequently heard advice from its advisory subpanel in support of a control date and from the public (some of whom supported a control date) at its meeting in March 2000. After considering the comments and weighing the alternatives, the Council agreed that March 9, 2000, should be established as a control date for the commercial and charter boat sectors of the HMS fisheries. The Council requested that NMFS publish a notification of this control date in the **Federal Register**.

The Council anticipates that the plan development process will take approximately one year. The Council has not yet determined that limited entry in one or more fishery sectors is necessary or appropriate. However, the Council is aware that there is often a rush to enter any fishery for which a new FMP is being developed, in anticipation that a limited entry program could be proposed that would use historic and recent participation as criteria for eligibility for limited entry permits.

The implementation of any management measures for the fishery affecting one or more of these fishery sectors will require approval of the FMP and implementation of associated regulations. Any action will require a regulatory proposal with public input and supporting analysis, NMFS approval, and publication of the implementing regulation in the **Federal Register**. If catch history is used as a basis for eligibility for participation, it is likely that catch by persons entering after the control date will not be considered in determining eligibility for a limited entry permit. The Council also may decide to use participation prior to the control date as a permit eligibility criterion. Fishers are not guaranteed future participation in the HMS fishery, regardless of their date of entry or level of participation in the fishery.

This advance notice of proposed rulemaking has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–13570 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 105
Wednesday, May 31, 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

Office of the Secretary

Notice of Solicitation for Membership to the National Agricultural Research, Extension, Education, and Economics Advisory Board.

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: The United States Department of Agriculture announces solicitation for nominations to fill 10 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATE: Deadline for Advisory Board member nominations is June 23, 2000.

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agricultural Improvement and Reform Act of 1996 authorized the creation of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The Board is composed of 30 members, each representing a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The Board was first appointed in September 1996 and one-third of the 30 members were appointed for a l, 2, and 3 year term, respectively.

As a result of the staggered appointments, the terms for 10 of the 30 members who represent 10 specific categories will expire September 30, 2000. Nominations for a 3–year appointment for all 10 of the vacant categories are sought. Nominees will be carefully reviewed for their broad expertise, leadership, and relevancy to a category. The 10 vacancies are:

A. National Farm Organization
C. Food Animal Commodity Producers
F. National Crop Commodity Organizations
K. National Human Health Associations
P. Hispanic-serving Institutions
Q. American Colleges of Veterinary Medicine
S. Transportation of Food and Agricultural Products (Foreign and domestic)
U. Food and Fiber Processors
Z. International Development/Private Sector Organizations
CC. National Social Science Associations

Nominations are being solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests. Nominations for one individual who fits several of the categories listed above, or for more than one person who fits one category will be accepted. Please indicate the specific membership category for each nominee. Each nominee must fill out a form AD–755, ''Advisory Committee Membership Background Information'' (which can be obtained from the contact person below) and will be vetted before selection. Send nominatee's name, resume, and their completed AD–755 to the Office of the Advisory Board, Research, Education, and Economics, Room 344A Jamie L. Whitten Building, Department of Agriculture, Washington, DC 20250–2255 no later than June 23, 2000.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 344A, Jamie L. Whitten Research, Education, and Economics Advisory Board Office, Room 344A, Jamie L. Whitten Building, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199, or e-mail: lshea@reeusda.gov.

Done at Washington, D.C. this 16th day of May 2000.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 00–13550 Filed 5–30–00; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–005N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act, Pub. L. 103–465, 108 Stat. 4809. It also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers the time periods from June 1, 1999, to May 31, 2000, and June 1, 2000, to May 31, 2001, seeks comments on standards currently under consideration and recommendations for new standards.

ADDRESSES: Submit any written comments to: FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, Washington, DC 20250–3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., United States Manager for Codex, U.S. Department of Agriculture, Office of the Undersecretary for Food Safety, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700; (202) 205–7760. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in *Attachment* 2 to this notice.) Documents pertaining to Codex are accessible via the World Wide Web at the following

address: http://www.fao.org/waicent/faoinfo/economic/esn/codex/. The U.S. Codex Office also maintains a website at http://www.fsis.usda.gov/OA/Codex/index.htm.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). U.S. membership in the WTO was approved and the Uruguay Round Agreements Act was signed into law by the President on December 8, 1994. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, Codex, International Office of Epizootics, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Administrator, Food Safety and Inspection Service (FSIS), the responsibility to inform the public of the SPS standard-setting activities of Codex. The FSIS Administrator has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office, FSIS.

Codex was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS), and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

As the agency responsible for informing the public of the sanitary and phytosanitary standard-setting activities of Codex, FSIS publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The sanitary or phytosanitary standards under consideration or planned for consideration; and

2. For each sanitary or phytosanitary standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

To obtain copies of those standards listed in Attachment 1 that are under consideration by Codex, please contact the Codex delegate or the U.S. Codex Office. This notice also solicits public comment on those standards that are under consideration or planned for consideration and on recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The United States' delegate will facilitate public participation in the United States Government's activities relating to Codex Alimentarius. The United States' delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding United States' delegation activities to interested parties. This information will include the current status of each agenda item; the United States Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following Codex committee sessions. U.S. Codex Alimentarius, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, if you would like to receive information about specific committees.

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex Committees for the time periods from June 1, 1999 to May 31, 2000, and June 1, 2000 to May 31, 2001. In addition, the following attachments are included:

Attachment 2 List of U.S. Codex Officials (includes U.S. delegates and alternate delegates)

Attachment 3 Timetable of Codex Sessions (June 1999 through May 2001)

Attachment 4 Definitions for the Purpose of Codex Alimentarius

Attachment 5

Part 1—Uniform Procedure for the Elaboration of Codex Standards and Related Texts,

Part 2—Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts

Attachment 6 Nature of Codex Standards

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page, located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on May 22, 2000.

F. Edward Scarbrough,

United States Manager for Codex.

Attachment 1: Sanitary and Phytosanitary Activities of Codex,

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission will hold its Twenty-fourth Session July 2–July 7, 2001, in Geneva, Switzerland. At that time it will consider the standards, codes of practice, and related matters brought to its attention by the general subject committees, commodity committees, and member delegations.

Prior to the Commission meeting, the Executive Committee will meet in June 2000 and June 2001. It is composed of the chairperson, vice-chairpersons and seven members elected from the Commission, one from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific.

The Executive Committee at its June 2000 Session will consider matters arising from reports of Codex Committees including review of standards at step 5, requests for new work, and other items brought to its attention.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. A Codex Maximum Limit for Veterinary Drugs (MRLVD) is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is adopted by the Codex Alimentarius Commission to be permitted or recognized as acceptable in or on a food.

An MRLVD is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI)*, or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical analytical methods are available.

*Acceptable Daily Intake (ADI): An estimate by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, that can be ingested daily over a lifetime without appreciable health risk (standard man = 60 kg).

The following matters, contained in ALINORM 01/31, will be considered by the Codex Alimentarius Commission at its 24th Session.

To be considered at Step 8:

Danofloxacin
Gentamicin
Imodocarb
Sarofloxacin

To be considered at Step 5/8:

Dihydrosteptomycin/Streptomycin
Doramectin

To be considered at Step 5:

Neomycin
Phoxim
Porcine Somatotropin
Thiamphenicol

Priority List of Veterinary Drugs Requiring Evaluation or Reevaluation—Substances for which a firm commitment of data has been provided:

Cefuroxime sodium
Pirlimycin hydrochloride

The Committee is continuing work on:

- Discussion paper on antimicrobial resistance;
- Draft maximum residue limits for veterinary drugs;
- Risk Analysis in the CCRVDF;
- Proposed Draft Guidelines on Residues at Injection Sites;
- Guidelines on Control of Veterinary Drug Residues in Milk and Milk Products; and
- Methods of Analysis and Sampling Issues.

Responsible Agency: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Food Additives and Contaminants

The Codex Committee on Food Additives and Contaminants (CCFAC) (a) establishes or endorses permitted maximum or guideline levels for individual food additives, contaminants, and naturally occurring toxicants in food and animal feed; (b) prepares priority lists of food additives and contaminants for toxicological evaluation by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); (c) recommends specifications of identity and purity for food additives for adoption by the Commission; (d) considers methods of analysis for food additives and contaminants; and (e) considers and elaborates standards and codes for related subjects such as labeling of food additives when sold as such and food irradiation. The 32nd Session of CCFAC met on March 20–24, 2000, in Beijing, the Peoples Republic of China. The following matters contained in ALINORM 01/12 are under consideration by the Commission and CCFAC.

Risk Analysis

The Discussion Paper entitled ''Application of Risk Analysis Principles to the Work of the Codex Committee on Food Additives and Contaminants (CCFAC) and the Joint FAO/WHO Expert Committee on Food Additives (JECFA)'' will be revised for circulation and consideration at the next session. The Codex Secretariat will report on this activity to the 15th Session of the Codex Committee on General Principles and the 47th Session of the Codex Executive Committee (June 2000).

Food Additives

- Annex A (Guidelines for the Estimation of Appropriate Levels of Use of Food Additives) to the Preamble of the General Standard for Food Additives (GSFA) for adoption at Step 8;
- Addition of provisions for the use of 15 additives to Table 1 and Table 2 of the Codex General Standard for Food Additives for adoption at Step 8 and Step 5/8;
- The Committee agreed to circulate for comment the inclusion of the following additives in Table 3 (Additives Permitted for Use in Food in General, Unless otherwise Specified, in Accordance with GMP) of the Draft GSFA at Step 3 of the accelerated procedure subject to confirmation by the 47th Session of the Codex Executive Committee: Processed Eucheuma seaweed, enzymatically hydrolyzed sodium carboxymethyl cellulose, gamma cyclodextrin, polyglycitol syrup, erythritol, curdlan, and sodium sulfate;
- The Committee has requested the Codex Secretariat to prepare a discussion paper on the relationship between Codex Commodity Standards and the further development of the GSFA; and
- The 32nd CCFAC agreed to reestablish its *ad hoc* working group on the GSFA for its 33rd Session under the chairmanship of the U.S.

International Numbering System

- The Committee agreed to forward the proposed addition of 4-

hexylresorcinol (INS 586) for use as an antioxidant or color retention agent) and pectins (INS 440) to include its use as an emulsifier to the 24th CAC for final adoption of the accelerated procedure. The Committee also agreed to forward the following proposed revisions *(italicized text)* to the INS system at Step 3 by the accelerated procedure subject to the approval of the Commission:

- acesulfame potassium (INS 950) sweetener and *flavor enhancer*;
- enzymatically hydrolyzed *sodium* carboxymethyl cellulose (INS 469) as thickener and stabilizer;
- *monosodium succinate (INS 364i) as acidity regulator and flavor enhancer;*
- *disodium succinate (INS 364ii) as acidity regulator and flavor enhancer;*
- *curdlan (INS 424) as thickener and stabilizer;*
- *erythritol (INS 968) as sweetener, flavor enhancer, and humectant;*
- *sodium L-aspartate (INS 638) as flavor enhancer*;
- *DL-alanine (INS 639) as flavor enhancer;*
- *manasco rubin (INS 130) as color;*
- *gardenia yellow (INS 164) as color;*
- *gamma-cyclodextrin (INS 458) as stabilizer and binder; and*
- *polyglycitol syrup (INS 964) as sweetener.*
- The Committee also agreed to request comments on the technological functions and functional classes/subclasses in the framework of the INS system, the GSFA, and the Codex General Standard for the Labelling of Prepackaged Foods.

Draft Revisions to the Codex General Standard for Irradiated Foods

- The 32nd CCFAC agreed to ask WHO, IAEA and FAO to further revise the Codex General Standard for Irradiated Foods for circulation, comment and further consideration by the 33rd CCFAC; and
- The Committee also agreed to request the Codex Executive Committee to consider as new work the revision of the companion Codex Recommended International Code of Practice for the Operation of Irradiation Facilities Used for the Treatment of Foods (CAC/RCP 19–1979).

Food Additive Specifications

- The 32nd CCFAC agreed to forward specifications for 34 food additives and 58 flavoring agents, and specifications for 2 food additives after editorial changes including technical revisions to the 24th CAC for adoption as Codex Advisory Specifications; and
- The 32nd CCFAC agreed to reestablish its *ad hoc* working group for food additive specifications for its 33rd Session under the chairmanship of the U.S.

The Committee is continuing work on a discussion paper on processing aids.

The 32nd CCFAC agreed to discontinue further work on its discussion paper on the use of colors in food.

Contaminants

The Committee agreed to forward the following for final adoption:

- Draft Maximum Level of 50ug/kg in apple juice and apple juice ingredient in ready made soft drinks for adoption at Step 8; and
- Draft Maximum Levels for Lead (except for fish, crustaceans, bivalve mollusks and fruit juices) at Step 8.

The Committee is continuing work on:

- Methodology and Principles for Exposure Assessment in the Codex General Standard for Contaminants and Toxins in Food;
- Draft Maximum Level for Aflatoxin M1 in Milk at Step 6;
- Proposed Draft Maximum Levels for Ochratoxin A in Cereals and Cereal Products at Step 3;
- The Committee discussed two draft codes of practice for the prevention of mycotoxin contamination of cereals (ochratoxin A, zearalenone) and a position paper on fumonisins. Given the similarity of the various draft Codes of Practice, the Committee agreed that a General Code of Practice for the prevention of mycotoxin contamination in cereals with annexes containing guidance on practices to prevent cereal grain contamination by specific mycotoxins. Currently, the General Code of Practice is expected to contain annexes for ochratoxin A, zearalenone and fumonisins;
- Draft Code of Practice for Source Directed Measures to Reduce Contamination of Foodstuffs (paper to be revised for consideration at Step 3 by the 32nd CCFAC);
- Draft Maximum Levels for Lead for fish, crustaceans, bivalve mollusks and fruit juices to be circulated for comment and consideration at Step 6 by the 33rd CCFAC);
- Draft Maximum Levels for Cadmium for Cereals, Pulses and Legumes to be circulated for comment at Step 6. (Proposed draft maximum levels for Cadmium in other foods to be circulated at Step 3);
- Discussion Paper on Dioxins (Paper to be revised for circulation and comment by the 33rd CCFAC); and
- The 32nd CCFAC agreed to reestablish the *ad hoc* working group for contaminants for its 33rd Session under the chairmanship of Denmark.

Other Issues

- Position Paper on Chloropropanols: The Committee agreed that a discussion paper should be prepared to address the levels of 3-monochloropropane-1,2-diol and 1,3-dichloro-2-propanol in foods subject to approval by the 47th CCEXEC.

The 33rd Session of the CCFAC is tentatively scheduled for March 12–16, 2001 in The Hague, The Netherlands.

Responsible AGENCY: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues recommends to the Codex Alimentarius Commission establishment of maximum limits for pesticide residues for specific food items or in groups of food. A Codex Maximum Residue Limit for Pesticide (MRLP) is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. Foods derived from commodities that comply with the respective MRLPs are intended to be toxicologically acceptable, that is, consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI*, should indicate that foods complying with Codex MRLPs are safe for human consumption.

Codex MRLPs are primarily intended to apply in international trade and are derived from reviews conducted by the Joint Meeting on Pesticide Residues (JMPR) following:

(a) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices (GAP). Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices; and

(b) Toxicological assessment of the pesticide and its residue.

The following items will have been considered by 32nd Session of the Codex Committee on Pesticide Residues at the Hague, the Netherlands, May 1–8, 2000. The final results will be in ALINORM 01/24.

- Consideration of Intake of Pesticide Residues:
- Acute Dietary Exposure Assessment;

• Report on Pesticide Residue Intake Studies; and
• Report on the Revision of Regional Diets and Information on Processing
• Consideration of Draft and Proposed Draft Residue Limits in Foods and Feeds at Steps 7 and 4:
• Harmonization of MRL setting for compounds used both as pesticides and as veterinary drugs;
• Which uses to support when chronic dietary intake estimate(s) exceed the ADI;
• Feasibility of establishing MRLs for genetically modified crops and for metabolite residues;
• Feasibility of establishing specific MRLs for cereal-based foods and infant formula; and
• Need for EMRL for camphechlor in fish.
• Recommendations for Methods of Analysis and Sampling;
• Establishment of Codex Priority Lists of Pesticides; and
• Problems Relative to Pesticide Residues in Food in Developing Countries.

* Acceptable Daily Intake (ADI) of a chemical is the daily intake which, during an entire lifetime, appears to be without appreciable risk to the health of the consumer on the basis of all the known facts at the time of the evaluation of the chemical by the Joint FAO/WHO Meeting on Pesticide Residues. It is expressed in milligrams of the chemical per kilogram of body weight.

Responsible Agency: EPA; USDA/ARS.
U.S. Participation: Yes.

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling:
(a) Defines the criteria appropriate to Codex Methods of Analysis and Sampling;
(b) Serves as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories;
(c) Specifies, on the basis of final recommendations submitted to it by the other bodies referred to in (b) above, Reference Methods of Analysis and Sampling appropriate to Codex Standards which are generally applicable to a number of foods;
(d) Considers, amends, if necessary, and endorses, as appropriate, methods of analysis and sampling proposed by Codex (Commodity) Committees, except that methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives do not fall within the terms of reference of this Committee;
(e) Elaborates sampling plans and procedures, as may be required;
(f) Considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and
(g) Defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The Committee will hold its 23rd Session in Budapest, Hungary, February 26–March 2, 2001. At that time the committee will consider the following:
• Principles for the Establishment of Codex Methods of Analysis and Sampling;
• Relations between Commodity Committees and General Committees;
• Proposed Draft General Guidelines on Sampling;
• Criteria for Evaluating Acceptable Methods of Analysis for Codex Purposes;
• Harmonization of Analytical Terminology ''Measurement Limits'';
• Harmonization of Reporting of Test Results Corrected for Recovery Factors;
• Measurement Uncertainty;
• In-House Method Validation; and
• Endorsement of Methods of Analysis and Sampling Provisions in Codex Standards.

Responsible Agency: HHS/FDA; USDA/AMS.
U.S. Participation: Yes.

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems is charged with developing principles and guidelines for food import and export inspection and certification systems to protect consumers and to facilitate trade. Additionally, the Committee develops principles and guidelines for the application of measures by competent authorities to provide assurance that foods comply with essential requirements, especially statutory health requirements. This encompasses work on: Equivalence of food inspection systems including equivalence agreements, processes and procedures to ensure that sanitary measures are implemented, and the determination of the judgement of equivalence; guidelines on food import control systems; and guidelines on food product certification and information exchange. The development of guidelines for the appropriate utilization of quality assurance systems to ensure that foodstuffs conform to requirements and to facilitate trade also are included in the Committee's terms of reference.

The Committee held its 8th Session at Adelaide, Australia, on February 21–25, 2000. The following matters will be considered by the Codex Alimentarius Commission at its 24th Session. The relevant document is ALINORM 01/30.

To be considered at Step 5:
• Proposed Draft Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates.

The Committee is continuing work on:
• Proposed Draft Guidelines/Recommendations for Food Import Control Systems;
• Proposed Draft Guidelines for the Utilization and Promotion of Quality Assurance Systems; and
• Discussion Paper on the adequacy of existing Codex texts in food emergency control situations (including an existing CCFICS developed set of Guidelines for the Exchange of Information in Food Control Emergency Situations).

New Work:
• Proposed Draft Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems; and
• Proposed draft Guidelines on the Judgement of Equivalence of Technical Regulations Associated with Food Import and Export Inspection and Certification Systems.

Responsible Agency: HHS/FDA; USDA/FSIS.
U.S. Participation: Yes.

Codex Committee on General Principles

The Codex Committee on General Principles deals with procedure and general matters as are referred to it by the Codex Alimentarius Commission. The 15th Session of the Committee met in Paris on April 10–14, 2000. The relevant ALINORM is 01/33.

To be considered by the Commission:
• Adoption of an amendment to Rule VI.2 to the Rules of Procedure to clarify members' rights with respect to voting; and
• Practical measures intended to facilitate consensus.

The Committee continues to work on:
• Working Principles for Risk Analysis;
• Food Safety Objectives;
• Review of the Statement of Principles on the Role of Science and the Extent to which Other Factors are taken into account: Role of science and other factors in relation to risk analysis;
• Composition of the Executive Committee and related matters;

• Revision of the Code of Ethics for International Trade in Foods; and
• Consumer Participation in Codex Work and related matters.

Responsible Agency: USDA/FSIS.
U.S. Participation: Yes.

Codex Committee on Food Labeling

The Codex Committee on Food Labeling is responsible for drafting provisions on labeling issues assigned by the Codex Alimentarius Commission. The Committee will have held its 28th Session in Ottawa on May 9–12, 2000. The following items will have been discussed. The documents will be in ALINORM 01/22.

Considered at Step 7:
• Draft Guidelines for the Production, Processing, Labeling and Marketing of Organically Produced Foods (Animal Production);
• Proposed Draft Amendment to the General Standard for the Labeling of Prepackaged Foods (Class Names) (milk protein/milk protein products);
• Proposed Draft Recommendations for the Labeling of Foods Obtained Through Biotechnology (Definitions); and
• Draft Amendment to the Standard for Quick Frozen Fish Sticks (Fish Fingers), Fish Portions and Fish Fillets, Breaded and in Batter (Declaration of Fish Core).

Considered at Step 4:
• Proposed Draft Recommendations for the Use of Health Claims;
• Proposed Draft Recommendations for the Labeling of Foods Obtained Through Biotechnology (Mandatory Labeling);
• Proposed Draft Recommendations to the Guidelines on Nutrition Labeling; and
• Proposed Draft Recommendations for the Use of the Term ''Vegetarian''.

Also considered:
• Discussion paper on Quantitative Ingredient Labeling.

Responsible Agency: HHS/FDA; USDA/FSIS.
U.S. Participation: Yes.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene has three primary responsibilities. First, to draft basic provisions on food hygiene applicable to all food. These provisions normally take the form of Codes of Hygienic Practice for a specific commodity (*e.g.* bottled water) or group of commodities (*e.g.,* milk and milk products). Second, to consider, amend if necessary, and endorse food hygiene provisions that are incorporated into specific Codex commodity standards by the Codex commodity committees. These provisions normally contain generic wording referencing the *Recommended Code of Hygienic Practice: General Principles for Food Hygiene* (ref: CAC/RCP 1–1969, Rev. 3–1997) and the *Principles for the Establishment and Application of Microbiological Criteria for Foods* (CAC/GL 21–1997) but may also include other provisions. Third, to provide general guidance to the Commission on matters relating to food hygiene. This often takes the form of providing general guidance documents such as the *Draft Principles and Guidelines for the Conduct of Microbiological Risk Assessment* and *Draft Proposed Principles and Guidelines for the Conduct of Microbiological Risk Management.* The following items, found in ALINORM 01/13, will be considered by the Codex Alimentarius Commission at its 24th Session in June 2001:

To be considered at Step 8:
• Draft Code of Hygienic Practice for Bottled/Packaged Drinking Waters (other than natural Mineral Water); and
• Draft Code of Hygienic Practice for the Transport of Food in Bulk and Semi-Packed Food.

Codex texts to be considered by the Committee at its 33rd Session to be held October 23–27, 2000 are the following:

To be considered at Step 4:
• Proposed Draft Code of Hygienic Practice for Milk and Milk Products;
• Proposed Draft Code of Hygienic Practice for the Primary Production, Harvesting and Packaging of Fresh Fruits and Vegetables;
• Proposed Draft Code of Hygienic Practice for Pre-cut Vegetable Products Ready for Human Consumption;
• Proposed Draft Principles and Guidelines for the Conduct of Microbiological Risk Management;
• Proposed Draft Guidelines for the Control of *Listeria monocytogenes* in Foods;
• Proposed Draft Guidelines for the Hygienic Reuse of Processing Water in Food Plants; and
• Discussion on Risk Assessment of Certain Pathogens in Specific Commodities.

Other committee work:
• Discussion paper on the Application of HACCP in Small and/or Less Developed Businesses;
• Discussion paper on Priorities for the Revision of the Codes of Hygienic Practice;
• Discussion paper on Antibiotic Resistance in Bacteria in Food;
• Discussion paper on Guidelines for Validation of Food Hygienic Control Measures; and
• Discussion paper on Proposed Guidelines for Evaluating the Presence of Objectionable Matter

Responsible Agency: HHS/FDA.
U.S. Participation: Yes.

Codex Committee on Fresh Fruits and Vegetables

The Codex Committee on Fresh Fruits and Vegetables is responsible for elaborating worldwide standards and codes of practice for fresh fruits and vegetables. The Committee will hold its Ninth Session in Mexico City, Mexico, on October 9–13, 2000 and consider the following:

To be considered at Step 7:
• Draft Standard for Grapefruit, Pummelos, Limes (sizing provisions);
• Draft Standard for Tisquisque (White and Lilac);
• Draft Standard for Yellow Pitahayas;
• Draft Standard for Papaya;
• Draft Standard for Asparagus;
• Draft Standard for Oranges; and
• Draft Standard for Cape Gooseberry;

To be considered at Step 4:
• Proposed Draft Standard for Cassava;
• Proposed Draft Standard for Apples;
• Proposed Draft Standard for Tomatoes;
• Proposed Draft Standard for Table Grapes;
• Discussion paper on size tolerances, including sizing provisions of the Draft Standards for Grapefruits, Limes, Pummelos, and Oranges;
• Code of Practice for the Quality Inspection and Certification of Fresh Fruits and Vegetables;
• Inspection Site Requisites (Annex II of the Draft Code of Practice for the Quality Inspection and Certification of Fresh Fruits and Vegetables);
• Discussion paper on definitions of terms; and
• Brix levels in Codex Standard for Pineapples;

Responsible Agency: USDA/AMS.
U.S. Participation: Yes.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses is responsible for studying nutritional problems referred by the Codex Alimentarius Commission. The Committee also drafts provisions on nutritional aspects for all foods and develops guidelines, general principles, and standards for foods for special dietary uses. The Committee holds its 22nd Session in Berlin, Germany, on June 19–23, 2000. At that Session, it will consider the following:

To be considered at Step 7:
• Draft Table of Conditions for Nutrient Contents (Part B), (Guidelines for Nutrient Claims) Fibre and Serving Size; and

• Proposed Draft Revised Standards for Gluten-Free Foods.

To be considered at Step 4:

• Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children;

• Proposed Draft Revised Standard for Infant Formula;

• Proposed Draft Guidelines for Vitamin and Mineral Supplements and Discussion Paper to Facilitate Consideration of the Draft Guidelines; and

• Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Children.

Other work:

• Discussion Paper on Criteria for Scientific Evidence Relative to Health Claims;

• Discussion Paper on Provisions of Fortification on Iodine, Iron and Vitamin A in the Guidelines of Nutrition Claims;

• Discussion Paper on Review of Provisions for Vitamins and Minerals in Codex Standards: Vitamins and Minerals in Foods for Special Medical Purposes;

• Discussion Paper on Proposal to Design the Basis for Derivation of Energy Conversion Factors in the Codex Guidelines on Nutrition Labelling;

• Discussion Paper on the Consideration of the Use of the Recommendations of the FAO/WHO Expert Consultation on Food Consumption and Exposure Assessment of Chemicals; and

• Consideration of the Need to Review the General Principles for the Addition of Essential Nutrients to Foods.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Fish and Fishery Products

The Fish and Fishery Products Committee is responsible for elaborating standards for fresh and frozen fish, crustaceans and mollusks. The 24th Session of the Committee will be held on June 5–9, 2000, in Alesund, Norway. At that Session, the following items will be discussed:

To be considered at Step 7:

• Draft Standard for Dried Anchovies; and

• Draft Standard for Crackers from Marine and Freshwater Fish, Crustacean and Molluscan Shellfish.

To be considered at Step 4:

• Proposed Draft Amendment to the Standard for Canned Sardines and Sardine-Type Products (Inclusion of an additional species);

• Proposed Draft Standard for Salted Atlantic Herring and Salted Sprats;

• Proposed Draft Code of Practice for Fish and Fishery Products;

• Model Certificate for Fish and Fishery Products;

• Proposed Draft Standard for Smoked Fish; and

• Proposed Draft Standard for Molluscan Shellfish.

Responsible Agency: HHS/FDA, USDC/NOAA/NMFS.

U.S. Participation: Yes.

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products is responsible for establishing international codes and standards for milk and milk products. The following will be considered at the 24th Session of the Codex Alimentarius Commission in June 2001. The reference document is ALINORM 01/11.

To be considered at Step 8:

• Draft Group Standard for Unripened Cheese Including Fresh Cheese;

• Proposed Draft Revised Standard for Edible Casein Products at Step 5/8;

• Proposed Draft Amendment to the Codex General Standard for Cheese (Description) at Step 5/8; and (Proposed Draft Amendment to the Codex Group Standard for Cheeses in Brine (Sampling) at Step 5/8.

To be considered at Step 5:

• Proposed Draft Revised Standard for Cream, Whipped Creams, and Fermented Creams;

• Proposed Draft Revised Standard for Fermented Milks; and

• Proposed Draft Revised Standard for Whey Powders.

The Committee is continuing work on:

• Proposed Draft Amendment to the Codex General Standard for Cheese (Composition);

• Proposed Draft Amendment to the Codex General Standard for Cheese (Appendix on cheese rind, surface, and coating);

• Proposed Draft Revised Standard for Processed Cheese (minimum cheese content);

• Proposed Draft Revised Individual Standards for Cheese (including a new Standard for Mozzarella);

• Proposed Draft Standard for Dairy Spreads; and

• Model Export Certificates for Milk Products.

New Work:

• Standard for Products in Which Milk Components are Substituted by Non-Milk Components:

• Evaporated Skimmed Milk with Vegetable Fat

• Sweetened Condensed Skimmed Milk with Vegetable Fat

• Skimmed Milk Powder with Vegetable Fat

Responsible Agency: USDA/AMS; HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils is responsible for elaborating standards for fats and oils of animal, vegetable, and marine origin. The Committee will hold its 17th Session in London, England, in March 2001 and consider the following:

To be considered at Step 7:

• Draft Standard for Olive Oils and Olive-Pomace Oils.

To be considered at Step 4:

• Proposed Draft Standard for Fat Spreads and Blended Spreads.

New Work:

• Amendments to the Draft Standard for Named Vegetable Oils:

• High Oleic Acid Sunflower Oil

• High Oleic Acid Safflower Oil

• Code of Practice for Storage and Transport of Fats & Oils in Bulk: List of Acceptable Previous Cargoes and of Banned Immediate Previous Cargoes.

Responsible Agency: HHS/FDA; USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Cocoa Products and Chocolate

The Codex Committee on Cocoa Products and Chocolate is responsible for elaborating worldwide standards for cocoa products and chocolate. The 21st Session of the Commission endorsed the recommendation of the forty-second session of the Executive Committee to initiate the revision of the Cocoa Products and Chocolate Standards. The Committee will hold its 18th Session in Switzerland in November 2000 and consider the following:

To be considered at Step 7:

• Draft Revised Standard for Cocoa Butters;

• Draft Revised Standard for Cocoa (Cacao) Mass (Cocoa/Chocolate Liquor) and Cocoa Cake, for Use in the Manufacture of Cocoa and Chocolate Products; and

• Draft Revised Standard for Cocoa Powders (Cocoas) and Dry Cocoa-Sugar Mixture.

To be considered at Step 4:

• Proposed Draft Standard for Chocolate and Chocolate Products.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Processed Fruits and Vegetables

The Codex Committee on Processed Fruits and Vegetables is responsible for elaborating standards for Processed Fruits and Vegetables. After having been adjourned sine die, the Committee

reconvened in Washington, DC, in March 1998 to begin work revising the standards. The 20th Session of the Committee will be held in Washington, DC on September 11–15, 2000. The Committee will consider the following:

To be considered at step 7:

- Draft Standard for Canned Bamboo Shoots;
- Draft Standard for Pickles;
- Draft Standard for Kimchee;
- Draft Revised Standard for Canned Applesauce;
- Draft Revised Standard for Canned Pears; and
- Draft Standard for Aqueous Coconut Products.

To be considered at step 4:

- Proposed Draft Standard for Canned Stone Fruits;
- Proposed Draft Standard for Canned Citrus Fruits;
- Proposed Draft Standard for Canned Berry Fruits;
- Proposed Draft Standard for Jams, Jellies and Marmalades;
- Proposed Standard for Canned Vegetables;
- Proposed Draft Guidelines for Packing Media in Canned Fruits;
- Proposed Draft Guidelines for Packing Media in Canned Vegetables;
- Proposed Draft Revised Standard for Canned Mangoes;
- Proposed Draft Revised Standard for Canned Pineapple;
- Proposed Draft Revised Standard for Canned Fruit Cocktails;
- Proposed Draft Revised Standard for Canned Tropical Fruit Salad;
- Proposed Draft Revised Standard for Canned Chestnuts and Chestnut Puree;
- Proposed Draft Revised Standard for Canned Tomatoes;
- Proposed Draft Revised Standard for Canned Mushrooms;
- Proposed Draft Revised Standard for Mango Chutney;
- Proposed Draft Revised Standard for Pickled Cucumbers (Cucumber Pickles);
- Proposed Draft Revised Standard for Table Olives;
- Proposed Draft Revised Standard for Processed Tomato Concentrates;
- Proposed Draft Revised Standard for Dried Apricots;
- Proposed Draft Revised Standard for Dates;
- Proposed Draft Revised Standard for Raisins;
- Proposed Draft Revised Standard for Grated Desiccated Coconuts;
- Proposed Draft Revised Standard for Unshelled Pistachio Nuts;
- Proposed Draft Revised Standard for Dried Edible Fungi;
- Proposed Draft Revised Standard for Edible Fungi and Fungus Products;
- Proposed Draft Standard for Soy Sauce; and
- Proposed Draft Standard for Dried Figs.

Other Work:

- Methods of Analysis for Processed Fruits and Vegetables.

The committee has been tasked with considering the revision of the Standards for Quick Frozen Fruits and Vegetables including: Peas, Strawberries, Raspberries, Peaches, Bilberries, Spinach, Blueberries, Leek, Broccoli, Cauliflower, Brussels Sprouts, Green and Wax Beans, French Fried Potatoes, Whole Kernel Corn, Corn-on-the-Cob, Carrots.

Responsible Agency: USDA/AMS; HHS/FDA.

U.S. Participation: Yes.

Codex Committee for Natural Mineral Waters

The Codex Committee for Natural Mineral Waters (CCNMW) is responsible for elaborating standards for natural mineral waters. The Codex Alimentarius Commission at its 22nd meeting approved the development of a standard for bottled/packaged water other than natural mineral waters. The 7th Session of the Committee will meet October 30–November 1, 2000. The Committee will consider the following:

To be considered at Step 4:

- Proposed Draft General Standard for Bottled/Packaged Drinking Waters Other Than Natural Mineral Waters.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Sugars

The Codex Committee on Sugars elaborated standards for all types of sugars and sugar products. The Committee was adjourned *sine die,* but was asked to revise the standards for sugar and honey. The Committee prepared the revised standard for sugar by correspondence. At its 23rd Session, the Codex Alimentarius Commission adopted the Draft Revised Standard for Sugar with the exception of the levels of arsenic and lead that will be reviewed by CCFAC. However, the Committee decided that it could not prepare a Draft Revised Standard for Honey by correspondence. The United Kingdom convened a Session of the Committee in London, England, on February 9–11, 2000 to discuss the Draft Revised Standard for Honey. The following standard will be considered by the 24th Session of the Commission in June 2001. The relevant document is ALINORM 01/25.

To be considered at Step 8:

- Draft Revised Standard for Honey; and
- Proposed Amendments to the Revised Codex Standard for Sugars:

(1) Definition of Raw Cane Sugar and Soft Sugars

(2) Food Additives and Contaminants

(3) Methods of Analysis for inclusion in the Standard

New work:

- Amendment to the Codex Standard for Sugar;
- Development of a Standard for Unifloral Honey; and
- Completion of an addendum to the Standard for Honey covering industrial uses.

Responsible Agency: USDA/ARS, HHS/FDA

U.S. Participation: Yes.

Certain Codex Commodity Committees

Several Codex Alimentarius Commodity Committees have adjourned *sine die.* The following Committees fall into this category:

- *Cereals, Pulses and Legumes**

Responsible Agency: HHS/FDA, USDA/GIPSA.

U.S. Participation: Yes.

- *Meat Hygiene**

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

- *Soups and Broths*

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

- Vegetable Proteins

Responsible Agency: USDA/ARS.

U.S. Participation: Yes.

*There is no planned activity for these Committees in the next year.

Brief reports on activities of the Codex Committees on Soups and Broths, and Vegetable Proteins follows:

Codex Committee on Soups and Broths

The Codex Committee on Soups and Broths elaborated worldwide standards for soups, broths, bouillons and consommes. The committee adjourned *sine die.* The main tasks of the Committee were completed. However, at its June 1997 meeting, the Codex Alimentarius Commission requested that the Committee commence work revising the Standard for Bouillons and Consommes. A Proposed Draft Revised Standard for Bouillons and Consommes was prepared by the Secretariat and has been circulated to member countries for comment at Step 3.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Vegetable Proteins

The Codex Committee on Vegetable Proteins elaborated worldwide standards for vegetable protein products deriving from any member of the plant kingdom. The committee was adjourned *sine die* in 1989. The Codex

Alimentarius Commission at its 23rd Session requested that the committee undertake a revision of the Codex Standard for Wheat Gluten. A Proposed Draft Standard for Wheat Protein Products has been circulated to member countries and other interested parties for comment at Step 3. The Proposed Draft will be revised and should be forwarded to the Executive Committee for adoption at Step 5.

Responsible Agency: USDA/ARS.

U.S.Participation: Yes.

Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

The Commission, at its 23rd Session, established this task force to develop standards, guidelines, or recommendations, as appropriate, for foods derived from biotechnology or traits introduced into foods by biotechnology, on the basis of scientific evidence, risk analysis and having regard, where appropriate, to other legitimate factors relevant to the health of consumers and the promotion of fair trade practices. The Task Force met in Tokyo, Japan on March 20–24, 2000. The relevant document is ALINORM 01/34.

Matters under discussion by the task force at its next meeting:

- Consideration of proposed draft general principles of an over-arching nature for the application of risk analysis to foods derived from biotechnology;
- Consideration of proposed draft guidelines for risk assessment with reference to food safety and nutrition of foods derived from biotechnology;
- Consideration of transparency and involvement of stakeholders in the proposed draft principles/guidelines;
- Consideration of analytical methods;
- A Discussion Paper on Traceability; and
- An Information Paper on Familiarity.

Responsible Agency: HHS/FDA; USDA/APHIS.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Animal Feeding

The Commission at its 23rd Session established the Task Force to develop guidelines or standards as appropriate on Good Animal Feeding practices. The task force will meet in Copenhagen, Denmark, on June 13–15, 2000. It will discuss the following items:

- Draft Code of Practice for Good Animal Feeding; and
- Other items that are important for food safety, such as problems related to toxic substances, pathogens, microbial resistance, new technologies, storage, control measures, traceability, etc.

Responsible Agency: HHS/FDA/CVM; USDA/APHIS.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices

The Commission at its 23rd Session established this Task Force to revise and consolidate the existing Codex standards and guidelines for fruit and vegetable juices and related products, giving preference to general standards. These standards were originally developed by the Joint UNECE/Codex Group of Experts on the Standardization of Fruit Juices, which had been abolished by its parent organizations. The Task Force will meet in Brasilia, Brazil, September 18–22, 2000.

Responsible Agency: HHS/FDA; USDA/AMS.

U.S. Participation: Yes.

FAO/WHO Regional Coordinating Committees

The Codex Alimentarius Commission is made up of an Executive Committee, as well as approximately 30 subsidiary bodies. Included in these subsidiary bodies are coordinating committees for groups of countries located in proximity to each other who share common concerns. There are currently six Regional Coordinating Committees:

- Coordinating Committee for Africa
- Coordinating Committee for Asia
- Coordinating Committee for Europe
- Coordinating Committee for Latin America and the Caribbean
- Coordinating Committee for the Near East
- Coordinating Committee for North America and the South-West Pacific

The United States participates as an active member of the Coordinating Committee for North America and the South-West Pacific, and is informed of the other coordinating committees through meeting documents, final reports, and representation at meetings. Each regional committee:

- Defines the problems and needs of the region concerning food standards and food control;
- Promotes within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures;
- Recommends to the Commission the development of world-wide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future; and
- Exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission.

Codex Coordinating Committee for North America and the South-West Pacific

The Coordinating Committee is responsible for defining problems and needs concerning food standards and food control of all Codex member countries of the region. The Sixth Session of the Committee will be held in December 2000, in Brisbane, Australia. Agenda topics will include the following:

- Review of acceptance and promotion of Codex standards by countries in the region;
- National reports on food control, food safety, and food standards in the region;
- National reports on the application of risk analysis;
- Promotion of Codex activities in the Region; and
- Report on activities of national Codex contact points and national Codex committees in the region

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Attachment 2

U.S. Codex Alimentarius Officials

Codex Committee Chairpersons

Codex Committee on Food Hygiene

Dr. I. Kaye Wachsmuth, Deputy Administrator, Office of Public Health and Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 341–E, Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–2644, Fax # (202) 690–2980, E-mail: kaye.wachsmuth@usda.gov

Codex Committee on Processed Fruits and Vegetables

Mr. David L. Priester, Head, Standardization Section, AMS Fruit & Vegetable Programs, Fresh Products Branch, USDA Stop 0140, Room 2049–S, 1400 Independence Avenue, SW, Washington, DC 20250–0240, Phone #: (202) 720–2185, Fax #: (202) 720–8871, E-mail: david.priester@usda.gov

Codex Committee on Residues of Veterinary Drugs in Foods

Dr. Stephen F. Sundlof, Director, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place (HFV–1), Rockville, MD 20855, Phone #: (301) 594–1740,

Fax #: (301) 594–1830, E-mail: ssundlof@cvm.fda.gov

Codex Committee on Cereals, Pulses and Legumes (adjourned sine die)

Mr. Steven N. Tanner, Director, Technical Services Division, Grain Inspection, Packers & Stockyards Administration, U.S. Department of Agriculture, 10383 N. Executive Hills Blvd., Kansas City, MO 64153–1394, Phone #: (816) 891–0401, Fax #: (816) 891–0478, E-mail: stanner@tsd.fgiskc.usda.gov

Listing of U.S. Delegates and Alternate Delegates

Worldwide General Subject Codex Committees

Codex Committee on Residues of Veterinary Drugs in Foods

(Host Government—United States)

U.S. Delegate

Dr. Robert C. Livingston, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, Phone #: (301) 594–5903, Fax #: (301) 594–1830, E-mail: rlivings@bangate.fda.gov

Alternate Delegate VACANT

Codex Committee on Food Additives and Contaminants

(Host Government—The Netherlands)

U.S. Delegate

Dr. Alan Rulis, Director, Office of Premarket Approval (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 418–3100, Fax #: (202) 418–3131, E-mail: arulis@bangate.fda.gov

Alternate Delegate

Dr. Terry C. Troxell, Director, Office of Plant and Dairy Foods and Beverages (HFS–300), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, (HFS–456), Washington, DC 20204, Phone #: (202) 205–4064, Fax #: (202) 205–4422, E-mail: ttroxell@bangate.fda.gov

Codex Committee on Pesticide Residues

(Host Government—The Netherlands)

U.S. Delegate

Mr. Fred Ives, Health Effects Division (7509C), Office of Pesticide Programs, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, Phone #: (703) 305–6378, Fax #: (703) 305–5147, E-mail: ives.fred@epamail.epa.gov

Alternate Delegate

Dr. Richard Parry, Jr., Assistant Administrator, Cooperative Interactions, Agricultural Research Service, U.S. Department of Agriculture, Room 358–A, Jamie L. Whitten Federal Building, Washington, DC 20250–3700, Phone #: (202) 720–3973, Fax #: (202) 720–5427, E-mail: rparry@ars.usda.gov

Codex Committee on Methods of Analysis and Sampling

(Host Government—Hungary)

U.S. Delegate

Dr. William Horwitz, Scientific Advisor (HFS–500), Center for Food Safety and Applied Nutrition, Food and Drug Administration, Room 3832, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4346, Fax #: (202) 401–7740, E-mail: whorwitz@bangate.fda.gov

Alternate Delegate

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Codex Committee on Food Import and Export Certification and Inspection Systems

(Host Government—Australia)

Delegate

Mr. L. Robert Lake, Director, Office of Regulations and Policy (HFS–4), U.S. Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4160, Fax #: (202) 401–7739, E-mail: rlake@bangate.fda.gov

Alternate Delegate

Mr. Mark Manis, Director, International Policy Development Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4434, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–6400, Fax #: (202) 720–7990, E-mail: mark.manis@usda.gov

Codex Committee on General Principles

(Host Government—France)

Delegate

Note: A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.

Codex Committee on Food Labelling

(Host Government—Canada)

Delegate

Dr. Christine Lewis, Director, Office of Nutritional Products, Labeling, and Dietary Substances Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4434, Fax #: (202) 205–4594, E-mail: Christine.Lewis@cfsan.fda.gov

Alternate Delegate

Dr. Robert Post, Director, Labeling and Additive Policy Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Cotton Annex, Room 602, Washington, DC 20250–3700, Phone #: (202) 205–0279, Fax #: (202) 205–3625, E-mail: robert.post@usda.gov

Codex Committee on Food Hygiene

(Host Government—United States)

Delegate

Dr. Robert Buchanan, Senior Science Advisor, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5053, Fax #: (202) 205–4970, E-mail: rbuchana@bangate.fda.gov

Alternate Delegate

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Codex Committee on Nutrition and Foods for Special Dietary Uses

(Host Government—Germany)

Delegate

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Alternate Delegate

VACANT

Codex Committee on Fresh Fruits and Vegetables

(Host Government—Mexico)

Delegate
Mr. David L. Priester, Head, Standardization Section, AMS Fruit & Vegetable Programs, Fresh Products Branch, USDA Stop 0140, Room 2049–S 1400 Independence Avenue, SW, Washington, DC 20250–0240, Phone #: (202) 720–2185, Fax #: (202) 720–8871, E-mail: david.priester@usda.gov

Alternate Delegate
Mr. Larry B. Lace, Branch Chief, Fresh Products Branch, Fruits and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2049, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20090–6456, Phone #: (202) 720–5870, Fax #: (202) 720–0393, E-mail: larry.lace@usda.gov

Codex Committee on Fish and Fishery Products

(Host Government—Norway)

Delegate
Mr. Philip C. Spiller, Director, Office of Seafood (HFS–400) VERB, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 418–3133, Fax #: (202) 418–3198, E-mail: pspiller@bangate.fda.gov

Alternate Delegate
Mr. Samuel W. McKeen, Director, Office of Trade and Industry Services, National Oceanic and Atmospheric Administration, NMFS, 1335 East-West Highway, Room 6490, Silver Spring, MD 20910, Phone #: (301) 713–2351, Fax #: (301) 713–1081, E-mail: samuel.mckeen@noaa.gov

Codex Committee on Milk and Milk Products

(Host Government—New Zealand)

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Codex Committee on Fats and Oils

(Host Government—United Kingdom)

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Codex Committee on Processed Fruits and Vegetables

(Host Government—United States)

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Codex Committee on Cocoa Products and Chocolate

(Host Government—Switzerland)

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Codex Committee on Natural Mineral Waters

(Host Government—Switzerland)

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Codex Committee on Sugars

(Host Government—United Kingdom)

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Codex Committee on Cereals, Pulses and Legumes [1]

(Host Government—United States)

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Codex Committee on Soups and Broths [1]

(Host Government—Switzerland)

Delegate

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Codex Committee on Vegetable Proteins [1]

(Host Government—Canada)

U.S. Delegate

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Alternate Delegate

Vacant

Codex Committee on Meat Hygiene [1]

(Host Government—New Zealand)

Delegate

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Alternate Delegate

Vacant

Ad Hoc Intergovernmental Task Forces

Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices

(Host government—Brazil)

Delegate

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Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

(Host government—Japan)

Delegate

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Ad Hoc Intergovernmental Task Group on Animal Feeding

(Host government—Denmark)

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Subsidiary Bodies of the Codex Alimentarius

There are six regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean
Coordinating Committee for the Near East
Coordinating Committee for North America and the South-West Pacific

Contact

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Attachment 3

TIMETABLE OF CODEX SESSIONS

[June 1999 through June 2001]

1999:			
CX 702–46	Executive Committee of the Codex Alimentarius Commission (46th Session).	24–25 June	Rome.
CX 701–23	Codex Alimentarius Commission (23rd Session)	28 June–3 July	Rome.

[1] Adjourned sine die. The main tasks of these Committees are completed. However, the committees may be called to meet again if required.

TIMETABLE OF CODEX SESSIONS—Continued

[June 1999 through June 2001]

CX 727–12	Codex Regional Coordinating Committee for Asia (12th Session)	23–26 November	Chaing Mai.
CX 712–32	Codex Committee of Food Hygiene (32nd Session)	29 November–4 December	Washington, DC.
2000:			
CX 710–07	Codex Committee on Sugars (7th Session)	9–11 February	London.
CX 733–08	Codex Committee on Food Import and Export Certification and Inspection (8th Session).	21–25 February	Adelaide.
CX 703–04	Codex Committee on Milk and Milk Products (4th Session)	28 February–3 March	Wellington.
CX 802–01	*ad hoc* Intergovernmental Task Force on Biotechnology	14–17 March	Tokyo.
CX 711–32	Codex Committee on Food Additives and Contaminants (32nd Session).	20–24 March	Beijing.
CX 730–12	Codex Committee on Residues of Veterinary Drugs in Foods (12th Session).	28–31 March	Washington, DC.
CX 716–15	Codex Committee on General Principles (15th Session)	10–14 April	Paris.
CX 718–32	Codex Committee on Pesticide Residues (32nd Session)	1–8 May	The Hague.
CX 714–28	Codex Committee on Food Labelling (28th Session)	8–12 May	Ottawa.
CX 722–24	Codex Committee on Fish and Fishery Products (24th Session)	5–9 June	Alesund.
CX 803–01	*ad hoc* Intergovernmental Codex Task Force on Animal Feeding	13–15 June	Copenhagen.
CX 720–22	Codex Committee on Nutrition and Foods for Special Dietary Uses (22nd Session).	19–23 June	Berlin.
CX 702–47	Executive Committee of the Codex Alimentarius Commission (47th Session).	28–30 June	Geneva.
CX 713–20	Codex Committee on Processed Fruits and Vegetables (20th Session).	11–15 September	Washington, DC.
CX 801–01	*ad hoc* Intergovernmental Codex Task Force on Fruit Juices (1st Session).	18–22 September	Brasilia.
CX 706–22	Codex Regional Coordinating Committee for Europe	3–6 October	Madrid.
CX 731–09	Codex Committee on Fresh Fruits and Vegetables (9th Session)	9–13 October	Mexico City.
CX 712–33	Codex Committee on Food Hygiene (33rd Session)	23–27 October	TBA.
CX 719–07	Codex Committee on Natural Mineral Waters (7th Session)	30 October–1 November	TBA.
CX 708–18	Codex Committee on Cocoa Products and Chocolate (18th Session).	2–4 November	TBA.
CX 707–14	Codex Regional Coordinating Committee for Africa (14th Session).	27–30 November	Entebbe.
CX 732–06	Codex Regional Coordinating Committee for North America and the South-West Pacific (6th Session).	5–8 December	Perth.
2001:			
CX 734–01	Codex Regional Coordinating Committee for the Near East	29 January–1 February	Cairo.
CX 725–12	Codex Regional Committee for Latin America and the Caribbean (12th Session).	13–16 February	Santo Domingo.
CX 711–33	Codex Committee on Food Additives and Contaminants (33rd Session).	12–16 March	The Hague.
CX 715–23	Codex Committee on Methods of Analysis and Sampling (23rd Session).	26 February–2 March	Budapest.
CX 803–02	ad hoc Intergovernmental Task Force on Animal Feeding	19–21 March	Copenhagen.
CX 709–17	Codex Committee on Fats and Oils (17th Session)	26–30 March	London.
CX 718–33	Codex Committee on Pesticide Residues (33rd Session)	2–6 April	The Hague.
CX 716–16	Codex Committee on General Principles (16th Session)	23–27 April	Paris.
CX 714–29	Codex Committee on Food Labelling (29th Session)	30 April–4 May	Ottawa.
CX 702–48	Executive Committee of the Codex Alimentarius Commission (48th Session).	28–29 June	Geneva.
CX 701–24	Codex Alimentarius Committee (24th Session)	2–7 July	Geneva.

Attachment 4

Definitions for the Purpose of Codex Alimentarius

Words and phrases have specific meanings when used by the Codex Alimentarius. For the purposes of Codex, the following definitions apply:

1. *Food* means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum, and any substance which has been used in the manufacture, preparation or treatment of ''food'' but does not include cosmetics or tobacco or substances used only as drugs.

2. *Food hygiene* comprises conditions and measures necessary for the production, processing, storage and distribution of food designed to ensure a safe, sound, wholesome product fit for human consumption.

3. *Food additive* means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include ''contaminants'' or substances added to food for maintaining or improving nutritional qualities.

4. *Contaminant* means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry, and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of

environmental contamination. The term does not include insect fragments, rodent hairs and other extraneous matters.

5. *Pesticide* means any substance intended for preventing, destroying, attracting, repelling, or controlling any pest including unwanted species of plants or animals during the production, storage, transport, distribution and processing of food, agricultural commodities, or animal feeds or which may be administered to animals for the control of ectoparasites. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and substances applied to crops either before of after harvest to protect the commodity from deterioration during storage and transport. The term pesticides excludes fertilizers, plant and animal nutrients, food additives, and animal drugs.

6. *Pesticide residue* means any specified substance in food, agricultural commodities, or animal feed resulting from the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products, and impurities considered to be of toxological significance.

7. *Good Agricultural Practice in the Use of Pesticides (GAP)* includes the nationally authorized safe uses of pesticides under actual conditions necessary for effective and reliable pest control. It encompasses a range of levels of pesticide applications up to the highest authorized use, applied in a manner that leaves a residue which is the smallest amount practicable.

Authorized safe uses are determined at the national level and include nationally registered or recommended uses, which take into account public and occupational health and environmental safety considerations.

Actual conditions include any stage in the production, storage, transport, distribution and processing of food commodities and animal feed.

8. *Codex Maximum Limit for Pesticide Residues (MRLP)* is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLPs are based on their toxological affects and on GAP data and foods derived from commodities that comply with the respective MRLPs are intended to be toxologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the JMPR following:

(a) Toxological assessment of the pesticide and its residue, and

(b) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI, should indicate that foods complying with Codex MRLPs are safe for human consumption.

9. *Veterinary Drug* means any substance applied or administered to any food-producing animal, such as meat or milk-producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

10. *Residues of Veterinary Drugs* include the parent compounds and/or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned.

11. *Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD)* is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on food.

An MRLVD is based on the type and amount of residue considered to be without any toxological hazard for human health as expressed by the Acceptable Daily Intake (ADI), or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

12. *Good Practice in the Use of Veterinary Drugs* (GPVD) is the official recommended or authorized usage including withdrawal periods approved by national authorities, of veterinary drugs under practicable conditions.

13. *Processing Aid* means any substance or material, not including apparatus or utensils, not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Definitions of Risk Analysis Terms Related to Food Safety

Hazard: A biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect.

Risk: A function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard(s) in food.

Risk analysis: A process consisting of three components: risk assessment, risk management and risk communication.

Risk assessment: A scientifically based process consisting of the following steps: (i) Hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization.

Hazard identification: The identification of biological, chemical, and physical agents capable of causing adverse health effects and which may be present in a particular food or group of foods.

Hazard characterization: The qualitative and/or quantitative evaluation of the nature of the adverse health effects associated with biological, chemical and physical agents that may be present in food. For chemical agents, a dose-response assessment should be performed. For biological or physical agents, a dose-response assessment should be performed if the data are obtainable.

Dose-response assessment: The determination of the relationship between the magnitude of exposure (dose) to a chemical, biological or physical agent and the severity and/or frequency of associated adverse health effects (response).

Exposure assessment: The qualitative and/or quantitative evaluation of the likely intake of biological, chemical, and physical agents via food as well as exposures from other sources if relevant.

Risk characterization: The qualitative and/or quantitative estimation, including attendant uncertainties, of the probability of occurrence and severity of known or potential adverse health

effects in a given population based on hazard identification, hazard characterization and exposure assessment.

Risk management: The process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties, considering risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options.

Risk communication: The interactive exchange of information and opinions throughout the risk analysis process concerning risk, related risk factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions.

Attachment 5

Part 1—Uniform Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission decides, taking into account the ''Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies,'' to elaborate a Worldwide Codex Standard and also decides which subsidiary body or other body should undertake the work. A decision to elaborate a Worldwide Codex Standard may also be taken by subsidiary bodies of the Commission in accordance with the above-mentioned criteria, subject to subsequent approval by the Commission or its Executive Committee at the earliest possible opportunity. In the case of Codex Regional Standards, the Commission shall base its decision on the proposal of the majority of members belonging to a given region or group of countries submitted at a session of the Codex Alimentarius Commission.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5 [1]

The proposed draft standard is submitted through the Secretariat to the Commission or to the Executive Committee with a view to its adoption as a draft standard. When making any decision at this step, the Commission or the Executive Committee will give due consideration to any comments that may be submitted by any of its members regarding the implications which the proposed draft standard or any provisions of the standard may have for their economic interests. In the case of Regional Standards, all members of the Commission may present their comments, take part in the debate and propose amendments, but only the majority of the Members of the region or group of countries concerned attending the session can decide to amend or adopt the draft. When making any decisions at this step, the members of the region or group of countries concerned will give due consideration to any comments that may be submitted by any of the members of the Commission regarding the implications which the proposed draft standard or any provisions of the proposed draft standard may have for their economic interests.

Step 6

The draft standard is sent by the Secretariat to all members and interested international organizations for comment on all aspects, including possible implications of the draft standard for their economic interests.

Step 7

The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.

Step 8

The draft standard is submitted through the Secretariat to the Commission together with any written proposals received from members and interested international organizations for amendments at Step 8 with a view to its adoption as a Codex Standard. In the case of Regional standards, all members and interested international organizations may present their comments, take part in the debate and propose amendments but only the majority of members of the region or group of countries concerned attending the session can decide to amend and adopt the draft.

Part 2 Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission or the Executive Committee between Commission sessions, on the basis of a two-thirds majority of votes cast, taking into account the ''Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies'', shall identify those standards which shall be the subject of an accelerated elaboration process. The identification of such standards may also be made by subsidiary bodies of the Commission, on the basis of a two-thirds majority of votes cast, subject to confirmation at the earliest opportunity by the Commission or its Executive Committee by a two-thirds majority of votes cast.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to Members of the Commission and interested international organizations

[1] Without prejudice to any decision that may be taken by the Commission at Step 5, the proposed draft standard may be sent by the Secretariat for government comment prior to its consideration at Step 5, when, in the opinion of the subsidiary body or other body concerned, the time between the relevant session of the Commission and the subsequent session of the subsidiary or other body concerned requires such actions in order to advance the work.

for comment on all aspects including possible implications of the proposed draft standard for their economic interests. When standards are subject to an accelerated procedure, this fact shall be notified to the Members of the Commission and the interested international organizations.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

In the case of standards identified as being subject to an accelerated elaboration procedure, the draft standard is submitted through the Secretariat to the Commission together with any written proposals received from Members and interested international organizations for amendments with a view to its adoption as a Codex standard. In taking any decision at this step, the Commission will give due consideration to any comments that may be submitted by any of its Members regarding the implications which the proposed draft standard or any provisions thereof may have for their economic interests.

Attachment 6

Nature of Codex Standards

Codex standards contain requirements for food aimed at ensuring for the consumer a sound, wholesome food product free from adulteration, and correctly labelled. A Codex standard for any food or foods should be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.

Format for Codex Commodity Standards Including Standards Elaborated Under the Code of Principles Concerning Milk and Milk Products

Introduction

The format is also intended for use as a guide by the subsidiary bodies of the Codex Alimentarius Commission in presenting their standards, with the object of achieving, as far as possible, a uniform presentation of commodity standards. The format also indicates the statements which should be included in standards as appropriate under the relevant headings of the standard. The sections of the format required to be completed for a standard are only those provisions that are appropriate to an international standard for the food in question.

Name of the Standard
Scope
Description
Essential Composition and Quality Factors
Food Additives
Contaminants
Hygiene
Weights and Measures
Labelling
Methods of Analysis and Sampling

Format for Codex Standards

Name of the Standard

The name of the standard should be clear and as concise as possible. It should usually be the common name by which the food covered by the standard is known or, if more than one food is dealt with in the standard, by a generic name covering them all. If a fully informative title is inordinately long, a subtitle could be added.

Scope

This section should contain a clear, concise statement as to the food or foods to which the standard is applicable unless the name of the standard clearly and concisely identifies the food or foods. A generic standard covering more than one specific product should clearly identify the specific products to which the standard applies.

Description

This section should contain a definition of the product or products with an indication, where appropriate, of the raw materials from which the product or products are derived and any necessary references to processes of manufacture. The description may also include references to types and styles of product and to type of pack. The description may also include additional definitions when these additional definition are required to clarify the meaning of the standard.

Essential Composition and Quality Factors

This section should contain all quantitative and other requirements as to composition including, where necessary, identity characteristics, provisions on packing media and requirements as to compulsory and optional ingredients. It should also include quality factors that are essential for the designation, definition, or composition of the product concerned. Such factors could include the quality of the raw material, with the object of protecting the health of the consumer, provisions on taste, odor, color, and texture which may be apprehended by the senses, and basic quality criteria for the finished products, with the object of preventing fraud. This section may refer to tolerances for defects, such as blemishes or imperfect material, but this information should be contained in appendix to the standard or in another advisory text.

Food Additives

This section should contain the names of the additives permitted and, where appropriate, the maximum amount permitted in the food. It should be prepared in accordance with guidance given on page 93 of the Codex Procedural Manual and may take the following form:

''The following provisions in respect of food additives and their specifications as contained in section * * * of the Codex Alimentarius are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.:

''*Name of additive, maximum level* (in percentage or mg/kg).''

Contaminants

(a) *Pesticide Residues:* This section should include, by reference, any levels for pesticide residues that have been established by the Codex Committee on Pesticide Residues for the product concerned.

(b) *Other Contaminants:* In addition, this section should contain the names of other contaminants and where appropriate the maximum level permitted in the food, and the text to appear in the standard may take the following form:

''The following provisions in respect of contaminants, other than pesticide residues, are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.:

''*Name of contaminant, maximum level* (in percentage or mg/kg).''

Hygiene

Any specific mandatory hygiene provisions considered necessary should be included in this section. They should be prepared in accordance with the guidance given on page 95 of the Codex Procedural Manual. Reference should also be made to applicable codes of hygienic practice. Any parts of such codes, including in particular any end-product specifications, should be set out in the standard, if it is considered necessary that they should be made mandatory. The following statement should also appear:

''The following provisions in respect of the food hygiene of the product are subject to endorsement [have been

endorsed] by the Codex Committee on Food Hygiene.''

Weights and Measures

This section should include all provisions, other than labelling provisions, relating to weights and measures, *e.g.* where appropriate, fill of container, weight, measure or count of units determined by an appropriate method of sampling and analysis. Weights and measures should be expressed in S.I. units. In the case of standards which include provisions for the sale of products in standardized amounts, *e.g.* multiples of 100 grams, S.I. units should be used, but this would not preclude additional statements in the standards of these standardized amounts in approximately similar amounts in other systems of weights and measures.

Labelling

This section should include all the labelling provisions contained in the standard and should be prepared in accordance with the guidance given on page 92 of the Codex Procedural Manual. Provisions should be included by reference to the General Standard for the Labelling of Prepackaged Foods. The section may also contain provisions which are exemptions from, additions to, or which are necessary for the interpretation of the General Standard in respect of the product concerned provided that these can be justified fully. The following statement should also appear:

''The following provisions in respect of the labelling of this product are subject to endorsement [have been endorsed] by the Codex Committee on Food Labelling.''

Methods of Anaylsis and Sampling

This section should include, either specifically or by reference, all methods of analysis and sampling considered necessary and should be prepared in accordance with the guidance given on page 95 of the Codex Procedural Manual. If two or more methods have been proved to be equivalent by the Codex Committee on Methods of Analysis and Sampling, these could be regarded as alternative and included in this section either specifically or by reference. The following statement should also appear:

''The methods of analysis and sampling described hereunder are to be endorsed [have been endorsed] by the Codex Committee on Methods of Analysis and Sampling.''

[FR Doc. 00–13292 Filed 5–30–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–013N]

In-Distribution Inspection Activities and Initiatives; Public Meeting

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing a public meeting on June 9, 2000, to discuss its strategy for addressing the safety of meat and poultry products during distribution and to provide an overview and update on the in-distribution (ID) Inspection Project. The broader implications of ID activities in the Agency's projected inspection system will also be discussed.

DATES: The meeting will be held on June 9, 2000, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel in Washington, DC, 10 Thomas Circle NW. (at Massachusetts Avenue and 14th Street), Washington, DC 20005, (202) 842–1300.

FOR FURTHER INFORMATION CONTACT: To register for the meeting, contact Ms. Ida Gambrell of the FSIS Planning Staff by telephone (202) 501–7260, FAX (202) 501–7615, or e-mail: ida.gambrell@usda.gov. Attendees who require a sign language interpreter or other special accommodations should contact Ms. Gambrell at the above numbers by June 2, 2000. For technical information contact Ms. Mary Cutshall by telephone (202) 720–3219, FAX (202) 690–0824, or e-mail: mary.cutshall@usda.gov.

SUPPLEMENTARY INFORMATION: As part of the implementation of the Agency's Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems final rule, published July 25, 1996 (61 FR 38806), the Agency is committed to developing strategies that address food safety hazards throughout the farm-to-table continuum.

Under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), FSIS has the authority and responsibility to regulate not only the slaughter and processing but also the transportation, storage, and other handling of meat and poultry products.

FSIS compliance officers are charged with performing the tasks associated with ensuring the safety of meat and poultry products along the farm-to-table continuum (other than in-plant production). FSIS is now looking at alternative strategies for ensuring the safety of these products after they leave an inspected plant. One way of doing this is through the ID Inspection Project.

The Agency has assigned 11 inspectors to the ID Inspection Project. The Agency is also working with the State of Minnesota to develop an alternative strategy for addressing food safety hazards and other problems presented by federally inspected product in distribution. Under this developing approach, the State will advise FSIS of adulterated or misbranded federally inspected product that State inspectors find at retail/distribution/warehouse centers in the course of their regular inspections.

The purpose of the public meeting is to provide the public with information on the progress of these activities and on the Agency's tentative plans regarding future in-distribution activities.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Transcripts of this meeting will be made available in the FSIS Docket Room.

Done in Washington, DC, on May 24, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–13527 Filed 5–30–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Bonners Ferry Ranger District Salvage Sales; Idaho Panhandle National Forests; Boundary County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose the potential environmental effects of salvage harvesting up to 20,000 acres of dead and damaged trees in scattered areas located on the Bonners Ferry Ranger District, Idaho Panhandle National Forests. Harvest of these trees is proposed to reduce hazardous fuels, to restore productive stand conditions and/or ecological functioning in areas affected by windstorms, insects, disease and other damaging events. Salvage harvest of these threes will help provide products for local post and pole mills, small sawmills, and other forest product manufacturers.

DATES: Written comments and suggestions should be received on or before July 3, 2000. The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in August 2000. A Final Environmental Impact Statement will be published to sooner than September 2000.

ADDRESSES: Submit written comments and suggestions on the proposal, or requests to be placed on the project mailing list, to District Ranger, Bonners Ferry Ranger District, Route 4, Box 4860, Bonners Ferry, Idaho 83805–9764.

FOR FURTHER INFORMATION CONTACT: Barry Wynsma, project leader, Bonners Ferry Ranger District, Idaho Panhandle National Forests, Route 4, Box 4860, Bonners Ferry, Idaho 83805–9764, e-mail address: *bwynsma@fs.fed.us*

SUPPLEMENTARY INFORMATION: Windstorms, heavy snowfall, insects and disease and other events annually result in mortality and damage to numerous timber stands across the Bonners Ferry Ranger District. If untreated, affected stands can display a significant reduction productivity, can increase fire risks, and can create favorable conditions for increases in insect populations that can spread to adjacent healthy stands. Salvage harvesting within affected stands can restore the stands to more desirable conditions.

Such events typically occur in small areas and are scattered across the District. Due to the scattered nature of these stands and the relatively small amount of salvageable material, salvage harvests have historically been accomplished through the use of small timber sales, generally purchased by local small timber operators. Small salvage sale contracts typically include between 50 to 100 thousand board feet of dead trees (about 10 to 20 log-truck loads) per contract. Trees salvaged from such areas are utilized for firewood, paper pulp, house logs, sawlogs and a wide variety of other value-added products such as rustic furniture and musical instruments. These small industries are considered an import component of the local economic structure. The District has historically offered and sold an average of two to three million board feet of forest products per year of these types of salvage sales.

Salvage harvest can have adverse effects on other resource values and is not appropriate in many areas. To reduce the potential for adverse effects and to clarify the analysis necessary to determine the effects of the proposed action, the District conducted a screening process to avoid areas of the forest that contain resource values highly sensitive to proposed salvage harvest activities.

The acres within which salvage activities would be allowed through this proposed action are outside of riparian buffer zones, sensitive plant protection areas, designated old-growth stands, roadless areas, wetland and cultural resource protection zones. Also, the proposed salvage areas and activities are compatible with management strategies and Recovery Plans for Threatened or Endangered Species or their habitat and also with visual resources.

Preliminary issues include potential effects to Threatened, Endangered, and Sensitive wildlife, fish and plant species and water quality.

The Forest Service will develop a range of alternatives, including a No Action alternative to respond to issues raised during this scoping period.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in August 2000. At that time, the EPA will publish a Notice of Availability of the draft environmental impact statement in the **Federal Register.** The comment period on the draft environmental impact statement will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register.** A final environmental impact statement will be published after all comments are reviewed and responded to. A Record of Decision will be published at the time the Final EIS is released. The final decision will be subject to administrative review under CFR 215.17.

The Forest Service believes, at this early stage, it is important to give reviewers notice 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 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 regarding 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 environmental impact 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.

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 may 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 reqester 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 a specified number of days.

I am the responsible official for this environmental analysis. My address is Supervisor's Office, Idaho Panhandle National Forests, 315 Schreiber Way, Coeur d'Alene, ID 83814.

Dated: May 24, 2000.

David J. Wright,

Forest Supervisor.

[FR Doc. 00–13501 Filed 5–30–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on June 14 and 15, 2000, at the Town Hall in Fort Bragg, California. The meeting will be held from 10 a.m. to 5 p.m. on Wednesday, June 14, and from 8:30 a.m. to noon, on Thursday, June 15. The Town Hall is located at 363 No. Main St. in Fort Bragg. Agenda items to be covered include: (1) Issues criteria and process; (2) status of watershed analyses on federal lands in the Province, their effectiveness and prioritization; (3) Protection of federal habitat for remnant native fish stocks; (4) regional Ecosystem Office (REO) update to include Survey and Manage Environmental Impact Statement, PAC rechartering and Interagency Species Management List; (5) Regional Interagency Executive Committee (REIC) and Interagency Advisory Committee (IAC) communication with the PAC; (6) Megram Fire update; (7) presentation on the Forest Service Roadless Area Conservation proposal; (8) Northwest Forest Plan regional implementation monitoring schedule for 2000; (9) National Marine Fisheries Service presentation on impacts of Judge Rothstein's ruling; and (10) open public comment. All California Coast Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to James Fenwood, Forest Supervisor, or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316.

Dated: May 23, 2000.

James D. Fenwood,

Forest Supervisor.

[FR Doc. 00–13555 Filed 5–25–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet from 9 a.m. to 12 p.m. on June 9, 2000 at Red Oaks Square, 1230 NE. 3rd, Suite A–262, Bend, Oregon. Agenda items include PAC comments for the Interior Columbia Basin Ecosystem Management Project, Info Sharing Around the Province, and a Public Forum from 11:30 a.m. till 12 p.m. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 N.E. 3rd., Bend, OR, 97701, Phone (541) 383–4769.

Dated: May 23, 2000.

Rebecca Heath,

Acting Deschutes National Forest Supervisor.

[FR Doc. 00–13500 Filed 5–30–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–807]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Arland DiGirolamo or Abdelali Elouaradia at (202) 482–1278 or (202) 482–0498, respectively; Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to 19 CFR Part 351 (1998).

Final Determination

We determine that cold-rolled flat-rolled carbon-quality steel products (cold-rolled steel products) from Indonesia 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

The preliminary determination in this investigation was issued on December 28, 1999. *See Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Indonesia,* 65 FR 1103 (January 7, 2000) (*Preliminary Determination*). The investigation covers one manufacturer/exporter, PT Krakatau Steel (Krakatau). The period of the investigation (POI) is April 1, 1998 through March 31, 1999.

From January 10 through January 14, 2000, the Department conducted a sales verification of Krakatau's sales data. The Department found that Krakatau had failed to report a large percentage of its U.S. sales of subject merchandise. Based on these findings, the Department canceled its cost verification of Krakatau, and issued a memorandum recommending the issuance of a final determination based on total facts available. *See* Memorandum from The Team to Holly Kuga, dated February 28, 2000 (*AFA Memo*). On March 7, 2000,

the petitioners [1] submitted a case brief arguing that the Department, in selecting a facts available rate, should apply the highest calculated dumping margin for any non-aberrational U.S. sale. Krakatau did not file a case brief. No rebuttal briefs were filed, and the petitioners withdrew their request for a hearing.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

The above is simply a summary of the products covered by the investigation. For the dispositive description of the scope of this investigation, see the ''Scope of Investigation'' section of the Decision Memorandum, which is on file in Room B–099 of the Department's Main Building and available on the World Wide Web at www.ita.doc.gov/ import_admin/ records/frn.

Analysis of Comments Received

All issues raised in the brief by the petitioners in this case are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Holly Kuga, Acting Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 22, 2000, which is hereby adopted by 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 investigation 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.

Changes Since the Preliminary Determination

Given the magnitude of the unreported U.S. sales of subject merchandise, we have determined to base the final determination in this case on adverse facts available. *See* AFA Memo. As adverse facts available, we have relied upon the highest POI-wide, product-specific margin calculated in the preliminary determination (83.79 percent). *See* Decision Memorandum, accessible in B–099 and on the World Wide 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 Indonesia 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.

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or de minimis or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand,* 65 FR 5520 (February 4, 2000); *see also Notice of Final Determination of Sales at Less Than Fair Value: Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada (''Stainless Steel Plate from Canada''),* 64 FR 15457 (March 31, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy* (''*Stainless Steel Plate from Italy*''), 64 FR 15458, 15459 (March 21, 1999).

In this case, we have calculated the dumping margins for the sole Indonesian respondent based entirely on adverse facts available. Consistent with our practice, we have assigned to all other manufacturers/exporters the simple average of the margins in the petition, which is 43.90 percent.[2]

We determine that the following weighted-average dumping margins exist for April 1, 1998, through March 31, 1999:

Manufacturer/exporter	Weighted-average margin (percent)
PT Krakatau Steel	83.79
All Others	43.90

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 an antidumping duty 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.

[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] We note that this was the only margin provided in the petition.

Dated: May 22, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix I—Issues in Decision Memo

Comments and Responses

Facts Available.

[FR Doc. 00–13578 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–859–801]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Slovakia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Doug Campau or Abdelali Elouaradia at (202) 482–1784 or (202) 482–0498, respectively; Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to 19 CFR Part 351 (April 1997).

Final Determination

We determine that cold-rolled flat-rolled carbon-quality steel products (cold-rolled steel) from Slovakia 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

The preliminary determination in this investigation was issued on December 28, 1999. *See Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Slovakia,* 65 FR 1110 (January 7, 2000). The investigation covers one manufacturer/exporter, VSZ, a.s. (VSZ). The period of the investigation (POI) is April 1, 1998, through March 31, 1999.

On January 7, 2000, VSZ requested that the Department rescind the initiation of the aforementioned investigation, arguing that the Department's retroactive revocation of Slovakia's NME status removed the legal basis for initiation, as the petitioners'[1] dumping allegations had been based on Slovakia's NME status. Petitioners objected to VSZ's request on January 18, 2000. On February 1, 2000, VSZ submitted a notification of withdrawal from the Department's verification.

On February 23, 2000, both the petitioners and VSZ filed case briefs. On March 1, 2000, petitioners submitted a rebuttal brief. No rebuttal briefs were filed by VSZ, and both parties withdrew their request for a hearing.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

The above is simply a summary of the products covered by the investigation. For the dispositive description of the scope of this investigation, see the ''Scope of Investigation'' section of the Decision Memorandum, which is on file in Room B–099 of the Department's Main Building and available on the World Wide Web at www.ita.doc.gov/import_admin/records/frn.

Analysis of Comments Received

All issues raised by the petitioners in their case briefs are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Holly Kuga, Acting Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 22, 2000, which is hereby adopted by 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 room 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.

Changes Since the Preliminary Determination

Because VSZ did not allow the Department to verify its submitted data, we have determined that the use of facts available is warranted under sections 776(a)(2)(C) and (D) of the Act. Moreover, we have determined that an adverse inference is warranted under section 776(b) of the Act, given that VSZ's refusal to allow verification constitutes failure to cooperate in this investigation by not acting to the best of its ability. As adverse facts available, we first assumed that the large number of U.S. sales for which the respondent had not received payment are in fact bad debt. We treated this bad debt expense as a direct selling expense, and made a circumstance of sale adjustment to normal value for these expenses. We then calculated margins for VSZ's reported sales using the reported data. From those calculations, we selected as adverse facts available the highest weighted-average, model-specific margin for the POI. *See* Decision Memorandum, accessible in room 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 the Customs Service to continue to suspend

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[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).

liquidation of all entries of cold-rolled flat-rolled, carbon-quality steel products from Indonesia 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.

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand,* 65 FR 5520 (February 4, 2000); *see also Notice of Final Determination of Sales at Less Than Fair Value: Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada* (*''Stainless Steel Plate from Canada''*), 64 FR 15457 (March 31, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy* (*''Stainless Steel Plate from Italy''*), 64 FR 15458, 15459 (March 21, 1999).

In this case, we have calculated the dumping margins for the sole Slovak respondent based entirely on adverse facts available. Given the circumstances of this case, and the discretion provided by Section 735(c)(5)(B) of the Act, we have selected a somewhat different methodology than that followed in other recent cases. Instead of relying on the simple average of the petition margins, we have relied on the weighted-average of the margins obtained for each product sold during the POI, by using the respondent's data and making the adverse inference that any U.S. sales for which payment was outstanding as of the respondent's latest submission was bad debt. The resulting margin, applicable to all other manufacturers/exporters, is 109.21 percent.

We determine that the following weighted-average dumping margins exist for April 1, 1998, through March 31, 1999:

Exporter/manufacturer	Weighted-average margin (percent)
VSZ, a.s	163.89
All Others	109.21

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: May 22, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix I—Issues in Decision Memo

Comments and Responses

1. Rescission of Initiation
2. Facts Available

[FR Doc. 00–13579 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–834]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Keir Whitson, at (202) 482–3003 or (202) 482–1777, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (''the Department'') regulations are to 19 CFR Part 351 (1999).

Final Determination

We determine that cold-rolled flat-rolled carbon-quality steel products (cold-rolled steel products) from Taiwan 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

The preliminary determination in this investigation was issued on December 28, 1999. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Taiwan*, 65 FR 1095 (January 7, 2000). The investigation initially covered two manufacturers/exporters: China Steel Corporation (CSC), and Taiwan Tokkin Corporation (Tokkin). Since the preliminary determination, the Department has concluded that the merchandise exported by Taiwan Tokkin, for the purpose of this investigation, is of Japanese origin. As a result, this final determination covers only CSC. *See Issues and Decision Memorandum (Decision Memorandum)* from Holly A. Kuga, Acting Deputy Assistant Secretary for Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 22, 2000, which is hereby adopted by this notice. The period of investigation is April 1, 1998, through March 31, 1999.

From January 17 through January 21, 2000, the Department conducted a verification of CSC's sales data.[1]

[1] The Department also conducted verification of the information submitted by Tokkin. However, as noted above, the Department has determined that Tokkin's merchandise exported to the United States during the POI to be of Japanese origin, such that this final determination covers only CSC.

Counsel to CSC requested a hearing on February 7, 2000, and withdrew the request on March 10, 2000. No other interested party requested a hearing. The petitioners [2] and CSC submitted case briefs on April 7, 2000, and rebuttal briefs on April 12, 2000. On April 25 and April 26, 2000, the petitioners submitted requests that the Department reject certain information contained in CSC's rebuttal brief, on the grounds that it contained new factual information that had been untimely filed. On April 26, 2000, CSC responded to the petitioners' claims that CSC's rebuttal brief contained new factual information. The Department determined that certain information was untimely filed, and disregarded that information in reaching its final determination. *See Memorandum to the File*, dated May 22, 2000.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

The above is simply a summary of the products covered by the investigation. For the dispositive description of the scope of this investigation, see the ''Scope of Investigation'' section of the *Decision Memorandum,* which is on file in Room B–099 of the Department's Main Building and available on the World Wide Web at www.ita.doc.gov/import—admin/records/frn.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are addressed in the *Issues and Decision Memorandum* (''Decision Memorandum'') from Holly Kuga, Acting Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 22, 2000, which is hereby adopted by 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 investigation 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.

Changes Since the Preliminary Determination

Based on our findings at verification and analysis of comments received, we have made adjustments to the preliminary determination calculation methodology in determining the final dumping margin in this proceeding. These adjustments are discussed in the *Decision Memorandum.*

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 Taiwan 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 April 1, 1998, through March 31, 1999:

Manufacturer/exporter	Weighted-Average Margin (percent)
China Steel Corporation	14.97
All Others	14.97

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 are a 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 an 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. The Department will also instruct the Customs Service to regard cold-rolled steel products manufactured by Tokkin, as described in the *Decision Memorandum,* to be of Japanese origin, and to terminate the suspension of liquidation of such products with respect to this proceeding. If the Department finds that Tokkin exports to the United States cold-rolled steel that the Department determines to be of Taiwan origin, those entries will be subject to the ''all others'' rate in this investigation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 22, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix

Issues Covered in Decision Memorandum

1. Country of Origin
2. Rejection of CSC's Special Incentive Program Discounts
3. Re-coding of certain CSC home market sales
4. Adverse inference for CSC's stevedoring expenses
5. Adverse inference for CSC's home market warranty expenses
6. Materials—scrap recovery
7. Materials—inventory valuation adjustments
8. General and administrative expense
9. General and administrative expense and financial expense ratios

[2] 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, the petitioners).

10. Exchange gains and losses
11. Non-operating income and expenses
12. Scrap revenue
13. Short-term interest income

[FR Doc. 00–13580 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–854]

Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From The People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482–0165.

The Applicable Statute

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 the Department's regulations are to the regulations at 19 CFR part 351 (April 1999).

Final Determination

We determine that certain cold-rolled flat-rolled carbon quality steel products (''cold-rolled steel'') from the People's Republic of China (''PRC'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margin of sales are shown in the ''Continuation of 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 and Postponement of Final Determination: Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the People's Republic of China,* 65 FR 1117 (January 7, 2000) (''*Preliminary Determination*''). Since the publication of the *Preliminary Determination,* the following events have occurred.

The Department issued supplemental questionnaires to Shanghai Baosteel Group Corporation (''Baosteel'') on February 14 and 29, 2000. Baosteel filed submissions on January 7, January 18, February 28, and March 14, 2000. The Department began its verification of Baosteel's sales and factor of production questionnaire responses on March 13, 2000. On March 16, 2000, Mr. Chen Delin, Vice-Director of the Legal Department of Baosteel, advised the verifiers that Baosteel was terminating the verification as a result of competing demands on Baosteel's time. Additionally, counsel for Baosteel requested that the verifiers return all documentation that had been provided by Baosteel in support of the Department's review of certain areas of Baosteel's response. Therefore, the verification team immediately terminated the verification and returned all documents collected during the course of verification to Baosteel's counsel. *See Memorandum For Edward Yang; ''Verification of Sales and Factors of Production for Shanghai Baosteel Group Corporation (Baosteel) in the Antidumping Duty Investigation of Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China,''* (March 22, 2000). This memorandum 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 March 29, 2000, petitioners (Bethlehem Steel Corporation, Ispat Inland Inc., LTV Steel Company, Inc., National Steel Corporation, and U.S. Steel Group, a unit of USX Corporation, (collectively ''petitioners'') submitted their case brief with respect to Baosteel. Baosteel did not submit any comments.

Period of Investigation

The period of investigation is October 1, 1998, through March 31, 1999.

Analysis of Comment Received

All issues raised in the case brief by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (''*Decision Memorandum*'') from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 22, 2000, which is hereby adopted by 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 investigation 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/.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after January 7, 2000 (the date of publication of the *Preliminary Determination* in the **Federal Register**). The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margin is as follows:

Manufacturer/exporter	Weighted-average margin (percent)
PRC-Wide rate	23.72

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, within 45 days, determine whether these imports are materially injuring, or

threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material 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 an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered 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: May 22, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix I—Issues in Decision Memo Comments and Responses

1. Adverse Facts Available.

[FR Doc. 00–13581 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–484–801] [A–588–806]

Revocation of Antidumping Duty Orders: Electrolytic Manganese Dioxide From Greece and Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of revocation of Antidumping Duty Orders: Electrolytic manganese dioxide from Greece and Japan.

SUMMARY: Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the United States International Trade Commission (''the Commission'') determined that revocation of the antidumping duty orders on electrolytic manganese dioxide from Greece and Japan are not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 31348 (May 17, 2000)). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), the Department of Commerce (''the Department'') is revoking the antidumping duty orders on electrolytic manganese dioxide from Greece and Japan. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), the effective date of revocation is January 1, 2000.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Carole Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–3217, respectively.

Background

On May 3, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 23596 and 64 FR 23675, respectively) of the antidumping duty orders on electrolytic manganese dioxide from Greece and Japan, pursuant to section 751(c) of the Act. As a result of the reviews, the Department found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the antidumping orders revoked.[1]

On May 17, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on electrolytic manganese dioxide from Greece and Japan would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. (See Electrolytic Manganese Dioxide from Greece and Japan, 65 FR 31348 (May 17, 2000) and USITC Publication 3296, Investigations Nos. 731–TA–406 and 408 (Review) (May 2000).)

Scope

Imports covered by these orders are electrolytic manganese dioxide (''EMD'') from Greece and Japan. EMD is manganese dioxide (MnO sub2) that has been refined in an electrolysis process. The subject merchandiseis an intermediate product used in the production of dry-cell batteries. EMD is sold in three physical forms, powder, chip, or plate, and two grades, alkaline and zinc chloride. EMD in all three forms and both grades is included in the scope of the order.[2] This merchandise is currently classifiable under the Harmonized Tariff Schedule (''HTS'') item number 2820.10.0000. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Determination

As a result of the determination by the Commission that revocation of these antidumping duty orders is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), is revoking the antidumping duty orders on electrolytic manganese dioxide from Greece and Japan. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), this revocation is effective on January 1, 2000.

The Department will instruct the U.S. Customs Service to discontinue the suspension of liquidation and collection of cash deposits rate and to refund with interest any cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: May 24, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13583 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–DS–P

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[1] See Final Results of Expedited Sunset Review: Electrolytic Manganese Dioxide From Greece, 64 FR 67861(December 3, 1999); and Final Results of Expedited Sunset Review: Electrolytic Manganese Dioxide From Japan, 64 FR 67858 (December 3, 1999).

[2] There has been one scope clarification with regard to EMD from Japan. On January 6, 1992, the Department ruled that high-grade chemical manganese dioxide (CMD–U) is within the scope of the order. See Electrolytic Manganese Dioxide from Japan; Final Scope Ruling, 57 FR 395 (January 6, 1992).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances antidumping duty administrative review.

SUMMARY: On March 7, 2000, the Department of Commerce (the Department) published the notice of initiation and preliminary results of its changed circumstances administrative review concerning whether Toray

Saehan, Inc. (TSI) is the successor firm to Saehan Industries, Inc. (Saehan) and whether the revocation issued for Cheil Synthetics, Inc. (Cheil), and applied to Saehan, applies to TSI. We have now completed that review. We have determined that TSI is the successor-in-interest to Saehan, and that the revocation issued for Cheil, and applied to Saehan, also applies to TSI.

EFFECTIVE DATE: May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney at (202) 482–4475 or Robert James at (202) 482–0649, AD/CVD Enforcement Office Eight, 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 by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR 351 (1999).

SUPPLEMENTARY INFORMATION:

Background

On July 5, 1996, the Department issued a partial revocation with respect to Cheil after finding zero or *de minimis* margins in three consecutive administrative reviews. (*See* Polyethtylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part, (61 FR 35177, July 5, 1996).) On January 26, 1998, the Department determined that Saehan was the successor-in-interest to Cheil, and that the partial revocation issued for Cheil applied to Saehan. (*See* Polyethtylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Changed Circumstances Antidumping Duty Administrative Review, (63 FR 3703, January 26, 1998).) On March 7, 2000, the Department published the preliminary results of this case. (*See* Polyethtylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review (65 FR 11982, March 7, 2000).) The Department preliminarily determined that TSI is the successor company to Saehan, and that the partial revocation issued to Cheil, and applied to Saehan, also applies to TSI. We received no comments on those preliminary results. The Department has conducted this administrative review in accordance with Section 751(b) of the Act.

Scope of the Review

The merchandise subject to this antidumping duty order are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate, film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films, and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule of the United States subheading 3920.62.00.00. The HTS subheading is provided for convenience and customs purposes. The written description of the scope of this order is dispositive.

This changed circumstances administrative review covers TSI.

Final Results of Changed Circumstances Review

We determine that the July 5, 1996 partial revocation issued with respect to Cheil, and applied to Saehan as Cheil's successor company, also applies to TSI. We will notify the U.S. Customs Service of our decision and instruct Customs to liquidate without regard to antidumping duties, merchandise produced by TSI on or after October 15, 1999, the date on which TSI was established.

This changed circumstances review and notice are in accordance with section 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 CFR 351.216.

Dated: May 17, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13582 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

South East Asia Telecommunications Matchmaker; Recruitment and Selection of Private Sector Participants; 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 that they also explain at the following website: *http://www.ita.doc.gov/doctm.* For a comprehensive description of the trade mission, obtain a copy of the mission statement from the project officer listed below. The recruitment and selection of private sector participants will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daley on March 3, 1997.

Telecommunications Matchmaker
South East Asia
November 13–17, 2000

FOR FURTHER INFORMATION CONTACT: Molly Costa at the Department of Commerce in Washington, DC, Telephone number: (202) 482–0692 or Fax: (202) 482–0178.

John Klingelhut,

Director, Office of Public and Private Initiatives.

[FR Doc. 00–13502 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–FP–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Business/Commerce, Citizen-At-Large, Commercial Shipping, Conservation, Fishing, Native Hawaiian,

Ocean Recreation, Tourism, and Whale Watching. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the conservation and management of marine resources; and the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve two-year terms, pursuant to the Council's Charter.

DATES: Applications are due by June 30, 2000.

ADDRESSES: Application kits may be obtained from Kellie Araki at 6700 Kalanianaole Hwy., Suite 104, Honolulu, Hawaii 96825. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Kellie Araki at (808) 397–2651, or kellie.araki@noaa.gov.

SUPPLEMENTARY INFORMATION: The HIHWNMS Council was originally established in March 1996 (the current Council was selected in July 1998) and has a broad representation consisting of 25 members. The Council represents the coordination link between the Sanctuary and the state and federal management agencies, Native Hawaiians, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the humpback whale and its habitat.

The Council functions in an advisory capacity to the Sanctuary Manager and is instrumental in helping produce annual operating plans and reports by identifying education, outreach, research, long-term monitoring, resource protection and revenue enhancement priorities. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary program within the context of Hawaii's marine programs and policies.

Authority: 16 U.S.C. Section 1431 et seq.

Dated: May 25, 2000.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 00–13584 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052400E]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (PFMC) Groundfish Management Team (GMT) will hold a working meeting which is open to the public.

DATES: The GMT working meeting will begin Monday, June 19, 2000 at 1 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m. Tuesday, June 20 through Thursday, June 22 at 3 p.m.

ADDRESSES: The meetings will be held at NMFS Northwest Regional Office, 7600 Sand Point Way NE, Seattle, WA; telephone: (206) 526–6120.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the GMT meeting is to prepare reports and technical advice for the upcoming PFMC meeting and in support of PFMC decisions. The GMT will discuss, receive reports, and/or prepare reports on the following topics during this working session, (1) GMT organization and work plan for 2000; (2) draft groundfish strategic plan; (3) rockfish bycatch rates and related issues; (4) observer program issues; (5) sustainable groundfish harvest rates; (6) plan amendment for bycatch and other issues; (7) capacity reduction and permit issues; (8) rebuilding plans for canary and cowcod rockfish, and other species as necessary; (9) inseason catch monitoring, projections, and management; and (10) stock assessment priorities and biological sampling.

Although non-emergency issues not contained in this agenda may come before the GMT for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice any any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservationa and Management Act, provided the publci has been notified of the Council's action to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dr. Don McIsaac at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 24, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–13573 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052400D]

South Atlantic 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 South Atlantic Fishery Management Council (Council) will hold meetings of its Scientific and Statistical, Spiny Lobster, Advisory Panel Selection (closed), Shrimp, Snapper Grouper, Personnel (closed) and Marine Reserves Committees. The Council will also hold joint meetings of its Mackerel and Golden Crab Advisory Panels and Committees. Public Hearings will be held for Golden Crab Amendment 3 and on the Dolphin Wahoo Fishery Management Plan (FMP). Notices of these hearings with times, locations, and subject matter are addressed in separate **Federal Register** notices. A public scoping meeting on the use of tailing permits in the spiny lobster fishery will be held to determine if these permits should remain in use in the fishery. Public comment periods will be held on proposed framework actions for mackerel and the need for an Interim Rule Request for Snapper Grouper Amendment 12. There will also be a Council Session.

DATES: The meetings will be held from June 12–16, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Cheeca Lodge, Mile Marker 82, U.S.

Highway 1, Islamorada, FL; telephone: (1–800) 327–2888 or (305) 664–4651.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366; fax: (843) 769–4520; email: kim.iverson@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

June 12, 2000, 8:30 a.m.–5:00 p.m.—Scientific and Statistical Committee Meeting;

The Scientific and Statistical Committee will review and comment on the: mackerel stock assessment report; social impact assessment and economic impact assessment guidelines; vessel capacity report; snapper grouper assessment; dolphin assessment draft dolphin/wahoo FMP; red drum stock assessment; snapper grouper assessment group report and draft position statement on the use of cultured fish for stock enhancement; Golden Crab Amendment 3; marine reserves public information document and scoping document; and bycatch reduction (BRD) protocol revisions.

June 13, 2000, 8:30 a.m.–12:00 Noon—Joint Mackerel Committee and Advisory Panel (AP);

The Mackerel Committee and AP will meet to review the Gulf king mackerel assessment; Scientific and Statistical Committee (SSC) comments; AP framework recommendations; hear a presentation on the king mackerel mercury issue; and develop Committee recommendations.

June 13, 2000, 1:30 p.m.–5:00 p.m.—Joint Golden Crab Committee and Advisory Panel;

The Golden Crab Committee and AP will meet to review public input on Amendment 3; review SSC comments; and develop AP and Committee recommendations on Amendment 3.

June 14, 2000, 8:30 a.m.–10:30 a.m.—Spiny Lobster Committee;

There will be a scoping meeting on the use of tailing permits in the spiny lobster fishery (8:30 a.m.) and the Committee will discuss the need and/or locations for additional scoping meetings.

June 14, 2000, 10:30 a.m.–12:00 noon—Advisory Panel Selection Committee (closed);

The AP Selection Committee will meet to review membership applications and develop recommendations.

June 14, 2000, 1:30 p.m.–3:30 p.m.—Shrimp Committee;

The Shrimp Committee will meet to review revised NMFS BRD Protocol and discuss a nighttime closure proposal.

June 14, 2000, 3:30 p.m.–5:30 p.m.—Snapper Grouper Committee;

The Snapper Grouper Committee will meet to review and discuss corporate permits and transfers; legal status of ''individual'' vs ''corporation'' permits; discuss other permit transfer issues; hear a report on harvest by powerheads; discuss the need for an Interim Rule for Snapper Grouper Amendment 12 and hear a presentation on overfishing definitions.

June 15, 2000, 8:30 a.m.–9:30 a.m.—Personnel Committee (closed);

The Personnel Committee will meet to discuss personnel issues.

June 15, 2000, 9:30 a.m.–12:00 noon Marine Reserves Committee;

The Marine Reserves Committee will meet to review the results of the informal meetings; review input received at the public scooping meetings; and review and develop committee recommendations on the Gray's Reef Memorandum of Understanding (MOU).

June 15, 2000, 1:30 p.m.–5:30 p.m.—Council Session;

From 1:30 p.m.–1:45 p.m., the Council will call the meeting to order, adopt the agenda and approve minutes from the March 2000 meeting.

From 1:45 p.m.–2:15 p.m., the Council will hear from the Mackerel Committee and take public comment on any proposed framework actions beginning at 1:45 p.m. The Council will also take framework action as appropriate.

From 2:15 p.m.–2:45 p.m., the Council will hear from the Golden Crab Committee and finalize and approve Amendment 3.

From 2:45 p.m.–3:00 p.m., the Council will hear a report from the Spiny Lobster Committee.

From 3:15 p.m.–3:45 p.m., the Council will hear from the Advisory Panel Selection Committee and appoint new advisory panel members (closed session).

From 3:45 p.m.–4:00 p.m., the Council will hear a report from the Personnel Committee (closed session).

From 4:00 p.m.–4:15 p.m., the Council will hear a report from the Shrimp Committee.

From 4:15 p.m.–4:45 p.m., the Council will hear from the Marine Reserves Committee and review and develop a position on the Gray's Reef MOU.

From 4:45 p.m.–5:30 p.m., the Council will hear a report from the Snapper Grouper Committee. The Council will take public comment on the need for an Interim Rule Request for Snapper Grouper Amendment 12 at 4:45 p.m.

June 16, 2000, 8:30 a.m.–12:30 p.m., Council Session;

The Council will hear a presentation from the US Coast Guard; a presentation on the South Carolina/NMFS Cooperative Law Enforcement Agreement; hear from the Dolphin Wahoo Committee regarding the status of public hearings and take actions relative to the draft FMP as necessary; hear an update on the Atlantic Coastal Cooperative Statistics Program (ACCSP); hear a presentation on the status of National policy on vessel monitoring systems; hear NMFS Status Reports on: 1999/2000 Mackerel Framework, Mackerel Amendment 12, Greater Amberjack trip limit resubmittal and Comprehensive Habitat Amendment final rule. The Council will also hear NMFS Status Reports on the landings for: Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish mackerel, Snowy grouper and Golden tilefish, Wreckfish, Greater amberjack and South Atlantic Octocorals. The Council will hear agency and liaison reports and discuss other business and upcoming meetings.

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 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 the Council office (see **ADDRESSES**) by June 5, 2000.

Dated: May 24, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–13571 Filed 5–30–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–35]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–35 with attached transmittal and policy justification.

Dated: May 24, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

11 MAY 2000
In reply refer to:
I-00/003804

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-35, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to New Zealand for defense articles and services estimated to cost $71 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-35

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: New Zealand**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 17 million
Other	$ 54 million
TOTAL	$ 71 million

(iii) **Description of Articles or Services Offered: This proposed sale includes 99 AN/VRC-92E, 295 AN/VRC-90E, and 287 AN/PRC-119E SINCGARS radios. Also included are 55 manpack remote control units with Global Position System, 20 manpack retrans units, receivers, installation kits, adapters, spare and repairs parts, support equipment, personnel training and training equipment, publications, U.S. Government and contractor engineering and logistics services and other related elements of program support.**

(iv) **Military Department: Army (VIX, VIY, and VIW)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None**

(vii) **Date Report Delivered to Congress: 11 MAY 2000**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

New Zealand - SINCGARS Radios

The Government of New Zealand has requested a possible sale for 99 AN/VRC-92E, 295 AN/VRC-90E, and 287 AN/PRC-119E SINCGARS radios. Also included are 55 manpack remote control units with Global Position System, 20 manpack retrans units, receivers, installation kits, adapters, spare and repairs parts, support equipment, personnel training and training equipment, publications, U.S. Government and contractor engineering and logistics services and other related elements of program support. The estimated cost is $71 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of New Zealand and further weapon system standardization and interoperability with U.S. forces.

The proposed sale of this equipment will enable New Zealand to provide secure tactical radio transmission that is extremely hard for an enemy to intercept or jam. The New Zealand Defense Force requires the radios as apart of a long-term procurement process designed to increase interoperability with United States lead coalitions, U.S. Forces, and allies of the United States. New Zealand will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be ITT of Fort Wayne, Indiana. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government representatives to New Zealand. There will be 12 contractor representatives for three weeks in support of operator/maintenance training to New Zealand.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 00–13522 Filed 5–30–00; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–36]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, transmittal 00–36 with attached transmittal, policy justification, Sensitivity of Technology, and section 620C(d) of the Foreign Assistance Act of 1961.

Dated: May 24, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

5 MAY 2000
In reply refer to:
I-00/004180

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-36, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services estimated to cost $60 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A.R. KELTZ
ACTING DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-36

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Turkey**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 28 million
Other	$ 32 million
TOTAL	$ 60 million

(iii) **Description of Articles or Services Offered: One FFG-7 PERRY class guided missile frigate for service with the Turkish Navy. Also included are: 800 rounds of 20mm cartridges, other ammunition items, shipyard/port support services and post transfer activities relating to "hot ship" turnover of one PERRY class frigate from the U.S. Navy, contractor engineering and logistics personnel support services, publications, repair and calibration services for shipboard equipment, publications and technical data/drawings, training and training equipment, support equipment, spare and repair parts and other elements of logistics necessary to prepare the frigates for transfer to Turkey in a "Safe to Steam" condition with all shipboard and weapon systems operational.**

(iv) **Military Department: Navy (SCS; AHS; AHT; GHS, Amendment 2; and BIS)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.**

(vii) **Date Report Delivered to Congress: 5 MAY 2000**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Turkey - FFG-7 PERRY Class Guided Missile Frigate

The Government of Turkey has requested a possible sale of one FFG-7 PERRY class guided missile frigate for service with the Turkish Navy. Also included are: 800 rounds of 20mm cartridges, other ammunition items, shipyard/port support services and post transfer activities relating to "hot ship" turnover of one PERRY class frigate from the U.S. Navy, contractor engineering and logistics personnel support services, publications, repair and calibration services for shipboard equipment, publications and technical data/drawings, training and training equipment, support equipment, spare and repair parts and other elements of logistics necessary to prepare the frigates for transfer to Turkey in a "Safe to Steam" condition with all shipboard and weapon systems operational. The estimated total cost is $60 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey, while enhancing weapon system standardization and interoperability.

Turkey already has six U.S. Navy PERRY class frigates in its Navy fleet. Turkey needs these frigates to continue its naval modernization program and enhance its Anti-Submarine Warfare (ASW) capability. The frigates will be provided in accordance with, and subject to the limitation on use and transfer provided under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The PERRY vessel will be transferred on a "hot ship" basis. The primary effort for transfer will be completed through the Naval Sea Systems Command. There are no prime contractors for provision of the weapon systems applicable to this platform. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of two contractor representatives in-country for two months to provide engineering technical support.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 00-36

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The PHALANX Close-In Weapon System crystals which contain the operating frequencies of the weapon system are considered critical technology and are classified Confidential. Select maintenance and operation publications are also classified Confidential.

2. AN/SLQ-32A(V)3 Improved ECM Set: Secret hardware. Due to USN requirements, this system must be removed and replaced with the basic AN/SLQ-32(V)2 system. Removal includes hardware, software, and technical manuals. When replaced with the basic AN/SLQ-32(V)2, the following release considerations apply: (1) hardware is Secret, (2) software is Confidential, (3) U.S. threat libraries are Secret and will not be released, and (4) technical manuals are Confidential and need to be sanitized.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advance capabilities.

4. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this proposed sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

Certification Under § 620C(d) Of The Foreign Assistance Act of 1961, As Amended

Pursuant to § 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 (Sec. 1-201(a)(13)) and the Secretary of State's memorandum of December 15, 1997, I hereby certify that the furnishing to Turkey one excess FFG-7 PERRY Class Guided Missile Frigate with 800 rounds of 20mm cartridges, other ammunition items, shipyard/port support services, contractor engineering and logistics personnel services, and other elements of spares and logistics support with an estimated cost of $60 million is consistent with the principles contained in § 620C(b) of the Act.

This certification will be made part of the notification to Congress under § 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and services and is based on the justification accompanying said notification, of which said justification constitutes a full explanation.

John D. Holum
Senior Adviser
for Arms Control and
International Security

[FR Doc. 00–13523 Filed 5–30–00; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF THE AIR FORCE

Air Force A–76 Initiatives Cost Comparisons and Direct Conversions (As of 31 March 2000)

The Air Force is in the process of conducting the following A–76 initiatives. Cost comparisons are public-private competitions. Direct conversions are functions that may result in a conversion to contract without public competition. These initiatives were announced and in-progress as of 31 March 2000, include the installation and state where the cost comparison or direct conversion is being performed, the total authorizations under study, public announcement date and actual or anticipated solicitation date. The following initiatives are in various stages of completion.

COST COMPARISONS

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
ANDERSEN	GUAM	SUPPLY AND TRANSPORTATION	317	25–Jun–98	28–May–99
ANDREWS	MD	COMMUNICATION FUNCTIONS	181	04–Oct–99	11–May–01
ANDREWS	MD	HEATING SYSTEMS	22	17–Dec–98	18–Feb–00
ANDREWS	MD	GROUNDS MAINTENANCE	9	17–Dec–98	17–Apr–00
ANDREWS	MD	AIRCRAFT MAINTENANCE AND SUPPLY	815	25–Jul–97	26–May–99
AVON PARK	FL	RANGE OPERATIONS	38	22–Dec–99	15–Oct–00
BARKSDALE	LA	PROTECTIVE COATING	13	14–Dec–98	15–Apr–00
BEALE	CA	BASE OPERATING SUPPORT	383	08–Sep–99	07–Mar–01
BOLLING	DC	SUPPLY AND TRANSPORTATION	163	01–Dec–98	11–Jul–00
CARSWELL	TX	BASE OPERATING SUPPORT	69	03–Feb–00	05–Jun–01
CHEYENNE MTN	CO	CIVIL ENGINEERING	139	08–May–98	24–Sep–99
DAVIS MONTHAN	AZ	BASE SUPPLY	35	04–Jan–00	TBD
DOVER	DE	HEATING SYSTEMS	11	07–Jan–99	07–Jan–00
EDWARDS	CA	BASE OPERATING SUPPORT	553	09–Dec–98	08–Nov–00
EDWARDS	CA	TRANSIENT AIRCRAFT MAINTENANCE/ AEROSPACE GROUND EQUIPMENT.	146	06–Nov–98	15–May–00

COST COMPARISONS—Continued

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
EGLIN	FL	ADMINISTRATIVE SUPPORT	52	22–Sep–99	29–Sep–00
EGLIN	FL	CIVIL ENGINEERING	200	03–Dec–96	21–Jul–98
EIELSON	AK	COMMUNICATIONS OPERATIONS AND MAINTENANCE.	63	29–Oct–99	05–Jul–00
ELMENDORF	AK	BASE SUPPLY	208	26–Mar–99	15–Apr–00
ELMENDORF	AK	COMMUNICATIONS OPERATIONS AND MAINTENANCE.	81	05–Jan–00	03–Sep–00
FAIRCHILD	WA	HEATING SYSTEMS	16	16–Mar–99	01–Mar–00
GREATER PITTSBURGH	PA	BASE OPERATING SUPPORT	77	13–Jun–96	10–Nov–99
GRISSOM	IN	BASE OPERATING SUPPORT	133	13–Jun–96	01–Oct–99
HANSCOM AFB	MA	CIVIL ENGINEERING	201	09–Dec–98	25–Feb–00
HANSCOM AFB	MA	BASE SUPPLY	70	10–Nov–98	15–Apr–00
HANSCOM AFB	MA	EDUCATION/TRAINING AND PERSONNEL	17	25–Nov–98	15–Apr–00
HILL AFB	UT	BASE OPERATING SUPPORT	576	30–Sep–98	20–Sep–00
HOLLOMAN AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE.	66	12–May–97	14–Jan–00
HOLLOMAN AFB	NM	TEST TRACK	125	18–Nov–99	25–Aug–00
HOMESTEAD	FL	BASE OPERATING SUPPORT	106	13–Jun–96	15–Jan–00
HURLBURT COM FL	FL	ADMINISTRATIVE SUPPORT	37	28–Apr–99	09–Mar–01
HURLBURT COM FL	FL	COMMUNICATION FUNCTIONS	50	31–Jul–98	19–Jun–00
HURLBURT COM FL	FL	BASE SUPPLY	33	15–Jul–98	17–Feb–00
KEESLER	MS	MULTIPLE SUPPORT FUNCTIONS	741	21–Sep–99	TBD
KIRTLAND	NM	BASE COMMUNICATIONS	228	06–Nov–97	04–Jun–99
LACKLAND	TX	MULTIPLE SUPPORT FUNCTIONS	1440	26–Jan–99	09–Aug–99
LANGLEY	VA	GENERAL LIBRARY	11	22–Dec–98	15–May–00
MARCH	CA	BASE OPERATING SUPPORT	195	13–Jun–96	15–Nov–99
MAXWELL	AL	MULTIPLE SUPPORT FUNCTIONS	814	28–Apr–98	22–Mar–99
MCCHORD	WA	GROUNDS MAINTENANCE	10	14–Jun–99	17–Jun–00
MULTIPLE INSTL		ADMINISTRATIVE SWITCHBOARD	44	19–Jun–97	15–Apr–00
CROUGHTON	UK				
FAIRFORD	UK				
LAKENHEATH	UK				
MILDENHALL	UK				
MOLESWORTH	UK				
MULTIPLE INSTLNS		TRANSIENT AIRCRAFT MAINTENANCE	15	07–Jul–99	30–Apr–00
LAKENHEATH	UK				
MILDENHALL	UK				
MULTIPLE INSTLNS		PRECISION MEASUREMENT EQUIPMENT LABORATORY (PMEL).	1516	24–Sep–98	29–Oct–99
MULTIPLE INSTLNS		TRANSIENT AIRCRAFT MAINTENANCE	24	07–Jul–99	30–Apr–00
RAMSTEIN	GERMY				
SPANGDAHLEM	GERMY				
MULTIPLE INSTLNS		COMMUNICATION FUNCTIONS	141	11–Mar–99	17–Apr–00
GENERAL MITCHELL	WI				
WESTOVER	MA				
MINN–ST PAUL	MN				
YOUNGSTOWN	OH				
WILLOW GROVE	PA				
GRISSOM	IN				
PITTSBURGH	PA				
MARCH	CA				
HOMESTEAD	FL				
CARSWELL	TX				
NEW ORLEANS	LA				
MULTIPLE INSTLNS		ADMINISTRATIVE SWITCHBOARD	50	19–Jun–97	15–Apr–00
RAMSTEIN	GERMY				
SEMBACH	GERMY				
SPANGDAHLEM	GERMY				
MULTIPLE INSTLNS		COMMUNICATION FUNCTIONS	208	03–Aug–99	15–May–00
LANGLEY	VA				
HILL AFB	UT				
MULTIPLE INSTLNS		MULTIPLE SUPPORT FUNCTIONS	124	14–Jul–99	30–Dec–00
CROUGHTON	UK				
FAIRFORD	UK				
MOLESWORTH	UK				
MULTIPLE INSTLNS		EDUCATION SERVICES	153	07–Jan–99	21–Jan–00
HOWARD	PANMA				
MOODY	GA				
MINOT	ND				
MT HOME	ID				

COST COMPARISONS—Continued

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
NELLIS	NV				
SHAW	SC				
WHITEMAN	MO				
LAJES	AZORE				
ELLSWORTH	SD				
SEYMOUR JOHNSON.	NC				
HOLLOMAN	NM				
DYESS	TX				
DAVIS MONTHAN	AZ				
CANNON	NM				
BARKSDALE	LA				
KEFLAVIK	ICELD				
LANGLEY	VA				
BEALE	CA				
NEW BOSTON	NH	BASE OPERATING SUPPORT	48	03–Dec–97	01–Jun–00
OFFUTT	NE	BASE OPERATING SUPPORT	1608	30–Sep–98	15–Aug–00
PATRICK	FL	SUPPLY AND TRANSPORTATION	43	14–May–98	12–Jun–00
PETERSON	CO	PERSONNEL SERVICES	92	05–Jan–00	01–Dec–00
ROBINS	GA	BASE SUPPLY	133	01–Apr–99	21–Jun–00
ROBINS	GA	EDUCATION SERVICES	57	07–Jan–99	26–Jun–00
ROBINS	GA	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	17	17–Mar–99	07–Apr–00
SCOTT	IL	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	178	19–Mar–98	16–Aug–99
SCOTT	IL	PERSONNEL SERVICES	236	25–Jun–99	19–Feb–01
SEMBACH	GERMY	COMMUNICATION FUNCTIONS	48	18–Dec–98	15–Apr–00
SHEPPARD	TX	MULTIPLE SUPPORT FUNCTIONS	549	21–Sep–99	29–Jun–00
TINKER	OK	EDUCATION SERVICES	54	16–Nov–98	17–Nov–99
TINKER	OK	BASE SUPPLY	152	30–Nov–98	17–Nov–99
TINKER	OK	ENVIRONMENTAL	53	24–Nov–98	12–Nov–99
TRAVIS	CA	VEHICLE OPERATIONS AND MAINTENANCE.	131	15–Jul–98	14–Apr–00
USAF ACADEMY	CO	BASE OPERATING SUPPORT	108	08–May–98	09–May–00
USAF ACADEMY	CO	CIVIL ENGINEERING	497	01–Dec–98	24–Mar–00
USAF ACADEMY	CO	FOOD SERVICES	297	08–May–98	21–Apr–99
USAF ACADEMY	CO	SERVICES ACTIVITIES	75	08–May–98	17–Sep–99
USAF ACADEMY	CO	COMMUNICATION FUNCTIONS	114	20–May–99	05–Jun–00
WHITEMAN	MO	UTILITIES PLANT	11	18–Aug–99	27–May–00
WILLOW GROVE	PA	BASE OPERATING SUPPORT	52	13–Jun–96	28–Sep–98
WRIGHT PATTERSON	OH	LABORATORY SUPPORT SERVICES	127	21–Aug–98	29–Oct–99
WRIGHT PATTERSON	OH	CIVIL ENGINEERING	104	21–Aug–98	03–Mar–00

DIRECT CONVERSIONS

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
ANDERSEN	GUAM	AIR TRAFFIC CONTROL	12	14–Sep–99	27–May–00
ASHEVILLE	NC	COMPUTER SYSTEMS MAINTENANCE	10	17–Feb–99	01–Jun–00
BARKSDALE	LA	ADMINISTRATIVE SWITCHBOARD	10	04–Aug–98	22–Nov–99
CANNON	NM	PROTECTIVE COATING	2	07–Jan–99	01–Apr–00
CHEYENNE MTN	CO	COMMUNICATION FUNCTIONS	385	08–May–98	01–Dec–99
DAVIS MONTHAN	AZ	PROTECTIVE COATING	9	24–Jun–98	27–Mar–00
DAVIS MONTHAN	AZ	RAILROAD TRANSPORTATION SERVICES	2	11–Aug–98	21–Apr–00
EDWARDS	CA	LIBRARY	7	09–Dec–98	26–Jun–00
ELLSWORTH	SD	ENVIRONMENTAL	7	05–Nov–98	14–Apr–00
F E WARREN	WY	BASE COMMUNICATIONS	105	30–Oct–97	10–Apr–00
GRAND FORKS	ND	MUNITIONS MAINTENANCE	5	17–May–99	13–Oct–00
HICKAM	HI	AIR MOBILITY OPERATIONS CONTROL CENTER (AMOCC).	53	29–Oct–99	01–Jul–00
HURLBURT COM FL	FL	HOUSING MANAGEMENT	12	20–Jan–00	TBD
HURLBURT COM FL	FL	SUPPLY RETAIL SALES SECTION	10	15–Jul–98	17–Feb–00
KIRTLAND	NM	ENVIRONMENTAL	32	24–Nov–98	17–Jul–00
KIRTLAND	NM	GENERAL LIBRARY	4	12–Jan–99	17–Jul–00
KIRTLAND	NM	AIRCRAFT MAINTENANCE	165	05–Nov–99	14–Dec–99
KIRTLAND	NM	EDUCATION SERVICES	12	26–Oct–98	20–Mar–00
KIRTLAND	NM	RECREATIONAL SUPPORT	9	12–Jan–99	17–Jul–00
KIRTLAND	NM	FOOD SERVICES	15	29–Oct–99	30–Apr–00

DIRECT CONVERSIONS—Continued

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
KIRTLAND	NM	CIVIL ENGINEERING	360	09–Dec–98	16–Feb–00
LACKLAND	TX	FOOD SERVICES	20	20–Dec–99	05–Jun–00
LACKLAND	TX	FACILITIES SERVICES MAINTENANCE	63	07–Feb–00	14–May–00
LANGLEY	VA	COMMUNICATION FUNCTIONS	8	23–Mar–99	01–Aug–00
LANGLEY	VA	COMMUNICATIONS ADMINISTRATION AND INFORMATION FUNCTION.	13	31–Jan–00	01–Aug–00
LANGLEY	VA	DATA PROCESSING EQUIPMENT OPERATIONS.	15	04–Nov–99	15–Sep–00
LANGLEY	VA	TRANSIENT AIRCRAFT MAINTENANCE	21	27–Aug–98	27–Aug–99
LANGLEY	VA	AIRCRAFT FLEET SERVICES	11	29–Jun–99	15–Jun–00
MALMSTROM	MT	BASE COMMUNICATIONS	85	06–Oct–97	15–May–00
MAXWELL	AL	EDUCATION SERVICES	35	31–Jul–98	15–Jan–00
MCGUIRE	NJ	FURNISHINGS MANAGEMENT	2	14–May–99	07–Apr–00
MCGUIRE	NJ	HEATING SYSTEMS	6	04–May–99	31–Aug–00
MINOT	ND	GROUNDS MAINTENANCE	9	18–May–99	23–Oct–00
MT HOME	ID	GROUNDS MAINTENANCE	6	20–Jul–99	09–Jul–00
MT HOME	ID	TRANSIENT AIRCRAFT MAINTENANCE	7	27–Aug–98	29–Jul–99
MULTIPLE INSTLNS		LINEN	11	17–Jun–99	22–May–00
RAMSTEIN	GERMY	.			
SPANGDAHLEM	GERMY	.			
LAKENHEATH	UK	.			
MILDENHALL	UK	.			
NELLIS	NV	COMMUNICATION FUNCTIONS	9	22–Dec–98	18–Nov–99
OFFUTT	NE	COMPUTER OPERATIONS	76	17–Feb–99	30–May–00
POPE	NC	FURNISHINGS MANAGEMENT	1	07–Oct–98	27–Mar–00
RANDOLPH	TX	COURSEWARE DEVELOPMENT	38	30–Sep–99	TBD
ROBINS	GA	GENERAL LIBRARY	6	23–Nov–99	16–Jun–00
ROBINS	GA	PROTECTIVE COATING	8	18–Jan–00	08–Jun–00
SCHRIEVER	CO	FOOD SERVICES	18	02–Sep–99	01–Nov–00
SCOTT	IL	FURNISHINGS MANAGEMENT	3	07–Aug–98	01–Jul–00
SCOTT	IL	ADMINISTRATIVE SWITCHBOARD	86	05–Aug–99	TBD
SCOTT	IL	MISCELANEOUS ACTIVITIES	2	18–Mar–99	20–Mar–00
SHAW	SC	COMMUNICATION FUNCTIONS	3	18–May–99	09–May–00
SHAW	SC	ENVIRONMENTAL	2	22–Mar–00	10–Jul–00
TRAVIS	CA	FACILITIES SERVICES MAINTENANCE	2	20–Apr–98	04–Jun–00
TRAVIS	CA	HEATING SYSTEMS	5	20–Apr–98	15–Apr–00
VANCE	OK	SURVIVAL EQUIPMENT	22	04–Feb–00	21–Oct–99
VANDENBERG AFB	CA	MISSILE STORAGE & MAINTENANCE	66	14–Apr–99	18–Dec–99
WHITEMAN	MO	ADMINISTRATIVE SWITCHBOARD	9	22–Dec–98	03–Sep–99
WHITEMAN	MO	HOSPITAL SERVICES	2	17–Apr–98	17–Nov–98
WHITEMAN	MO	GROUNDS MAINTENANCE	5	08–Dec–98	29–Sep–99

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–13487 Filed 5–30–00; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Draft Environmental Impact Statement for the Proposed Destination Broadwater Resort, Biloxi, MS

AGENCY: Army Corps of Engineers, Mobile District, DoD.

ACTION: Notice of availability.

SUMMARY: This notice of availability announces the public release of the Draft Environmental Impact Statement (EIS) for the Proposed Destination Broadwater Resort, Biloxi, Mississippi. On August 18, 1998, President Casinos, LLC submitted a Joint Permit Application and Notification to the US Army Corps of Engineers, Mobile District, the Mississippi Department of Environmental Quality, Office of Pollution Control and the Mississippi Department of Marine Resources for the Destination Broadwater project. The proposed action involves the redevelopment and construction of a large-scale casino destination resort at the existing Broadwater Resort and President Casino adjacent to US Highway 90 in Biloxi, Harrison County, Mississippi. Based on a review of the level of impacts associated with the proposed action, the Mobile District published a Notice of Intent to Prepare an Environmental Impact Statement on May 11, 1999. The Draft EIS has been developed by the Corps of Engineers (lead agency) and eight cooperating Federal and state agencies. The Draft EIS provides a comprehensive environmental analysis to aid in the decision-making process to deny or approve the Department of the Army permit for the proposed Destination Broadwater Project.

DATES: The public comment period for the Draft EIS will extend through July 17, 2000.

ADDRESSES: To receive a copy of the Draft EIS, or to submit comments, contact U.S. Army Corps of Engineers, Mobile District, Coastal Environment Team, Post Office Box 2288, Mobile, AL 36628–0001. A copy of the full document may also be viewed in the library in Biloxi, Mississippi or in the Mobile District.

FOR FURTHER INFORMATION CONTACT: Susan Ivester Rees, Ph.D., EIS Manager, (334) 694–4141, facsimile number (334)

690–2727 or e-mail address (susan.1.rees@sam.usace.army.mil).

SUPPLEMENTARY INFORMATION: Public comments can be submitted through a variety of methods. Written comments may be submitted to the Corps by mail, facsimile, or electronic methods, comments (written or oral) may be presented at a public meeting to be scheduled during the month of July, 2000 in Biloxi, Mississippi. Additional information on these meetings will be mailed in a public notice to the agencies and the public and announced in news releases.

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 00–13576 Filed 5–30–00; 8:45 am]

BILLING CODE 3710–CR–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS)/Draft Environmental Impact Report (DEIR)/Feasibility Study for Coyote Creek at Rock Springs Flood Damage Reduction Study, City of San Jose, Santa Clara County, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The purpose of this EIS/EIR is to identify and evaluate the environmental impacts of alternatives developed to provide flood damage reduction on Coyote Creek in the Rock Springs area in San Jose, California, as authorized by Section 205 of the 1948 Flood Control Act (33 U.S.C. 701s), as amended. To fulfill the requirements of Section 102(2)(c) of the National Environmental Policy Act, the Corps of Engineers has determined that the proposed action may have a significant effect on the quality of the human environment, and therefore, requires the preparation of an Environmental Impact Statement. This document will also serve as the Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA). Lead agency under CEQA is the Santa Clara Valley Water District. This environmental assessment is required by the National Environmental Policy Act of 1969, as amended (Pub. L. 91–190). Section 102(2)(A) requires Federal agencies to: ''Utilize a systematic interdisciplinary approach, which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making, which may have an impact on man's environment.''

FOR FURTHER INFORMATION CONTACT: Written comments and questions regarding the scoping process or preparation of the EIS/EIR/FS may be directed to Tamara Terry, U.S. Army Corps of Engineers, San Francisco District, 333 Market Street, 717S, Seventh Floor, San Francisco, CA 94105–2197, (415) 977–8545, Fax: (415) 977–8695. E-mail: *tterry@spd.usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. Authority: Pursuant to Section 102(2)(c) of the National Environmental Policy Act. of 1969, as implemented by the Council on Environmental Quality Act (CEQA) regulations (40 CFR Parts 1500–1508), the California Environmental Quality Act (CEQA), the Department of the Army and Santa Clara Valley Water District hereby give notice of intent to prepare a joint Environmental Impact Statement/ Environmental Impact Report/ Feasibility Study (EIS/EIR/FS) for the Rock Springs Flood Damage Reduction Project, Santa Clara, California.

2. Comments/Scoping Meetings: Interested parties are requested to express their views concerning the proposed activity. The public is encouraged to provide written comments in addition to or in lieu of, oral comments at the scoping meeting. To be most helpful, scoping comments should clearly describe specific environmental topics or issues, which the commentator believes the document should address. Oral and written comments receive equal consideration. Two workshop-scoping sessions will be held on Thursday, June 29, 2000. The first, from 2:30–4:30 p.m., is intended primarily for local, state, and federal agencies and organizations. The second, from 7–9 p.m. is intended for all interested parties. Both meetings will be held at the Leininger Community Center, 1300 Senter Road, San Jose, California.

3. Availability of EIS/EIR/FS: The Draft EIS/EIR/FS should be available for public review in the spring of 2001.

4. Agencies Supporting Project: The U.S. Army Corps of Engineers and Santa Clara Valley Water District will be the lead agencies in preparing the combined EIS/EIR/FS. The EIS/EIR/FS will provide an analysis supporting both the requirements of NEPA and CEQA in addressing impacts to the environment, which may result from implementation of flood control measures.

5. Purpose and Need for Project: This project is intended to reduce flood damages from high water in Coyote Creek.

6. Study Area Description: The Rock Springs study area encompasses an area bounded by Phelan Avenue, Senter Drive, and Needles Drive, in the Rock Springs area of San Jose, Santa Clara County, California.

7. 1997 Flooding: In 1997, 25 apartment buildings were badly damaged during the January 27, 1997 flood on Coyote Creek, approximately a 15-year event. Water in some buildings was 4 to 5 feet deep.

8. Project Alternatives: a. No Action. This alternative assumes that no flood damage reduction measures, structural or non-structural, will be implemented in the project area by the Federal government or any other entity. Flooding would continue at the same frequency and intensity as it has in the past.

b. Flood Control Alternatives. Preliminary analysis suggests that flood damage reduction alternatives to be studied for the Coyote Creek at Rock Springs area would include both structural and non-structural measures. Structural alternatives identified at this time are an embankment levee and floodwall, or a setback levee.

9. Other Environmental Review and Consultation Requirements: The DEIS/ EIR will be used as the primary information document to secure compliance the Clean Water Act Section 404(b)(1) guidelines, the Fish and Wildlife Coordination Act, and the Endangered Species Act. The DEIS/EIR will be used by the local sponsor to meet its responsibilities under the California Environmental Quality Act, and used by the San Francisco Regional Water Quality Control Board to meet its responsibilities under the Porter-Cologne Act. The DEIS/EIR will be used by the ''trustee agency'' reviews by the State of California.

10. DEIS/EIR Availability: The DEIS/ EIR will be available to the public in the Spring of 2001.

Peter T. Grass,

LTC, EN, Commanding.

[FR Doc. 00–13577 Filed 5–30–00; 8:45 am]

BILLING CODE 3710–19–U

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 July 31, 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: May 25, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Section 704 Annual Performance Report (Parts I and II).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 336; Burden Hours: 11,760.

Abstract: This form accomplishes the Statutory mandate for data collection in Title VII of Rehabilitation Act of 1973, as amended (Act) and implementing regulations. These data collection requirements are found in sections 13, 706, 721, and 725 of the Act and 34 CFR part 366. In meeting these statutory and regulatory requirements the 704 Reports serve as: annual performance reports and are a basis for further funding grantees submitting the reports; a report of the training and technical assistance survey; the basis for mandatory on-site compliance reviews conducted by the Education Department on 15% of Centers for Independent Living (CILs) funded through the CIL program; an annual compliance self-evaluation with standards and indicators; and as a source for an Annual Report to Congress.

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 Sheila Carey at (202) 708–6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–13564 Filed 5–30–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 30, 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: May 25, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Undersecretary.

Type of Review: New.

Title: Annual Performance Report for the Gaining Early Awareness for Undergraduate Programs (GEAR UP) Grantees.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 185;

Burden Hours: 6,475.

Abstract: The purpose of this information collection is accountability for program implementation and student outcomes for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). The information collected enables the U.S. Department of Education to

demonstrate its progress in meeting the GEAR UP performance objectives as reflected in the indicators.

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. 00–13563 Filed 5–30–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.215L]

Smaller Learning Communities Grant Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000 Funds; Correction

SUMMARY: On May 17, 2000 a notice inviting applications for new awards under the Smaller Learning Communities Grant program was published in the **Federal Register** (65 FR 31386). The notice was a complete application package and contained all of the information, application forms and instructions necessary to apply for grants under this program. One of the forms—Coversheet: Smaller Learning Communities (SLC) Grant Program Application Package—was printed incorrectly. Another form—Application for Federal Assistance (ED 424)—contained an incorrect CFDA number. The correct forms are included with this correction notice.

Also, in column two of page 31390, line 41, remove ''Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.'' This form should be included with your application. In column three of the same page (65 FR 31390), there is an incorrect website address. Line 31 should read http://ocfo.ed.gov/fedreg.htm

On page 31393, column two, line 49, remove ''9. GPRA.''

FOR FURTHER INFORMATION CONTACT: John De Cleene or Todd May, Smaller Learning Communities Grant Program, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202. Telephone: (202) 260–2195 (John De Cleene) or (202) 260–0960 (Todd May). E-mail: smallerlearningcommunities@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. Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 8005.

Dated: May 25, 2000.

Patricia McNeil,

Assistant Secretary for Elementary and Secondary Education.

BILLING CODE 4000–01–U

Coversheet

Smaller Learning Communities (SLC) Grant Program Application Package

1. Type of grant applied for. (Check just one.)

_____ Application for Planning Grant

_____ Application for Implementation Grant

2. LEA Name and Address:

NCES District ID:

3. Name and Address of Each School Named in the Accompanying SLC Application:

1. Name:
2. Name:
3. Name:
4. Name:
5. Name:
6. Name:

(Please list any additional schools on a separate page and attach.)

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name: _____

Address: _____

_____

_____ City _____ State County _____ ZIP Code + 4 _____ - _____

Organizational Unit

2. Applicant's D-U-N-S Number: |_|_|_|_|_|_|_|_|_|

3. Applicant's T-I-N |_|_| - |_|_|_|_|_|_|_|_|

4. Catalog of Federal Domestic Assistance #: **84.215L** ➔

5. Project Director: _____

Address: _____

_____ City _____ State _____ Zip code + 4

Tel. #: ( ) _____ - _____ Fax #: ( ) _____ - _____

E-Mail Address: _____

6. Is the applicant delinquent on any Federal debt? ___Yes ____No
(If "Yes," attach an explanation.)

Title: _____

_____

7. Type of Applicant *(Enter appropriate letter in the box.)* |_____|

A - State
B - County
C - Municipal
D - Township
E - Interstate
F - Intermunicipal
G - Special District
H - Independent School District
I - Public College or University
J - Private, Non-Profit College or University
K - Indian Tribe
L - Individual
M - Private, Profit-Making Organization
N - Other *(Specify)*: _____

8. Novice Applicant ___Yes ____ No

Application Information

9. Type of Submission:

-PreApplication	*-Application*
____Construction	____Construction
____Non-Construction	____Non-Construction

10. Is application subject to review by Executive Order 12372 process?
____ Yes *(Date made available to the Executive Order 12372 process for review)*: ____/____/_____

____ No *(If "No," check appropriate box below.)*
____ Program is not covered by E.O. 12372.
____ Program has not been selected by State for review.

11. Proposed Project Dates: ____/____/_____ ____/____/_____
Start Date: **End Date:**

12. Are any research activities involving human subjects planned at any time during the proposed project period? ____Yes _____No
a. If "Yes," Exemption(s) #: b. Assurance of Compliance #:

_____ ***OR*** _____

c. IRB approval date: _____ ____ Full IRB **or** ____ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$ _____ . 00
b. Applicant	$ _____ . 00
c. State	$ _____ . 00
d. Local	$ _____ . 00
e. Other	$ _____ . 00
f. Program Income	$ _____ . 00
g. **TOTAL**	$ _____ . 00

ED 424 (rev 11/12/99)

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative:

b. Title:

c. Tel. #: ( ) _____ Fax #: ( ) _____

d. E-mail Address:

e. **Signature of Authorized Representative**

Date: ____/____/_____

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" <u>or</u> "No". If research activities involving human subjects are <u>not</u> planned <u>at any time</u> during the proposed project period, check **"No."** **The remaining parts of item 11 are then not applicable.**

If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, <u>are</u> planned <u>at any time</u> during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If <u>all</u> the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

If <u>some or all</u> of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application,

is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725

Protection of Human Subjects in Research (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned.

If you marked item 11 on the application "Yes" and designated exemptions in 11a , **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily*

determined by the investigator or associated with the information), the definition of human subject is met. [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

[FR Doc. 00–13575 Filed 5–30–00; 8:45 am]
BILLING CODE 4000–01–C

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration, DOE.

ACTION: Agency information collection activities: Proposed collection; comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments on the proposed extension with revisions to the Form EIA–886, ''Alternative Transportation Fuels and Alternative Fueled Vehicles Annual Survey.''

DATES: Written comments must be submitted on or before July 31, 2000. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Jorge Luna-Camara, Energy Information Administration, EI–52, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr Luna-Camara may be reached by phone at (202) 426–1170; by e-mail *jcluna@eia.doe.gov*, or by FAX (202)426–1929.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to (name of contact listed above) at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. No. 93–275, 15 U.S.C. 761 *et seq.*) and the Department of Energy Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 *et seq.*) require the Energy Information Administration (EIA) to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public.

This form is used to gather information on the supply of ''alternative fueled vehicles'' (AFV's). Specifically, the Form EIA–886 collects data annually on the number of AFV's which suppliers ''made available'' in the previous calendar year, and the number of AFV's which suppliers plan to ''make available'' in the following calendar year. Additionally, the EIA collects data from Federal Agencies, State and Local Governments, Fuel Providers, Transit Authorities, and School Districts; on the number of AFV's in use and their ''alternate transportation fuel'' (ATF) consumption. These data will be published annually in the *Alternative to Traditional Transportation Fuel* publication. The data will also be available through the EIA home page at *http://www.eia.doe.gov.*

II. Current Actions

The EIA requests a three-year extension through April 30, 2004. Changes to the form are mainly to simplify and/or clarify the reporting of data. No additional data items are requested for collection. All voluntary data, including the vehicle identification number (VIN), will no longer be collected.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. With the proposed changes, public reporting burden for this collection is estimated to average approximately three hours for the AFV providers part of the form or the AFV users part of the form. However, there may be some respondents which would be both (AFV providers as well as AFV users). For these respondents, the EIA estimates an average of approximately five hours per response. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information. Please comment on the accuracy of the estimate.

D. The agency estimates that the only costs to the respondents are for the time it will take them to complete the collection. Please comment if respondents will incur start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection.

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User

A. Is the information useful at the levels of detail indicated on the form?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Authority: Sections 3507(h)(i) and 3506(c) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, May 24, 2000.

Jay H. Casselberry.

Agency Clearance Officer, Statistics and Methods Group.

[FR Doc. 00–13526 Filed 5–30–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–86–000]

DTE Energy Company, The Detroit Edison Company, International Transmission Company; Notice of Filing

May 24, 2000.

Take notice that on May 19, 2000, DTE Energy Company, The Detroit Edison Company and International Transmission Company filed an amendment to their joint application for authorization to transfer jurisdictional transmission assets pursuant to Section 203 of the Federal Power Act in the above-referenced docket.

Any person desiring to be heard or to protect such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before June 6, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13490 Filed 5–30–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–290–000]

Nautilus Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 23, 2000.

Take notice that on May 19, 2000, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, revised tariff sheets listed in Appendix A to the filing, to be effective July 1, 2000.

Nautilus states that the purpose of this filing is to revise Nautilus' Original Volume No. 1 FERC Gas Tariff to remove the maximum price cap or short-term capacity release transactions.

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. 00–13491 Filed 5–30–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF82–190–000, et al.]

SBR Associates and Ogden Haverhill Associates, et al.; Electric Rate and Corporate Regulation Filings

May 23, 2000.

Take notice that the following filings have been made with the Commission:

1. SBR Associates and Ogden Haverhill Associates

[Docket No. QF82–190–000]

Take notice that on May 15, 2000, SBR Associates and Ogden Haverhill Associates filed a Notice of Withdrawal of their January 29, 1999 Application for Recertification in the above-referenced proceeding.

Comment date: June 14, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. O.L.S. Energy-Chino

[Docket No. QF84–443–004]

Take notice that on May 18, 2000, O.L.S. Energy-Chino, c/o Delta Power Company, LLC, 89 Headquarters Plaza, North Tower, 14th Floor, Morristown, NJ 07960 filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations.

The Facility is a topping cycle cogeneration facility consisting of one GE Model LM2500 gas turbine in combined cycle configuration. The Facility is interconnected with, sells power to and receives backup and maintenance power from Southern California Edison Company. Recertification of the Facility is being requested by Applicant to reflect recent changes in the ownership structure of the Facility.

Comment date: June 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. O.L.S. Energy-Camarillo

[Docket No. QF84–447–004]

Take notice that on May 18, 2000, O.L.S. Energy-Camarillo, c/o Delta Power Company, LLC, 89 Headquarters Plaza, North Tower, 14th Floor, Morristown, NJ 07960 filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations.

The Facility is a topping cycle cogeneration facility consisting of one GE Model LM2500 gas turbine in combined cycle configuration. The Facility is interconnected with, sells power to and receives backup and maintenance power from Southern California Edison Company. Recertification of the Facility is being requested by Applicant to reflect recent changes in the ownership structure of the Facility.

Comment date: June 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Vineland Cogeneration Limited Partnership

[Docket No. QF90–176–002]

Take notice that on May 16, 2000, Vineland Cogeneration Limited Partnership, 536 West Elmer Road, Vineland, NJ 08360, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Commission previously certified the facility as a qualifying cogeneration facility in Docket No. QF90–176–001. Recertification is sought to reflect a

change in the upstream ownership interests in the facility.

The facility is an approximately 46.6 MW (net0 topping-cycle cogeneration facility located in Vineland, New Jersey. The facility is interconnected with and supplied electric power to the Vineland Municipal Electric Utility.

Comment date: June 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Gregory Power Partners, L.P.

[Docket No. QF99–32–002]

Take notice that on May 16, 2000, Gregory Power Partners, LP, Old Town Square, Suite 130, 1 Chishom Trail, Round Rock, Texas 78664, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Commission previously certified the facility as a qualifying cogeneration facility on April 12, 1999 in Docket No. QF99–32–000. On April 26, 2000, Applicant filed a Notice of Self-Recertification in Docket No. QF99–32–001. Recertification is sought to reflect a change in the upstream ownership interests in the facility, to inform the Commission of additional contracts with purchasers of the Facility's output, to update and clarify the ownership and description of certain on-site interconnection facilities and to report a contract for energy management services.

The facility is an approximately 427 MW (net) topping-cycle cogeneration facility located in Gregory, Texas. The facility is interconnected with Central Power & Light Company.

Comment date: June 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Ameren Services Company

[Docket No. ER00–1761–001]

Take notice that on May 18, 2000, Ameren Services Company (ASC), tendered for filing an executed Network Integration Transmission Service Agreement and an executed Network Operating Agreement, between ASC and the City of Owensville. ASC asserts that the purpose of the agreements is to permit ASC to provide service over its transmission and distribution facilities to the City of Owensville pursuant to the Ameren Open Access Tariff. The executed agreements supersede an unexecuted Network Service Agreement and an unexecuted Network Operating Agreement previously filed on March 1, 2000.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER00–2360–001]

Take notice that on May 16, 2000, Pacific Gas and Electric Company (PG&E), tendered for filing a new Reliability Services Tariff and corresponding amendments to its Transmission Owner (TO) tariff, originally filed with the Commission on April 28, 2000 in Docket No. ER00–2360–000.

Comment date: June 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Baconton Power LLC

[Docket No. ER00–2534–000]

Take notice that on May 17, 2000, Baconton Power LLC (Baconton), tendered for filing, pursuant to Section 205 of the Federal Power Act, a certificate of concurrence with respect to SOWEGA Power LLC's (SOWEGA Power) filing of a Common Bus Ownership Agreement between SOWEGA Power and Baconton. The agreement concerns ownership interests in certain 230 kV bus facilities on the plant site shared by SOWEGA Power and Baconton that are used to connect the generators to Georgia Transmission Corporation.

Comment date: June 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER00–2536–000]

Take notice that on May 18, 2000, Commonwealth Edison Company (ComEd) submitted for filing two Short-Term Firm Transmission Service Agreements (Agreement) establishing MidAmerican Energy Company (MEC), and Avista Energy, Inc. (Avista), as short-term firm customers under the terms of ComEd's OATT.

ComEd requests an effective date of December 9, 1999 to coincide with the first day of service to MEC under this type of Service Agreement, and an effective date of July 3, 1999 to coincide with the first day of service to Avista under this type of Service Agreement.

Copies of this filing were served on MEC and Avista.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. PPL Electric Utilities Corporation

[Docket No. ER00–2537–000]

Take notice that on May 18, 2000, PPL Electric Utilities Corporation (PPL Utilities), tendered for filing a Power Sales Agreement between PPL Utilities and PPL EnergyPlus, LLC.

PPL Utilities has served a copy of this filing on PPL EnergyPlus, LLC.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. New York State Electric & Gas Corporation

[Docket No. ER00–2539–000]

Take notice that on May 18, 2000, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a service agreement (the Service Agreement) under which NYSEG may provide capacity and/or energy to the County of Erie (County) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested waiver of the notice requirements so that the Service Agreement becomes effective as of May 19, 2000.

NYSEG has served copies of the filing upon the New York State Public Service Commission and County.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. PPL Electric Utilities Corporation

[Docket No. ER00–2540–000]

Take notice that on May 18, 2000, PPL Electric Utilities Corporation d/b/a PPL Utilities (formerly known as PP&L, Inc.) (PPL), tendered for filing a Service Agreement dated April 20, 2000 with Cargill-Alliant, LLC (Cargill) under PPL's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Cargill as an eligible customer under the Tariff.

PPL requests an effective date of May 18, 2000, for the Service Agreement.

PPL states that copies of this filing have been supplied to Cargill and to the Pennsylvania Public Utility Commission.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company LLC

[Docket No. ER00–2541–000]

Take notice that on May 18, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company), tendered for filing Amendment No. 1 to Supplement No.

11 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy requests a waiver of notice requirements to make service available as of December 1, 1999 to PG&E Energy Trading—Power, L.P.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER00–2542–000]

Take notice that on May 8, 2000, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and PG&E Energy Trading—Power, L.P. for acceptance by the Commission.

The ISO states that this filing has been served on PG&E Energy Trading—Power, L.P., and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of April 26, 2000.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. California Independent System Operator Corporation

[Docket No. ER00–2543–000]

Take notice that on May 18, 2000, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Nuevo Energy Company for acceptance by the Commission.

The ISO states that this filing has been served on Nuevo Energy Company and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective May 12, 2000.

Comment date: June 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13489 Filed 5–30–00; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6707–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; Implementation of the Oil Pollution Act Facility Response Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Implementation of the Oil Pollution Act Facility Response Plan Requirements, EPA ICR No. 1630.03, OMB Control No. 2050–0135, expiring August 22, 2000. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be submitted on or before July 31, 2000.

ADDRESSES: Materials relevant to this ICR may be inspected by visiting the Public (Superfund) Docket, located at 1235 Jefferson Davis Highway (ground floor), Arlington, Virginia 22202. The docket number for this notice is SPCC–12. The telephone number for the Public Docket is (703) 603–9232. A reasonable fee may be charged for copying docket material. Comments on specific aspects of the proposed information collection notice should be addressed to the Public Docket. The mailing address is: Superfund Docket, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, (703) 603–8823. Facsimile number: (703) 603–9116. Electronic address: *davis.barbara@epa.gov.* Note that questions, but not comments, will be accepted electronically. As noted above, comments should be sent to the Public Docket.

SUPPLEMENTARY INFORMATION:

Affected Entities

The owner or operator of a facility that is required to have a spill prevention control and countermeasure (SPCC) plan under the Oil Pollution Prevention regulation (40 CFR part 112) and that could cause ''substantial harm'' to the environment must prepare and submit to EPA a facility response plan. The criteria for a ''substantial harm'' facility include oil transfers over water and a total storage capacity over 42,000 gallons; or total oil storage capacity over one million gallons and insufficient secondary containment, proximity to sensitive environments, proximity to drinking water supplies, or recent large spills; or other factors considered by the Regional Administrator. (See 40 CFR 112.20(b)(1) and (f) for further information about the criteria for ''substantial harm.'')

The specific private industry sectors subject to this action include, but are not limited to: (1) Petroleum Bulk Stations and Terminals (NAICS 42271); (2) Electric Power Generation, Transmission, and Distribution (NAICS 2211); (3) Gasoline Stations/Automotive Rental and Leasing (NAICS 4471/5321); (4) Heating Oil Dealers (NAICS 454311); (5) Transportation, Pipelines, and Marinas (NAICS 482–486/488112–48819/4883/48849/492/71393); (6) Grain and Oilseed Milling (NAICS 3112); (7) Manufacturing (NAICS 31–33); (8) Warehousing and Storage (NAICS 493); (9) Crude Petroleum and Natural Gas Extraction (211111); (10) Mining and Heavy Construction (NAICS 2121/2123/213114/213116/234); (11) Schools (NAICS 6111–6113); (12) Hospitals (622–623); (13) Crop and Animal Production (NAICS 111–112); and (14) Other Commercial Facilities (miscellaneous).

Title

Implementation of the Oil Pollution Act Facility Response Plan

Requirements, OMB Control Number: 2050–0135. EPA Control Number: 1630.03. Expiration Date: August 22, 2000.

Abstract

The authority for EPA's facility response plan requirements is derived from section 311 of the Clean Water Act, as amended by the Oil Pollution Act of 1990. EPA's regulation is codified at 40 CFR 112.20. Facility response plans enhance EPA's ability to protect navigable waters and sensitive environments from oil discharges, help ensure that human health and safety are protected in the vicinity of the facility, and reduce the cost of spills to the regulated community and society. EPA is working to finalize proposed revisions to the rule to differentiate between animal fats and vegetable oils and other oils (64 FR 17227–17267, April 8, 1999).

Response Plan Certification

Under section 112.20(e), the owner or operator of a facility that does not meet the ''substantial harm'' criteria in section 112.20(f)(1) must complete and maintain at the facility the certification form contained in Appendix C to part 112.

Response Plan Development

Under section 112.20(a) or (b), the owner or operator of a facility that meets the ''substantial harm'' criteria in section 112.20(f)(1) must prepare and submit to the EPA Regional Administrator a facility response plan (FRP) following section 112.20(h). Such a facility may be a newly constructed facility or may be an existing facility that meets paragraph (f)(1) as a result of a planned change (paragraph (a)(2)(iii)) or an unplanned change (paragraph (a)(2)(iv)) in facility characteristics. Under paragraph (c), the owner or operator may be required to amend the FRP.

Response Plan Maintenance

Under section 112.20(g), the owner or operator must periodically review the FRP to ensure consistency with the National Oil and Hazardous Substances Pollution Contingency Plan and Area Contingency Plans. Under section 112.20(d), the facility owner or operator must revise and resubmit revised portions of the FRP after material changes at the facility. FRP changes that do not result in a material change in response capabilities shall be provided to the Regional Administrator as they occur. Periodic drills and exercises are required to test the effectiveness of the FRP.

Recordkeeping

Under section 112.20(e), an owner or operator who determines that the requirements do not apply must certify and retain a record of this determination. An owner or operator who is subject to the requirements must keep the FRP at the facility (section 112.20(a)), keep updates to the FRP (section 112.20(d)(1) and (2)), and log activities such as discharge prevention meetings, response training, and drills and exercises (section 112.20(h)(8)(iv)).

Purpose of Data Collection

A facility-specific response plan will help an owner or operator identify the necessary resources to respond to an oil spill in a timely manner. If implemented effectively, the FRP will reduce the impact and severity of oil spills and may prevent spills because of the identification of risks at the facility. Although the owner or operator is the primary data user, EPA also uses the data in certain situations to ensure that facilities comply with the regulation and to help allocate response resources. State and local governments may use the data, which are not generally available elsewhere and can greatly assist local emergency preparedness planning efforts.

EPA reviews submitted FRPs and must approve FRPs for those facilities whose discharges may cause ''significant and substantial harm'' to the environment in order to ensure that facilities believed to pose the highest risk have planned for adequate resources and procedures to respond to a spill. (See 40 CFR 112.20(f)(3) for further information about the criteria for ''significant and substantial harm.'')

Burden Statement

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide the information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems to collect, validate, and verify information, process and maintain information, and disclose and provide information; adjust methods to comply with any new requirements and instructions; 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.

This notice provides the Agency's estimated burden to facilities to perform the required actions. The burden to regulated facilities is estimated in terms of the labor cost and time (hours) spent by facility personnel to review the rule, determine if plan preparation is required, and, if necessary, prepare and maintain FRPs. The Agency developed the burden hour estimates for facilities based on consultations with engineers familiar with Oil Pollution Prevention compliance and with EPA Regional staff involved directly with the implementation of the program. The burden hours calculated for each action are taken from the current ICR, and EPA anticipates using these burden hour estimates in the ICR renewal. Costs are from the current ICR, and the Agency-calculated labor wage rates are in 1996 dollars. In the supporting statement for the ICR renewal, EPA will update these rates for the different labor categories to reflect current wage rates.

In 1999, EPA submitted an Information Correction Worksheet to OMB to reflect an Agency policy change in how contractor costs are estimated. EPA expects that many facilities will use contractors to complete activities associated with FRP preparation and maintenance. Rather than including these contractor costs as part of operation and maintenance costs as the Agency has done in the past, the worksheet converts these contractor costs to burden hours to reflect this policy change. The approach for estimating contractor costs used in the 1999 worksheet will also be used in the ICR renewal.

Currently, approximately 5,500 existing facilities are assumed to be regulated under the FRP requirements. The owner or operator of each new facility that is regulated under SPCC requirements in 40 CFR part 112 must read the FRP provisions in section 112.20 to determine whether or not the facility fits the criteria for ''substantial harm.'' EPA expects 4,355 new SPCC-regulated facilities to make this determination annually. Of those facilities, approximately 65 of them will fit the criteria for ''substantial harm'' and be required to submit an FRP. These estimates for existing and new facilities were made for the final year of the current ICR, August 1999 to August 2000. Based on assumptions in the current ICR, a one percent annual growth in the number of SPCC-regulated facilities and a 1.5 percent annual growth in the number of FRP-regulated facilities are expected.

In the current ICR and in the ICR renewal, facilities are categorized according to size and type of facility operations. EPA's small, medium, and large size categories are based on the volume of oil storage capacity at each facility. Facilities fall into three

additional categories based on how oil is used at the facility: consumption of oil as a raw material or end-use product (storage/consumption); marketing and distribution of oil as a wholesale or retail good (storage/distribution); or pumping oil from the ground as part of exploration or production activities (production).

An estimate of the number of existing FRP-regulated facilities in 2000 is shown in Exhibit 1. Exhibit 2 shows the number of new facilities expected to complete an FRP each year.

EXHIBIT 1.—NUMBER OF EXISTING FACILITIES MAINTAINING FRPS IN 2000

Model facility category	Facility size			Total
	Small	Medium	Large	
Storage/Consumption	0	160	1,973	2,133
Storage/Distribution	0	565	2,617	3,182
Production	0	215	.....	215
Total	0	940	4,590	5,530

EXHIBIT 2.—ESTIMATED ANNUAL NUMBER OF NEW FACILITIES

Model facility category	Facility type			Total
	Small	Medium	Large	
Storage/Consumption	0	2	23	25
Storage/Distribution	0	7	31	38
Production	0	2	.....	2
Total	0	11	54	65

Unit Burden Hour and Cost Estimates

In calculating the burden on all facilities subject to the FRP requirements, EPA uses a model-facility approach to characterize the diverse nature of regulated facilities. Facilities are categorized according to size and type of facility operations, based on the methodology used in the current ICR. The facility cost estimates for each category of activities, based on the Employment Cost Index (ECI) in terms of 1996 dollars, are: $58.61 for management, $40.17 for technical, $18.32 for clerical, $33.33 for foreman, and $22.22 for labor. In the supporting document for the current ICR, the Agency recognized that these wage rates may underestimate the actual wages received by some facility personnel but overestimate the actual wage rate received by other facility personnel. These costs will be updated in the supporting statement for the ICR renewal.

Exhibit 3 provides EPA's estimate of the per-facility (''unit'') burden hours and costs for personnel to read the regulation, make a determination of whether the FRP requirements apply to the facility, and complete a certification form as necessary. Most regulated facilities already have made this one-time determination.

EXHIBIT 3.—UNIT BURDEN HOURS AND COSTS TO READ RULE, MAKE DETERMINATION, AND COMPLETE CERTIFICATION

Type of facility	Burden hours				Cost		
	Management ($58.61)	Technical ($40.17)	Clerical ($18.32)	Total unit burden	Capital	O&M	Total unit cost
Small	0.25	0	0	0.25	0	0	$15
Medium	1	0	0.5	1.5	0	0	68
Large	2	4	0.5	6.5	0	0	287

Exhibits 4 and 5 provide EPA's estimate of the unit burden hours and costs required to become familiar with the rule, and prepare an FRP, respectively. The number of small facilities expected to be required to prepare a facility response plan is assumed to be negligible. Initial preparation of an FRP is a one-time event for the owner or operator of a facility. The burden and cost described in Exhibits 4 and 5 would apply to facilities who have not previously submitted FRPs because they are new or recently identified as being ''substantial harm'' facilities.

EXHIBIT 4.—ESTIMATED FIRST-YEAR UNIT BURDEN HOURS AND COSTS FOR FACILITIES REQUIRED TO PREPARE FACILITY RESPONSE PLANS: RULE FAMILIARIZATION

Type of Facility	Burden hours						Cost		
	Managerial ($58.61)	Technical ($40.17)	Clerical ($18.32)	Foreman ($33.33)	Labor ($22.22)	Total unit burden	Capital	O&M	Total unit cost
Storage/Consumption:									
Small	0	0	0	0	0	0	0	0	0
Medium	3	6	1	0	0	10	0	0	$ 435
Large	4	8	1	0	0	13	0	0	574
Storage/Distribution:									
Small	0	0	0	0	0	0	0	0	0
Medium	6	3	1	0	0	10	0	0	490
Large	4	8	1	0	0	13	0	0	574
Production:									
Small	0	0	0	0	0	0	0	0	0
Medium	3	6	1	0	0	10	0	0	435
Large	.....	.....	.....	.....	.....	.....	.....	.....	.....

EXHIBIT 5.—ESTIMATED FIRST-YEAR UNIT BURDEN HOURS AND COSTS FOR FACILITIES REQUIRED TO PREPARE FACILITY RESPONSE PLANS: FRP PREPARATION

Type of facility	Burden hours						Cost		
	Managerial ($58.61)	Technical ($40.17)	Clerical ($18.32)	Foreman ($33.33)	Labor ($22.22)	Total unit burden	Capital	O&M	Total unit cost
Storage/Consumption:									
Small	0	0	0	0	0	0	0	0	0
Medium	30.25	82.5	16.5	10	16	155.25	245	0	$6,323
Large	53.75	156.25	32.0	22	64	328	452	0	12,620
Storage/Distribution:									
Small	0	0	0	0	0	0	0	0	0
Medium	34.75	92.5	17.5	10	16	170.75	250	0	7,012
Large	60.75	191.25	33.0	22	64	371	463	0	14,466
Production:									
Small	0	0	0	0	0	0	0	0	0
Medium	23.25	73.5	12.5	10	16	135.25	240	0	5,473
Large	.....	.....	.....	.....	.....	.....	.....	.....	.....

Exhibit 6 provides EPA's estimate of the unit burden hours and costs required to maintain an FRP (i.e., subsequent year burdens following initial year plan preparation burden). FRP maintenance includes activities such as completing records, conducting exercises, and reviewing and updating the FRP as necessary. The regulation does not contain significant recordkeeping requirements, but the estimated burden hours for clerical labor may include some recordkeeping activities. The estimates in Exhibit 6 apply to existing facilities with response plans.

EXHIBIT 6.—ESTIMATED UNIT BURDEN HOURS AND COSTS FOR MAINTAINING FACILITY RESPONSE PLANS

Type of facility	Burden hours						Cost		
	Managerial ($58.61)	Technical ($40.17)	Clerical ($18.32)	Foreman ($33.33)	Labor ($22.22)	Total unit burden	Capital	O&M	Total unit cost
Storage/Consumption:									
Small	0	0	0	0	0	0	0	0	0
Medium	7.5	18.5	2	10	16	54	0	0	$1,908
Large	15.0	45.0	8	22	64	154	0	0	4,989
Storage/Distribution:									
Small	0	0	0	0	0	0	0	0	0
Medium	7.5	19.5	2	10	16	55	0	0	1,948
Large	17.0	58.0	10	22	64	171	0	0	5,665
Production:									
Small	0	0	0	0	0	0	0	0	0
Medium	7.5	18.5	2	10	16	54	0	0	1,908
Large	.....	.....	.....	.....	.....	.....	.....	.....	.....

Total Annual Expected Facility Burden and Cost

The total annual burden and cost for all existing facilities and all new facilities are shown in Exhibit 7. The current ICR that was submitted to the Office of Management and Budget includes similar burden and cost estimates for the first year of the current ICR, however the annual burdens presented in this notice are calculated based on the third and final year of the current ICR. Approximately 9,900 facilities are required to perform activities in the final year of the current ICR. Of these, over 4,300 new facilities will incur a combined burden of 2,600 hours and $130,000 to become familiar with the rule and determine that they are not required to prepare such plans. Each year approximately 65 new facilities will determine that they are required to prepare such plans and will incur a combined burden of 21,000 hours and $850,000 to do so. Approximately 5,500 existing facilities are required to maintain existing plans and will incur an annual combined burden of about 800,000 hours and $26,000,000 to do so.

EXHIBIT 7.—TOTAL ESTIMATED ANNUAL BURDEN HOURS AND COSTS FOR ALL NEW AND EXISTING FACILITIES

Type of facility	Burden hours						Cost		
	Managerial ($58.61)	Technical ($40.17)	Clerical ($18.32)	Foreman ($33.33)	Labor ($22.22)	Total burden	Capital	O&M	Total
Existing Facilities:									
Small	0	0	0	0	0	0	0	0	0
Medium	7,050	17,955.0	1,880.0	9,400	15,040	51,325	0	0	$1,817,325
Large	74,084	240,571.0	41,954.0	100,980	293,760	751,349	0	0	24,671,998
New Facilities that are Preparing FRPs:									
Small	0	0	0	0	0	0	0	0	0
Medium	404.25	1,004.5	191.5	110	176	1,886.25	2,720	0	77,860
Large	3,335.5	9,954.5	1,813.0	1,188	3,456	19,747	24,749	0	769,771
New Facilities that are not Preparing FRPs:									
Small	868	0	0	0	0	868	0	0	54,345
Medium	805	0	402.5	0	0	1,207.5	0	0	55,360
Large	156	312.0	39.0	0	0	507	0	0	22,469

As part of the Agency's efforts to reduce the overall paperwork burden on regulated facilities, EPA solicits comments on how the Agency could best reduce the total paperwork burden hours for this rule while maintaining an effective level of environmental protection. EPA also solicits public 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 technological collection techniques.

No person is 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 displayed at 40 CFR part 9. Send comments regarding these matters, or any other aspects of the information collection, including suggestions for reducing the burden, to the address listed under **ADDRESSES** near the top of this document.

Dated: May 23, 2000.

Stephen D. Luftig,

Director, Office of Emergency and Remedial, Response.

[FR Doc. 00–13560 Filed 5–30–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[SW–FRL–6707–3]

Notice of Final Decision on Request by FMC Corporation for an Extension of the Land Disposal Restrictions Effective Date for Five Waste Streams Generated at the Pocatello, Idaho Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision.

SUMMARY: The EPA is today approving the request submitted by FMC Corporation (FMC) for a one-year Case-by-Case (CBC) extension of the May 26, 2000, effective date of the RCRA land disposal restrictions (LDRs) applicable to hazardous wastes generated by FMC. This action responds to the request submitted by FMC, under the procedures for case-by-case extensions to an effective date, which allow any person to request the Administrator to approve, on a case-by-case basis, an extension of the applicable effective date of the LDRs. FMC requested the CBC extension due to the lack of available treatment capacity for five waste streams and the need for additional time to design, construct, and begin operation of an on-site treatment plant to treat those wastes. As discussed in the notice of proposed decision (See March 8, 2000), EPA concludes that FMC has adequately made each of the seven demonstrations required by statute in order for EPA to approve a CBC extension to the LDR effective date. As a result of today's action, FMC Pocatello can continue to manage the five subject wastes, as currently managed in on-site surface impoundments, until May 26, 2001, without being subject to the LDRs applicable to these wastes. If warranted, EPA may grant a renewal of this extension, for up to one year, which, at a maximum, would extend the effective date of the LDR for these wastestreams to May 26, 2002.

DATES: This case-by-case extension becomes effective on May 26, 2000.

ADDRESSES: The official record for this action is identified as Docket Number F–2000–FMCF–FFFFF. Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA.

The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412-9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of this CBC extension, contact William Kline, Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308–8440, [e-mail address: kline.bill@epamail.epa.gov].

SUPPLEMENTARY INFORMATION: The index of supporting materials evaluated by EPA in reaching our determination to propose approval of the requested CBC extension is available on the Internet. You will find this index at <http://www.epa.gov/epaoswer/hazwaste/ldr/fmc.htm>.

The information in this section is organized as follows:

I. Background of This Notice of Final Decision

A. RCRA and Congressional Mandate
B. Related Regulatory Background
C. Summary of FMC's Request for a CBC Extension
D. Relationship of this CBC Extension with the RCRA Consent Decree for FMC Pocatello
E. Summary of EPA's Evaluation of FMC's Demonstrations Under 40 CFR 268.5(a)

II. What Are EPA's Responses to Comments Submitted on the Notice of Proposed Approval of CBC Extension?

A. Will the Proposed LDR Treatment Plant have Sufficient Capacity?
B. Do the Surface Impoundments (Ponds 17 and 18), to be Used During the Extension, Meet the Minimum Technological Requirements of 40 CFR 268.5 (h)(2)?
C. Has EPA Consulted Adequately with the Tribes?
D. Other Issues Not Directly Related to the CBC Extension

III. What Is EPA's Final Determination on FMC's Request for a CBC Extension?

IV. Administrative Requirements

I. Background of This Notice of Final Decision

A. RCRA and Congressional Mandate

The Resource Conservation and Recovery Act (RCRA) establishes a program for controlling hazardous waste from the time it is generated, through its treatment and storage, until its ultimate disposal. EPA's regulations implementing RCRA are listed in Title 40 of the Code of Federal Regulations (CFR). Within Title 40, the hazardous waste regulations are listed in Parts 260 through 268, and 270 through 272.

Congress enacted the Hazardous and Solid Waste Amendments (HSWA) of 1984 to amend the Resource Conservation and Recovery Act. These amendments imposed additional responsibilities on persons managing hazardous wastes. Among other things, HSWA required EPA to develop regulations that prohibit the land disposal of certain hazardous wastes by specified dates in order to protect human health and the environment. EPA also was required to set ''levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' Characteristic hazardous wastes must be treated not only to remove the characteristic property that identifies them as hazardous, but also to treat any hazardous constituents that may be present in the wastes in significant concentrations (so-called ''underlying hazardous constituents''). See *Chemical Waste Management* v. *EPA*, 976 F. 2d 2, 14–17 (D.C. Cir. 1992).

Congress recognized that adequate alternative treatment, recovery, or disposal capacity which is protective of human health and the environment may not always be available by the applicable statutory effective dates. As such, EPA is authorized to grant a national capacity variance from the effective date which would otherwise apply to specific hazardous wastes, based on the earliest dates that such capacity will be available but not to exceed two years. In addition, EPA is authorized to grant an additional extension of the applicable LDR deadline, on a case-by-case basis, for up to one year. Such an extension is renewable once for up to one additional year. The specific requirements for obtaining a CBC extension of a Land Disposal Restriction (LDR) effective date, the subject of this notice of proposed decision, are found in Part 268—Land Disposal Restrictions, § 268.5(a), which rule essentially recites the statutory criteria found in RCRA section 3004 (h)(3).

B. Related Regulatory Background

On January 25, 1996 (61 FR 2338), EPA published a supplemental proposed rule that addressed land disposal restrictions applicable, among others, to characteristic mineral processing wastes. On behalf of its elemental phosphorous plant located in Pocatello, Idaho (FMC Pocatello), FMC submitted a petition to request a two-year national capacity variance from the Phase IV LDR requirements, citing the lack of available treatment capacity in the U.S. for certain wastes generated by its Pocatello, Idaho facility. FMC later submitted supplemental comments to its petition for a national capacity variance, informing EPA that it could not design a treatment unit for its wastes until the applicable treatment standards and the wastes subject to treatment were defined.

On May 12, 1997 (62 FR 26041), EPA proposed to grant a two-year national capacity variance for three waste streams (Medusa Scrubber Blowdown, Anderson Filter Media Rinsate, and Furnace Building Washdown) generated at the Pocatello, Idaho facility. FMC submitted comments, noting that the Anderson Filter Media Rinsate now had been eliminated, using pollution prevention. However, FMC identified three additional waste streams (Precipitator Slurry, NOSAP Slurry, and Phossy Water) generated in the same elemental phosphorous production process for which treatment capacity was not available and likewise needed to be granted the proposed two-year national capacity variance.

On May 26, 1998 (63 FR 28556), EPA promulgated the Final LDR Phase IV rule and granted a two-year national capacity variance for newly identified characteristic wastes from elemental phosphorous processing, including the five waste streams generated at FMC's facility in Pocatello, Idaho. This national capacity variance extended the LDR effective date for these wastes to May 26, 2000.

On July 12, 1999, FMC Corporation submitted to EPA a request, along with documentation to support the required seven demonstrations in section 268.5, for a one-year CBC extension of the LDR effective date for the five waste streams generated at its facility located in Pocatello, Idaho.

On March 8, 2000, EPA proposed to approve the CBC extension requested by FMC Corporation to extend the LDR effective date for the five waste streams generated at its facility located in Pocatello, Idaho. (See 65 FR 12233 for details of the notice of proposed approval of this CBC extension.) The proposed extension would allow FMC Pocatello to continue managing these wastes in on-site surface impoundments until May 26, 2001, while FMC designs and constructs a treatment plant to treat these waste streams to BDAT standards. As discussed below in Section II—only the Fort Hall Business Council (on behalf of the Shoshone-Bannock Tribes) and FMC Corporation submitted comments on the notice of proposed approval of this CBC extension.

The Federal Trade Commission (FTC) approved the proposed plan by FMC and Solutia, Inc. to operate a joint venture company, known as Astaris Idaho LLC, comprising the combined phosphorous chemical businesses of FMC Corporation and Solutia, Inc. Effective April 17, 2000, Astaris Idaho LLC became the owner and operator of the Pocatello facility. As such, Astaris Idaho LLC is responsible for the construction, operation, and maintenance aspects of the LDR Treatment Plant. However, FMC retains responsibility for funding the capital costs and for implementing all RCRA Consent Decree projects, including the proposed LDR Treatment Plant. For the sake of simplicity, for the purposes of this notice of final decision on the requested CBC extension, we simply will refer to FMC as the applicant for the CBC extension. However, where appropriate, the name FMC also is construed as encompassing the FMC/Astaris Idaho LLC joint venture.

C. Summary of FMC's Request for a CBC Extension

FMC's CBC extension request is for five waste streams, generated in the production of elemental phosphorous: (1) Non-Hazardous Slurry Assurance Project (NOSAP) Slurry, (2) Medusa Scrubber Blowdown, (3) Furnace Building Washdown, (4) Precipitator Slurry, and (5) Phossy Water. These five waste streams are generated in large quantities (see the chart) and pose unique handling, treatment, and disposal considerations, given the presence of elemental phosphorous and cyanide, causing the wastes to exhibit the characteristic of reactivity for phosphine and hydrogen cyanide gas, and also to exhibit the characteristic of ignitability. Each of these waste streams also contains varying levels of Naturally Occurring Radioactive Material (NORM) which pose special treatment concerns for off-site commercial TSDs.

QUANTITY OF FMC WASTE STREAMS GENERATED

Waste	Quantity generated in millions of gallons per year
Precipitator Slurry	4
NOSAP Slurry (treated precipitator slurry)	21
Phossy Water	89
Medusa Scrubber Blowdown	55
Furnace Building Washdown	93

FMC requested the CBC extension due to the lack of available treatment capacity for these five waste streams and the need for additional time to design, construct, and begin operation of an on-site LDR Treatment Plant (System). This proposed treatment plant would use a combination of clarification, the Anoxic form of the Zimpro treatment process (an anoxic aggressive caustic hydrolysis at elevated temperature and pressure), pH adjustment, filtration, and stabilization to treat the FMC Pocatello waste streams to meet the applicable BDAT standards, including reducing the levels of elemental phosphorous and cyanide in the wastes such that the treated wastes do not exhibit the characteristic of reactivity for phosphine and hydrogen cyanide gas or exhibit the characteristic of ignitability.

Currently, these five waste streams are managed in on-site surface impoundments and must be kept covered with water to prevent ignition. The surface impoundments into which these wastes will be managed during the CBC extension were constructed to meet the RCRA minimum technological requirements of 40 CFR 268.5(h)(2). Specifically, the off-specification Precipitator Slurry, Furnace Building Washdown, Medusa Scrubber Blowdown, and Phossy Water waste streams are pumped to a surface impoundment, designated as Pond 18, for clarification. The NOSAP Slurry is pumped to another surface impoundment, Pond 17. Once the LDR Treatment Plant is operational, precipitator slurry will be treated by it and the discharge to Pond 17 will be eliminated, thereby eliminating the NOSAP Slurry waste stream. Operating the LDR Treatment Plant also will eliminate the need for the continued discharge of these five waste streams to the on-site ponds.

FMC has provided documentation showing that they initiated research and development efforts in 1990 to develop the technology needed to treat the Pocatello, Idaho facility's elemental phosphorous production waste streams to meet anticipated LDR standards. FMC also submitted the results of extensive surveys, involving approximately 200 commercial TSD facilities nationwide, that it conducted in an attempt to find off-site available treatment capacity. These surveys indicated that no commercial TSD facility contacted was able or willing to treat the Pocatello waste streams. The chemical properties of these waste streams, along with the volumes generated, are among the reasons given by commercial facilities for not being able or desiring to treat these waste streams. Corroborating FMC's documentation, EPA has not received any statement or other indication from commercial hazardous waste TSD facilities that treatment capacity exists for these FMC waste streams.

FMC spent considerable time and effort on identifying an appropriate treatment technology for these waste streams. However, FMC determined that it could not finalize development of the treatment technology, design the LDR Treatment Plant, obtain permits, construct the LDR Treatment Plant, and begin operating the LDR Treatment Plant within the two-year period of the current national capacity variance that expires on May 26, 2000. As such, in July 1999, FMC submitted its request to EPA for a CBC extension to further extend the LDR effective date for the subject five waste streams generated at its Pocatello, Idaho facility.

On March 8, 2000, EPA published a notice of intent (65 FR 12233) to approve FMC's request for a one-year extension of the LDR effective date, based upon a determination that FMC had fulfilled the criteria of 40 CFR 268.5(a) which sets forth the required demonstrations to be made in requesting a CBC extension of a LDR effective date.

D. Relationship of the CBC Extension With the RCRA Consent Decree for FMC Pocatello

To settle charges that it repeatedly had violated hazardous waste regulations, including numerous RCRA violations involving the mismanagement of ignitable and reactive wastes in on-site ponds, FMC negotiated a consent decree with the United States government to pay a civil penalty and commit to bringing the Pocatello facility into RCRA compliance. On July 13, 1999, the U.S. District Court for the District of Idaho entered as final a Consent Decree (*United States* v. *FMC Corp.*, Civ. 98–

0406–E–BLW) requiring closure of certain on-site ponds, tank system upgrades to comply with RCRA standards, and the implementation of SEPs to address air quality. This Consent Decree also mandates certain requirements regarding the management of FMC Pocatello waste streams, including site-specific treatment requirements to deactivate ignitable and reactive waste streams, and the requirement to design, construct, and commence operation of a LDR Treatment Plant for these waste streams by no later than May 2002, prohibiting the discharge of untreated hazardous wastes to the facility's on-site ponds after May 26, 2002. (The terms ''LDR Treatment System'' and ''LDR Treatment Plant,'' as used in the RCRA Consent Decree and the FMC CBC extension application, respectively, are essentially referring to the same treatment unit and associated ancillary equipment, needed to be designed, constructed, and operated in order to treat the FMC Pocatello hazardous waste streams to meet the applicable LDR requirements.) The RCRA Consent Decree does not negate the need for FMC to pursue CBC extension(s), as needed, to allow the continued discharge of the LDR subject wastes to on-site surface impoundments beyond the May 26, 2000 expiration date of the current national capacity variance. As we discussed in the March 8, 2000, notice of proposed approval of this CBC extension, although there is no direct connection between EPA's approval of FMC's request for a one year extension to the LDR effective date and the Consent Decree, EPA believes that FMC's compliance with the terms of the RCRA Consent Decree bolster certain of the demonstrations required by RCRA section 3004(h)(3) and the implementing rules to obtain the requested CBC extension. EPA views these courses of action as ensuring consistency of both the CBC extension and RCRA Consent Decree processes and complementary in compelling FMC toward providing the necessary treatment capacity to properly manage the subject waste streams. Conversely, approval of this CBC extension obviously does not alter any terms of the RCRA Consent Decree, since there is no direct connection between the Consent Decree and this proceeding.

E. Summary of EPA's Evaluations of FMC's Demonstrations Under 40 CFR 268.5(a)

The following is a summary of each of the seven demonstrations required under 40 CFR 268.5(a) to obtain a CBC extension and EPA's evaluation of the adequacy of the demonstrations made by FMC Pocatello.

1. Section 268.5(a)(1)—The Applicant (FMC) Has Made a Good-Faith Effort To Locate and Contract With Treatment, Recovery, or Disposal Facilities Nationwide To Manage Its Waste in Accordance With the LDR Effective Date of the Applicable Restriction (*i.e.,* May 26, 2000)

When faced with pending regulation under the Land Disposal Restrictions, FMC initially surveyed 168 treatment, storage, and disposal facilities (TSDs) throughout the nation, in an effort to locate commercial treatment or disposal capacity. None of these facilities was able or willing to provide treatment or disposal capacity for the FMC Pocatello waste streams. Various reasons were noted by the TSDs in declining to manage these waste streams, including the presence of elemental phosphorous, the potential for generation of phosphine gas, levels of naturally occurring radioactive materials (NORM), and the volume of wastes to be managed. Likewise, EPA was not aware of any available capacity for these waste streams. FMC provided these findings to EPA in support of its request for a national capacity variance for the subject waste streams. Given these findings, as well as EPA not being aware of the availability of treatment capacity for these waste streams, and no commercial (or other) entity providing waste treatment disputing these conclusions, EPA granted a national capacity variance for the FMC Pocatello waste streams, extending the LDR effective date for these waste streams to May 26, 2000. (See 63 FR 28556, May 26, 1998.)

In early 1999, FMC conducted a follow-up survey of available treatment capacity at TSDs to support its request for a CBC extension. This survey indicated that there still was no TSD facility able or willing to treat the FMC Pocatello waste streams.

EPA is convinced that FMC has made concerted and reasonable efforts to locate adequate, alternative treatment capacity for the five waste streams for which it is requesting a CBC extension of the LDR effective date, but that no such treatment capacity exists. EPA's own independent evaluation confirms absence of any available alternative treatment capacity for these wastes at this time. EPA thus finds that FMC has adequately fulfilled the requirements of this demonstration.

2. Section 268.5 (a)(2)—The Applicant (FMC) Has Entered Into a Binding Contractual Commitment To Construct or Otherwise Provide Alternative Treatment, Recovery, or Disposal Capacity That Meets the Treatment Standards Specified in 40 CFR Part 268, Subpart D or, Where Treatment Standards Have Not Been Specified, Such Treatment, Recovery, or Disposal Capacity Is Protective of Human Health and the Environment

FMC has provided documentation that it has entered into a contract with Raytheon Engineers and Constructors to design, engineer, and construct the LDR Treatment Plant. In addition to this contract, FMC also provided other documentation, including corporate approval of funds, purchase orders for equipment, supplies, and services that further support its demonstration of a binding contractual commitment to construct the LDR Treatment Plant.

EPA also notes that the RCRA Consent Decree imposes an additional binding legal commitment on FMC to construct the LDR Treatment System. Under the RCRA Consent Decree, FMC is compelled to design and construct the proposed LDR Treatment System by May 2002. If FMC fails to meet the stipulations of this RCRA Consent Decree, it will be subject to significant monetary penalties.

We conclude that FMC has provided the necessary documentation to meet this demonstration of its binding contractual commitment to provide the on-site treatment capacity needed to treat the subject waste streams generated at the Pocatello, Idaho facility to BDAT standards.

3. Section 268.5 (a)(3)—Due to Circumstances Beyond the Applicant's (FMC's) Control, Such Alternative Capacity Cannot Reasonably Be Made Available by the Applicable Effective Date. This Demonstration May Include a Showing That the Technical and Practical Difficulties Associated With Providing the Alternative Capacity Will Result in the Capacity Not Being Available by the Applicable Effective Date

The five waste streams for which FMC requests a CBC extension pose numerous and essentially unique treatment problems, as evidenced by the non-availability of commercial treatment capacity. Since the early 1990s, FMC has committed considerable resources toward determining and developing the most appropriate treatment technology for these waste streams, evaluating more than 50 potential waste treatment technologies.

However, in addition to solving the technical problems posed by these waste streams, FMC also has needed to know the final Phase IV LDR treatment standards. FMC's documentation shows that it has made an intensive effort to determine the treatment technology most appropriate to treat the FMC Pocatello waste streams to meet the LDR requirements. Now that an appropriate treatment technology/process has been identified, FMC is proceeding with plans to construct the LDR Treatment Plant, incorporating the Zimpro anoxic hydrolysis process as the principal treatment technology in the treatment system.

We believe FMC has acted in good faith to provide the necessary treatment capacity but that such capacity could not reasonably be made available by May 26, 2000, the current effective date of the land disposal restriction for these waste streams. EPA believes the lack of treatment capacity for these waste streams is due to circumstances beyond the control of FMC. These waste streams pose unique handling, safety, and treatment considerations, including the presence of elemental phosphorous and cyanide, and the potential for generation of phosphine and hydrogen cyanide gas. FMC has demonstrated to EPA's satisfaction that it has aggressively pursued the development of technology capable of treating the FMC Pocatello waste streams to BDAT standards and is actively engaged in the design and construction of the treatment system employing this technology to provide the necessary treatment capacity. However, it is not possible for FMC to construct the LDR Treatment Plant needed to provide the treatment capacity and to be operating by May 26, 2000.

4. Section 268.5 (a)(4)—The Capacity Being Constructed or Otherwise Provided by the Applicant (FMC) Will Be Sufficient To Manage the Entire Quantity of Waste That Is the Subject of the Application

The proposed LDR Treatment uses a combination of lime treatment, anoxic hydrolysis, metals precipitation, filtration, and stabilization. FMC, in its application for a CBC extension, states that the LDR Treatment Plant to be constructed will have sufficient capacity to adequately treat the waste streams generated by the Pocatello, Idaho facility. FMC has provided documentation that demonstrates this treatment system will treat the subject waste streams to meet the LDR treatment standards, destroying elemental phosphorous and cyanide, and removing the hazardous characteristics from these waste streams. FMC has made available information, initially designated as CBI, regarding the process design flow and operating conditions of the proposed LDR Treatment Plant. The documentation shows that FMC plans to design, construct, and operate the LDR Treatment Plant with sufficient capacity to treat not only the annual production of the five waste streams that are the subject of the requested CBC extension but also treat, within five years of commencing operation of the LDR Treatment Plant, the accumulated solids in Pond 18, as is required by the RCRA Consent Decree. As discussed below, the Tribes, in comments provided to EPA, expressed concern that the proposed LDR Treatment Plant may not have sufficient capacity, in light of recent revised FMC estimates of the quantity of Pond 18 solids to be removed and treated. Based on the data submitted by FMC (as discussed in the March 8, 2000 FR notice) in support of its request for a CBC extension, the projected design capacity of the LDR Treatment Plant will be sufficient to treat the five subject waste streams and the Pond 18 solids. FMC also notes waste reduction initiatives being implemented at the Pocatello facility will further ensure that the LDR Treatment Plant will be able to accommodate the full annual production of the five waste streams and also meet the requirement to treat the Pond 18 solids. In a letter, dated April 24, 2000, FMC reaffirmed its commitment to ensure that the Pocatello facility definitely will have sufficient capacity to manage the five waste streams that are the subject of this CBC extension. FMC states that it does not anticipate reducing the production of elemental phosphorous during the one-year CBC extension, but, if necessary, it will reduce plant production to reduce the quantity of its waste streams in order to further ensure sufficient treatment capacity.

The RCRA Consent Decree likewise requires that the LDR Treatment System have sufficient capacity to treat the production wastes and the accumulated solids from Pond 18. At this point, FMC has completed approximately 20% of the design of the proposed LDR Treatment Plant. Design work is scheduled to be completed in January 2001. EPA is convinced that FMC is committed to providing the necessary treatment capacity to ensure that the entire quantity of these five waste streams, for which FMC is requesting a CBC extension, will meet applicable BDAT standards. FMC has noted it will need to request an extension of this CBC extension to provide additional time to complete the construction of the proposed LDR Treatment Plant. At that time, FMC will have completed the design of the LDR Treatment Plant and will need to provide further confirmation that sufficient treatment capacity is being constructed.

5. Section 268.5(a)(5)—The Applicant (FMC) Provides a Detailed Schedule for Obtaining Operating and Construction Permits or an Outline of How and When Alternative Capacity Will Be Available

FMC has provided EPA with a proposed schedule for the design, construction, and permitting of the LDR Treatment Plant to be constructed at its Pocatello, Idaho facility. This schedule, in effect, coincides with the schedule outlined under the Consent Decree for bringing the LDR Treatment System on-line by May 2002. This schedule provides the necessary design, construction and permitting milestones for bringing the LDR Treatment Plant on-line and therefore providing the treatment capacity needed to treat the subject waste streams to BDAT standards. EPA notes that the one-year CBC extension being approved today, extending the LDR effective date until May 26, 2001, likely will not provide sufficient time for FMC to bring the LDR Treatment Plant into operation. FMC likely will need to request a renewal of this CBC extension to provide additional time to complete construction and commence operation of the LDR Treatment Plant. As noted in the March 8, 2000 FR notice, FMC provided a number of milestones, including the startup of onsite construction in July 2000 and the completion of design and engineering work in January 2001. EPA will closely monitor the progress being made by FMC toward its stated schedule for the design, construction, and operation of the LDR Treatment Plant. FMC must provide a monthly progress report, as discussed below, that identifies any delay or possible delay in developing this treatment capacity and describes the actions being taken to remedy any such delay. EPA further will examine FMC's progress in meeting these milestones at such time when FMC reapplies for an additional CBC extension, as anticipated.

FMC has provided the necessary design, construction and permitting milestones for bringing the LDR Treatment Plant on-line and therefore providing the treatment capacity needed to treat the subject waste streams to BDAT standards.

6. Section 268.5(a)(6)—The Applicant (FMC) Has Arranged for Adequate Capacity to Manage Its Waste During an Extension, and Has Documented the Location of All Sites at Which the Waste Will Be Managed

During this CBC extension, FMC will continue to manage the five waste streams in two of its on-site surface impoundments, referred to as Ponds 17 and 18. FMC has provided data showing that each of these surface impoundments will have the necessary capacity available to manage these wastes during the extension, *i.e.,* until May 26, 2001. Further assurance of adequate capacity and proper management of these surface impoundments (ponds) will be provided by FMC's adherence to the Pond Management Plan, as required by the RCRA Consent Decree. Among other requirements, the Pond Management Plan requires that pond levels be maintained within defined minimum and maximum levels.

EPA concludes that FMC has provided the documentation necessary to satisfy this demonstration.

7. Section 268.5(a)(7)—Any Waste Managed in a Surface Impoundment or Landfill During the Extension Period Will Meet the Requirements of 40 CFR 268.5(h)(2)

As previously described, the subject waste streams will be piped directly to the on-site surface impoundments, *i.e.,* Ponds 17 and 18. FMC has provided information demonstrating that both of these surface impoundments were constructed to meet the RCRA minimum technological requirements of 40 CFR 268.5(h)(2), including such protective measures as double liners, leak detection, and groundwater monitoring wells. EPA concludes that FMC has provided the documentation necessary to satisfy this demonstration.

II. What Are EPA's Responses to Comments Submitted on the Notice of Proposed Approval of the CBC Extension?

The Fort Hall Business Council (representing the Shoshone-Bannock Tribes) and FMC Corporation submitted comments in response to the March 8, 2000 FR notice. These comments previously had been provided to EPA in response to EPA's advance communication with the Tribes on the draft notice '' prior to the notice being published in the **Federal Register**. The comments provided by FMC essentially address each of the issues raised by the Tribes in these comments. Additional comments were submitted by the Fort Hall Business Council, subsequent to a meeting held with EPA on May 2, 2000. The following is a discussion of and EPA's response to each of the issues raised in the comments, pertinent to the proposed CBC extension for the five subject waste streams generated at FMC Pocatello.

A. Will the Proposed LDR Treatment Plant Have Sufficient Capacity?

FMC recently completed a dispersion modeling study of Pond 18 emissions to better understand the emissions of phosphine and hydrogen cyanide that will occur during removal of solids from Pond 18. FMC found that the potential magnitude of these emissions during removal of sediments within the five-year period is significantly greater than FMC had anticipated when the RCRA Consent Decree was negotiated. As such, FMC requested that the RCRA Consent Decree requirement to remove and treat the Pond 18 solids within five years of the start of the LDR Treatment System be extended to 10 years in order to comply with acute health standards for phosphine emissions. EPA denied the request. The Tribes also noted that FMC recently had informed them that the amount of sediment expected from Pond 18 would be greater than originally calculated. As such, the Shoshone-Bannock Tribes questioned whether the proposed LDR Treatment Plant was being designed to provide sufficient capacity to treat the five subject waste streams as well as the accumulated solids from Pond 18.

The removal and treatment of accumulated solids from Pond 18 within a five-year period are mandated by the RCRA Consent Decree and are not requirements of this CBC extension. However, the demonstration under § Section 268.5(a)(4), requiring FMC to design the LDR Treatment Plant with adequate treatment capacity, is impacted by the RCRA Consent Decree requirement that FMC remove and treat the Pond 18 solids within five years of the treatment plant commencing operation. As such, EPA must be assured that the proposed LDR Treatment Plant indeed will have sufficient capacity to treat not only the subject five waste streams but also the Pond 18 solids. Addressing this issue, FMC, in its comments of March 28, 2000, states ''The LDR Treatment Plant is designed to manage the quantity of production wastes generated at FMC Pocatello as well as the Pond 18 dredged material that will be generated after start-up in early 2002.'' FMC, in a letter, dated April 24, 2000, further reaffirmed its commitment to ensure that the Pocatello facility definitely will have sufficient capacity to manage the five waste streams that are the subject of this CBC extension. FMC has indicated that, if necessary, it will reduce plant production to ensure adequate treatment capacity.

It is critical that FMC provides adequate treatment capacity to manage the entire quantity of waste it generates that is the subject of this CBC extension. Based on design capacity information provided by FMC to EPA in support of its request for a CBC extension, FMC's subsequent statements that further assure its commitment to provide adequate treatment capacity and to cut production, if needed, we conclude the proposed LDR Treatment Plant will be designed and operated so that sufficient capacity is available to treat the five subject waste streams as well as the Pond 18 solids. EPA will continue to monitor FMC's efforts to provide this treatment capacity. If information becomes available, leading EPA to conclude that FMC is no longer able or willing to meet its commitment to provide adequate treatment capacity, EPA will need to consider revoking this CBC extension.

B. Do the Surface Impoundments (Ponds 17 and 18) That Will be Used During the Extension, Meet the Minimum Technological Requirements of 40 CFR 268.5(h)(2)?

As previously discussed, FMC, under this CBC extension, will continue to pipe the five subject waste streams to the on-site surface impoundments, *i.e.,* Ponds 17 and 18. As such, both of these surface impoundments must meet the RCRA ''minimum technology requirements'' of 40 CFR 268.5(h)(2) which requires that impoundments receiving wastes subject to a CBC extension include such protective measures as double liners, leak detection, and groundwater monitoring wells. The Tribes stated that they do not believe that waste managed in these surface impoundments, during the extension period, will meet the requirements of 40 CFR 268.5(h)(2). However, no specific information was provided by the Tribes as to why they believe Ponds 17 and 18 do not meet these requirements. The Tribes further stated that 40 CFR 265.229 prohibits the placement of ignitable or reactive wastes in an impoundment unless the requirements of 40 CFR part 268 have been met and the waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that it no longer meets the definition of ignitable or reactive waste. FMC, in its comments, noted that the RCRA Consent Decree and the RCRA

Pond Management Plan establish standards for properly managing these wastes so as to satisfy these alternative provisions. FMC notes that Occupational Safety and Health Administration (OSHA) standards will be followed to protect workers, that dredging will be performed by remotely controlled apparatus, that phosphine monitoring and response measures will be in-place, and that there are no residences or recreational areas within the projected area of offsite impact.

The Tribes also expressed concerns regarding the capacity and management of Ponds 17 and 18. In their comments, the Tribes questioned whether these ponds would have sufficient capacity given FMC's current design criteria for the planned LDR Treatment Plant, coupled with potential delays in construction and possible equipment failures during demonstration or other unexpected events. The Tribes also stated that FMC has not demonstrated the ability to manage waste and water in existing surface impoundments as evidenced by previous incidents of overtopping of other on-site ponds.

FMC has provided data showing that each of the two surface impoundments, that will be used during the CBC extension, have the necessary capacity available to manage these wastes during the extension, *i.e.,* until May 26, 2001. Although it is feasible that construction delays, equipment failure, etc. could occur, EPA cannot speculate on the probability of occurrence of such events. At this point, EPA is convinced that FMC is continuing to make a good-faith effort toward the design and construction of the proposed LDR Treatment Plant so that operation will commence by May 2002. Although there may have been past problems with certain other on-site FMC ponds, EPA continues to conclude that the two surface impoundments (Ponds 17 and 18) to be used during the CBC extension do meet the minimum technology requirements, and in addition, will be operated in a protective manner and in compliance with other applicable EPA rules during the one-year CBC extension.

EPA is convinced that the requirements of the RCRA Consent Decree and the Pond Management Program adequately address the proper design and operation of these surface impoundments—to meet the requirements for managing these wastes in Ponds 17 and 18 during this CBC extension. In addition to designing the ponds to meet the RCRA minimum technology requirements, FMC, for example:

- Treats precipitator slurry per the Non-Hazardous Slurry Assurance Project (NOSAP) system operating requirements prior to discharging this waste to Pond 17
- Provides electronic leak detection in Pond 18
- Provides a tertiary liner, to serve as the sacrificial liner, to allow removal of sediments from Pond 18 without jeopardizing the integrity of the other liners/leak detection system
- Provides around the clock, seven days a week, surveillance, inspections, and recordkeeping
- Manages pond water levels to minimize water level fluctuations so that solids in the ponds remain covered thereby preventing fires. Electronic level monitoring/alarm devices and a video surveillance system are used to continuously measure and record water levels.
- Manages volume of water generated during normal plant operation and a 100-year, 24-hour storm event to maintain adequate freeboard and prevent overtopping.
- Follows the Occupational Safety and Health Administration (OSHA) standards to protect workers.

Based on EPA's knowledge of these surface impoundments and the documentation provided by FMC, we continue to conclude that these surface impoundments (Ponds 17 and 18) do meet the minimum technology requirements, and in addition, will be operated in a protective manner and in compliance with other applicable EPA rules during the one-year CBC extension.

The Tribes also commented that certain air emission standards, in particular, the standards of 40 CFR part 265.1086. must be met for these two surface impoundments. As previously noted in the notice proposing to approve the requested CBC extension (65 FR 12233, March 8, 2000), EPA believes that the level of volatile organics, if any, in these wastes is below the threshold set out in EPA's regulations in 40 CFR parts 264 and 265 subpart CC so that these rules do not apply. These regulations address air emissions from hazardous waste surface impoundments (but see the limitation that only impoundments receiving certain types of volatile wastes are subject to the rules (40 CFR 265.1083(c)(1)). Should the rules be applicable, FMC must, of course, comply with them. FMC submitted a letter, along with data, to EPA, dated April 21, 2000, that reaffirms FMC's position that the regulatory threshold for 40 CFR Part 265, Subpart CC is not exceeded for materials entering the surface impoundments, based on direct measurements obtained from sampling the waste streams at the point of waste origination. Based on EPA's knowledge of these wastes and the information made available by FMC, EPA continues to believe that these rules do not apply to the two surface impoundments that FMC will use to manage the subject five waste streams during the CBC extension.

C. Has EPA Consulted Adequately With the Tribes?

The majority of the FMC Pocatello site, including most of the processing areas, is located on Shoshone-Bannock Tribes' lands, referred to as the Fort Hall Indian Reservation. As such, The United States recognizes and concurs that it does owe an important trust responsibility to the Tribes, on whose lands the FMC Pocatello facility is located, including a responsibility to perform its obligations under RCRA and other statutes intended to protect the environment. We also recognize the Tribes's concerns regarding the continued placement of untreated hazardous wastes in the FMC Pocatello on-site surface impoundments. The Tribes commented that they do not believe EPA has met the consultation mandate required of all federal agencies under the government-to-government relationship. EPA has taken numerous steps to meet the consultation requirement of the Presidential Memorandum of April 29, 1994. Specifically, EPA has:

- Requested FMC to make sure that the Tribes are provided the same information as is provided to EPA in evaluating this CBC extension request.
- Held staff level discussions to obtain feedback on the CBC extension.
- Provided the Tribes with an advance copy of the draft Federal Register notice of Proposed Decision and provided the Tribes three weeks for review and comment prior to publishing the FR notice. In conveying the draft Federal Register notice, EPA asked for information and comments on whether FMC adequately met the seven demonstrations required to qualify for a CBC extension.
- Sent a letter offering to meet with Staff and/or the Fort Hall Business Council to discuss their comments on the draft notice.
- Evaluated information submitted by the Tribes and, when appropriate, requested and reviewed additional information from FMC.
- Scheduled conference calls with the Chairman of the Fort Hall Business Council.

• Scheduled a meeting with the Fort Hall Business Council for government to government consultation, to follow up on their comments and further consult regarding final determination on FMC's request for a CBC extension.

• Subsequent to a meeting held on May 2, 2000, provided the Fort Hall Business Council with an additional opportunity to provide comments.

EPA believes it has made reasonable and timely efforts to consult with the Shoshone-Bannock Tribes on this matter. We will continue our efforts to consult with the Tribes on their concerns regarding this CBC extension and the anticipated request by FMC for a renewal, up to one additional year, of this CBC extension. EPA also will require that FMC provide the Tribes with a monthly progress report, as discussed below.

D. Other Issues Not Directly Related to the CBC Extension

The Tribes raised a number of concerns and issues in their comments, concerning the environmental impact of operations at the FMC facility, that are beyond the scope of EPA's consideration of FMC's request for this CBC extension. The ultimate and controlling issue in EPA's evaluation of FMC's request for a CBC extension is whether FMC has satisfied the statutory and regulatory conditions, as provided in section 3004(h)(3) of the statute and the rules in 268.5. These establish that an applicant who satisfies the conditions for a CBC extension will be granted one.

These other concerns, raised by the Tribes, are being addressed under the current RCRA Consent Decree or other ongoing EPA actions at FMC Pocatello. These concerns include:

• Groundwater and soil contamination from FMC's old ponds are being addressed under a CERCLA Record of Decision (ROD).

• Numerous efforts are ongoing/planned at FMC Pocatello to address air emissions, including:

(1) FMC's particulate air emissions are being addressed in the proposed Federal Implementation Plan.

(2) Off-gases from the LDR Treatment Plant must meet EPA's air emission (or MACT) standards, issued under the Clean Air Act. The consent decree requires that FMC document that the off-gas system will meet MACT standards for hazardous waste combustion units. Under the consent decree, FMC must submit design and operating plans for the off-gas system. These plans will allow the Region and the Tribes to evaluate the efficacy of the system.

(3) The consent decree requires numerous Supplemental Environmental Projects (SEPs), including the Fort Hall Environmental Health Assessment, that address air emissions from the FMC facility.

• Concerns about the radionuclide content of treatment residuals and FMC's plans to transport these waste residues off-site, across tribal lands, and dispose of them in an unlined landfill outside the reservation are being addressed by the State of Idaho and EPA Region 10.

III. What Is EPA's Final Determination on FMC's Request for a CBC Extension?

EPA concludes that FMC, owner/operator of the Pocatello, Idaho facility, at which a treatment plant will be constructed to provide treatment of the five subject wastes streams to meet BDAT standards, has made the necessary demonstrations to be granted a CBC extension. EPA concludes that FMC has made and is continuing to make a good-faith effort toward providing sufficient and appropriate treatment capacity for the five waste streams that are the subject of its request for a CBC extension of the LDR effective date request. Therefore, EPA is approving an extension of the applicable LDR effective date for these five waste streams: (1) NOSAP Slurry, (2) Medusa Scrubber Blowdown, (3) Furnace Building Washdown, (4) Precipitator Slurry, and (5) Phossy Water, generated at the Pocatello, Idaho facility, until May 26, 2001. As such, these wastes may continue to be managed in on-site surface impoundments (Ponds 17 and 18) until May 26, 2001 (unless the extension is renewed for up to one additional year, in which case the extension would expire no later than May 26, 2002), while the proposed LDR Treatment Plant is being constructed. This extension remains in effect unless the facility fails to make a good-faith effort to meet the schedule for completion, the Agency denies or revokes any required permit, conditions certified in the application change, or the facility violates any law or regulations implemented by EPA.

The majority of the FMC Pocatello site, including most of the processing areas, is located on Shoshone-Bannock Tribes' lands, referred to as the Fort Hall Indian Reservation. The Tribes oppose granting this CBC extension, continuing to believe that FMC's hazardous waste must be treated prior to being land disposed. The United States recognizes and concurs that it does owe an important trust responsibility to the Tribes, on whose lands the FMC Pocatello facility is located, including a responsibility to perform its obligations under RCRA and other statutes intended to protect the environment. We also recognize the Tribes' legitimate concerns regarding the continued placement of untreated hazardous wastes in the FMC Pocatello on-site surface impoundments. However, the controlling law here is section 3004(h)(3) of the statute and the rules in 268.5 which implement that provision. The ultimate and controlling issue in processing FMC's application consequently is whether the company has satisfied these statutory and regulatory conditions. As previously noted, we conclude that it is not yet feasible for FMC to treat these wastes prior to placement in the on-site surface impoundments, and that there is no available off-site commercial treatment capacity for these five waste streams. We continue to be convinced that the necessary treatment capacity and capability only will be available once the proposed LDR Treatment Plant is constructed and commences operation.

Having been granted this CBC extension of the LDR effective date, FMC must immediately notify EPA of any change in the demonstrations made in the petition (40 CFR 268.5(f)). FMC also must submit a monthly progress report that describes the progress being made toward its stated schedule for the design, construction, and operation of the LDR Treatment Plant. The monthly progress report also must identify any delay or possible delay in developing this treatment capacity and describe the mitigating actions being taken in response to the event (40 CFR 268.5(g)). FMC must submit the first monthly progress report by June 26, 2000. Subsequent monthly progress reports must be submitted, approximately every thirty (30) days, by the 26th day of each month for the duration of this CBC extension.

Four (4) copies of each monthly progress report must be submitted to the following address: Chief, Analysis and Information Branch, U.S. Environmental Protection Agency, Office of Solid Waste (5302W), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

A copy of the monthly progress report also must be provided to EPA Region 10 to the following address: Director, Office of Waste and Chemicals Management, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

A copy of the monthly progress report must be provided to the Shoshone-Bannock Tribes to the following address: Director, CERCLA/RCRA Program, Shoshone-Bannock Tribes, P.O. Box 306, Fort Hall, Idaho 83203.

EPA can revoke this CBC extension if FMC fails to make a good-faith effort to meet the schedule for completion, if EPA denies or revokes any required permit, if conditions certified in the CBC extension application change, or for a violation of any law or regulations in Parts 260–266 and 268 (see 268.5(g)).

IV. Administrative Requirements

As discussed in the FR notice of March 8, 2000, neither the requirements of Executive Order 13084 entitled Consultation and Coordination with Indian Tribal Governments nor Executive Order 13132, entitled ''Federalism,'' apply to this action.

Today, EPA is approving FMC's request for a one-year CBC extension of the May 26, 2000, effective date of the RCRA land disposal restrictions for a facility located on Tribal Lands. This action will significantly or uniquely affect the communities of Indian tribal governments by permitting this facility to continue to treat, store, or dispose of five waste streams as currently managed in on-site surface impoundments (located on Tribal Lands) until May 26, 2001.

In their comments, the Tribes stated that by allowing FMC to continue to treat, store, and dispose of hazardous waste streams in the surface impoundments, EPA is also allowing the continued emissions of hydrogen cyanide, phosphine, and other toxic emissions onto the Fort Hall Indian Reservation. The Tribes stated they believe continuous monitoring of emissions from the ponds is necessary to assure compliance with Pond Management Plan in order to protect human health and the environment. The Tribes asserted this would result in direct compliance costs to the Shoshone-Bannock Tribes.

Monitoring of emissions from the ponds already is required of FMC under the Pond Management Plan, as incorporated into the RCRA Consent Decree. FMC is responsible for the costs of this monitoring until the ponds are closed. Unless the Tribes actually do their own additional monitoring, there are no costs incurred by the Tribes. As such, EPA concludes that this action will not impose any direct compliance costs on the Shoshone-Bannock Tribes community.

This notice also does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of this Executive Order likewise do not apply to this action.

Authority: Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924).

Dated: May 25, 2000.

Cliff Rothenstein,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 00–13547 Filed 5–30–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64047; FRL 6588–5]

Notice of Receipt of Requests for Amendments To Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on November 27, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 266A, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov. To access this document, on the Home page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. Contact James A. Hollins at 1921 Jefferson Davis Highway, Crystal Mall #2, Rm. 224, Arlington, VA, telephone number (703) 305–5761. Available from 7:30 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in 27 pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name, active ingredient and specific uses deleted.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
*000352–00400	Dupont Oxamyl Technical 42 Insecticide/Nematicide	Oxamyl	Non-bearing plum, non-bearing strawberry
000432–00663	Tetramethrin Technical 95%	Tetramethrin	Greenhouse uses
000432–00789	TetraPerm 8–20–40 WB Concentrate	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
000432–00791	TetraPerm Total Release Indoor Fogger Q3	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
000432–00793	TetraPerm Total Release Indoor Fogger Q4	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
000432–00794	TetraPerm Total Release Indoor Fogger Q5	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
000498–00163	SprayPak Indoor Insect Fogger Formula 6	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
001021–01652	EVERICIDE Intermediate 2666	Tetramethrin; Esfenvalerate	Greenhouse uses
001021–01667	EVERICIDE House & Garden Spray 2664	Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
001021–01715	EVERICIDE House & Garden Spray 21321	Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
002724–00450	Zoecon 9001 EW	Propetamphos	Food/feed warehouses
004816–00391	Tetralate 25–20.6 WB Concentrate	Tetramethrin; Resmethrin	Greenhouse uses
004816–00392	Tetralate Intermediate Con centrate	Tetramethrin; Resmethrin	Greenhouse uses
004816–00493	Tetralate Multi-Purpose Insect Killer	Tetramethrin; Resmethrin	Greenhouse uses
004816–00499	Tetralate 2.0–0.44 WB	Tetramethrin; Resmethrin	Greenhouse uses
004816–00500	Tetralate 26.64–5.85 WB	Tetramethrin; Resmethrin	Greenhouse uses
004816–00503	Tetralate General Purpose 0.25–0.25% Insect Killer	Tetramethrin; Resmethrin	Greenhouse uses
004816–00504	Tetralate 2.5–2.5 WB	Tetramethrin; Resmethrin	Greenhouse uses
004816–00505	Tetralate 16.670–7.065	Tetramethrin; Resmethrin	Greenhouse uses
004816–00506	Tetralate 20.84–20.84 WB	Tetramethrin; Resmethrin	Greenhouse uses
004816–00509	Biotetralate 0.25–0.054 Pressurized Insecticide Spray	Tetramethrin; Bioresmethrin	Greenhouse uses
004816–00760	TetraPerm Total Release Indoor Fogger N 104	Piperonyl butoxide; Permethrin, mixed *cis, trans*; Te tramethrin	Greenhouse uses
010308–00001	Neo-Pynamin Technical Grade	Tetramethrin	Greenhouse uses
011715–00264	Neoperm Total Release Indoor Fogger	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
011715–00278	Neoperm Total Release Indoor Fogger IV	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Greenhouse uses
059906–00003	Py-Tech 1.5% + 15% Insecticide	Piperonyl butoxide; Pyrethrins	Use on dogs
059906–00004	Syn-Tech 2.5% + 10% Insecticide	Piperonyl butoxide; Resmethrin	Use on dogs

Note: * 30–day comment period

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before November 27, 2000 to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company Number	Company Name and Address
000352	DuPont Agricultural Products, Registration/Regulatory Affairs, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880.
000432	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
000498	Chase Products Co., P.O. Box 70, Maywood, IL 60153.
001021	McLaughlin Gormley King Co., 8810 Tenth Avenue North, Minneapolis, MN 55427.
002724	Wellmark International, 1000 Tower Lane, Bensenville, IL 60106.
004816	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
010308	Sumitomo Chemical Co., Ltd., 1330 Dillon Heights Ave., Baltimore, MD 21228.
059906	Pro-Tech Livestock Corp., P.O. Box 1450, Tomball, TX 77375.
011715	Speer Products, Inc., P.O. Box 18993, Memphis, TN 38181.

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. How and to Whom Do I Submit Withdrawal Requests?

1. *By mail*. Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked November 27, 2000.

2. *In Person or by courier*. Deliver your withdrawal request to: Document Processing Desk (DPD), Information Services Branch, Office of Pesticide Programs, Environmental Protection Agency, Rm. 266A, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The DPD is open from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The DPD telephone number is (703) 305–5263.

3. *Electronically*. You may submit your withdrawal request electronically by e-mail to: hollins.james@epa.gov. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: May 16, 2000.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 00–13562 Filed 5–30–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6707–1]

Internet Availability of Evaluation Report on the Sector Facility Indexing Project and SFIP's Future Expansion

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of evaluation report and future expansion of the SFIP.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the Internet availability of an evaluation report on the Sector Facility Indexing Project (SFIP). Based upon the evaluation results, the EPA is also announcing the future expansion of the SFIP. The EPA is now working to add to the project a subset of federal facilities. The SFIP is a community-right-to-know and data integration project that currently provides environmental performance data for facilities within five industry sectors. The industry sectors currently profiled within the SFIP are automobile assembly; petroleum refining; pulp manufacturing; iron and steel; and primary smelting and refining of aluminum, copper, lead, and zinc (nonferrous metals). On May 1, 1998, the EPA released the Internet website containing the SFIP data. (See 63 FR 27281, May 18, 1998). The SFIP website is designed as an interactive tool that allows users to customize the information and delve into greater detail to look at information that is too voluminous to include in a hard copy report.

DATES: The SFIP evaluation report is currently available to the public on the Internet. A limited number of hard copies of the report are also now available. EPA's goal is to have the expansion to federal facilities completed and available on the website later this year.

ADDRESSES: The SFIP's data and the evaluation report on the project may be accessed electronically via the Internet at the following address: *http://www.epa.gov/oeca/sfi*. Requests for a hard copy of the evaluation report may be sent to: SFIP, 55 Wheeler Street, Cambridge, MA 02138. Requests may also be made to the SFIP telephone hotline at: (617) 520–3015.

FOR FURTHER INFORMATION CONTACT: Robert Lischinsky, U.S. Environmental Protection Agency, Office of Compliance (2223–A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone: (202) 564–2628, fax: (202)564–0050; e-mail: lischinsky.robert@epa.gov

SUPPLEMENTARY INFORMATION: When EPA launched the SFIP website *(www.epa.gov/oeca/sfi)* in May 1998, the Agency was committed to monitoring and evaluating the progress of this project. Specifically, we wanted to look at SFIP's success in meeting the two goals of providing greater public access to accurate compliance and facility-level information, as well as improving multimedia facility profiling and sector-based analysis.

For the evaluation, EPA obtained input from user groups both inside and outside the Agency, including the EPA Regions, States, industry, environmental groups, and trade associations. The results have been positive. Extensively used, SFIP has enhanced public access to and knowledge of the environmental performance of individual, regulated facilities. The project has improved multimedia facility profiling; provided useful data in a ''user-friendly'' website; improved data quality in underlying databases; and served as an incentive to achieve and maintain compliance.

The evaluation also identified widespread interest for an expansion of SFIP that would build upon its success and make the project an even more valuable analytical tool. Thus, EPA is announcing that the SFIP will be expanding to include a subset of federal facilities. This expansion will encourage greater accountability on the part of federal facilities, and will allow the public to obtain important environmental information about these facilities located in their communities. EPA is working to arrive at a subset of the federal facility universe that is both manageable and provides useful information. Our goal is to have the expansion to federal facilities completed later this year.

As SFIP expands, we will ensure that we maintain the public's confidence in the integrity of the data. Once again Regions, States and the affected facilities will be given the opportunity to review the data and resolve any data quality issues through a coordinated EPA/State effort prior to release.

Dated: May 17, 2000.

Mamie R. Miller,

Chief, Manufacturing Branch, Manufacturing, Energy & Transportation Division, Office of Compliance.

[FR Doc. 00–13559 Filed 5–30–00; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank).

SUMMARY: The Advisory Committee was established by P.L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Thursday, June 15, 2000, at 9 am to 1 pm. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: This meeting will include a synopsis of the discussion at the Institute for International Economics' Conference on the Export-Import Bank and further discussions on several key issues arising from the Conference.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to June 9, 2000, Teri Stumpf, Room 1203, Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Teri Stumpf, Room 1203, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565–3502.

John M. Niehuss,

General Counsel.

[FR Doc. 00–13488 Filed 5–30–00; 8:45 am]

BILLING CODE 6690–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Nominations of Members to the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Secretary.

ACTION: Announcement of Request for Membership Nominations.

SUMMARY: The Office of the Secretary requests nominations of individuals to serve on the Advisory Committee on Blood Safety and Availability in accordance with its charter. Appointments will be made for a term of four years. It is now necessary to re-nominate individuals previously nominated.

DATES: All nominations must be received at the address below by no later than 4 p.m. EDT August 31, 2000.

ADDRESSES: All nominations shall be submitted to Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Science, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201. Phone (202) 690–5560.

FOR FURTHER INFORMATION CONTACT: Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Science, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201. Phone (202) 690–5560.

Nominations

In accordance with the Committee's charter, persons nominated for membership should be from among authorities knowledgeable in blood banking, transfusion medicine, bioethics and/or related disciplines. Members shall be selected from State and local organizations, blood and blood products industry including manufacturers and distributors, advocacy groups, consumer advocates, provider organizations, academic researchers, ethicists, private physicians, scientists, consumer advocates, legal organizations and from among communities of persons who are frequent recipients of blood and blood products.

Information Required

Each nominations shall consist of a package that, at a minimum, includes:

A. The name, return address, daytime telephone number and affiliation(s) of the individual being nominated, the basis for the individual's nomination, the category for which the individual is nominated, and a statement by the nominated individual that he or she is willing to serve as a member of the committee;

B. The name, return address and daytime telephone number at which the nominator may be contacted. Organizational nominations must identify a principal contact person in addition to the contact information;

C. A copy of the nominee's curriculum vitae.

All nomination information for a nominee must be provided in a complete single package. Incomplete nominations will not be considered. Nomination materials must bear original signatures, and facsimile transmissions or copies are not acceptable.

Dated: May 23, 2000.

Stephen D. Nightingale,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. 00–13483 Filed 5–30–00; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Secretary.

ACTION: Notice of meeting.

The Advisory Committee on Blood Safety and Availability will meet on Thursday, August 24, 2000, from 9 a.m. to 5 p.m. The meeting will take place at the Hyatt Regency Hotel on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. The meeting will be entirely open to the public.

The Advisory Committee will review the role of various considerations in decision making related to new and existing blood safety measures.

Public comment will be solicited at the meeting. Public comment will be limited three minutes per speaker. Those who wish to have printed material distributed to Advisory Committee members should submit thirty (30) copies to the Executive Secretary prior to close of business August 11, 2000.

FOR FURTHER INFORMATION CONTACT: Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Department of Health and Human Services, Office of Public Health and Safety, 200 Independence Avenue SW., Rm 736E, Washington, DC 20201. Phone (202) 690–5560 FAX (202) 690–7560 e-mail stephendnightingale@osophs.dhhs.gov.

Dated: May 23, 2000.

Stephen D. Nightingale,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. 00–13482 Filed 5–30–00; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–37–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Implementation of Automated Management Information System (MIS) for Diabetes Control Programs—NEW—Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Division of Diabetes Translation. Diabetes is the seventh leading cause of death in the United States, contributing to more than 193,000 deaths each year. An estimated 10.3 million people in the United States have been diagnosed with diabetes, and an estimated 5.4 million people have undiagnosed diabetes. The Centers for Disease Control and Prevention (CDC), Division of Diabetes Translation (DDT), provides funding to health departments of States and territories to develop, implement, and evaluate systems-based Diabetes Control Programs (DCPs). DCPs are population-based, public health programs that design, implement, and evaluate public health prevention and control strategies that improve access to and quality of care for all and reach communities most impacted by the burden of diabetes (e.g., racial/ethnic populations, the elderly, rural dwellers and the economically disadvantaged). Support for these programs is a cornerstone of the DDT's strategy for reducing the burden of diabetes throughout the nation. The Diabetes Control Program is authorized under sections 301 and 317(k) of the Public Health Service Act [42 U.S.C. sections 241 and 247b(k)].

Funding recipients are required to submit quarterly status reports to CDC that are used by DDT managers and Program Development Officers (PDOs) to identify training and technical assistance needs; monitor compliance with cooperative agreement requirements; evaluate the progress made in achieving national and program-specific goals; and respond to inquiries regarding program activities and effectiveness. Funding recipients currently have a wide latitude in the content of the information they report with some recipients providing extensive and detailed programmatic progress information and others providing minimal detail regarding DCP operations. Historically, information has been collected and transmitted via hard-copy paper documents. The manual reporting system significantly impacts the DDT's staff ability to accomplish its responsibilities resulting from providing DCP funds, particularly with respect to compiling, summarizing, and reporting aggregate DCP program information.

The proposed change in data collection methodology is being driven by DDT's development of an automated management information system (MIS) to maintain individual DCP information and to normalize the information reported by these programs. The proposed data collection will employ a more formal, systematic method of collecting information that has historically been requested from individual DCPs and will standardize the content of this information. This will facilitate the DDT staff's ability to fulfill its obligations under the cooperative agreements; to monitor, evaluate, and compare individual programs; and to assess and report aggregate information regarding the overall effectiveness of the DCP program. It will also support DDT's broader mission of reducing the burden of diabetes by enabling DDT staff to more effectively identify the strengths and weaknesses of individual DCPs and to disseminate information related to successful public health interventions implemented by these organizations to prevent and control diabetes.

Respondents reside in each of the 50 States, 8 Territories, and the District of Columbia and provide progress reporting on a semi-annual frequency. The annual hour burden is estimated at 236 total hours based on 2 hours to complete a semi-annual report twice per year. The annual burden is estimated to be 236 hours.

ANNUALIZED BURDEN TO RESPONDENTS

Form name	Number of respondents	Number of responses/ respondents	Average burden/ response	Response burden/hrs.
Progress Report	59	2	2	236

Dated: May 24, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13504 Filed 5–30–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–40–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Evaluation of Effectiveness of Worker Notifications Conducted by NIOSH—(New)—The National Institute for Occupational Safety and Health

(NIOSH), Centers for Disease Control and Prevention (CDC) has conducted worker notification formally since 1988. This program informs workers in NIOSH-conducted epidemiological studies about the study results and hence, of their risks. NIOSH worker notification officers conducted a two-task evaluation project approved by OMB in 1993. Task 1 of the project evaluated the long-term impact of a high risk worker notification, and Task 2 evaluated the short-term impact and effectiveness of the notification materials themselves, with the goal of developing a monitoring instrument for routine use. A monitoring instrument was developed for routine use to evaluate effectiveness of ongoing worker notification activities. This instrument was refined over three field trials, involving a random sample set of 25 notified workers in each trial. A second instrument for use with other stakeholders (company and union officials) in the notifications also was developed. The design of these evaluation projects was descriptive in nature, gathering information from small groups of workers, for the purpose of learning how to improve the NIOSH worker notification program.

Having completed the data collection and final report for Task 2 of the evaluation project, we now are seeking approval to use the program monitoring worker survey instrument on a routine basis to assess effectiveness of ongoing letter notifications conducted by NIOSH notification officers. As with the design of the three trials in Task 2, ongoing routine assessment would include for each letter-type notification, our contacting by telephone a random sample of 250 workers who received notification letters and related materials, and at least one company representative and one union representative (where appropriate). A 15-minute telephone survey would be administered to the notified workers, and an up to 30 minute interview would be conducted with the other stakeholders (e.g., company and union representatives). The total annual cost to respondents for the study is $1,293.50. The total annualized burden hours for this project is 82.5 hours.

Respondent	Number of respondents	Number of responses/respondents	Avg. burden per response (hours)	Total burden (in hours)
Workers	250	1	15/60	62.5
Stakeholder	40	1	30/60	20.0
Total	290			82.5

Dated: May 24, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13505 Filed 5–30–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00106]

World Health Organization for Hepatitis; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for the World Health Organization (WHO) for hepatitis. CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010'', a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus areas of Immunization and Infectious Diseases. For the conference copy of ''Healthy People 2010'', visit the internet site http://www.health.gov/healthypeople.

The purpose of this cooperative agreement is to develop international programs for prevention and control of hepatitis A through immunization, hepatitis B immunization activities as part of national immunization programs of member states, supporting programs to prevent transmission of bloodborne hepatitis virus infections through unsafe injection and infection control practices, improving injection safety, and preventing transmission of hepatitis C virus (HCV) infections.

B. Eligible Applicants

Assistance will be provided only to the WHO. No other applications are solicited.

The WHO is the most appropriate and qualified agency to conduct the activities specified under this cooperative agreement because:

1. They are the only organization with the worldwide mandate to assist member nations in the control and prevention of vaccine preventable diseases.

2. They are responsible for implementation of the Expanded Programme on Immunization (EPI) and for the introduction of hepatitis B vaccine into the EPI of member states as stated by resolution of the World Health Assembly in 1992.

3. They are the only recognized international organization for providing the guidance and leadership needed to coordinate the multidisciplinary collaborations required to address elimination of unsafe injection, have an established activity to address this issue and serves as the secretariat for the Safe Injection Global Network (SIGN), a collaborative network comprised of member states and organizations.

4. They are the only recognized international organization to provide the guidance and leadership needed to coordinate the multidisciplinary collaborations required to address the control of hepatitis C virus infection and its chronic liver disease consequences and has an established activity to address this issue in their emerging infections program.

5. The proposed program is directly related to the achievement of WHO and the National Center for Infectious Diseases, CDC, objectives for the control and prevention of viral hepatitis, including hepatitis A, B, and C.

C. Availability of Funds

Approximately $300,000 is available in FY 2000 to fund this award. It is expected the award will begin on September 29, 2000, and will be made for a 12-month budget period within a project period of up to three years. The funding estimate may change.

A continuation award within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Where To Obtain Additional Information

This and other Centers for Disease Control announcements can be found on the Centers for Disease Control home page Internet address—http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements''.

To obtain additional information, contact: Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: (770) 488–2748, E-mail address: oxb3@cdc.gov.

For program technical assistance, contact: Richard Conlon, Centers for Disease Control and Prevention, National Center for Infectious Diseases, Division of Rickettsial Diseases, Hepatitis Branch, 1600 Clifton Road, NE, M/S G–37, Atlanta, GA 30333, Telephone: (404)371–5900, E-mail address: roc4@cdc.gov.

Dated: May 24, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13506 Filed 5–30–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Times and Dates: 8 a.m.–5:30 p.m., June 22, 2000, and 8 a.m.–5:30 p.m., June 23, 2000.

Place: Embassy Suites, 1900 Diagonal Road, Alexandria, VA, 22314.

Status: Open 8 a.m.–8:15 a.m., June 22, 2000. Closed 8:15 a.m.–5:30 p.m., June 22, 2000. Closed 8 a.m.–5:30 p.m., June 23, 2000.

Purpose: The Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's standard grants review and funding cycles pertaining to research issues in occupational safety and health and allied areas.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals which will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters To Be Discussed: The meeting will convene in open session from 8–8:15 a.m. on June 22, 2000, to address matters related to the conduct of Study Section business. The remainder of the meeting will proceed in closed session. The purpose of the closed sessions is for the Safety and Occupational Health Study Section to consider safety and occupational health related grant applications. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Pervis C. Major, Ph.D., Scientific Review Administrator, Office of Extramural Coordination and Special Projects, Office of the Director, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505. Telephone 304/285–5979.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–13503 Filed 5–30–00; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Notice No. ACF/ACYF/RHYP 2000–01]

Notice of Availability of Financial Assistance for the Runaway and Homeless Youth Programs; Republication

Editorial Note: FR-Doc.00-12376 was originally published at 65 FR 31338-31343, Wednesday, May 17, 2000. Due to printing errors it is being republished in its entirety.

AGENCY: Family and Youth Services Bureau, Administration on Children, Youth and Families, ACF, HHS.

ACTION: This notice announces the availability of financial assistance for FY 2000 Basic Center Program for Runaway and Homeless Youth (BCP), FY 2001 Transitional Living Program (TLP), FY 2000 Street Outreach Program (SOP), and the FY 2000 Youth Development State Collaboration Demonstration Projects (SCDP).

This Notice announces the availability of the official FY 2000 Program Announcement. The official announcement must be used to apply for grant funding under the competitive grant areas and is available by calling or writing the ACYF Operations Center (address below) or by downloading the announcement from the FYSB website at *http://www.acf.dhhs.gov/programs/FYSB* under Policy and Funding Announcements.

Legislative Authority: Grants for Runaway and Homeless Youth programs are authorized by the Runaway and Homeless Youth Act (RHY Act) as amended by PL 106–71.

Deadlines

The deadlines for *receipt* of applications for new grants under this announcement are as follows:

CFDA#	Programs	Deadline dates	Deadline times
93.623	Basic Center Program	July 3, 2000	4:30 p.m. (EDT).
93.557	Street Outreach Program	July 3, 2000	4:30 p.m. (EDT).
93.550	Transitional Living Program	July 7, 2000	4:30 p.m. (EDT).
93.623	State Collaboration. Demonstration Projects	August 3, 2000	4:30 p.m. (EDT).

Mailing and Delivery Instructions: Applications must be in hard copy. Mailed applications and applications hand delivered by applicants, applicant couriers, overnight/express mail couriers or any other method of hand

delivery shall be considered as meeting an announced deadline if they are received on or before the deadline, at the following address: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arllington, VA 22209, telephone: 1–800–351–2293, email: FYSB@lcgnet.com.

Applications may be hand delivered to the above address between the hours of 8:00 a.m. and 4:30 p.m. (EDT), Monday through Friday (excluding Federal Holidays).

Applicants are responsible for mailing and delivering applications well in advance of deadlines to ensure that the applications are received on time. Applications received after 4:30 p.m. (EDT) on the deadline date will be classified as late. Postmarks and other similar documents do not establish receipt of an application.

ACF will not accept applications delivered by fax or e-mail regardless of date or time of submission and receipt.

Late Applications: Applications which do not meet the criteria stated above and are not received by the deadline date and time are considered late applications. The Administration for Children and Families (ACF) will notify each late applicant that its application will not be considered in the current competition.

Extension of Deadline: ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widespread disruption of the mails. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

SUPPLEMENTARY INFORMATION: Grant awards for FY 2000 funds will be made by September 30, 2000 for the Basic Center and Street Outreach Program. Transitional Living Program grant awards for FY 2001 will be made after September 30, 2000. Grant awards for the Youth Development State Collaboration Demonstration Projects will be made by September 30, 2000, based on the availability of funds. If funds are not available for the State Collaboration Projects on September 30, 2000, we anticipate that successful applicants will be awarded funding during the second quarter of FY 2001 (January, February, and March, 2001).

The estimated funds available for new starts and the approximate number of new grants that may be awarded under this program announcement are as follows:

Competitive grant area	New start funds available	Estimated number of new grants
A. BCP	$14,500,000	126
B. TLP	5,500,000	32
C SOP	5,900,000	59
D. *SCDP	600,000	5

*Subject to availability of funds

In addition to the new start grants, the Administration for Children and Families has provided for noncompetitive continuation funds to current grantees in the following programs:

Grant area	Funds available	Number of grants
A. BCP	$24,700,000	222
B. TLP	13,000,000	73
C. SOP	7,600,000	80
D. SCDP	1,000,000	9

Part 1. Competitive Grant Areas and Summaries of Evaluation Criteria

Applicants must refer to the specific evaluation criteria for each competitive area contained in the official Program Announcement in order to adequately prepare their applications.

A. Basic Centers Program, CFDA# 93.623 (Competitive Grant Area A)

Eligible Applicants: Any State, unit of local government, combination of units of local government, public or private nonprofit agency, organization or institution is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply for Basic Center grants. Indian Tribes that are not federally recognized and urban Indian organizations are also eligible to apply for grants as private, nonprofit agencies.

Current Basic Center grantees with project periods ending on or before September 30, 2000, and all other eligible applicants not currently receiving Basic Center funds may apply for a new competitive Basic Center grant under this announcement.

Current Basic Center Program grantees (including subgrantees) with one or two years remaining on their current grant and the expectation of continuation funding in FY 2000 may not apply for a new Basic Center grant for the community they currently serve. These grantees will receive instructions from their respective ACF Regional Offices on the procedures for applying for noncompetitive continuation grants.

Program Purpose, Goals and Objectives: The purpose of this program is to establish or strengthen locally-controlled, community-based programs that address the immediate needs of runaway and homeless youth and their families. Services must be delivered outside of the law enforcement, child welfare, mental health and juvenile justice systems. The program goals and objectives of the Basic Center Program are to:

- Alleviate problems of runaway and homeless youth;
- Reunite youth with their families and encourage the resolution of intrafamily problems through counseling and other services;
- Strengthen family relationships and encourage stable living conditions for youth; and
- Help youth decide upon constructive courses of action.

Federal Share of Project Costs: Priority will be given to applicants that apply for less than $200,000 per year. The maximum Federal share for a 3-year project period $600,000.

Applicant Share of Project Costs: Basic Center grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. (There are certain exceptions for Tribes with ''638'' funding pursuant to Pub. L. 93–638, under which certain Federal grants may qualify as matching funds for other Federal grant programs, *e.g.,* those which contribute to the

purposes for which grants under section 638 were made.) The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 (10,000 per budget period).

Duration of Project: This announcement solicits applications for Basic Center programs of up to three years duration (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for non-competitive continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

B. Transitional Living Program, CFDA #93.550 (Competitive Grant Area B)

Eligible Applicants: Any State, unit of local government (or a combination of units of local government), public or private nonprofit agency, organization, institution or other nonprofit entity. Federally recognized Indian Tribes are eligible to apply for TLP grants. Indian Tribes that are not federally recognized and urban Indian organizations are also eligible to apply for grants as private, nonprofit agencies.

Current TLP grantees with project periods ending on or before September 30, 2001, and all other eligible applicant not currently receiving TLP funds may apply for a new competitive TLP grant under this announcement for awards in FY 2001.

Current TLP grantees (including subgrantees) with one or two years remaining on their current awards and the expectation of continuation funding in Fiscal Year 2001 may not apply for a new TLP grant under this announcement. These grantees will receive instructions from their respective ACF Region/Hub Offices on the procedures for applying for non-competitive continuation grants.

Program Purpose, Goals and Objectives: The overall purpose of TLP for homeless youth is to establish and operate transitional living projects for homeless youth. This program is structured to help older, homeless youth achieve self-sufficiency and avoid long-term dependency on social services. Transitional living projects provide shelter, skills training, and support services to homeless youth ages 16 through 21 for a continuous period not exceeding 18 months. Transitional Living Program funds are to be used for the purpose of enhancing the capacities of youth-serving agencies in local communities to effectively address the service needs of homeless, older adolescents and young adults.

Federal Share of Project Costs: Applicants may apply for up to $200,000 per year, which equals a maximum of $600,000 for a 3-year project period.

Applicant Share of Project Cost: Transitional Living grantees provide a non-Federal share or match of at least ten percent of the Federal funds awarded. (There are certain exceptions for Tribes with ''638'' funding pursuant to P.L. 93–638, under which certain Federal grants may qualify as matching funds for other Federal grant programs, *e.g.,* those which contribute to the purposes for which grants under section 638 were made.) the non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,00 ($10,000 per budget period).

Duration of Project: This announcement solicits applications for Transitional Living projects of up to three years (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for non-competing continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

C. Street Outreach Program, CFDA# 93.557 (Competitive Grant Area C)

Eligible Applicants: Any private, nonprofit agency is eligible to apply for these funds. Non-Federally recognized Indian Tribes and urban Indian organizations are eligible to apply for grants as private, non-profit agencies. Please note that public agencies are not eligible to apply for these funds.

Current Street Outreach Program grantees with project periods ending on or before September 30, 2000, and all other eligible applicants not currently receiving SOP funds may apply for a new competitive SOP grant under this announcement.

Current Street Outreach Program grantees (including subgrantees) with one or two years remaining on their current grant and the expectation of continuation funding in FY 2000 may not apply for a new Street Outreach grant for the community they currently serve. These grantees will receive instructions from their respective ACF Regional Offices on the procedures for applying for continuation grants.

Program Purpose, Goals and Objectives: The overall purpose of SOP is to provide education and prevention services to runaway, homeless and street youth who have been subjected to or are at risk of sexual exploitation or abuse. The goal of the program is to establish and build relationships between street youth and program outreach staff in order to help youth leave the streets. The objective of the program is to provide support services that will assist the youth in moving an adjusting to a safe and appropriate alternative living arrangement. These services include, at a minimum, treatment, counseling, provision of information and referral services. Street outreach programs must have access to local emergency shelter space that is an appropriate placement for young people and that can be made available for youth willing to come in off the streets. In addition, street outreach staff must have access to the shelter in order to maintain interaction with the youth during the time they are in the shelter.

Federal Share of Project Costs: Applicants may apply for up to $100,000 in Federal support each year, a maximum of $300,00 for a 3-year project period. The maximum Federal share of project costs is $100,000 for 12 months.

Applicants Share of Project Cost: SOP grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. (There are certain exceptions for Tribes with ''638'' funding pursuant to P.L. 93–638, under which certain Federal grants may qualify as matching funds for other Federal grant programs, *e.g.,* those which contribute to the purposes for which grants under section 638 were made.) The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. For example, a project requesting $100,000 in Federal funds must include a match of at least $10,000.

Duration of Project: This announcement solicits applications for Street Outreach Program projects of up to three years (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for non-competing continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be considered subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Summary of Evaluation Criteria for Competitive Areas A, B, and C (BCP, TLP, and SOP)

Criterion 1: Objectives and Need for Assistance (15 Points)

Applications will be judged on how clearly they identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated. Applications will need to specify the goals and objectives of the project and how implementation will fulfill the purposes of the program. Applications should describe the conditions of youth and families in the area to be served; the incidence and characteristics of runaway, homeless or street youth and their families; the existing support systems for at-risk youth and families in the area, including other agencies providing services to runaway and homeless youth in the area.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 2: Results or Benefits Excepted (20 Points)

Applications will be judged on how clearly they identify the results and benefits to be derived, specify services to be provided, who will receive services, where and how these services will be provided, and how the services will benefit the youth families and the community to be served. Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 3: Approach (35 Points)

Applications will be judged on how clearly they outline a plan of action which: describes the scope and detail of how the proposed work will be accomplished; accounts for all functions or activities identified in the application; cites factors which might accelerate or decelerate the work and reasons for taking the proposed approached rather than others. Applications are encouraged to describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Applications will be expected to provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of youth to be served and the results of those services, including data required for annual reporting to the Secretary of HHS. Applicants must agree to cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families and to submit the required Annual Report to the Secretary of HHS on program activities and accomplishments with statistical summaries and other required program and financial reports, as instructed by FYSB.

Applications will be judged on the extent to which they described the program's youth development approach or philosophy and indicate how it underlies and integrates all proposed activities. Applicants will be expected to list organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution; describe formal service linkages and plans for coordination with other agencies; describe plans for conducting outreach and encouraging awareness of and sensitivity to the diverse needs of runaway and homeless youth who represent particular ethnic and racial backgrounds and sexual orientations. Applicants are encouraged to describe the type, capacity and staff supervision of the shelter that will be available for youth.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 4: Staff and Position Data (10 Points)

Applicants will be judged on whether they provide a resume and biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed. Applicants will be expected to list organizations and consultants who will work on the program along with a short description of the nature of their effort or contribution.

Applicants will be expected to provide information on plans for training project staff as well as staff of cooperating organizations and individuals and state the expected or estimated ratio of staff to youth.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 5: Organization Profile (10 Points Plus 5 Possible Bonus Points)

Applicants will be expected to provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accounts. Any non-profit organization submitting an application must submit of its non-profit status in its application at the time of submission. Bonus points shall be awarded to applicant organizations who have demonstrated experience in providing services to runaway, homeless and street youth.

Applicants will be expected to provide a plan for project continuance beyond grant support, including a plan for securing resources and continuing project activities after Federal assistance has ceased and an annotated listing of applicant's funding sources. Such plans should include written agreements, if applicable, between grantees and subgrantees or subcontractors or other cooperating and letters of support and statements from community, public and commercial leaders that support the project proposed for funding.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 6: Budget and Budget Justification (10 Points)

Applicants will be expected to provide a detailed line item budget and a narrative budget justification that describes how the categorical costs are derived. Applicants will be judged on how clearly they discuss the necessity, reasonableness, and allocability of the proposed costs and how clearly they describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement and accurate accounting of funds received.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

D. Youth Development State Collaboration Demonstration Projects, CFD #93.623 (Competitive Grant Area D)

Eligible Applicants: Any State or Federally recognized Indian Tribe is eligible to apply for a Youth Development State Collaboration Demonstration Project grant. Only one application may be submitted by any State or Tribe. Preference will be given to State or Tribal applicants in regions IV, V, and VI, since there are no States or Tribes in these regions currently involved in the collaboration project. The States in these regions are: Region IV: Al, FL, GA, KY, MS, NC, SC, TN; Region V: IL, IN, MI, MN, OH, WI; Region VI: AR, LA, NM, OK, TX.

Program Purpose, Goals and Objectives: The objectives of the Youth Development State Collaboration Demonstration Projects are to facilitate the development of State or Tribal policies and initiatives that help communities support a youth development approach; to encourage collaboration among the State or Tribal agencies that address the needs and issues for adolescents; to promote and facilitate communication and coordination between the State or Tribe and youth serving agencies, including FYSB grantees; and to promote collaborative efforts among the State or Tribe, FYSB, and community-based, youth-serving organization.

Federal Share of Project Costs: Applicants may apply for up to $120,000 in Federal support each year which equals a maximum of $360,000 for a 3-year period.

Applicant Share of Project Costs: The applicant is required to provide a minimum of 25 percent of the total approved cost of the project. (There are certain exceptions for Tribes with ''638'' funding pursuant to P.L. 93–638, under which certain Federal grants may qualify as matching funds for other Federal grant programs, *e.g.,* those which contribute to the purposes for which grants under section 638 were made.) The total approved cost of the project is the sum of the Federal share and the applicant share of the project. For example, an applicant requesting $120,000 must match the federal funds with a non-Federal share of at least $40,000.

Duration of Project: This announcement solicits applications for Youth Development State Collaboration Demonstration Projects of up to three years (36-month project periods). Grant awards, made on a national competitive basis, will be for a one-year (12-month) budget period. Applications for continuation grants beyond the one-year budget period, but within the longer term project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the interest of the government.

Summary of Evaluation Criteria for Competitive Area D (SCDP)

Criterion 1: Objectives and Need for Assistance (15 Points)

Applications will be judged on how clearly they specify the goals and objectives to be addressed through the Youth Development State Collaboration Demonstration Project and how these objectives are relevant to youth-related needs within the State or Tribal jurisdiction. For the purpose of this project, youth are defined as individuals between the ages of 10–24.

Applicants are expected to discuss the State's or Tribe's current framework of philosophy for addressing youth issues, including how that framework is reflected in policies and existing youth services. Applicants are expected to describe any youth development activities that are currently in place at the State or Tribal level, how those activities affect local youth services and the need for further efforts in this area. Applicants should discuss the extent of current coordination among State or Tribal agencies and programs on youth issues and existing coordination with local youth service providers, as well as the need for additional collaboration.

Applicants should describe the ability to leverage strong commitment and support at the executive level for this project.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 2: Results or Benefits Expected (20 Points)

Applications will be judged on the extent to which they clearly describe interim and final results and benefits expected of this project, especially in regard to support of youth development and coordination around youth issues and services, including changes in policies, processes, programs and initiatives resulting from this grant, how these changes will be implemented, and the expected legislative, programmatic or administrative results.

Applicants are expected to describe planned results of efforts to strengthen and/or establish effective communication and collaboration and how these will enhance services to young people, providing concrete examples of desired changes in local services and State or Tribal policy making processes.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criteria 3: Approach (35 Points)

Applications will be judged on how clearly they outline a plan of action which describes the scope and detail of how the proposed work will be accomplished; accounts for all functions or activities identified in the application; includes information that clarifies the activities that will be undertaken to introduce and support a youth development approach at the State or Tribal and local levels; cites factors which might accelerate or decelerate the work and reasons for taking the proposed approach rather than others; describes any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Applicants are expected to discuss legislative, administrative and judicial factors that may be barriers to increased collaboration and the establishment and support of a youth development approach and should describe plans to address and overcome these barriers. Applicants are expected to clearly identify a State or Tribal Youth Development Coordinator who will be responsible for activities under this grant and must also identify where the project will be located organizationally.

Applications will be judged on how clearly they explain the methodology that will be used for interim and final evaluation of the project.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 4: Staff and Position Data (10 Points)

Applicants are expected to provide a resume and biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Applications should demonstrate sufficient personnel resources and staff competence to assure that project activities can be successfully carried out and list each consultant, or key individuals who will work on the project.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 5: Organization Profile (10 Points Plus 5 Possible Bonus Points)

Applicants are expected to provide information on the applicant organization(s) and cooperating partners, including information such as organization charts, along with a brief description of the nature of their contribution and knowledge of and experience with youth development, youth issues and youth and family services.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Criterion 6: Budget and Budget Justification (10 Points)

Applicants are expected to provide a detailed line item budget and a narrative budget justification that described how the categorical costs are derived; discusses the necessity, reasonableness, and allocability of the proposed costs; and discusses and justifies the costs of the proposed project in terms of types and quantities of activities to be implemented and the anticipated results and benefits.

Applicants are expected to describe the fiscal control and accounting procedures that will be used to ensure the prudent use, proper disbursement and accurate accounting of funds received under this program announcement.

Applicants must refer to the specific evaluation criteria for each competitive area contained in the full Program Announcement in order to adequately prepare their applications.

Part 2. Required Notification of the Single Point of Contact

Most portions of this program are covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, and American Samoa have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-three jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicant should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Application for Federal Assistance, Standard Form 424, item 16.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. A list of the Single Points of Contact for each State and Territory can be found on the web site *http://www.whitehouse.gov/omb/grants/spoc.html.* or by calling the ACYF Operations Center at 1–800–351–2293.

Dated: May 12, 2000.

James A. Harrell,

Deputy Commissioner, Administration on Children, Youth, and Families.

[FR Doc. 00–12376 Filed 5–16–00; 8:45 am]

BILLING CODE 4184–01–M

Editorial Note: FR-Doc.00-12376 was originally published at 65 FR 31338-31343, Wednesday, May 17, 2000. Due to printing errors it is being republished in its entirety.

[FR Doc. R0–12376 Filed 5–30–00; 8:45 am]

BILLING CODE 1505–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 99D–4575 and 99D–4576]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Food-Contact Substance Notification System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by June 30, 2000.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Title: Food-Contact Substances Notification System

Description: Section 409(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(h)) establishes a premarket notification (PMN) process for food-contact substances (FCS's). Section 409(h)(6) of the act defines a ''food contact substance'' as ''any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'' Section 409(h)(3) of the act requires that the notification process be utilized for authorizing the marketing of FCS's, except where FDA determines that the submission and premarket review of a food additive petition (FAP) under section 409(b) of the act is necessary to provide adequate assurance of safety. Section 409(h)(1) of

the act requires that a notification include information on the identity and the intended use of the FCS and the basis for the notifier's determination that the FCS is safe under the intended conditions of use. Because section 409(h)(1) of the act references the general safety standard for food additives, the data in a PMN should be comparable to the data in an FAP.

In the **Federal Register** of November 12, 1999 (64 FR 61648), FDA announced the availability for comment of two draft guidance documents that are part of the agency's implementation of the PMN program, which will largely replace the FAP process for those food additives that are FCS's. The information to be collected is information on the manufacture and intended use of the FCS, studies relating to the safety of the FCS, and other information necessary to demonstrate that the FCS is safe under the intended conditions of use. FDA also made available for comment FDA Form No. 3480, entitled ''Notification for New Use of a Food Contact Substance,'' which is to be used for a notification for a new use of a FCS. FDA believes that this form will facilitate both preparation and review of notifications because the form will serve to organize information necessary to support the safety of the use of the FCS. The burden of filling out the appropriate form has been included in the burden estimate for the notification. The agency requested comments on the proposed collections of information.

One comment was received on FDA's paperwork reduction analysis for the notification program for FCS's. Portions of this comment concern the content of the guidance documents announced in the November 12, 1999, notice. FDA will consider these portions of the comment in preparing the final version of the guidance documents.

Portions of the comment addressed the format, content, and utility of the proposed FDA Form 3480. The comment stated that FDA Form 3480 would be more useful if it were made available in a common word processor format such as WordPerfect® or Word®. FDA has made the form available in a portable document format that is compatible with and can be read by most current versions of word processing software packages. Therefore, FDA disagrees that it is necessary for the form to be available in a word processor format in order for it to be useful. However, FDA does expect to make the form available in WordPerfect® and Word® formats once the form has been approved by OMB.

The comment further stated that the form should be pilot tested to insure its compatibility throughout the industry. FDA has designed Form 3480 to function as summary form for many types of notifications. FDA expects to modify the form to suit the needs of the agency and the various types of notifications and notifiers. FDA expects to make it possible for notifiers to fill out the form through the agency's Internet site, and to ultimately use the form to facilitate electronic submissions. FDA believes that the most efficient way to evaluate this form is to begin using it and examine the problems and any suggestions for improvement on a continuing basis. FDA expects to accomplish this through the periodic reauthorization of the form required by OMB.

The comment correctly states that, in many cases, only summary information may be included in the form and that more detailed information will need to be referenced and attached. Moreover, the comment states that this caused the form to be a many-segmented document forcing the reader to jump back and forth within the document. The comment also states that a summary form with all supporting information attached in a specified format would be more useful to FDA and the regulated industry. The comment further states that all notifications should contain the same information in the same place within the submission.

As explained above, FDA believes that FDA Form 3480 is the summary form that the comment suggests is needed. FDA has not mandated, and does not expect to mandate, a particular format for notifications in regulations. Therefore, notifiers are free to present and organize the supporting information exactly as the notifier wishes. FDA recognizes that all sections of FDA Form 3480 will not be applicable to all notifications nor to all notifiers. However, FDA believes that most if not all notifiers will find the form useful in organizing their submissions. In addition, FDA disagrees with the notifier that the form will not assist FDA in processing notifications because it will be a many-segmented document. FDA's review of notifications is generally segmented into chemical, toxicological, and environmental disciplines. FDA Form 3480 was designed with this review process in mind. The proposed Form 3480 will assist FDA reviewers in locating the pertinent portions of the data and information that relate specifically to their discipline and their specific review responsibilities.

Description of Respondents: Manufacturers of food-contact substances.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 3480 [2]	200	1	200	25	5,000
FDA 3480 [3]	55	2	110	120	13,200
FDA 3480 [4]	45	2	90	150	13,500
FDA 3480 [5]	16	1	16	150	2,400
Total					34,100 [6]

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Duplicate notifications for uses of FCS's.
[3] Notifications for uses that would currently be the subject of exemptions under 21 CFR 170.39 or very simple FAP's.
[4] Notifications for uses that would currently be the subject of moderately complex FAP's.
[5] Notifications for uses that would currently be the subject of more complex FAP's.
[6] Due to a clerical error, the reporting burden hours for FDA 3480 [3] that appeared in the FEDERAL REGISTER of November 12, 1999 (64 FR 61648), were incorrect. Table 1 of this document contains the correct estimates.

The above estimate is based on the types of submissions that FDA currently receives for FCS's in the threshold of regulation (TOR) and the FAP processes and the following assumptions and information:

1. FDA estimates that the likely increase in PMN's over the number of FAP's and TOR requests will be approximately four times the highest recent influx of these submissions (50 and 54, respectively). This factor is based on an analysis of the number of companies producing various types of FCS's and the types of FCS's for which FAP's and TOR's are most commonly submitted to FDA.

2. FDA also has included 200 expected duplicate submissions in the second lowest tier. FDA expects that the burden for preparing these notifications will primarily consist of the notifier filling out FDA Form No. 3480, verifying that a previous notification is effective, and preparing necessary documentation.

3. Based on the amount of data typically submitted in FAP's and TOR requests, FDA identified three other tiers of PMN's that represent escalating levels of burden required to collect information.

4. FDA estimated the median number of hours necessary for collecting information for each type of notification within each of the three tiers, and the cost of developing necessary data based on input from industry sources.

Dated: May 23, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–13585 Filed 5–30–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–205/ Supplement]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection.

Title of Information Collection: Individual Market-Guarantee Issue Election Packet, and Supporting Regulations in 45 CFR 148, and Forms/ Instructions.

Form No.: HCFA-R–205/Supplement (OMB# 0938-NEW).

Use: This collection is a Supplement of the existing collection for ''Information Collection Requirements Referenced in HIPAA for the Individual Market, Supporting Regulations in 45 CFR 148, and forms/instructions (OMB 0938–0703). This supplement is intended to simplify the filing obligations of issuers who participate in the individual market of more than one direct enforcement state. A direct enforcement state is a state in which HCFA has the responsibility to enforce the requirements of HIPAA. This supplement allows the issuer to submit the requested information for multiple states at one time, rather than having to complete a separate transmittal form for each state.

Frequency: On occasion.

Affected Public: Business or other for-profit, Individuals or Households, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government.

Number of Respondents: 15.

Total Annual Responses: 150.

Total Annual Hours: 566.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's Web Site Address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 8, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–13544 Filed 5–30–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2076–N]

RIN 0938–AK16

Medicaid Infrastructure Grant Program To Support the Competitive Employment of People With Disabilities

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

ACTION: Notice.

SUMMARY: This notice announces the availability of HCFA funding, through grants, for eligible States under the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA). The grant program is designed to assist States in developing infrastructures to support the competitive employment of people with disabilities by facilitating targeted improvement to States' Medicaid programs. This notice contains information about the grants, application requirements, review procedures, and other relevant information.

DATES: States should submit a Notice of Intent to Apply for a grant by June 12, 2000. Grant applications must be submitted July 31, 2000, in order to be considered for funding beginning in October 2000. For an explanation of a timely submission, see Section V of this notice entitled ''Applying for a Grant.''

Application Requests: To receive an application package contact Marilyn Lewis-Taylor, (410) 786–5701, mlewistaylor@hcfa.gov.

ADDRESSES: Mail applications to the following: Health Care Financing Administration, Room C2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Attn: Marilyn Lewis-Taylor, OICS, AGG, Grants Management Staff.

Please Note: While State agencies are only required to submit an original and two copies, submission of an original and *seven copies* will greatly expedite the application process.

Web Site Address for Additional Information: We have a website that provides additional details and

information about the grants. The address for this website is: *http://www.hcfa.gov/medicaid/twwiia/twwiiahp.htm.*

SUPPLEMENTARY INFORMATION:

I. Background

The Ticket to Work and Work Incentives Improvement Act of 1999.

The Ticket to Work and Work Incentives Improvement Act of 1999 was signed by President Clinton on December 17, 1999. This law seeks to address many of the obstacles that people with disabilities face as they seek sustained employment. It expands Medicare and Medicaid coverage for certain categories of employed individuals with disabilities because people with disabilities have continually identified the loss of health care coverage as one of the major obstacles that they face as they return to work.

The infrastructure grants program was created to provide financial assistance to States to facilitate the competitive employment of people with disabilities through (a) Medicaid buy-in opportunities under the State Medicaid Plan, (b) demonstrations offering the ability to purchase Medicaid coverage for people with a severe impairment who do not yet meet the SSI disability test, (c) significant improvements to Medicaid services that support people with disabilities in their competitive employment efforts and/or (d) serving as a regional State-to-State Medicaid Infrastructure Center.

In addition to this infrastructure grant program, the Act provides States the option to offer Medicaid buy-ins to two optional eligibility groups. The first optional group is for individuals from age 16 through 64 who would meet the eligibility requirements for the Supplemental Security Income program but for higher earnings or resources. The second optional group, referred as the Medicaid Improvement Group, is for people who, at one time, were eligible under the first optional group but who are determined to have medically improved at a regularly scheduled continuing disability review (CDR).

Finally, the legislation creates a Medicaid Demonstration program that allows States to provide Medicaid benefits and services to a specified maximum number of working individuals who have a specific physical or mental impairment that is likely to lead to disability as defined by Social Security. This demonstration authority will allow States to assist working individuals by providing the necessary benefits and services required for people to manage to progression of their conditions and remain employed. A separate grant solicitation will be issued for this ''Demonstration to Maintain Independence and Employment.'' However, Medicaid Infrastructure Grant program funds may be used to support the development of the Demonstration to Maintain Independence and Employment. Infrastructure grant funds may also be used to conduct outreach to beneficiaries and other stakeholders about the availability of such new options.

The Ticket to Work and Work Incentives Improvement Act of 1999 is a comprehensive law that changes programs operated by the Social Security Administration, the Department of Labor, and HCFA. We are working in a coordinated and strategic manner with our Federal agency partners to develop strong national policy. The Presidential Task Force on Employment of Adults with Disabilities is serving as the coordinating entity to this multi-agency process. Both the Department of Labor and the Social Security Administration are also issuing grant solicitations authorized under the Ticket to Work and Work Incentives Improvement Act to be implemented in fiscal year 2000. These grants share the common goal of supporting working-age individuals in securing and maintaining gainful employment.

II. The Medicaid Infrastructure Grants

The goal of this grant program is to support people with disabilities in securing and sustaining competitive employment in an integrated setting. The grant program will achieve this goal by assisting State Medicaid programs in implementing provisions of the Ticket to Work and Work Incentives Improvement Act of 1999 which relate to health and long term care coverage.

A. Who May Apply

Two types of State agencies *in eligible States* may apply: (a) the Single State Medicaid Agency or (b) any other State agency in partnership, agreement and active participation with the Single State Medicaid Agency. For purposes of this grant program. ''State'' is defined as each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. Only one application will be accepted per State, unless a State wishes to separate its dissemination and learning component (or its proposal for a State-to-State Medical Infrasture Center) into a distinct application. In such a case, the combined budget total will still be subject to the overall State funding limit described below in Section C.

Eligible States are affected by a requirement adopted by Congress to promote the availability of personal assistance services necessary for many people to work. For purposes of this grant, ''personal assistance services'' means:

A range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily activities on and off the job that the individual would typically perform if the individual did not have a disability. Such services should be designed to increase the individual's control in life and the individual's ability to perform activities on and off the job.

We recognize that States currently vary in the adequacy of their personal assistance services. In an effort to enable broad participation in this grant program, HCFA is establishing a multi-tiered qualification system that will address the situation of different States. Personal assistance services used to qualify for this grant program, however, must conform to the intent of this law which aims to promote and support the competitive employment of people with disabilities. To do that, personal assistance services must be both available to people who need services outside their homes and not limited to one particular disability group.

As described in detail below, fully eligible and conditionally eligible States are those which offer personal assistance services through their Medicaid program in a statewide manner. Fully eligible and conditionally eligible States are able to apply for and receive multi-year grant awards. Transitionally eligible States are those that offer personal assistance services outside the home but do not provide these services statewide, and agree to convert their personal assistance service to statewide by the last day of the grant cycle. Typically, this category would include States with 1915(c) waivers supportive of those engaged in competitive employment that are limited to certain geographic regions of a State. Transitionally eligible States are able to receive first year funding (up to $625,000) but must apply for conditional eligibility status before receiving any additional funds. States with full, conditional or transitional eligibility will receive funding at the beginning of the grant cycle. Other States may have funding reserved for them.

To be considered sufficient, all of the eligibility categories require that

personal assistance services support the competitive employment of individuals with disabilities. Competitive employment means work—

(i) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(ii) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

In addition, the personal assistance services offered by a State must support competitive employment of disabled individuals that takes place either in the home or in an integrated work setting. An integrated work setting means a setting typically found in the community in which employed disabled individuals interact with non-disabled individuals, other than the non-disabled individuals who are providing the employment service. A person with a disability who is self-employed is considered to be engaged in competitive employment provided that such self-employment meets the definition of competitive employment.

B. Duration of Awards and Types of State Eligibility

Award duration (and therefore cumulative award amount) depends partly upon the degree to which the State's Medicaid personal assistance services effectively support competitive employment. States receiving awards may retain grant funds until they are expended. States may only seek subsequent competitive awards (as their eligibility permits) contingent upon the expenditure or obligation of previous grant awards. States may apply under the following circumstances:

1. Full Eligibility: Fully eligible States are defined in Appendix One which contains HCFA's operational definition of an effective personal assistance service that will qualify a State for full eligibility under the grants program. Those States with statewide personal assistance services meeting the criteria in Appendix One will enjoy full eligibility and may secure both (a) multi-year funding and (b) the ability to serve as State-to-State Medicaid Infrastructure Centers. States with personal assistance programs that meet the criteria described in Appendix One may apply for up to four years of funding. If a multi-year commitment is requested, funding beyond the first year will be reserved for such States for future grant years subject to the continued availability of funds under the grants program. At the end of four years, such State may re-apply and be eligible for further funding, contingent upon the availability of funds on a competitive basis.

- States seeking full eligibility must offer evidence that their personal assistance services under Medicaid fulfill the requirements in Appendix One of this grant solicitation.

2. Conditional Eligibility: Conditionally eligible States are those States with statewide personal assistance services of limited people scope capable of serving people with disabilities engaged in competitive employment of at least 40 hours per month. These States do not meet the criteria in Appendix One. Such States may apply for up to four years of funding; however, funding after year one is contingent upon the States meeting annual benchmarks which have been agreed to by HCFA in the Terms and Conditions of the grants. These benchmarks must represent design changes which will significantly improve a State's personal assistance services under Medicaid and move them closer to the criteria established in Appendix One. We expect that the benchmarks will be designed with the involvement of the disability community. Subsequent year funding will be released after the State has achieved the agreed upon benchmarks. At the end of four years, States may re-apply for funding on a competitive basis, contingent upon the availability of funds.

- To the extent that system improvements are sufficiently large that the State is later able to meet the criteria in Appendix One, the State may then apply for additional amounts and years of funding as a ''fully eligible State.''

3. Transitional Eligibility: Transitionally eligible States are those that offer personal assistance services sufficient to support individuals engaged in competitive employment of at least 40 hours per month, but not in a statewide manner. Transitionally eligible States must commit to transitioning their personal assistance services to statewide by the end of the grant year to be eligible for one year of funding. This commitment will allow us to consider the last day of the grant cycle as the first day for purposes of establishing statewideness. States receiving funding under this category may re-apply competitively for future funding as a conditionally eligible State. States can only qualify for funding under the transitional eligibility category on a one time basis.

- States seeking transitional eligibility must provide us with a letter of commitment outlining how the requirement of statewideness will be achieved by the end of the year.

We expect this commitment letter will be developed with the involvement of the disability community.

4. Reserved Eligibility: States that do not qualify for full, conditional, or transitional eligibility (those that do not have a personal assistance service and/or do not have capacity to deliver personal assistance services outside the home) may still apply and have first or second-year funds reserved for them, contingent upon later passage and implementation of coverage for personal assistance services capable of serving people with disabilities in competitive employment of at least 40 hours per month. Receipt of funding under this eligibility category is contingent upon the availability of funds. In addition, States seeking reserved eligibility must meet the following requirements:

(a) Obtain a commitment from the Single State Medicaid Agency, with the involvement of the disability community, to seek the necessary legislative and/or Gubernatorial approvals to implement a personal assistance services system capable of supporting competitive employment of at least 40 hours per month within two years of the grant application due date; and

(b) Provide evidence of such approval prior to the release of grant funds. Funds not claimed within the 2-year time period maybe released for competitive application by other States.

States that are determined by HCFA to be ineligible for funding by the end of year two, may re-apply for reserved eligibility.

C. Amounts and Timelines for Funding

HCFA anticipates announcing the first round of awards in October, 2000. The first grant period will run 15 months from October 1, 2000, through December 31, 2001. The minimum grant award for this first award cycle of 15 months will be $625,000 unless the State specifically requests less. The maximum award a State may request is the greater of:

- $500,000 per year ($625,000 for the first grant period of 25 months), or
- Ten percent of the Medicaid buy-in expenditures for people with disabilities, per year.

In no instance may this be more than $1,250,000 for the first grant-year or $1,500,000 for subsequent grant years. States are required to document such expenditures either in the form of expenditure reports for the previous fiscal year or actual budgeted expenditure levels approved by the legislature and Governor for the previous year, the current year or the

grant year. All documentation regarding the buy-in expenditures must be included with the initial application.

The Medicaid Infrastructure Grants program is authorized in law for 11 years. Funding has been appropriated at $20 million for the first year, with gradually increasing annual amounts totaling $150 million for the first 5 years ($25 million in year two, $30 million in year three, etc). States may apply for 1 or more years of funding, as described below. We anticipate some form of grant solicitation annually, but also expect competition for the grants will increase significantly over time. No State or local matching funds are required.

D. Uses of Grant Funds

Funds may be used for infrastructure, that is, to establish or improve the capability to provide or manage necessary health care services or support for competitive employment of people with disabilities who may be Medicaid eligible. The infrastructure may be at the State and/or local level and may be provided or contracted by government or other organizations under contract with the responsible government agency.

Funds may not be used for the direct provision of services to people with disabilities except on a one-time, last resort, emergency basis for the purpose of sustaining the individual's competitive employment. An emergency use would consist of an intervention or support enduring no more than one day which is designed to compensate for the unexpected breakdown of a person's normal support system and for which other resources are not readily available to sustain a person's employment schedule or commitments. Examples might include: emergency rental of a replacement wheelchair or coverage for transportation breakdown.

Funds under this grant initiative cannot be used to match any other Federal funds. Grant funds may not be used for services, equipment, or supports that are the responsibility of another party under Federal or State law (such as vocational rehabilitation or education services) or under any civil rights laws including, but not limited to, modifications of a workplace or other reasonable accommodations that represent an obligation of the employer or other party. Grant funds may not be used to provide personal assistance services (except for an emergency use described above) or substitute in other ways for the absence of adequate personal assistance services in the State. Funds may not be used for infrastructure for which Federal Medicaid matching funds are available at the 90/10 matching rate, such as certain information systems projects.

States that receive funding commitments based on Full-Eligibility status or receive funding which exceeds the minimum grant award level ($625,000 for the first 15-month grant period) must agree to provide and/or contribute to some form of technical assistance to other States based on the learning achieved in the process of implementing its Medicaid employment initiative. Specific details will be negotiated based on the State's interest in providing assistance, the type of assistance already offered by other grantee States, the expressed desire of States which are requesting assistance, and the input of all States with regard to the best methods to assure a national infrastructure capability. Examples of assistance already requested by States can be found in Appendix Two.

Funds may be applied to one or more of the following four purposes:

1. Medicaid Buy-In: Planning, design, implementation and/or effective management of any of the Medicaid buy-in options under the 1997 Balanced Budget Act (section 1902(a)(10)(A)(ii)(XIII) of the Social Security Act (the Act)) and/or the Ticket to Work and Work Incentives Improvement Act (section 1902(a)(10)(A)(ii)(XV) or (XVI) of the Act. Examples include: time-limited staff planning costs; expenses for people with disabilities to participate in State planning and implementation events; automated information and eligibility systems modifications necessary for the Buy-In or for Medicaid payment of Medicare Part B premiums on behalf of subscribers to the Medicaid Buy-In; automated enrollee tracking systems; basic research and evaluation, etc. Also included is outreach to people with disabilities or employers to learn about the opportunities to work and to sustain health coverage under Medicaid and/or Medicare, to enroll in the Medicaid Buy-In, and to access needed supports to sustain competitive employment. Additional examples are provided in Appendix Two.

2. Medicaid Services: Planning, design, or initial management and/or evaluation of improvements to make the Medicaid State Plan (or Medicaid waivers) provide more effective support to workers with disabilities. Examples include: improvements to personal care, transportation, durable medical equipment, community-based treatment, or Medicaid waiver support of employment. Coordination between the activities of other State Agencies in support of working people with disabilities and the State Medicaid Program is permissible. Additional examples are provided in Appendix Two.

- On-going administration of Medicaid services is not a fundable activity unless such administration is part of a well-defined test of alternate and improved methods focused specifically on employment (*e.g.,* testing, implementation and management of new prior authorization criteria under Medicaid personal care designed to assess the need for additional support when people are employed).

3. Demonstration To Maintain Independence and Employment: Planning, design, and initial implementation of the demonstration authorized under section 204 of the Ticket to Work and Work Incentives Improvement Act. Separate funding (through a separate grants solicitation) is provided for State demonstrations that offer Medicaid coverage for people who do not meet the SSI disability test but have a potentially severe physical or mental impairment, as defined by the State. Medicaid infrastructure funds allocated pursuant to this solicitation may be used to design such a demonstration and to make necessary implementation preparations.

A separate solicitation will provide funding both for Medicaid services and also for on-going administration of the demonstration. If a State seeks Infrastructure Grant funding for design or initial implementation of the demonstration, the State must submit a response to the separate solicitation to participate in the Demonstration to Maintain Independence and Employment found on the HCFA website at www.hcfa.gov/medicaid/twwiia/twwiiahp.htm (it need not attach a copy to this solicitation response). To minimize the risk assumed by the State when going through consecutive competitive selection processes, a State may submit two versions of its budget under this solicitation. One would reflect the budget if a State is also approved for a demonstration, the second would reflect the budget if the State is not chosen as a demonstration participant.

4. State-to-State Medicaid Infrastructure Centers: States that (a) meet the full eligibility criteria and (b) also make a commitment to implement a Medicaid buy-in program for working adults with disabilities, may apply to use funds to form a regional technical assistance center. The Center would: help other States plan and design needed Medicaid infrastructure; disseminate information on ''lessons learned''; facilitate the sharing of

knowledge among States, employers and community organizations; support efforts to involve people with disabilities in the design and management of the Medicaid buy-ins; and replicate successful programs supporting the employment of people with disabilities by eliminating health care barriers.

Proposals to create these regional centers must make significant use of staff administering state programs affecting work incentives improvements who can share their experience with other States. One of the purposes of this regional resource network is to identify key actors with special knowledge and talents that can promote sharing of successful practices. State administrative staff must be available to the State-to-State Medicaid Infrastructure Center for purposes of traveling to other States to provide technical assistance. The indirect rate for State-to-State Infrastructure Centers is limited to the Single State Medicaid Agency's approved indirect rate not to exceed 9%.

III. Review Criteria and Process

Planning and Problem Analysis—15 Points: To what extent does the application evidence an understanding of the barriers that impede competitive employment of people with disabilities? To what extent does the planning and implementation process meaningfully involve people with disabilities? How well has the State been able to identify population groups who would benefit from a Medicaid buy-in program?

Significance—25 points: To what extent the application propose infrastructure development which will offer enduring and significant improvement in the ability of the system to provide adequate health coverage for people with disabilities who are competitively employed, provide needed personal assistance and other supports, and/or remove other significant employment barriers?

Methodology and Budget—40 points: To what extent do the methods, work plan, and timetable inspire confidence that the goals of the proposal will be met? For example, to what extent are:

- The needed partners aligned with the proposal;
- The goals and methods clearly and effectively delineated;
- The Medicaid buy-in, Medicaid services and/or Medicaid infrastructure complemented and coordinated with other important components of an effective system (e.g. benefits counseling, vocational rehabilitation, school to work programs, and other important pieces of the employment puzzle); or to what extent will the Medicaid infrastructure grant improve such coordination toward the common purpose of enabling competitive employment?

Is the budget reasonable; to what extent does the budget offer good value in relation to the achievements that are promised (that is, the size of the budget in relationship to the significant products or outcomes being achieved)?

Staffing—10 points: To what extent is evidence provided that key staff are qualified and possess the experience and skills to implement and conduct the program within the available time frames? To what extent is there evidence that key project staff, by virtue of their personal and/or first-hand professional experiences with disability, have the requisite knowledge to design and implement infrastructure for a customer-responsive health coverage system?

Dissemination and Learning—10 points: To what extent does the State have a plan for using its grant experiences to identify different or better ways to improve its buy-in or Medicaid services that support competitive employment efforts of people with disabilities? Does the State have a cogent plan for obtaining timely feedback from people enrolled in the Medicaid buy-in (including the Medicaid demonstration) and from the disability community?

Will the grantee State make such lessons available to key actors within the State? To what extent will it make such lessons available to other States (required for fully-eligible States and State receiving more than $500,000 per fiscal year)? To what extent does the applicant plan to: help other States design needed Medicaid infrastructure; facilitate the sharing of knowledge among States, employers and community organizations; support efforts to involve people with disabilities in the design and management of the Medicaid buy-ins, or replicate successful techniques?

- To what extent does the State's proposal indicate the staffing and technical capability to ensure such dissemination and learning (or include a cogent plan to develop/acquire such capability)?

In General

States that include people with disabilities in the development and implementation of their grant proposal and make a commitment to ongoing inclusion will receive scoring preference.

Panels of experts will conduct an independent review of all applications. The panelists will assess each application based on the areas specified previously to determine the merits of the proposal and the extent to which it furthers the purposes of the grant program. HCFA will review the recommendations of the panel. HCFA reserves the right to request that States revise or otherwise modify certain sections of their proposals based on the recommendations of the panel. HCFA reserves the right to assure reasonable geographic and other representation among States receiving grant awards, as well as assure the presence of at least one State-to-State Medicaid Infrastructure Center.

Final award decisions will be made by the HCFA Administrator after consideration of the comments and recommendations of the review panelists, and the availability of funds. HCFA anticipates announcing the awards in October, 2000. States will receive written notification of the final award decision.

IV. General Provisions

Although applicants have considerable flexibility in developing grant programs under this solicitation, the State must agree to the following:

Grantee Reporting

States receiving awards must agree to cooperate with any Federal evaluation of the program and provide quarterly and annual reports in a form prescribed by HCFA (including the SF–269a Financial Status Report forms). The reports will be designed to outline how grant funds were used and to describe program progress and barriers. States will also provide data on key aspects of their system improvements, scaled to the size of their grant award. For States with Medicaid buy-in programs, such data include the number of subscribers, prior Medicaid eligibility status, Medicare eligibility status, presence of other public or private third-party insurance, premium collections, employment status, and the number of subscribers who increase their employment level.

For States using grant funds to improve Medicaid services that support competitive employment, we will seek data on the nature and extent of the improvements as well as the number of people who benefit from such improvements. A report format will be supplied by HCFA and final details will be negotiated as part of the final grant award process.

Congress imposed a reporting requirement on grantee States when it created this program which involves tracking and reporting the number of

Title II and Title XVI disability beneficiaries who return to work during each year of the grant program. HCFA will work with the Social Security Administration and the States to fulfill this reporting requirement.

Coordination With Medicare and Private Insurance

States that receive grant funds and that propose (or have) a Medicaid buy-in program or a project under the Medicaid Demonstration to Maintain Independence and Employment should plan on designing methods to coordinate the buy-in or demonstration effectively with private insurance and with Medicare (e.g. payment of Medicare Part B premiums to ensure full Medicare coverage and a reduction in eventual cost to Medicaid). HCFA will provide technical assistance on design elements that may be useful for States to consider.

Transition for On-Going Administration

States that use grant funds for any on-going administrative expenses must include a short plan for phasing out grant funds and ensuring that necessary, on-going administration will be assumed as a regular Medicaid administrative expense or paid for through other means.

Annual Meeting

All States receiving awards should plan to attend an annual meeting of grantee States. States proposing to serve as State-to-State Medicaid Infrastructure Centers should plan to attend two additional meetings. Proposed grant budgets must contain the necessary funds to send two representatives to the meetings and, for budgeting purposes, should be based on a Washington, DC, location.

Civil Rights

All grantees receiving awards under this grant program must meet the requirements of Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Hill-Burton Community Service nondiscrimination provisions; and Title II, Subtitle A, of the Americans with Disabilities Act of 1990.

Intergovernmental Review of Federal Programs

Executive Order 12372 or ''Intergovernmental Review of Federal Programs'' (45 CFR Part 100) is not applicable to this program.

V. Applying for a Grant

Application Format

Appendix Three contains a format for submitting an application.

Notice of Intent To Apply

Appendix Four is a Notice of Intent to Apply. States that submit this form with questions before June 12, 2000 will receive answers to the questions at the Applicants' Conference which may help provide guidance for proposals. This form does not represent an obligation on the part of the State to apply and it is not a requirement for a successful State application.

Applicants' Conference

HCFA will conduct an open Applicants' Conference for all States interested in the Medicaid Infrastructure Grants. Participation in the Conference is not required but is recommended as a forum for States to ask questions and obtain additional information. The conference will be held in June, 2000.

Deadline for Submission

The closing date for proposals submitted under this solicitation is July 31, 2000. Applications mailed through the U.S. Postal Service or a commercial delivery service will be considered on time if they are received in HCFA's Grants Office or postmarked by this date. Submissions by facsimile (fax) transmission will not be accepted. A proposal postmarked after the closing date will be considered late. Late proposals will not be considered for an award in this round of applications and will be returned without review.

An original proposal should be sent with *seven copes* to: Attn: Marilyn Lewis-Taylor, Health Care Financing Administration, OICS, AGG, Grants Management Staff, Mailstop C2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Phone: (410) 786–5701, e-mail: mlewistaylor@hcfa.gov

Please note: While State agencies are only required to submit an original and two copies, submission of an original and *seven copies* will greatly expedite the application process.

VI. Additional Information

For additional information regarding this solicitation, please contact: Medicaid Employment Infrastructure Grants Program, Disabled and Elderly Health Programs Group, Center for Medicaid and State Operations, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, (410) 786–6126, Attn: Joe Razes, Project Manager.

Information is also available on HCFA's dedicated Ticket to Work and Work Incentives Improvement Act website at the following address: http//:www.hcfa.gov/medicaid/twwiia/twwiiahp.htm

Authority: Section 203 of the Ticket to Work and Work Incentive Improvement Act of 1999, Public law 106–170.

(Catalog of Federal Domestic Assistance Program No. 93.779, Health Care Financing Research, Demonstration, and Evaluations)

Dated: May 22, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Appendix One: Personal Assistance Services

Personal assistance services sufficient to enable individuals to work:

For full eligibility under this grant program, entitling a State to receive multiple year funding, a State must offer personal assistance services statewide to the extent necessary to enable an individual to be employed competitively. For purposes of this grant program, ''personal assistance services'' means:

- A range of services, provided by 1 or more persons, designed to assist an individual with a disability to perform daily activities on and off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and the individual's ability to perform activities on and off the job.

Offering personal assistance services to the extent necessary to enable individuals with disabilities to remain competitively employed is defined as the following:

- Personal assistance services must be offered statewide through:

(a) The optional Medicaid personal care services benefit under the State Medicaid plan as defined in 42 CFR 440.167, or

(b) A section 1115 and/or section 1915(c) waiver and/or 1915(b) waiver which substitutes for statewide personal care coverage sufficient to support employment under the State Medicaid plan as defined below, or

(c) A combination of State Plan personal care option (or personal care within a Home Health State Plan service) and Medicaid waiver which collectively meet the statewideness and other criteria described below, and which is not substantially different for employed and unemployed individuals.

- The personal care benefit must be sufficient in amount, duration and scope such that an individual with a moderate to severe level of disability would be able to obtain the support needed to both live and get to and from work. Evidence must be available that the State has the ability, through mechanisms including individualized assessments, to match need for personal assistance services with the quantity of services delivered. Establishing caps on the number of days or the number of hours per day that services are available

without regard to individual need will not satisfy this requirement. A State must have criteria for reviewing and responding to requests from qualified employed individuals with disabilities who believe they require more services than determined at their individuals assessment, or a different type of physical or cognitive assistance than that which has been made available. Such criteria should be developed in consultation with individuals with disabilities who use personal assistance services and are competitively employed.

• Workers receiving personal assistance services must be able to receive personal assistance services outside their home.

• Workers receiving personal assistance services must be able to receive personal assistance services at times during both the day and night seven days a week, subject to a finding of individual need.

• Unless an individual needs only assistance with activities of daily living, medical necessity definitions used by a State must not preclude the availability of personal assistance services for instrumental activities of daily living such as cooking, cleaning or shopping if such assistance is required for an individual to remain competitively employed.

Appendix Two: Examples of Permitted and Prohibited Uses of Grant Funds

A. Examples of Permitted Uses of Funds

1. Medicaid Buy-In Programs

Buy-In Design and Implementation: Design, cost-modeling, development and initial administrative implementation of medicaid buy-ins for the eligibility groups described in sections 1902(a)(10)(a)(ii)(XIII), (XV) and (XVI) of the Social Security Act including:

• Staffing or contracting costs (and related staff expenses) for planing, cost-modeling, initial implementation and management.

• Expenses incurred by people who have a disability who volunteer to participate in State planning, design, training, and implementation events.

• Expenses related to processes that actively involve people with disabilities in the design and/or implementation of the buy-in programs.

• Changes to the State's automated eligibility determination systems.

• Changes to the State's information systems necessary to: issue Medicaid cards; track enrollment; gather and track key information about enrollees (see grantee reporting requirements); manage premium collections and payments; coordinate benefits with Medicare and other third-party insurers; manage and track special asset disregards such as special earned-income savings accounts that a State may permit as part of its work incentives.

• Training materials, curricula, and events for training eligibility determination workers, SSA field staff, benefit counselors, independent living centers, advocacy organizations, and others.

• Software for managing premium collections or tracking special savings accounts permitted as an asset disregard.

• Outreach efforts to inform prospective enrollees and/or employers about the availability of the buy-in and provide information regarding costs and enrollment criteria.

Tracking, Reporting and Learning Systems: Costs to build and maintain capacity to:

• Meet the reporting requirements of this grant solicitation.

• Track key enrollee data (*e.g.* enrollee characteristics, prior Medicaid and Medicare status, employment, etc.).

• Conduct basic research on costs of services used by enrollees, utilization, or trends over time.

• Design and conduct effective methods to obtain enrollee feedback or input on the on the operation of the buy-in, the effectiveness of the coverage being provided, and methods to improve the manner in which the buy-in facilitates employment.

Coordination of benefits: Expenses involved in designing and implementing methods to coordinate the buy-in programs effectively with Medicare and with other public or private or insurance coverage.

2. Medicaid Services That Most Directly Support individuals with Disabilities Who Are Employed

• *Personal Care Under the State Plan:* Design, cost-modeling, and development of a Medicaid State Plan service to cover the personal care services optional benefit under the State plan.

• *Providers of PAS:* Development of provider capacity and reliability to support the provision of personal assistance services (PAS) seven days a week, during the day and night as needed by competitively employed individuals with disabilities; development of effective emergency or back-up systems for people who are competitively employed.

• *Adequacy of PAS:* Design and/or initial implementation of changes to the State's personal assistance services that substantially improve the extent to which the service supports the competitive employment of people with disabilities, such as: conversion of across-the-board service caps to authorizations based on individual need, inclusion of cueing as a component of personal assistance services, etc.

• *Training Medicaid Case Managers:* Training materials, curricula and events designed to train case managers funded by Medicaid regarding: the Medicaid buy-in; the availability of vocational rehabilitation services (VR) and the procedures for working with VR agencies; the availability of Section 1619 Medicaid protections for SSI beneficiaries who work; the inner workings of the SSI provision for Programs to Achieve Self-Sufficiency (PASS); provisions of the new Ticket to Work and Work Incentives Improvement Act; changes to Medicare extended periods of eligibility, and other programs which will assist people with disabilities to be employed competitively.

• *Medicaid Case Management Design:* Redesigning the content, scope, activities, and outcomes of Medicaid case management activities to incorporate valued social and economic roles, defined and desired by the individual with a disability, as an element of each case plan.

• *Self-Determination Designs:* Incorporating the new employment possibilities in the evolving field of self-determination within the Medicaid program, or redesigning traditional Medicaid services to incorporate self-determination principles with an employment focus.

• *Other Medicaid Services:* Improvements in the design, cost-modeling, development and initial implementation or evaluation of other Medicaid services which have a direct and significant impact on the ability of individuals with disabilities to sustain competitive employment, such as transportation services or modifications, assistive devices, communication aids, or community mental health services.

3. Medicaid Demonstration To Maintain Independence and Employment

• *Demonstration Design and Initial Implementation:* Design and development of a demonstration program to provide Medicaid coverage to a State defined maximum number of working individuals who have a specific physical or mental impairment likely to lead to disability (as created by Section 204 of the Ticket to Work and Work Incentives Improvement Act of 1999), including the examples cited above as permitted uses for the basic Medicaid buy-in programs.

4. State-to State Medicaid Infrastructure Centers

• *Staffing:* Staffing or contracting costs (and related expenses) for a technical assistance and resource center to assist other States to design or implement Medicaid buy-ins or a Medicaid demonstration project.

• *Training and Consulting:* Training materials, curricula development, training events, travel in-state or out-of-state, etc.

• *Peer and Network Education:* Fostering forums for the sharing of knowledge amongst peers, developing effective networks among States, employers, and people with disabilities to share new information, learn new problem-solving techniques, and advance the state-of-the-art in return to work programs.

• *Direct Technical Assistance:* Provision of direct technical assistance to other State agencies, legislatures, Governors, employers, consumer forums, or others on any topic related to the buy-ins (including the Medicaid demonstration) or to improving Medicaid services to support competitive employment of people with disabilities.

• *Informational Resources:* Construction of resources databases for use by others in cost-modeling, tracking progress and learning of other States across the country, compiling key design features and results of different States' buy-in programs or Medicaid demonstration.

• *Outreach and Communication Resources and Services:* Developing and distributing key outreach resource materials for use in other States, including printed material, videos, testimony, audio interviews, graphics, etc. Developing and maintaining web-sites, links translation services, employer outreach systems, and other communication infrastructure.

5. Other

• *Personal computers:* Personal computers and related software for any added staff

capacity (hired or contracted) devoted to development or maintenance of an adequate infrastructure for the Medicaid buy-in programs (including the Medicaid demonstration).

• *Reasonable accommodation:* Reasonable accommodation expenses for staff with a disability who have been enlisted to improve design or implementation capability.

• *Outreach:* Outreach to stakeholders to increase awareness of the availability of the Medicaid options or Medicaid demonstration.

• *Inclusion:* Inclusion of the disability community in the design, implementation and outreach efforts around these options and demonstrations.

B. Prohibited Uses

• *Match:* State or local match to any services provided under the Medicaid program or other Federal program.

• *Medicaid 90/10 Projects:* Any infrastructure expense for which Federal Medicaid funds are available at the 90/10 matching ratio.

• *Non-Competitive Employment:* Any costs related to employment efforts which are not entirely designed to eventuate in the competitive employment of individuals with disabilities.

• *Other Target Groups:* Any infrastructure expense that is not designed to be used primarily for the benefit of people with disabilities who are employed.

• *Premiums:* Premiums for participants in a Medicaid buy-in or other cost-sharing under the Medicaid program.

• *Other Party Responsibility:* Services, equipment, or supports that are the responsibility of another party under Federal or State law (such as vocational rehabilitation or education services) or under any civil rights laws including, but not limited to, modifications of a workplace or other reasonable accommodations.

• *Direct Provision of Services:* Direct provision of services to people with disabilities except on a one-time, last resort, emergency basis for the purpose of sustaining the individual's competitive employment.

• *On-going Administration of Medicaid Services:* Ongoing administration is not a fundable activity unless such administration is part of a well-defined test of alternate and improved methods focused specifically on employment (e.g. testing, implementation and management of new prior authorization criteria under Medicaid personal care designed to assess the need for additional support when people are employed).

• *Benefits Counseling:* Benefits planning or counseling services that are not part of a single-session Medicaid outreach event, a Medicaid eligibility determination process, or a Medicaid buy-in enrollment process.

• *Data Processing Hardware:* Hardware in excess of the personal computers required for staff devoted to the Medicaid employment initiative.

Appendix Three: Application Format and Guidelines

Please use the format outlined below and submit materials in the order listed.

• The narrative portion of the proposal should not exceed 30 double-spaced typewritten pages, with one inch margins on all sides, in 12-point font. This page limit does not include the cover letter, budget, required appendices, or letters of support.

• Additional documentation may be appended; however, material should be limited to information relevant but not essential to the specific scope and purpose of the grant. Please do not include critical details in an appendix as appendices will not be included for purposes of the ratings process.

• States receiving awards may be asked for an electronic version of their proposals at a later date. States must submit their applications initially in paper (hard copy) format.

A complete proposal consists of a narrative application plus the required material noted below and a completed grant application kit. Application materials should be organized in order as follows:

1. State Agency's Cover Letter

A letter from the Director of the State Medicaid Agency* or other designated State Agency identifying his/her agency as the lead organization, indicating the title of the project, the principal contact person, the amount of funding requested, and the names of all organizations collaborating in the project. The letter should indicate that the State Agency has clear authority to oversee and coordinate the proposed activities and is capable of convening a suitable working group of all relevant partners.

• For purposes of this solicitation, State Medicaid Agency means the Single State Medicaid Agency or umbrella agency which houses the State Medicaid Program.

2. Application Kit Forms

Appendix Five contains the standard forms which must be completed with an original signature and enclosed as part of the proposal.

3. Letter of Agreement from Single State Medicaid Agency

If the State Medicaid Agency is not the lead organization, a letter from the Director of the Single State Medicaid Agency is required specifying the Medicaid Agency's agreement, endorsement and active participation in the grant program.

4. Project Abstract

A project abstract limited to one page. The abstract should serve as a succinct description of the proposed project and should include:

• The overall goals of the project; and

• The level of eligibility being applied for, number of years of funding requested, total budget; and

• A description of how the grant will be used to support or expand competitive employment opportunities for persons with disabilities.

5. Project Narrative

The narrative application should provide a concise and complete description of the proposed project. The narrative or body of the application *must not exceed 30 double-spaced pages* as described earlier. Please do not rely on appendices to describe key details. This narrative should contain the information necessary for reviewers to fully understand the proposed project and should be organized as follows:

A. Current Infrastructure

Provide a description of the State's current infrastructure for supporting competitive employment for people with disabilities. Please include the following:

• A description of people with disabilities currently competitively employed in your State;

• A description of services provided with State and Federal funds to people with disabilities who are competitively employed or seeking competitive employment in your State;

• A description of personal assistance services delivery systems currently in place in your State including who is served, how services are accessed and who funds the services; and

• An overall assessment of the strengths and weaknesses of your State's capacity to support people with disabilities seeking to return to work.

B. Use of Grant Funds

Provide a description of how the grant funds will be used to improve the existing infrastructure. Please include as much detail about the following components as possible:

1. Removal of Barriers

Discuss the major barriers to competitive employment for people with disabilities that will be addressed with grant funds. Describe the proposed grant projects in terms of their approach to barrier elimination. Provide a succinct statement of the problems for which Medicaid infrastructure funding will be an answer.

2. Health Systems Change

Because this Infrastructure Grant program is premised upon the positive correlation between access to health care benefits and employment, please describe the health systems charges that will result from Infrastructure Grant funding. Examples of health systems change include offering a Medicaid buy-in to people with disabilities who return to work, expanding personal care services, or identifying health system needs and strategies for improvement.

3. Communication/Access Plan

Discuss how the State intends to make known the availability of infrastructure improvement to the disability and employer communities.

4. Partnerships

Describe any partnership with employers, other State or local agencies and the disability community.

5. Monitoring Plan

Describe plans for monitoring the success of the program over time, including establishing a base estimate of the number of people with disabilities who are currently competitively employed.

6. Research/Program

Describe any ongoing research or program development efforts in this area.

C. Products and Timeline

The purpose of this section is to outline clearly what the State hopes to achieve with

each grant. Describe milestones and work products to be accomplished during the grant period.

For States applying for *Conditional Eligibility.* States must clearly indicate the annual benchmarks for improvements to personal assistance services (PAS) that must be achieved before funding beyond the first year's will be released. These benchmarks should represent improvements in PAS that will move a State closer to meeting the level of PAS described in Appendix One.

For States applying for *Transitional eligibility,* States must provide a letter of commitment outlining how the requirement of providing PAS statewide by the end of the grant year will be achieved.

• Examples of work products include completed program designs, legislative campaigns, or proposed educational campaigns.

• A timetable for accomplishing the major tasks to be undertaken should include key dates relevant to the proposed project (*e.g.* State budget cycles and legislative sessions).

D. Organization and Staffing

Describe the project organization and staffing include:

• Proposed management structure and how key project staff will relate to the proposed project director, the Medicaid Agency, and any interagency or community working groups.

• Brief biographical sketches of the project director and key project personnel indicating their qualifications, and prior experience for the project. Resumes for the key project personnel should be provided as an attachment.

E. Endorsements and Support

Provide a set of endorsements of the support and commitments that have been pledged for the proposed project (e.g. cooperation from the disability community, other state agencies, the executive branch, the legislative branch, employers, business groups, etc.). Individual letters of support should be included as attachments.

6. Budget Narrative/Justification

For the budget recorded on form 424 (see Appendix Five), provide a breakdown of the aggregate number detailing their allocation to each major set of activities. If your State is applying to create a State-to-State Medicaid Infrastructure Center, the budget narrative must separate that activity. The proposed budget for the program should distinguish the proportion of grant funding designated for each grant activity. The budget must separate out funding that is administered directly by the lead agency from funding that will be subcontracted to other partners. If you have budgeted for Infrastructure Grant money to use toward the realization of a Demonstration to Maintain Independence project, you may submit a separate budget section reflecting how that money will be spent if the Demonstration project is not approved.

If your State has an approved State Plan amendment under section 1902(a)(10)(A)(ii)(XII) of the Social Security Act and is applying for funds in excess of $500,000 per fiscal year, please provide documentation of State and Federal spending for this optional categorically needy eligibility group.

7. Required Appendices

(a) Organizational Charts: Append one or more charts depicting the organizational relationship amongst the lead agency for this grant, the Single State Medicaid Agency (if different), the agency administering Home and Community-Based Service waivers (if different), and the State Vocational Rehabilitation Agency.

(b) Memoranda of Understanding: Append any relevant memoranda of understanding which might illustrate the breadth of the State's employment efforts and the extent of collaboration between relevant agencies.

(c) Key Staff Qualifications: Include a biographical sketch or resume of key staff describing their qualifications.

Appendix Four: Notice of Intent to Apply

Please return this form by June 12, 2000 to: Medicaid Infrastructure Grants Program, Disabled and Elderly Health Programs Group, Center for Medicaid and State Operations Health Care Financing Administration, 7500 Security Boulevard, S2–12–24, Baltimore, MD 21244–1850

1. State Name: _____
2. State Agency likely to serve as lead: _____
3. Contact Name and Title: _____
4. Address: _____
5. Phone: _____
6. Fax: _____
7. E-mail: _____
8. Eligibility Category: Full____

Conditional____

Transitional ____

Reserved____

9. Expected Duration of Grant Request: From _____ to _____
10. Infrastructure Center: Will You Propose to Serve as a State-to-State Medicaid Infrastructure Center? Yes__ No__
11. Expected amount of request: $ _____
12. Questions: Please attach any questions you would like to have answered before you complete your application.

Information will be sent in June with responses to questions posed by States that submit this Notice of Intent to Apply. This Notice of Intent is not a required document. States that do not submit a letter of intent may still apply. Similarly, submission of a letter of intent does not bind the State, nor will it cause a proposal to be reviewed more favorably. However, we cannot assure that answers to questions posed by States subsequent to issuance of this grant solicitation will be provided to States that do not submit a letter of intent.

Appendix 5

Grant Application Kit (standard forms)
(Please complete the attached forms:)
SF–424: Application for Federal Assistance
SF–424A: Budget Information
SF–424B: Assurances-Non Construction Programs
Biographical Sketch
Standard Form LLL: Disclosure of Lobbying Activities
Additional Assurances

If copies of these forms are needed, they may be obtained from the HCFA website at www.hcfa.gov under Research and Demonstration.

[FR Doc. 00–13554 Filed 5–26–00; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–14]

Notice of Proposed Information Collection: Comment Request; Request for Construction Change

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The Proposed information collection requirement described below will be 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:* July 31, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Building, Room 8202, Washington, DC 20410, telephone (202) 708–5221 (this is not a toll-free number) for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Business Products, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone number (202) 708–3000 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for Construction Change.

OMB Control Number, if applicable: 2502–0011.

Description of the need for the information and proposed use: Sections 207(b) of the National Housing Act (Public Law 479, 48 Stat. 1246, 12 U.S.C. 1701 et. seq.) authorizes the Secretary for the Department of Housing and Urban Development to insure mortgages for construction of rental housing projects. Forms HUD–92437, HUD–92442, HUD–92442–A, HUD–92442–CA and HUD–92442–A–CA, are used by the contractor, mortgagor and mortgagee to obtain the FHA Commissioner's approval of changes drawings and specifications.

Agency form numbers, if applicable: HUD–92437, HUD–92442, HUD–92442–A, HUD–92442–CA, HUD–92442–A–CA.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: HUD–92437 (number of respondents is 900, frequency of responses is 3, hours per response is 2 hours); HUD–92442 (number of respondents is 300, frequency of responses is 1, hours per response is 16 hours); HUD–92442–A (number of respondents is 300, frequency of responses is 1, hours per response is 16 hours); HUD–92442–CA (number of respondents is 300, frequency of responses is 1, hours per responses is 16 hours); HUD–92442–A–CA (number of respondents is 100, frequency of responses is 1, hours per response is 2 hours). The total number of respondents are 1,900 and the annual burden hours requested are 20,000.

Status of the proposed information collection: Reinstatement with change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 22, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–13468 Filed 5–30–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–34]

Notice of Submission of Proposed Information Collection to OMB Assessment of the American Housing Survey—Metropolitan Sample (AHS–MS)

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:* June 30, 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 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, 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) That 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: Assessment of the American Housing Survey—Metropolitan Sample (AHS–MS).

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Department of Housing and Urban Development (HUD) seeking to better understand how the AHS–MS data is used, and by whom. The information collected will enable HUD to balance geographic coverage, timeliness and cost considerations in designing the surveys, in order to develop an optinal data set for use by HUD, other public agencies, educational institutions, nonprofits, planners, and other interested parties. The respondents will consist of known users of AHS–MS data and potential users.

Respondents: business or other for-profits, Not-for-profits and Institution State, Federal Government and State, Local, or Tribal Governments.

Frequency of Submission: One Time Only.

Reporting Burden:

	Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
Information Collection	200		1		.16		33

Total estimated burden hours: 33.
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–13493 Filed 5–30–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice, information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Public Law 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). We have submitted a request to OMB to renew its approval of the collection of information for the Federal Subsistence Hunt Application and Permit, Designated Hunter Permit Application and Report, and Federal Subsistence Fish/Shellfish Harvest/Designated Harvester Application. We are requesting a 3-year term of approval of this information collection. Pursuant to our request for OMB approval of this formation collection, we invite comments on (1) whether the collection of information is necessary for the proper performance of out functions, including whether the information will have practical utility; (2) the accuracy of our estimate of burden, including the validity of the methodology and assumptions used, and (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before June 30, 2000.

ADDRESSES: Send comments and suggestions to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of the Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503; and a copy to our Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Charles Miller, Alaska Subsistence Office, 907/786–3888 or Rebecca Mullin, Service Information Collection Clearance Officer 703/358–2287.

Title: Federal Subsistence Hunt Application and Permit and Designated Hunter Permit Application and Permit.

OMB Approval Number: 1018–0075.

Service Form Number(s): 7–FW 1 and 7–FW 2 7–FW 3.

SUPPLEMENTARY INFORMATION: The Alaska National Interest Lands Conservation Act (ANILCA) and Fish and Wildlife Service regulations, found in 50 CFR 100, require that persons engaged in taking fish and wildlife must comply with reporting provisions of the Federal Subsistence Board. The harvest activity must be reported. In many cases, a special permit is required for the rural resident to be able to participate in special hunts. The harvest information is needed in order to evaluate subsistence harvest success; the effectiveness of season lengths, harvest quotas, and harvest restrictions; hunting patterns and practices; and hunter use. Once harvest success information is evaluated, the Federal Subsistence Board utilizes this information, along with other information, to set future seasons and harvest limits for Federal subsistence resource users. These seasons and harvest limits are set in order to meet the needs of subsistence hunters without adversely impacting the health of existing wildlife populations. The Federal Subsistence Hunt Application and Permit also provides a mechanism to allow Federal subsistence users the opportunity to participate in special hunts that are not available to the general public but are provided for by Title VIII of ANILCA. Both reports provide for the collection of the necessary information; however, the Designated Hunter Report is unique in that it allows the reporting of the harvest of multiple animals by a single hunter who is acting for others. The Designated Hunter Application and Permit also serves as a special permit allowing qualified subsistence users to harvest fish or wildlife for others. The collection of information is needed prior the expiration of time periods established under 5 CFR 1320, and is essential to the missions of the Fish and Wildlife Service and the Federal Subsistence Board. Without this information public harm would occur as a result of the Service's inability to set subsistence seasons and harvest limits to meet users' needs without adversely impacting the health and the animal population.

Frequency: On occasion.

Title: Federal Subsistence Fish/Shellfish Harvest/Designated Harvester Application.

OMB Approval Number:

Service Form Number(s): 7–FW 3

Abstract: Under the Alaska National Interest Lands Conservation Act (ANILCA) allows the taking of fish and wildlife on public lands in Alaska for subsistence use. In order to take fish and wildlife in public lands for subsistence uses, users must possess and comply with the provisions of any pertinent permit, harvest tickets, or tags required by the State, or Federal permits, harvest tickets or tags as required by the Federal Subsistence Board (Board). All Alaskans who are residents of rural areas or communities are eligible to participate in subsistence taking of that stock or population under the regulations in 50 CFR 100.

Information on the fishermen, qualified subsistence users fished for, the fish/shellfish harvested, and the location of harvest is needed by the Board in making recommendations on subsistence use. Once harvest success information is evaluated, the Federal Subsistence Board utilizes this information, along with other information, to set future seasons and harvest limits for Federal subsistence resource users. These seasons and harvest limits are set in order to meet the needs of subsistence fisherman without adversely impacting the health of existing fish/shellfish populations. The Federal Subsistence Hunt Application and Permit also provides a mechanism to allow Federal subsistence users the opportunity to participate in special fishing opportunities that are not available to the general public but are provided for by Title VIII of ANILCA.

Description of Respondents: Individuals and households.

Estimated Completion Time: The reporting burden is estimated to be .25 hours or 15 minutes each.

Annual Responses: 5,200 (Federal Subsistence Hunt Application and Permit); 700 (Designated Hunter Permit Application and Report); 1,000 (Federal Subsistence Fish/Shellfish Harvest/Designated Harvester Application).

Total Annual Burden Hours: 1,725 hours.

Dated: May 11, 2000.

Rebecca A. Mullin,

U.S. Fish and Wildlife Service, Information Collection Officer.

[FR Doc. 00–13556 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C., App. 2, the Bureau of Indian Affairs announces a meeting of the Advisory Board for Exceptional Children in Bloomington, Minnesota, to discuss the impact of Public Law 105–17, the Individuals with Disabilities Education Act Amendments of 1997, on Indian children with disabilities.

DATES: The meeting will be held on Friday, June 9, 2000 beginning 9:00 a.m. to 4:00 p.m. and Saturday, June 10, 2000 beginning 9:00 a.m. and ending at 12:00 noon CST.

ADDRESSES: The meeting will be held at the DAYS INN, 1901 Killebrew Drive, Bloomington, Minnesota 55425. Telephone (612) 854–8400; Fax (612) 854–3615.

Written statements may be submitted to Mr. William A. Mehojah, Director, Office of Indian Education Programs, Bureau of Indian Affairs, 1849 C Street, NW, MS–3512, Washington, D.C. 20240; Telephone (202) 208–6123; Fax (202) 208–3312.

FOR FURTHER INFORMATION CONTACT: Dr. Angelita Felix, Lead Education Specialist, Division of School Program Support and Improvement, (505) 346–7529.

SUPPLEMENTARY INFORMATION: The purpose of the Board is to provide advice to the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities, as mandated by the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105–17, June 4, 1997.

The agenda for this meeting will cover funding allocations, newly established Division of School Program Support and Improvement, Office of Special Education Program Monitoring Report, Draft Improvement Plan, Parental Forums and the BIA's draft Eligibility document.

The meeting will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Board for its consideration. Written statements should be submitted to the address listed in the **ADDRESSES** section. Summaries of Board meeting may be requested from the Division of School Program Support and Improvement.

The Board will prepare and submit an annual report to the Secretary of the Interior and the Congress containing a description of the activities of the Board for the preceding year.

The next Board meeting will be held on or about December 14, 2000. Regional Parents Forum will be scheduled throughout the year. Location, date and time may be obtained from the Division of School Program Support and Improvement, telephone (505) 248–7529 or 7527; Fax (505) 248–7546.

Dated: May 22, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–13537 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State compacts; correction.

SUMMARY: The Bureau of Indian Affairs published a notice in the **Federal Register** on May 16, 2000 (65 FR 31189), concerning a list of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands in the State of California. The list of California Indian Tribes contained an incorrect name for a particular Tribe.

Correction

In the **Federal Register** of May 16, 2000, in FR Doc. 00–12322, on page 31189, in the second column, correct the **SUMMARY** caption listing the tribes, specifically, the Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation to read: Santa Rosa Indian Community of the Santa Rosa Rancheria.

DATES: This action is effective May 31, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 18, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–13498 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment IV to the Tribal–State Compact for Regulation of Class III Gaming Between the Burns—Paiute Tribe and the State of Oregon, which was executed on March 31, 2000.

DATES: This action is effective May 31, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 18, 2000.

Kevin Gover.

Assistant Secretary—Indian Affairs.

[FR Doc. 00–13494 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved

Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment VI to the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon Gaming Compact, which was executed on March 31, 2000.

DATES: This action is effective May 31, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 17, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–13497 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment VI to the Tribal-State Compact for Regulation of Class III Gaming between the Coquille Indian Tribe and the State of Oregon which was executed on March 31, 2000.

DATES: This action is effective May 31, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240 (202) 219–4066.

Dated: May 18, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–13495 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment VII to the Tribal-State Compact for Regulation of Class III Gaming Between The Klamath Tribes and the State of Oregon, which was executed on March 31, 2000.

DATES: This action is effective May 31, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 18, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–13496 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–00–1232–PA–AZ11; 8371]

Arizona: Fee Demonstration Pilot Program Supplementary Rules; Yuma, Maricopa, and La Paz Counties, Arizona, and Imperial County, CA

AGENCY: Bureau of Land Management, Interior

ACTION: Establish supplementary rules governing public occupancy, use, and conduct in areas designated by, and included in, the national Fee Demonstration Pilot Program.

SUMMARY: The Bureau of Land Management (BLM) Yuma Field Office is responsible for administering 1.7 million acres within southwestern Arizona and southeastern California. Recreational use accounts for several million visitor-days annually. This concentration of visitor use results in significant resource damage, social conflicts, and threats to visitor safety. In addition to the regulations which apply to all public lands, the following supplementary rules will apply to the designated fee sites within the Fee Demonstration Project Area, as listed below, and are designed to provide for public safety and welfare and to protect natural resources. The recreation sites that have been designated under the national Fee Demonstration Pilot Program, and for which these rules apply are Betty's Kitchen Watchable Wildlife and Interpretive Area, Squaw Lake Campground, Senator Wash Reservoir North Shore, Senator Wash Reservoir South Shore, Senator Wash Reservoir Boat Ramp and Day-Use area, Imperial Dam Long-Term Visitor Area, Oxbow Campground, Ehrenberg Sandbowl Off-Highway Vehicle Area, and the La Posa Long-Term Visitor Area. These rules will apply to the above identified sites and to any additional recreation sites that are formally added to the national Fee Demonstration Pilot Program.

Section 1: Definitions

Disorderly Conduct: A person commits disorderly conduct when his or her actions disturb the public peace, offends public morals, or undermines safety.

Fee Demonstration Project Area (FDPA): all lands owned by the United States and administrated by the Bureau of Land Management, Yuma Field Office that are designated and included in the National Fee Demonstration Pilot Program.

Fee Use Areas: any designated and posted area within the FDPA which requires a fee or payment for use.

Firearms: any loaded or unloaded pistol, rifle, shotgun, or other weapon which is designed to, or may be readily converted to expel a projectile by the ignition of a propellant, spring, or compressed air.

Hunting: taking or attempting to take wildlife.

Occupancy: the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag, or other bedding material for use; or parking a motor vehicle, motor home, or trailer.

Operator: a person who operates, drives, controls, or otherwise has charge of a motor vehicle or any other mechanical equipment.

Per Day: a calendar day which starts at 12 midnight and ends at 11:59 p.m. or on the 24 hour clock starting at 0000 hours and ending at 2359 hours.

Permit: a self-service fee envelop, form, window sticker, or written authorization from the Bureau of Land Management for the occupancy and/or use of the Fee Use Areas where use is

otherwise prohibited, restricted, or regulated.

Person: an individual, firm, corporation, society, association, partnership, or private or public body.

Pet: any animal under human care.

Possession: exercising direct physical control or dominion, with or without ownership, over property.

Registered Owner: the person identified by the relevant state authority as being the individual to whom the motor vehicle is registered.

Vehicle: any motorized vehicle capable of or designed for travel on or immediately over land or roadways, whether or not the vehicle is registered.

Weapon: a firearm, compressed gas or spring-powered pistol or rifle, bow and arrow, crossbow, blowgun, sling shot explosive devise, or any other implement designed to discharge projectiles; also nu-chucks, clubs, and any device modified as a striking instrument.

Section 2: Permits

(a) Fee Use Permits must be purchased immediately upon entry. Fees must be pre-paid for each day of use of occupancy.

(b) Fee Use Permits must be displayed in a clearly visible manner in the front windshield of the vehicle, with all required information completed in order to be valid.

(c) An authorized Bureau of Land Management (BLM) officer may revoke without reimbursement any Fee Use Permit when the conduct of the permittee, permittee's family, or guests does not comply with the rules for use of that area or is inconsistent with the goals of BLM's Fee Use Permit program.

(d) Failure to comply with all terms and conditions of the permit may result in the revocation of the Fee Use Permit and/or issuance of a criminal citation.

(e) The operator of a vehicle is responsible for compliance with all requirements of the permit. In the absence of the operator, the registered owner of record is then responsible for compliance with all permit requirements.

(f) Permits issued from any area other than the Yuma Field Office are not valid for occupancy or use in Fee Use Areas administered by the Yuma Field Office.

Section 3: Public Use and Recreation

3.1 Firearms, Fireworks and Weapons

The following are prohibited in a Fee Use area.

(a) Possessing or using fireworks, explosives, or blasting agents within the Fee Use Areas, unless otherwise approved by an authorized BLM officer.

(b) Displaying, brandishing, or discharging of a firearm within the Fee Use Areas.

3.2 Pets

This section does not apply to dogs used by authorized Federal, State, or local law enforcement officers in the performance of their duties.

The following are prohibited in a Fee Use area:

(a) Allowing a pet to make noise that is unreasonable when considering the location, time of day or night, and the impact on public land users, or after designated quiet hours.

(b) Failure to remove waste deposited by a pet at any location within developed sites including campgrounds, picnic areas, parking areas, and visitor centers.

(c) Allowing a pet, other than a seeing-eye dog, hearing-ear dog, or other animal specifically trained to assist a handicapped person, to enter any building or any designated swimming area operated by the Bureau of Land Management.

(d) Leaving a pet unattended without adequate food, water, or shelter for any period of time.

(e) Failing to maintain a dog under physical restraint at all times, on a tether or leash no longer than six (6) feet in length.

3.3 Alcoholic Beverages

The use and possession of alcoholic beverages within the Fee Use Areas is permitted in accordance with the provisions of this section.

The following are prohibited in a Fee Use area:

(a) Leaving alcoholic beverages unattended and in plain view within a campsite.

(b) Selling or giving an alcoholic beverage to a person under 21 years of age.

(c) The presence by a person in the Fee Use Areas who is under the influence of alcohol or a controlled substance to a degree that may endanger oneself or another person and who causes any disturbance, or damages property or public land resources.

3.4 Disorderly Conduct

The following are prohibited in a Fee Use area:

(a) Committing any disorderly conduct (see Definitions above).

(b) Engaging in fighting, threatening, or violent behavior.

(c) Using language, utterances, gestures, or engaging in a display or act that is obscene, physically threatening or menacing, or done in a manner that is likely to inflict physical, mental, or emotional injury.

(d) Breaching the peace in any manner which is disruptive or interferes with other public lands users;

3.5 Occupancy

The Fee Use Area permittee is responsible for maintaining his/her campsite in a neat, orderly, and sanitary condition.

The following are prohibited in a Fee Use area:

(a) Failing to maintain a campsite free of trash, garbage, or waste on the ground.

(b) Digging, draining, digging a ditch, or leveling the ground at a campsite.

(c) Clearing, cutting, or damaging vegetation to enhance your campsite.

(d) Collecting wood or other plant materials for use in a campfire or for any other purpose.

(e) Failing to obtain a Fee Use Permit immediately upon entry or occupancy of any site within the Fee Use Area without first obtaining a permit.

(f) Violating the terms or conditions of any Fee Use Permit.

(g) Creating or sustaining unreasonable noise between the hours of 10:00 p.m. and 6:00 a.m.

(h) Possessing or using glass beverage containers is prohibited within 500 feet of any waterway or swimming area.

(i) Using paint, markers, or spray paint within any Fee Use Area except by authorized officials.

(j) Possessing paint, markers, or spray paint within the Fee Use Area except when such containers are located in the trunk of a motor vehicle or some other portion of the motor vehicle which is not readily accessible to the operator or passengers.

3.6 State Laws Applicable

Unless specifically addressed by regulations set forth in 43 CFR, it is violation of this supplementary rule to violate any law or provision of State law.

EFFECTIVE DATE: These supplemental rules become effective May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Mark Lowans, Outdoor Recreation Planner, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, AZ 85365; (520) 317–3200.

SUPPLEMENTARY INFORMATION: The authority for establishing supplementary rules is contained in 43 CFR 8365.1–6. These rules will be available in the local office having jurisdiction over the lands, sites, or facilities affected. Violations of these supplementary rules are punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

Dated: May 19, 2000.

Gail Acheson,

Field Manager.

[FR Doc. 00–13545 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–150–1430–ES; COC–23561–02]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Colorado

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following public lands in Montrose County, Colorado have been examined and found suitable for classification for conveyance to Montrose County, Colorado under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Montrose County proposes to continue to use the lands as a sanitary landfill.

New Mexico Principal Meridian, Colorado

T. 49 N., R. 8 W.,
Sec. 7: lots 6, 8–10, 15 & 16
T. 49 N., R. 9 W.,
Sec. 12: lots 1, 4 & 5
Containing 178.95 acres more or less.

A portion of the lands described, approximately 125 acres, was previously classified as suitable for lease in 1976, and R&PP lease COC–23561–01 was issued to Montrose County for a sanitary landfill. The County proposes to continue using the lands for a sanitary landfill. The proposed conveyance area would allow for future landfill expansion. In the event of the sale, the mineral interest shall be conveyed simultaneously with the surface interest. The mineral interest being offered for conveyance has no known mineral value.

The lands are not needed for Federal purposes. Conveyance without reversionary interest is consistent with current BLM policy and land use planning and would be in the public interest. The patent would be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States.

3. Those rights for road purposes as acknowledged under R.S. 2477 for the Bostwick Park County Road, right-of-way COC–42672.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the mining laws, except for lease or conveyance under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments to the Uncompahgre Field Office Manager regarding the proposed classification or the conveyance of the subject lands.

Classification Comments

Interested parties may submit comments involving the suitability of the land for sanitary landfill purposes. 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 proposed conveyance, 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 sanitary landfill.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Contact the Bureau of Land Management, Uncompahgre Field Office, 2505 South Townsend, Montrose, Colorado 81401, attention: Teresa Pfifer.

Signed May 19, 2000.

Allan J. Belt,

Field Office Manager.

[FR Doc. 00–13485 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–6333–ET; GP0–0222; WAOR–55695]

Proposed Withdrawal and Opportunity for Public Meeting; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw approximately 765 acres of National Forest System lands, lying within the Wenatchee National Forest, to protect the investment of federal funds, and the lands being rehabilitated as part of the Holden Mine Rehabilitation Project. This notice closes the lands for up to 2 years from location and entry under the United States mining laws.

EFFECTIVE DATE: Comments and requests for a public meeting must be received by August 30, 2000.

ADDRESSES: Comments and meetings requests should be sent to the Forest Supervisor, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801.

FOR FURTHER INFORMATION CONTACT: Norman Day, Holden Mine Project Manager, Wenatchee National Forest, 509–662–4304, or Charles R. Roy, BLM Oregon/Washington State Office, 503–952–6189.

SUPPLEMENTARY INFORMATION: On April 17, 2000, the Forest Service filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not the mineral leasing laws, subject to valid existing rights:

Willamette Meridian

Wenatchee National Forest

T. 31 N., R. 17 E.,
Sec. 7, S½N½, S½, excluding 195 acres of patented lands in Mineral Surveys numbered 713–A, 1208, 1213–B, 1221, 1232, and 1239;
Sec. 8, S½N½S½.

The areas described aggregate approximately 765 acres in Chelan County.

The purpose of the proposed withdrawal is to protect the investment of federal funds and the lands being rehabilitated as part the Holden Mine Rehabilitation Project.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a

written request to the Forest Supervisor at the address indicated above within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The withdrawal application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of vegetative resources other than under the mining laws.

Dated: May 24, 2000.

Sherrie L. Reid,

Acting Chief, Branch of Realty and Records Services.

[FR Doc. 00–13574 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Watershed Cooperative Agreement Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Extension of time to submit applications for the Watershed Cooperative Agreement Program.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) published a **Federal Register** notice on December 27, 1999 (64 FR 72360), soliciting applications for funding under the Watershed Cooperative Agreement Program. This notice extends the time for submitting applications until September 15, 2000, or until all available funds have been awarded.

DATES: Applications for the cooperative agreements will be accepted until September 15, 2000, or until all available funds have been awarded. Applications should be submitted to the appropriate individual listed under **ADDRESSES AND FURTHER INFORMATION.**

ADDRESSES AND FURTHER INFORMATION: Requests for an application package, which includes additional information on the program, the application forms and evaluation criteria, should be directed to the appropriate Appalachian Clean Streams Coordinator: *Alabama:* Jeannie O'Dell, Birmingham Field Office, 135 Gemini Circle, Suite 215, Homewood, AL 35209, Telephone 205–290–7282, ext. 21; *Illinois:* Ken Foit, Indianapolis Field Office, Minton-Capehart Federal Building, 575 N. Pennsylvania Street, Room 392, Indianapolis, IN 46204, Telephone 317–226–6166 ext 230; *Indiana:* Michael Kalagian, Indianapolis Field Office, Minton-Capehart Federal Building, 575 N. Pennsylvania Street, Room 392, Indianapolis, IN 46204, Telephone 317–226–6166 ext 234; *Iowa:* Stephen Preston, Mid-Continent Regional Coordinating Center, Alton Federal Center, 501 Belle Street, Room 216, Alton, IL 62002, Telephone 618–463–6463 ext 120; *Kentucky:* Dave Beam, Lexington Field Office, 2675 Regency Road, Lexington, KY 40503, Telephone 859–260–8407; *Maryland:* Peter Hartman, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220, Telephone 412–937–2905; *Missouri:* Jeff Gillespie, Mid-Continent Regional Coordinating Center, Alton Federal Center, 501 Belle Street, Room 216, Alton, IL 62002, Telephone 618–463–6463 ext 128; *Ohio:* Max Luehrs, Columbus Area Office, 4480 Refugee Road, Suite 201, Columbus, OH 43232, Telephone 614–866–0578 ext. 110; *Oklahoma:* Daniel Trout, Tulsa Field Office, 5100 East Skelly Drive S–550, Tulsa, OK 74135, Telephone 918–581–6430 ext 25; *Pennsylvania:* David Hamilton, Harrisburg Field Office, 415 Market Street, Suite 3, Harrisburg, PA 17101, Telephone 717–782–2285, ext 15; *Tennessee:* Danny Ellis, Knoxville Field Office, 530 Gay Street, Suite 500, Knoxville, TN 37902, Telephone 423–545–4193 ext 147; *Virginia:* Ronnie Vicars, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, VA 24219, Telephone 540–523–0024, ext 33; *West Virginia:* Rick Buckley, Charleston Field Office, 1027 Virginia Street East, Charleston, WV 25301, Telephone 304–347–7162 ext 3024.

SUPPLEMENTARY INFORMATION: For Fiscal Year 2000, OSM expects to award up to 1.75 million dollars to eligible not-for-profit groups to undertake actual construction projects to clean up streams impacted by acid mine drainage. The cooperative agreements normally will be in the $5,000–$80,000 range in order to assist as many groups as possible. The cooperative agreements will have a performance period of two years. Eligible applicants are not-for-profit, established organizations with IRS 501(c)(3) status. Applicants must have partners, contributing either funding or in-kind services; the partners must provide a substantial portion of the total resources needed to complete the project.

Projects in the following States are eligible: Alabama, Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia and West Virginia. Projects must meet eligibility criteria for coal projects outlined in Section 404 of the Surface Mining Control and Reclamation Act of 1977:

> Lands and water eligible for reclamation or drainage abatement expenditures under this title are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes * * * and abandoned or left in an adequate reclamation status prior to the date of enactment of this Act [August 3, 1977], and for which there is no continuing reclamation responsibility under State or other Federal laws.

There must be demonstrated public support for the project. The project should propose to use proven or innovative technology that has a high probability of success. The project must produce tangible results, *e.g.,* fishery restored, stream miles improved, educational and community benefits, pollutants removed from the streams. The funds must be used primarily for the construction phase of a project; reimbursement of administrative costs will be carefully scrutinized. There must be a plan to address any ongoing operation/maintenance considerations.

Two copies of a complete application should be submitted to the appropriate Appalachian Clean Streams Coordinator identified under **ADDRESSES AND FURTHER INFORMATION.** Awards are subject to the availability of funds. Applications will receive technical and financial management reviews.

The application deadline was June 1, 2000. However, because there are funds remaining, OSM is extending the application period. Applications will now be accepted through September 15, 2000, or until all available funds have been awarded.

Dated: May 23, 2000.

Kathrine Henry,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 00–13552 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection, Comment Request

ACTION: Notice of information collection under review: application for certificate of citizenship on behalf of an adopted child.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 22, 2000 at 65 FR 15355, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 30, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application for Certification of Citizenship in Behalf of an Adopted Child.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–643, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection allows United States citizen parents to apply for a certificate of citizenship on behalf of their adopted alien children.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 11,159 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 11,159 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: May 24, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–13478 Filed 5–30–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Application for Certificate of Citizenship.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 22, 2000 at 65 FR 15354, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 30, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is provided by the Service as a uniform format for obtaining essential data necessary to determine the applicant's eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 67,936 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 67,936 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: May 24, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–13479 Filed 5–30–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 23, 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.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Consumer Price Index (CPI) Housing Survey (CADC).

OMB Number: 1220–0163.

Affected Public: Individuals or households; Business and other for-profit.

Total Respondents: 128,081 (4 year average).

Total Annual Responses: 163,394 (4 year average).

Burden per response: 7 Minutes.

Total Burden Hours: 19,299 (4 year average).

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: This request is for a three-year clearance for the collection of housing information based on Census data. The data (rents, and other housing costs) are used to construct the Items of Rent and Owners' Equivalent Rent. Together, these items comprise over 27 percent of the Consumer Price Index. Respondents include some owners and/or managers of rental properties throughout the country.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–13476 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determination Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely; and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–37,301; Western Moulding Co., Snowflake, AZ
TA–W–37,365; Borg-Warner Automotive, Air/Fluids Systems, Blytheville, AR
TA–W–37,359; General Electric, Warwick, RI
TA–W–37,320; Coats America, Bristol, RI
TA–W–37,286; Northern Automotive Systems, Design Div., LaCrosse, WI
TA–W–37,269; Strong Wood Products, Inc., Strong, ME
TA–W–37,363; George Bassi Distributing Co., Watsonsville, CA
TA–W–37,618; Minard Run Oil Co., Bradford, PA
TA–W–37,549; Labeling Systems, Inc., Oakland, NJ
TA–W–37,533; Hexcel Corp., Structures & Interiors, Kent, WA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–37,541; Joshua L. Baily & Co., Inc., Hoboken, NJ
TA–W–37,612; AST Research, Inc. d/b/a ARI Services, Fort Worth, TX
TA–W–37,610; Tenk Machine & Tool Co., Cleveland, OH

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–37,572; Litton Data Systems, Agoura, CA
TA–W–37,200; Tower Automotive, Inc., Formerly active Tooling and Manufacturing Co., Detroit Tooling Center, Detroit, MI
TA–W–37,444; Kobratech Design, Inc., North Canton, OH
TA–W–37,498; Corbin, Ltd, Huntington, WV
TA–W–37,409; The Quaker Oats Co., St. Joseph, MO
TA–W–37,465; The Quaker Oats, Shiremanstown, PA
TA–W–37,348; AAF–McQuay, Inc. d/b/a McQuay International, Staunton, VA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–37,543; Chevron Products Co., El Paso, TX

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or an appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers and such determination.

TA–W–37,299; Standard Candy Co., Hard Stick Div., Nashville, TN: January 19, 1999.
TA–W–37,101; Royal Coat (Formerly Main Coat), Clifton, NJ: October 28, 1998.
TA–W–37,361; Motch Corp., Cleveland, OH: February 9, 1999.
TA–W–37,531; Swank Inc., Attleboro, MA: March 21, 1999.
TA–W–37,521; Woodgrain Millwork, Inc., Lakeview Operation, Lakeview, OR: March 15, 1999.
TA–W–37,408; Hubbell Corp., RACO Div., South Bend, IN: February 7, 1999.
TA–W–37,527; C.P. Lighting, Inc., Pottsville, PA: March 21, 1999.
TA–W–37,422; BTR Sealing Systems, Extrusion Plant, Maryland, TN: February 23, 1999.
TA–W–37,155; Greenfield Industries, Inc., Solon, OH: November 19, 1998.
TA–W–37,422; Carolina Knitwear, Lane, SC: February 28, 1999.
TA–W–37,577; Barry Manufacturing Co., Inc., Lynn, MA: March 10, 1999.
TA–W–37,488; Tyco Electronics, Marion, KY: March 7, 1999.
TA–W–37,594; Manchester Manufacturers, Inc., Manchester, OH: April 11, 1999.
TA–W–37,559; Anchor Lamina America, Inc., Cheshire, CT: March 27, 1999.
TA–W–37,580; Tally Sportswear, Inc., Lancaster, SC: April 3, 1999.
TA–W–37,529; Hartz & Co., Inc., Broadway, VA: March 24, 1999.
TA–W–37,095; Leggett and Platt, Springfield, MO: November 5, 1998.
TA–W–37,632; Clark Material Handling Co., Lexington, KY: April 22, 1999.
TA–W–37,372; Deer Valley Apparel, Inc., Chilhowie, VA: January 28, 1999.
TA–W–37,147; Hubbell Electrical Products, St. Louis, MO: November 24, 1998.
TA–W–37,601; Styl-Rite, Inc., Miami, FL: April 10, 1999.
TA–W–37,175; & A; Tuckaseigie Mills, Inc., Bryson City, NC and Sylva, NC: December 1, 1998.
TA–W–37, 373; Sawdust Pencil Co., Edison, NJ: February 14, 1999.
TA–W–37, 322; Herbert Grossman Enterprises, Inc., New York, NY: January 26, 1999.
TA–W–37, 615; Mr. Coffee, Div. of Sunbeam Products, Inc., Glenwillow, OH: April 14, 1999.
TA–W–37, 576; Bar-Sew, Inc., Lehighton, PA: March 31, 1999.
TA–W–37, 369; Ikeda Interior Systems, Inc., Sidney, OH: February 3, 1999.
TA–W–37, 352; Cranston Print Works Co., Cranston, RI: January 26, 1999.
TA–W–37, 556; Cin TAs Corp., Stevenson, AL: March 25, 1999.
TA–W–37, 485; Rising Eagle Enterprises, Inc., East TAwas, MI: March 20, 1999.
TA–W–37, 591; Issac Hazen & Co., Inc., d/b/a The Hazan Group, Cutting Dept., Secaucus, NJ: April 4, 1999.
TA–W–37, 329; Crown Yarn, South Attleboro, MA: February 2, 1999.
TA–W–37, 413; Cebeco Lilies, Inc., Aurora, OR: February 16, 1999.
TA–W–37, 491; Cherrybell Manufacturing Corp., Tucson, AZ: February 28, 1999.
TA–W–37, 238; Harborside Graphics Sportswear, Belfast, ME: December 10, 1998.
TA–W–37, 515; Sierra Pacific Apparel, Visalia, CA: March 14, 1999.
TA–W–37, 344; Monona Wire Corp., EMD Acquisition Subsidiary, Greenwood, MS: January 25, 1999.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–03829; Hexcel Corp., Structures & Interiors, Kent, WA

NAFTA–TAA–03825; C & L Textiles Corp., Cooper City, FL

NAFTA–TAA–03796; C & L Textiles Corp., New York, NY

NAFTA–TAA–03793; PJC Sportswear, Inc., Brooklyn, NY

NAFTA–TAA–03787; Cherrybille Manufacturing Corp., Tucson, AZ

NAFTA–TAA–03777; The Quaker Coats Co., Shiremanstown, PA

NAFTA–TAA–03738; The Quaker Coats Co., St. Joseph, MO

NAFTA–TAA–03820; Labeling Systems, Inc., Oakland, NJ

NAFTA–TAA–03855; Minard Run Oil Co., Bradford, PA

NAFTA–TAA–03850; Tecumseh Products Co., Somerset, KY

NAFTA–TAA–03525; Acme Steel Co., Riverdale, IL

NAFTA–TAA–03489; Brighton Electric Steel Casting Co., Beaver Falls, Pa

NAFTA–TAA–03858; Rite Industries, Inc., High Point, NC

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–03863; Westwood Lighting, Inc., El Paso, TX

NAFTA–TAA–03861; Cross Oil and Well Service, Inc., d/b/a Cross Supply, Olney, IL

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–03773; Hamrick's, Inc., Jonesville, SC: February 28, 1999.

NAFTA–TAA–03720; Ikeda Interior Systems, Inc., Sidney, OH: February 4, 1999.

NAFTA–TAA–03840; Tally Sportswear, Inc., Lancaster, SC: April 3, 1999.

NAFTA–TAA–03819; Anchor Lamina America, Inc., Cheshire, CT: March 2, 1999.

NAFTA–TAA–03799; Tyco Electronics, Marion KY: March 1, 1999.

NAFTA–TAA–03803; Rising Eagle Enterprises, East Tawas, MI: March 10, 1999.

NAFTA–TAA–03732; Custom Emblems, Inc., Tampa, FL: February 21, 1999.

NAFTA–TAA–03856; RHI Refractories America, Womelsdorf, PA: April 14, 1999.

NAFTA–TAA–03818; Sierra Pacific Apparel, Visalia, CA: March 14, 1999.

NAFTA–TAA–03612; Hubbell Electrical Products, St. Louis, MO: November 24, 1998.

NAFTA–TAA–03791; May Apparel Group, Whittakers, NC and Mebane, NC: March 7, 1999.

NAFTA–TAA–03835; American Industrial Container Corp. A Div. of Lenworth Metal Products Limited, Meadville, PA: March 28, 1999.

NAFTA–TAA–03871; Mr. Coff, Div. of Sunbeam Products, Inc., Glenwillow, OH: April 14, 1999.

NAFTA–TAA–03761; General Electric Meter Business, Single Phase Residential Meter Final Assembly, Somersworth, NH: February 28, 1999.

NAFTA–TAA–03830; Willamette Industries, Dallas, OR: May 29, 1999

NAFTA–TAA–03812; Exide Corp., Reading, PA: March 10, 1999

NAFTA–TAA–03878; Kongsberg Automotive, Livonia, MI: March 23, 1999.

NAFTA–TAA–03822; Kellwood Co. d/b/a American Recreation Products, Inc., Mineola, TX: March 23, 1999.

I hereby certify that the aforementioned determinations were issued during the month of May, 2000. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 19, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13472 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,960 et al.]

CNG Transmission Corp. Clarksburg, West Virginia, et al.; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at CNG Transmission Corp., Clarksburg, West Virginia, Hope Gas, Inc., Clarksburg, West Virginia, East Ohio Gas, Cleveland, Ohio, Virginia Natural Gas, Norfolk, Virginia, CNG Producing Co., New Orleans, Louisiana, Peoples Natural Gas Co., Pittsburgh, Pennsylvania, CNG Cooperate, Pittsburgh, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–36,960; CNG Transmission Corp., Clarksburg, West Virginia

TA–W–36,960A; Hope Gas, Inc., Clarksburg, West Virginia

TA–W–36,960B; East Ohio Gas, Cleveland, Ohio

TA–W–36,960C; Virginia Natural Gas, Norfolk, Virginia

TA–W–36,960D; CNG Producing Co., New Orleans, Louisiana

TA–W–36,960E; Peoples Natural Gas Co., Pittsburgh, Pennsylvania

TA–W–36,960F; CNG Corporate, Pittsburgh, Pennsylvania (May 18, 2000)

Signed at Washington, DC this 18th day of May, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13475 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,461]

Epic Components Company, New Boston, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 13, 2000, in response to a petition filed on the same date on behalf of workers at Epic Components Company, New Boston, Michigan.

The Company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 17th day of May, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13474 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,458 and TA–W–37,458A]

House of Perfection, Incorporated, Williston Manufacturing Co., Williston, SC and Capitol City Manufacturing Co., West Columbia, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Trade Adjustment Assistance on April 13, 2000, applicable to workers of House of Perfection, Inc., Williston Manufacturing Co., Williston, South Carolina. The notice was published in the **Federal Register** on May 11, 2000 (65 FR 30443).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in employment related to the production of children's apparel such as shorts, tops, blouses and pants for its parent company, House of Perfection, Incorporated, West Columbia, South Carolina. New information shows that Capitol City Manufacturing Co. is a division of House of Perfection, Incorporated. Worker separations will occur at the subject firm when it closes in June, 2000. The workers produce children's apparel such as shorts, tops, blouses and pants.

Accordingly, the Department is amending the certification to cover the workers of Capitol City Manufacturing Co., West Columbia, South Carolina.

The intent of the Department's certification is to include all workers of House of Perfection, Incorporated who were adversely affected by increased imports.

The amended notice applicable to TA–W–37,458 is hereby issued as follows:

All workers of House of Perfection, Incorporated, Williston Manufacturing Co., Williston, South Carolina (TA–W–37,458) and Capitol City Manufacturing Co., West Columbia, South Carolina (TA–W–37,458A) who become totally or partially separated from employment on or after March 3, 1999 through April 13, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington DC this 18th day of May, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13471 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,587]

Milco Industries, New York, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 17, 2000, in response to a worker petition which was dated March 30, 2000 on behalf of workers at Milco Industries, New York, New York.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 9th day of May, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13473 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Wagner-Peyser Act Final Planning Allotments for Program Year (PY) 2000

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final planning allotments for Program Year (PY) 2000 (July 1, 2000 through June 30, 2001) for basic labor exchange activities provided under the Wagner-Peyser Act.

FOR FURTHER INFORMATION CONTACT: Timothy S. Felegie, Office of Workforce Security, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210. Telephone: (202) 219–5653 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Section 6(b)(5) of the Wagner-Peyser Act, 29 U.S.C. 49e(b)(5), the Employment and Training Administration is publishing final planning allotments for each State for Program Year (PY) 2000 (July 1, 2000, through June 30, 2001). Preliminary planning estimates were provided to each State on February 17, 2000. Funds are distributed in accordance with formula criteria established in Section 6(a) and (b) of the Wagner-Peyser Act. Civilian labor force (CLF) and unemployment data for Calendar Year 1999 are used in making the formula calculations.

The total amount of funds currently available for distribution is $761,735,000. The Secretary of Labor shall set aside up to 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required by Section 6(b)(4) of the Act, 29 U.S.C. 49e(b)(4). In accordance with this provision, $22,312,050 is set aside for administrative formula allocation. These funds are included in the total planning allotment. The funds that are set aside are distributed in two steps to States which have lost in relative share of resources from the prior year. In Step 1, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. The remainder is distributed in Step 2 to all other States losing in relative share from the prior year, but which do not meet the size and density criteria for Step 1.

Postage costs incurred by States during the conduct of employment

service (ES) activities are billed directly to the Department of Labor by the U.S. Postal Service. The total final planning allotment reflects $18,000,000, or approximately 2.36 percent of the total amount available, withheld from distribution to finance postage costs associated with the conduct of ES business. Pursuant to Section 7(b) of the Act, 29 U.S.C. 49f(b), ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public ES offices and programs; service for groups with special needs; and for the extra costs of exemplary models for delivering job services.

Differences between preliminary planning estimates and final planning allotments are caused by the use of Calendar Year 1999 data as opposed to the earlier data (12 months ending September 1999) used for preliminary planning estimates.

Signed at Washington, DC, this 16th day of May, 2000.

Raymond L. Bramucci,

Assistant Secretary.

BILLING CODE 4510–30–M

Appendix

Appendix

U. S. Department of Labor
Employment and Training Administration
Employment Service (Wagner-Peyser)
Final PY 2000 Allotments to States

Total	$761,735,000
Alabama	10,932,482
Alaska	8,084,754
Arizona	11,727,076
Arkansas	6,372,346
California	88,632,143
Colorado	10,421,973
Connecticut	8,535,669
Delaware	2,077,382
District of Columbia	3,481,968
Florida	35,215,846
Georgia	19,635,506
Hawaii	3,289,242
Idaho	6,736,039
Illinois	31,410,419
Indiana	14,363,969
Iowa	7,039,271
Kansas	6,564,128
Kentucky	9,829,102
Louisiana	11,004,411
Maine	4,005,859
Maryland	13,745,214
Massachusetts	15,683,634
Michigan	24,310,238
Minnesota	11,816,050
Mississippi	6,659,019
Missouri	13,675,963
Montana	5,504,726
Nebraska	6,615,599
Nevada	5,351,173
New Hampshire	2,973,251
New Jersey	21,431,869
New Mexico	6,177,271
New York	47,718,375
North Carolina	17,666,840
North Dakota	5,605,458
Ohio	28,254,643
Oklahoma	8,326,514
Oregon	9,593,535
Pennsylvania	30,262,541
Puerto Rico	10,536,279
Rhode Island	2,625,453
South Carolina	9,797,291
South Dakota	5,180,731
Tennessee	13,749,835
Texas	51,508,098
Utah	10,486,819
Vermont	2,426,951
Virginia	16,037,720
Washington	15,628,945
West Virginia	5,929,859
Wisconsin	13,263,090
Wyoming	4,019,463
State Total	741,922,032
Guam	348,011
Virgin Islands	1,464,957
Postage	18,000,000

[FR Doc. 00–13469 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03791 and NAFTA–3791A]

House of Perfection, Incorporated, Williston Manufacturing Co. Williston, SC and Capitol City Manufacturing Co., West Columbia, SC; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with section 250(a), subchapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on April 13, 2000, applicable to workers of House of Perfection, Incorporated, Williston Manufacturing Co., Williston, South Carolina. The notice was published in the Federal Register on May 11, 2000 (65 FR 30444).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of children's apparel such as shorts, tops, blouses and pants for its parent company, House of Perfection, Incorporated, West Columbia, South Carolina. New information shows that Capitol City Manufacturing Co. is a division of House of Perfection, Incorporated. Worker separations will occur at the subject firm when it closes in June, 2000. The workers produce children's apparel such as shorts tops, blouses and pants.

Accordingly, the Department is amending the certification to cover workers of Capitol City Manufacturing Co., West Columbia, South Carolina.

The intent of the Department's certification is to include all workers of House of Perfection, Incorporated who were adversely affected by a shift of production to Mexico.

The amended notice applicable to NAFTA–03791 is hereby issued as follows:

All workers of House of Perfection, Incorporated, Williston Manufacturing, Williston, South Carolina (NAFTA–03791) and Capitol Manufacturing Co., West Columbia, South Carolina (NAFTA–03791A) who became totally or partially separated from employment on or after March 8, 1999 through April 13, 2002 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 18th day of May, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13470 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Washington State Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of subpart F to part 1952 containing the decision.

The Washington plan provides for the adoption of State standards that are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to a Federal standard change, the State submitted by letter dated November 9, 1994, from Mark O. Brown, Director, to James W. Lake, Regional Administrator, a State standard amendment comparable to 29 CFR 1910.269, Electric Power Generation, Transmission and Distribution, as published in the **Federal Register** on January 31, 1994, (59 FR 4320), and subsequent corrections published in the **Federal Register** on June 30, 1994 (59 FR 33658). The State standards were adopted by Administrative Order 94–16 on September 30, 1994, with an effective date of November 20, 1994. A review of the standard revealed discrepancies and the submission was returned to the State for correction. On April 22, 1998, the State submitted by letter from Michael A. Silverstein, Assistant Director, to Richard S. Terrill, Regional Administrator, corrections to the discrepancies. The State standard amendments were adopted by Administrative Order 97–17 on March 6, 1998, with an effective date of May 6, 1998. A review of the amendments revealed new discrepancies and the submission was returned to the State for correction. On June 15, 1999, the State submitted by letter from Michael A. Silverstein, Assistant Director, to Richard S. Terrill, Regional Administrator, the requested corrections. The corrections were adopted by Administrative Order 99–04 on April 20, 1999, and became effective on August 1, 1999. The State standards are contained in Chapter 296–45 WAC, Safety Standards for Electrical Workers. OSHA has determined the following major differences between the State and Federal standards: (1) The State standards did not adopt provisions for live-line bare-hand work. The State requires that rubber gloves be only used on voltages of 5,000 or less between phases. (2) The State standards contain numerous supplemental requirements such as that for underground residential distribution. The State standards also incorporate the requirements of the 1997 National Electrical Safety Code (NESC) (ANSI-C2), Parts (1), (2) and (3) by reference.

On its own initiative, the State of Washington has submitted by letter dated July 27, 1998, from Michael A. Silverstein, Assistant Director, to Richard S. Terrill, Acting Regional Administrator, an amendment to its Construction Safety standard at WAC 296–155–130 for below the hook rigging. On December 18, 1998, the amendment was returned to the State for clarification of several issues. On February 22, 1999, in a letter from Michael A. Silverstein, to Richard S. Terrill, Regional Administrator, clarification was submitted and the standard was found to be comparable to Federal OSHA standards. The main difference is the State amendment was made so the rigging codes would be easier to follow and be located in one place in the Construction Safety standards rather than in various parts. The State's submission was adopted by Washington Administrative Order 96–20 on June 15, 1998, and became effective on August 15, 1998.

On its own initiative, the State has submitted by letter dated March 26, 1999, from Michael A. Silverstein, Assistant Director, to Richard S. Terrill,

a State amendment to Washington Health Standards for Emergency Washing Facilities contained in Chapter 296–62. Prior to the change, the State's compliance and consultation officers relied on WAC 296–62–130, WRD 12.35, WRD 91–13A and ANSI Z358.1–1990 to verify compliance with emergency washing facility requirements. This action replaces WISHA Regional Directive 12.35 and WISHA Regional Directive 91–13A. The main difference is the State's amendment revises the current rule by explicitly incorporating certain ANSI requirements in order to eliminate confusion and provide more specific information to the employer. The State's submission was adopted by Washington Administrative Order 98–18 on March 17, 1999, effective June 17, 1999.

The administrative orders were adopted pursuant to RCW 34.04.040(2), 49.17.040, 49.17.050, Public Meetings Act RCW 42.30, Administrative Procedures Act RCW 34.04, and the State Register Act RCW 34.08.

2. Decision

OSHA has determined that the State standard amendments for Electric Power Generation, Transmission and Distribution are as least as effective as the comparable Federal standards, as required by section 18(c)(2) of the Act. The major differences in these amendments have been in effect since November 20, 1994. During that time OSHA has received no indication of significant objection to the State's different standard either as to its effectiveness in comparison to the Federal standard or as to its conformance with the product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves these amendments. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

OSHA has determined that the State amendments to its Construction Safety Standard (below the hook rigging) and Emergency Washing Facilities are at least as effective as the comparable Federal standards, as required by Section 18(c)(2) of the Act. OSHA has also determined that the differences between these State amendments and the Federal amendments are minor. OSHA therefore approves these amendments; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, Suite 715, Seattle, Washington 98101–3212; State of Washington Department of Labor and Industries, Division of Industrial Safety and Health, 7273 Linderson Way, SW., Tumwater, Washington 98501; and the Office of State Programs, Occupational Safety and Health Administration, Room N–3476, 200 Constitution Avenue, NW., Washington, DC 20210. For electronic copies of this **Federal Register** notice, contact OSHA's Web Page at http://www.osha.gov/.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard amendments are as effective as the Federal standards which was promulgated in accordance with the Federal law including meeting requirements for public participation.

2. The standard amendments were adopted in accordance with the procedural requirements of State law and further public participation would be repetitious.

This decision is effective

(Sec. 18, Pub. L. 91–596, 84 STAT. 6108 [29 U.S.C. 667]).

Signed at Seattle, Washington, this 11th day of 2000.

Richard S. Terrill,

Regional Administrator.

[FR Doc. 00–13484 Filed 5–30–00; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts: Submission for OMB Review; Comment Request

May 30, 2000.

The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 [Pub. L. 104–13, 44 U.S.C. chapter 35]. Copies of this ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Arts' Deputy for Guidelines, Panel, & Council Operations, A.B. Spellman 202/682–5421. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call 202/682–5496 between 10:00 a.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, 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 Office of Management and Budget (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 submissions of responses.

SUPPLEMENTARY INFORMATION: The Endowment requests the review of all of its funding application guidelines and grantee reporting requirements. This entry is issued by the Endowment and contains the following information: (1) the title of the form; (2) how often the required information must be reported; (3) who will be required or asked to

report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. this entry is not subject to 44 U.S.C. 3504(h).

Agency: National Endowment for the Arts.

Title: Blanket Justification for NEA Funding Application Guidelines and Reporting Requirements FY 2001–FY 2004.

OMB Number: 3135–0112.

Frequency: Annually.

Affected Public: Nonprofit organizations, state & local arts agencies, and individuals.

Estimated Number of Repondents: 4,805.

Estimated Time Per Respondent: 22 hours (applications)/8 hours (reports).

Total Burden Hours: 120,407.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/ Maintaining Systems or Purchasing Services): 0.

Description: Guideline instructions and applications elicit relevant information from individuals, nonprofit organizations, and state and local arts agencies that apply for funding from the NEA. This information is necessary for the accurate, fair, and thorough consideration of competing proposals in the review process. According to OMB Circulars A–102 and A–110, recipients of federal funds are required to report on project activities and expenditures. Reporting requirements are necessary to ascertain that grant projects have been completed, and all terms and conditions fulfilled.

ADDRESSES: A.B. Spellman, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 516, Washington, DC 20506–0001, telephone 202/682–5421 (this is not a toll-free number), fax 202/682–5049.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. 00–13519 Filed 5–30–00; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 65 FR 14320, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW, Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–306–1125 X2017.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title: National Science Foundation Grant Proposal Guide.

OMB Control Number: 3145–0080.

Summary of Collection: The Federal Acquisition Regulations (FAR) Subpart 15.4—''Solicitation and Receipt of Proposals'' prescribes policies and procedures for preparing and issuing Requests for Proposals. The FAR System has been developed in accordance with the requirement of the Office of Federal Procurement Policy Act of 1974, as amended. The NSF Act of 1950, as amended, 42 U.S.C. 1870, Sec. II. states that NSF has the authority to:

(c) Enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of Defense, specific scientific or engineering activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration, without performance or other bonds and without regard to section 5 of title 41, U.S.C.

Use of the Information: Request for Proposals (RFP) is used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to the RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

Estimate of Burden: The Foundation estimates that, on average, 558 hours per respondent will be required to complete the RFP.

Respondents: Individuals; business or other for-profit; not-for-profit institutions; Federal government; state, local, or tribal governments.

Estimated Number of Responses: 75.

Estimated Total Annual Burden on Respondents: 41, 580 hours.

Dated: May 24, 2000.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 00–13480 Filed 5–30–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

In the Matter of Florida Power Corporation (Crystal River Unit No. 3); Order Approving Application Regarding Proposed Acquisition by CP&L Holdings, Inc. of Florida Progress Corporation

I

Florida Power Corporation (FPC) is the majority owner and a holder of

Facility Operating License No. DPR–72 for Crystal River Unit 3 (CR–3), which was issued December 3, 1976. FPC owns a 91.7806% interest in CR–3, with the remaining interest held by nine minority owners. FPC is the licensed operator of CR–3.

II

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.80, FPC filed an application dated January 31, 2000, requesting approval of the indirect transfer of control of FPC's interest in the CR–3 operating license that will occur under a proposed share exchange transaction between Florida Progress Corporation (Progress), the parent of FPC, and CP&L Holdings, Inc. (Holdings). Holdings is being formed by Carolina Power and Light Company (CP&L) as part of an internal CP&L reorganization. Upon consummation of the share exchange transaction, under which Holdings will acquire all of the outstanding shares of Progress, Progress will become a wholly owned subsidiary of Holdings. FPC, which will remain a wholly owned subsidiary of Progress, will also become an indirect subsidiary of Holdings upon completion of the acquisition of Progress by Holdings. FPC will retain its existing ownership interest in and the license for CR–3 and remain the licensed operator of CR–3 after the share exchange transaction. No physical changes to the facility or operational changes are being proposed in the application. Additional information concerning this indirect transfer is contained in a letter from CP&L to the U.S. Nuclear Regulatory Commission (Commission) dated February 14, 2000, and in a letter from FPC to the Commission dated March 28, 2000. Notice of the application and an opportunity for hearing was published in the **Federal Register** on March 17, 2000 (65 FR 14631). No hearing requests were filed.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted by FPC in its application, and the other information before the Commission, the NRC staff has determined that the proposed acquisition of Progress by Holdings through the proposed share exchange transaction will not affect the qualifications of FPC as a holder of the license referenced above, and that the indirect transfer of the license, to the extent effected by the acquisition, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated May 22, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o) and 2234; and 10 CFR 50.80, *It is hereby ordered* that the application regarding the subject acquisition is approved, subject to the following conditions:

(a) FPC shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from FPC to its existing or proposed direct or indirect parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of FPC's consolidated net utility plant, as recorded on FPC's book of accounts,

(b) Should the acquisition of Progress by Holdings not be completed by June 1, 2001, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended. This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated January 31, 2000, additional information contained in a letter from CP&L to the Commission dated February 14, 2000, a letter from FPC to the Commission dated March 28, 2000, and the Safety Evaluation dated May 23, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 22nd day of May 2000.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00–13517 Filed 5–30–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Renewal Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: This notice is to announce the renewal of the Advisory Committee on Nuclear Waste (ACNW) for a period of two years.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has determined that the renewal of the charter for the Advisory Committee on Nuclear Waste for the two year period commencing on May 24, 2000, is in the public interest, in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the Advisory Committee on Nuclear Waste is to report to and advise the U.S. Nuclear Regulatory Commission (NRC) on nuclear waste management and other related activities, as directed by the Commission. This includes 10 CFR parts 60 and 61 and other applicable regulations and legislative mandates. In performing its work, the Committee will examine and report on those areas of concern referred to it by the Commission and may undertake studies and activities on its own initiative, as appropriate. Emphasis will be on protecting the public health and safety in the disposal of nuclear waste. The Committee will interact with representatives of NRC, ACRS, other federal agencies, state and local agencies, Indian Tribes, and private, international and other organizations as appropriate to fulfill its responsibilities.

FOR FURTHER INFORMATION CONTACT: John T. Larkins, Executive Director of the Committee, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7360.

Dated: May 24, 2000.

Andrew L. Bates,

Federal Advisory Committee Management Officer.

[FR Doc. 00–13514 Filed 5–30–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Intent To Prepare a Draft Supplement to the Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities and To Hold a Public Meeting for the Purpose of Scoping and To Solicit Public Input Into the Process

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC, the Commission) intends to prepare a draft supplement to the Final Generic Environmental Impact Statement (GEIS) on Decommissioning of Nuclear

Facilities (NUREG–0586, August 1988) and to hold public scoping meetings for the purpose of soliciting comments. Although NUREG–0586 covered all NRC-licensed facilities, this supplement will address only the decommissioning of nuclear power reactors.

The NRC will hold public scoping meetings on June 13, 2000, at the Doubletree Guest Suites, Atlanta-Perimeter, 6120 Peachtree Dunwoody Road, Atlanta, Georgia 30328 (telephone: 770–668–0808), and on June 21, 2000, at the Ramada Plaza Hotel, 1231 Market Street, San Francisco, California 94103 (telephone: 415–626–8000) to present an overview of the proposed supplement to the GEIS and to accept public comment on its proposal. The public scoping meetings will begin at 7 p.m. and continue to 10 p.m.

The meeting will be transcribed and will include (1) a presentation by the NRC staff on the reasons for preparing a supplement to the GEIS and the environmental issues related to power reactor decommissioning to be addressed in the GEIS, and (2) the opportunity for interested government agencies, private organizations, and individuals to provide comments. Anyone wishing to attend or present oral comments at this meeting may preregister by contacting Mr. Dino C. Scaletti by telephone at 1–800–368–5642, extension 1104, or by Internet to the NRC at *DGEIS@nrc.gov,* 1 week prior to a specific meeting. Members of the public may also register to provide oral comments up to 15 minutes prior to the start of each meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Scaletti's attention no later than 1 week prior to a specific meeting, so that the NRC staff can determine whether the request can be accommodated.

Any interested party may submit comments related to the NRC's intent to supplement the GEIS for consideration by the NRC staff. To be certain of consideration, comments on the intent to prepare the supplement must be received by July 15, 2000. Comments received after the due date will be considered if it is practical to do so. At this time, comments are being sought only on the intent to prepare the supplement. The NRC staff currently projects issuance of the draft supplement for comment in early 2001. Comments on the draft supplement will be solicited at that time. Written comments should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Mail Stop T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Submittal of electronic comments may be sent by the Internet to the NRC at *DGEIS@nrc.gov.* All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., in Washington, DC. Also, publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room).

FOR FURTHER INFORMATION, CONTACT: Mr. Dino C. Scaletti, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Scaletti can be contacted at the aforementioned telephone number.

Dated at Rockville, Maryland, this 24th day of May 2000.

For the Nuclear Regulatory Commission.

Dino C. Scaletti,

Senior Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–13516 Filed 5–30–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 29, June 5, 12, 19, 26, and July 3, 2000.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 29

Tuesday, May 30

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Discussion of Intragovernmental Issues (Closed-Ex. 9b)

Week of June 5—Tentative

There are no meetings scheduled for the Week of June 5.

Week of June 12—Tentative

Tuesday, June 13

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Paul Lohaus, 301–415–3340)

1 p.m. Meeting with Korean Peninsula Energy Development Organization (KEDO) and State Department (Public Meeting) (Contact: Donna Chaney, 301–415–2644)

Week of June 19—Tentative

Tuesday, June 20, 2000

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Briefing on Final Rule—Part 70—Regulating Fuel Cycle Facilities (Public Meeting)

1:30 p.m. Briefing on Risk-Informed Part 50, Option 3 (Public Meeting)

Wednesday, June 21, 2000

10:30 a.m. All Employees Meeting (Public Meeting) (''The Green'' Plaza Area)

1:30 p.m. All Employees Meeting (Public Meeting) (''The Green'' Plaza Area)

Week of June 26—Tentative

There are not meetings scheduled for the Week of June 26.

Week of July 3—Tentative

There are no meetings scheduled for the Week of July 3.

Note: The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on May 25, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of a: HYDRO RESOURCES, INC., Docket No. 40–8968–ML, MEMORANDUM AND ORDER (Financial Assurance for Decommissioning Issues), LBP–99–13, 49 NRC 233 (March 9, 1999); and MEMORANDUM AND ORDER (Motion to Hold in Abeyance), LBP–99–40 (October 19, 1999); and, b: FINAL RULE: ''ELIMINATION OF THE REQUIREMENT FOR NONCOMBUSTIBLE FIRE BARRIER

PENETRATION SEAL MATERIALS AND OTHER MINOR CHANGES'' (10 CFR PART 50) (WITS 199800128)'' (PUBLIC MEETING) be held on May 25, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 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: May 25, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–13674 Filed 5–26–00; 12:46 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 6, 2000, through May 19, 2000. The last biweekly notice was published on May 17, 2000 (65 FR 31354).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 30, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 18, 2000.

Description of amendment request: The amendments would revise Technical Specifications (TS) 3.7.10 and 3.7.12 for Catawba Units 1 and 2. The proposed changes address degraded pressure boundaries on the Auxiliary Building Filtered Ventilation Exhaust System and the Control Room Area Ventilation System. The proposed changes in TS 3.7.10 and 3.7.12 would add Notes which allow the affected ventilation system boundaries to be opened intermittently under administrative controls. Also, it would add a new condition in TS 3.7.10 and 3.7.12. This new condition will require that the boundaries for these two systems be returned to an operable status within 24 hours, when both trains of these systems are inoperable due to an inoperable boundary.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the criteria set forth in 10 CFR 50.91 and 50.92, Duke Energy Corporation has evaluated this license amendment request and determined it does not represent a significant hazards consideration. The following is provided in support of this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The Control Room Area Ventilation System (CRAVS), Control Room pressure boundary, the Auxiliary Building Filtered Ventilation Exhaust System (ABFVES), or the Emergency Core Cooling System (ECCS) pump rooms area pressure boundary are not assumed to be initiators of any analyzed accident. Therefore, the proposed changes contained in this LAR [license amendment request] have no significant impact on the probability of occurrence of any previously analyzed accident.

The proposed new condition for the CRAVS and ABFVES Technical Specifications (TS) would permit a 24-hour period to take action to restore an inoperable pressure boundary to OPERABLE status. The consequences of implementing the 24 hour Completion Time are reasonable based upon: (1) The low probability of a design basis accident occurring during this time period, (2) additional actions that are available to the operator to minimize doses (*e.g.,* self contained breathing apparatus and alternate control room air intakes), and (3) the availability of an operable CRAVS/ABFVES train to provide a filtered environment (albeit with potential unfiltered leakage).

For cases where any of the affected control room or ECCS pump room area/pump rooms pressure boundaries are opened intermittently under administrative controls, appropriate compensatory measures would be required by the proposed TS to ensure the pressure boundary can be rapidly restored. Based on the compensatory measures available to the plant operators and the administrative controls required to rapidly restore an opened pressure boundary, the accident consequences do not cause an increase in dose above the applicable General Design Criteria, Standard Review Plan, or 10 CFR 100 limits. The plant operators will continue to maintain the ability to mitigate a design basis event.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. No changes are being made to actual plant hardware which will result in any new accident causal mechanisms. Also, no changes are being made to the way in which the plant is being operated. Therefore, no new accident causal mechanisms will be generated.

3. Does this change involve a significant reduction in a margin of safety?

No. Margin of safety is related to the ability of the fission product barriers to perform their design functions during and following accident conditions. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these barriers will not be significantly degraded by the proposed changes. The proposed changes would allow affected pressure boundaries to be degraded for a limited period of time (24 hours).

However, the probability of a design basis event occurring during this time is low and additional actions (*e.g.,* breathing apparatus) would also be taken to minimize dose to the plant operators. When the boundaries are open on an intermittent basis, as permitted by the changes proposed in this LAR, administrative controls would be in place to ensure that the integrity of the pressure boundaries could be rapidly restored. Therefore, it is expected that the plant, and the operators, would maintain the ability to mitigate design basis events and none of the fission product barriers would be affected by this change. Therefore, the proposed change is not considered to result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Richard L. Emch, Jr.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: April 5, 2000.

Description of amendment request: The proposed amendment implements technical specification (TS) changes associated with thermal-hydraulic stability monitoring. New TS 3.3.1.3, ''Oscillation Power Range Monitor (OPRM) Instrumentation,'' will provide the minimum operability requirements for the OPRM channels, the Required Actions when they become inoperable, and appropriate surveillance requirements. The OPRMs will provide automatic ''detect and suppress'' actions to replace the administrative controls currently in effect through operator training and manual actions. The amendment would remove monitoring guidance from TS 3.4.1, ''Recirculation Loops Operating,'' that will no longer be necessary due to the activation of the automatic OPRM instrumentation. Finally, the amendment would update TS 5.6.5, ''Core Operating Limits Report (COLR),'' to require the applicable setpoints for the OPRMs to be included in the COLR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change specifies limiting conditions for operation, required actions and surveillance requirements for the Oscillation Power Range Monitor (OPRM) system, and allows operation in regions of the power to flow map currently restricted by the requirements of Interim Corrective Actions (ICAs) and certain limiting conditions of operation of Technical Specification (TS) 3.4.1. The restrictions of the ICAs and TS 3.4.1 were imposed to ensure adequate capability to detect and suppress conditions consistent with the onset of thermal-hydraulic (T–H) oscillations that may develop into a T–H instability event. A T–H instability event has the potential to challenge the Minimum Critical Power (MCPR) safety limit. The OPRM system can automatically detect and suppress conditions necessary for T–H instability. With the activation of the OPRM System, the restrictions of the ICAs and TS 3.4.1 will no longer be required.

The probability of a T–H instability event is impacted by power to flow conditions during operation inside specific regions of the power to flow map, in combination with power shape and inlet enthalpy conditions, such that only under such conditions can the occurrence of an instability event be postulated to occur. Operation in these regions may increase the probability that operation with conditions necessary for a T–H instability can occur. However, when the OPRM is OPERABLE with operating limits as specified in the Core Operating Limits Report (COLR), the OPRM can automatically detect the onset of significant local power oscillations and generate a trip signal. Actuation of a Reactor Protection System (RPS) trip will suppress conditions necessary for T–H instability and decrease the probability of a T–H instability event. In the event the trip capability of one or more of the OPRM channels is not maintained, the proposed change includes Required Actions which limit the period of time before the affected OPRM channel (or RPS system) must be placed in the tripped condition. If these actions would result in a trip function such as a scram, or if the OPRM trip capability is not maintained, an alternate method to detect and suppress thermal hydraulic oscillations is required, i.e., the same ICAs as are in place today. In either case the duration of the period of time allowed by the Required Actions is limited, and the probability of a T–H instability event during this limited time is not significantly increased.

Several changes to TS 3.4.1 are made which are more consistent with, or conservative with, respect to the reviewed and approved Standard Technical Specifications for Boiling Water Reactors. These generic changes are considered applicable to the Perry Nuclear Power Plant. They simply provide guidance on the operator actions to be taken and the associated time limits when the Specification is entered, and do not impact the probability of occurrence of an accident. For the above reasons, the proposed change does not result in a significant increase in the probability of an accident previously evaluated.

An unmitigated T–H instability event is postulated to cause a violation of the MCPR safety limit. The proposed change ensures mitigation of T–H instability events prior to challenging the MCPR safety limit if initiated from anticipated conditions, by detection of the onset of oscillations and actuation of an RPS trip signal. The OPRM also provides the capability of an RPS trip being generated for T–H instability events initiated from unanticipated but postulated conditions. These mitigating capabilities of the OPRM system will become available as a result of the proposed change and have the potential to reduce the consequences of anticipated and postulated T–H instability events. The OPRM installation has been evaluated to not adversely impact other installed equipment such as the Average Power Range Monitors (APRMs) or the RPS in a manner that could prevent response to various postulated events, so those events will not have increased consequences due to the OPRMs. Therefore, the proposed change does not significantly increase the consequences of an accident previously evaluated.

Therefore, the proposed change, which specifies limiting conditions for operation, required actions and surveillance requirements for the OPRM system, and allows operation in certain regions of the power to flow map, does not significantly increase either the probability or consequences of an accident previously evaluated.

2. The proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change specifies limiting conditions for operation, required actions and surveillance requirements of the OPRM system, and allows operation in regions of the power to flow map currently restricted by the requirements of ICAs and TS 3.4.1. The OPRM system uses input signals shared with APRM and rod block functions to monitor core conditions and generate an RPS trip when required. Quality requirements for software design, testing, implementation and module self-testing of the OPRM system provide assurance that new equipment malfunctions due to software errors are not created. The design of the OPRM system also ensures that neither operation nor malfunction of the OPRM system will adversely impact the operation of other systems and no accident or equipment malfunction of these other systems could cause the OPRM system to malfunction or cause a different kind of accident. Therefore, operation with the OPRM system does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Operation in regions currently restricted by the requirements of ICAs and TS 3.4.1 is within the nominal operating domain and ranges of plant systems and components, and within the range for which postulated accidents have been evaluated. Therefore operation within these regions does not

create the possibility of a new or different kind of accident from any accident previously evaluated. The changes to TS 3.4.1 to be more consistent, or conservative, with respect to the reviewed and approved Standard Technical Specifications, simply provide guidance on the operator actions to be taken and the associated time limits when the Specification is entered, and also do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change, which specifies limiting conditions for operation, required actions and surveillance requirements of the OPRM system, and allows operation in certain regions of the power to flow map, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change will not involve a significant reduction in the margin of safety.

The proposed change specifies limiting conditions for operation, required actions and surveillance requirements of the OPRM system and allows operation in regions of the power to flow map currently restricted by the requirements of ICAs and TS 3.4.1.

The OPRM system monitors small groups of LPRM [local power range monitor] signals for indication of local variations of core power consistent with T-H oscillations, and generates an RPS trip when conditions consistent with the onset of oscillations are detected. An unmitigated T-H instability event has the potential to result in a challenge to the MCPR safety limit. The OPRM system provides the capability to automatically detect and suppress conditions which might result in a T–H instability event, and thereby maintains the margin of safety by providing automatic protection for the MCPR safety limit while reducing the burden on the control room operators. Therefore, operation with the OPRM system does not involve a significant reduction in a margin of safety. In the event an OPRM channel becomes inoperable, the proposed change includes actions which limit the period of time before the affected OPRM channel (or RPS system) must be placed in the tripp[ed] condition. If these actions would result in a trip function such as a scram (or if the OPRM trip capability is not maintained), the alternate method to detect and suppress thermal hydraulic oscillations (the current ICAs) is required to be put in place. The duration of the period of time allowed by the Required Actions is limited, and the probability of a significant T–H instability event during this limited time is not significantly increased.

Operation in regions currently restricted by the requirements of ICAs and Technical Specification [TS] 3.4.1 is within the nominal operating domain and ranges of plant systems and components, and within the range assumed for initial conditions considered in the analysis of anticipated operational occurrences and postulated accidents. Therefore, operation in these regions does not involve a significant reduction in the margin of safety. The changes to TS 3.4.1 to be more consistent, or conservative, with respect to the reviewed and approved Standard Technical Specifications, simply provide guidance on the operator actions to be taken and the associated time limits when the Specification is entered, and also do not significantly reduce the margin of safety.

Therefore, the proposed change, which specifies limiting conditions for operation, required actions and surveillance requirements of the OPRM system, and allows operation in certain regions of the power to flow map, does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary E. O'Reilly, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Anthony J. Mendiola.

Florida Power and Light Company, et al., Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: April 23, 2000.

Description of amendment request: The proposed license amendment (PLA) is associated with the required timing for containment hydrogen recombiner post operation insulation resistance testing. This PLA revises Unit 1 Technical Specification 3/4.6.4.2, Electric Hydrogen Recombiners—W, to clarify the requirement for the post-operation insulation resistance test of Surveillance Requirement 4.6.4.2.b.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve an increase in the probability or consequences of any accident previously evaluated. This PLA provides a clarification of the Technical Specification surveillance requirements for verifying hydrogen recombiner operability and reliability. This PLA has no affect on the testing requirements, test frequency, or acceptance criteria for recombiner operability. This change allows vendor recommended guidance and in-house methodology to be established when conducting recombiner heater resistance testing. This will enable consistency in testing and will allow trending for determination of the material condition of the recombiner heaters. The PLA change provides clarification and preserves the intent of the basis to monitor the material condition of the recombiner heaters. Additionally, this change provides consistency and is identical with the Unit 2 Technical Specification surveillance. As such, this change is considered administrative in nature.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. This PLA is considered administrative in nature and will not alter the way in which the hydrogen recombiner is operated or tested. This PLA allows vendor recommended guidance to be established in order to perform consistent testing and to allow meaningful trending of the results to verify recombiner operability. This PLA has no affect on the testing requirements, test frequency, or acceptance criteria for recombiner operability. This PLA does not result in any plant configuration changes or new failure modes.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed amendment does not involve a reduction in the margin of safety. This administrative PLA clarifies the surveillance requirement of the subject Technical Specification by allowing the establishment of vendor recommendations and in-house testing methodology to provide consistent testing conditions and allow meaningful trending of results. This PLA has no affect on the testing requirements, test frequency, or acceptance criteria for recombiner operability. As such, the assumptions and conclusions of the accident analyses in the UFSAR [Updated Final Safety Analysis Report] remain valid and the associated safety limits will continue to be met.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Richard P. Correia.

Florida Power and Light Company, Docket No. 50–251 and 50–252, Turkey Point Units 3 and 4 in Miami-Dade County

Date of amendment request: April 27, 2000.

Description of amendment request: Florida Power and Light Company (FPL)

requests to amend the Turkey Point Unit 3 Facility Operating License DPR–31 Fire Protection license condition 3.G, and to amend the Turkey Point Unit 4 Facility Operating License DPR–41 Fire Protection license condition 3.F. The proposed revisions to the Facility Operating Licenses are required to incorporate references to NRC Safety Evaluations issued in support of 10 CFR 50 Appendix R granted exemptions. In addition, the proposed amendments requests to modify Appendix A of the Facility Operating Licenses DPR–31 and DPR–41 of the Turkey Point Units 3 and 4 Technical Specifications (TS), Section 4.7.6.g. Due to an oversight, the submittal for the request of License Amendments Nos. 201 and 195 for Section 6.0 ''Administrative Controls,'' L–99–056, dated March 8, 1999, discussed revision to TS Section 4.7.6.g on TS Page 3/4 7–21, but inadvertently did not attach the revised marked up Page 3/4 7–21.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments do not involve an increase in the probability or consequences of an accident previously evaluated because the proposed changes are administrative in nature adding references to exemptions granted by the NRC and to reflect relocation of record retention requirements from the TS to the UFSAR. These amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated because they do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. Therefore, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the Facility Operating Licenses and the Technical Specifications are administrative in nature and can not create the possibility of a new or different kind of accident from any previously evaluated since the proposed amendments will not change the physical plant or the modes of plant operation defined in the facility operating license. No new failure mode is introduced due to the administrative changes since the proposed changes do not involve the addition or modification of equipment nor do they alter the design or operation of affected plant systems, structures, or components.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The operating limits and functional capabilities of the affected systems, structures, and components are unchanged by the proposed amendments. The proposed changes to the Facility Operating License Conditions and the TS are administrative in nature and do not reduce any of the margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Richard P. Correia.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: April 28, 2000.

Description of amendment request: The Seabrook Station Technical Specifications (TSs) are proposed to be revised to implement the Relaxed Axial Offset Control (RAOC) operating strategy in support of the use of upgraded Westinghouse fuel with Intermediate Flow Mixers.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to TS 2.1.1, 3.2.1, 4.2.1.1, 4.2.2.2, 4.2.2.3, 4.2.2.4, 6.8.1.6.b, and changes to the aforementioned TS Bases, are in support of North Atlantic's long-term operating strategy to refuel and operate, commencing with Cycle 8, with Biweekly Notice Coordinator upgraded Westinghouse fuel with Intermediate Flow Mixers (VANTAGE+(w/IFMs)). Evaluations/analyses of accidents which are potentially affected by the parameters and assumptions associated with the fuel upgrade and RAOC strategy have shown that all design standards and applicable safety criteria will continue to be met. The consideration of these changes does not result in a situation where the design, material, and construction standards that were applicable prior to the change are altered. Therefore, the proposed changes occurring with the fuel upgrade will not result in any additional challenges to plant equipment that could increase the probability of any previously evaluated accident.

The proposed changes associated with the fuel upgrade and RAOC strategy do not affect plant systems such that their function in the control of radiological consequences is adversely affected. The actual plant configuration, performance of systems, and initiating event mechanisms are not being changed as a result of the proposed changes. The design standards and applicable safety criteria limits will continue to be met and therefore fission barrier integrity is not challenged. The proposed changes associated with fuel upgrade and RAOC strategy have been shown not to adversely affect the response of the plant to postulated accident scenarios. The proposed changes will therefore not affect the mitigation of the radiological consequences of any accident described in the Updated Final Safety Analysis Report (UFSAR).

The proposed changes to TS Table 2.2–1, TS 3.2.2, TS 3.2.3, and the title on page 3/4 2–6 are editorial changes to correct either typographical errors, simplification of statements, clarification of specific parameters associated with temperature pressure measurements, making some notations consistent with improved Standard Technical Specifications — Westinghouse Plants, NUREG–1431, Rev. 1, and relocating additional cycle-specific values for temperature, pressure and time constants to the [Core Operating Limits Report] COLR, or correcting an erroneous title. These changes do not result in a change to the design basis of any plant structure, system or component or parameters currently specified in the COLR, therefore, operation of the facility within the prescribed limits of TS remains unchanged.

The proposed change to TS 3.2.1, ACTION a.2, to delete the need to reduce the power range neutron flux high trip setpoints subsequent to reducing rated thermal power (RTP) to less than 50% whenever axial flux difference (AFD) is outside of the applicable limits specified in the COLR, does not significantly increase the

probability or consequences of an accident previously evaluated.

Therefore, for the reasons stated above, the probability or consequences of an accident previously evaluated are not significantly increased for all the proposed TS changes presented herein.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The possibility for a new or different type of accident from any accident previously evaluated is not created since the proposed changes associated with the fuel upgrade and RAOC strategy do not result in a change to the design basis of any plant structure, system or component. These proposed changes do not cause the initiation of any accident nor create any new failure mechanisms. Equipment important to safety will continue to operate as designed. Component integrity is not challenged. The proposed changes do not result in any event previously deemed incredible being made credible.

The proposed changes are not expected to result in conditions that are more adverse and are not expected to result in any increase in the challenges to safety systems.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes will assure continued compliance within the acceptance limits previously reviewed and approved by the NRC for use of upgraded fuel features with RAOC. All of the appropriate acceptance criteria for the various analyses and evaluations will continue to be met.

The proposed editorial changes do not change the current limits specified in Technical Specifications.

Removing the requirement for manually reducing the power range neutron flux high trip setpoint does not result in a significant reduction in a margin of safety. There are other levels of trip protection to terminate a rapid rise in power excursion, such as the overtemperature delta-temperature (OT–T) trip function and previous power range neutron flux high trip setpoint. In addition, a rapid rise in power to greater than 50 percent RTP with AFD outside limits does not immediately create an unacceptable situation. The increased potential for a reactor trip caused by the manual manipulation of the setpoint needlessly exposes the plant to an unnecessary trip with the potential for an undesirable plant transient which may unnecessarily challenge safety systems.

Therefore, the proposed aforementioned TS changes do not involve a signification reduction in a margin of safety.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Section Chief: James W. Clifford.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: February 1, 2000, as supplemented by letter dated April 13, 2000.

Description of amendment request: The proposed amendment proposes changes to the cable spreading room technical specifications to permit pressurizing the cable spreading room to a pressure that exceeds the pressure of the adjacent control room envelope area during testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, NNECO has reviewed the proposed changes and has concluded that they do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification and Bases changes to exclude the requirements of Surveillance Requirements (SRs) 4.7.7.e.2, 4.7.8.c.2, and 4.7.8.c.3 during pressurization testing of the Cable Spreading Room (CSR) will not increase the probability of an accident previously evaluated. Operation of the Control Room Emergency Air Filtration System and the Control Room Envelope Pressurization System cannot cause an accident to occur.

The proposed Technical Specification and Bases changes to exclude the requirements of SRs 4.7.7.e.2, 4.7.8.c.2, and 4.7.8.c.3 during pressurization testing of the CSR may adversely impact the consequences of previously evaluated accidents. During CSR pressurization testing, the Control Room Emergency Air Filtration and the Control Room Envelope Pressurization Systems may not be able to pressurize and maintain the Control Room envelope at a positive pressure with respect to adjacent areas and the outside atmosphere. As a result, radioactivity released from a design basis accident may enter the Control Room envelope. However, since the CSR area will actually be at a higher pressure than the outside atmosphere (during CSR pressurization testing), radioactive leakage into the CSR area, and subsequently into the Control Room envelope, should not occur after the temporary fan has been stopped. Administrative controls will be established to immediately stop the temporary fan and rapidly depressurize the CSR area in the event Control Building isolation is necessary. Once the CSR area is depressurized, the Control Room Emergency Air Filtration System and the Control Room Envelope Pressurization System will be able to function as designed to mitigate the consequences of the accident. In addition, the probability of a design basis accident (DBA) occurring while the CSR is pressurized is low. Therefore, exempting the requirements of SRs 4.7.7.e.2, 4.7.8.c.2, and 4.7.8.c.3 during CSR pressurization testing will not result in a significant increase in the consequences of an accident previously evaluated.

The proposed Technical Specification and Bases change to clarify the mode of operation of the Control Room Emergency Air Filtration System when the pressurization requirement of SR 4.7.7.e.2 applies, will have no adverse effect on plant operation, or the availability or operation of any accident mitigation equipment. The plant response to the design basis accidents will not change. In addition, the proposed change can not cause an accident. Therefore, there will be no significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification and Bases changes to exclude the requirements of SRs 4.7.7.e.2, 4.7.8.c.2, and 4.7.8.c.3 during pressurization testing of the CSR, and to clarify the mode of operation of the Control Room Emergency Air Filtration System when the pressurization requirement of SR 4.7.7.e.2 applies, will not alter the plant configuration (no new or different type of permanent equipment will be installed) or require any new or unusual operator actions. Temporary equipment will be utilized to pressurize the CSR, and administrative controls, using additional personnel beyond the normal shift complement, will be implemented to restore the CSR to a configuration that will allow the Control Room Emergency Air Filtration System and the Control Room Envelope Pressurization System to function as designed to mitigate the consequences of an accident. The temporary equipment and administrative controls that will be implemented to perform the CSR pressurization testing will not introduce any new failure modes that could result in a new accident. Also, the response of the plant and the operators following these accidents is unaffected by the changes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed Technical Specification and Bases changes to exclude the requirements of SRs 4.7.7.e.2, 4.7.8.c.2, and 4.7.8.c.3 during pressurization testing of the CSR may adversely impact the ability of the Control Room Emergency Air Filtration System and the Control Room Envelope Pressurization System to function as designed to protect the Control Room Operators following a DBA, and to use other accident mitigation equipment contained within the Control Room envelope. However, the administrative controls that will be established to immediately stop the temporary fan and rapidly depressurize the CSR area if Control Building isolation is necessary will provide reasonable assurance that the habitability of the Control Room envelope will be maintained. Therefore, exempting the requirements of SRs 4.7.7.e.2, 4.7.8.c.2, and 4.7.8.c.3 during CSR pressurization testing will not result in a significant reduction in a margin of safety.

The proposed Technical Specification and Bases change to clarify the mode of operation of the Control Room Emergency Air Filtration System when the pressurization requirement of SR 4.7.7.e.2 applies will have no adverse effect on plant operation, or the availability or operation of any accident mitigation equipment. The plant response to the design basis accidents will not change. Therefore, there will be no significant reduction in a margin of safety.

The proposed changes do not alter the design, function, or operation of the equipment involved. The impact of the proposed changes has been analyzed, and it has been determined they do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different kind of accident from any accident previously evaluated, and do not involve a significant reduction in a margin of safety. Therefore, NNECO has concluded the proposed changes do not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: James W. Clifford.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: May 4, 2000.

Description of amendment request: The proposed amendment would add new sections to the Technical Specifications (TSs) addressing missed surveillance test requirements and establishing a TS Bases control program, revise TS Chapter 6 to allow use of generic titles in lieu of plant-specific titles, allow an alternative when the radiation protection manager does not meet the qualifications of Regulatory Guide 1.8, relocate sections of TS Chapter 6 pertaining to onsite and offsite review and special inspections to the Operational Quality Assurance Plan, and correct typographical errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Operation of the Monticello plant in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. None of the proposed changes involves a physical modification to the plant, a new mode of operation or a change to the Updated Safety Analysis Report transient analysis. These proposed amendments conform to the guidance of NUREG–1433, Revision 1, which was previously issued by the NRC.

The proposed changes do not reduce the level of qualification or training and the aggregate knowledge of the plant staff remains intact. In total, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not introduce a new mode of plant operation, surveillance test requirement or involve a physical modification to the plant. These proposed amendments generally conform to the guidance of NUREG–1433, Revision 1, which was previously issued by the NRC.

The proposed changes are administrative in nature. The changes propose to relocate specifications from the Technical Specifications to the Operational Quality Assurance Plan through which adequate control is maintained.

The proposed changes do not alter the design, function or operation of any plant component and therefore no new accident scenarios are created. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated would not be created by these amendments.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety because the current Technical Specification requirements for safe operation of the Monticello plant are maintained. The proposed changes are administrative in nature and do not involve a physical modification to the plant, a new mode of operation or a change to the Updated Safety Analysis Report transient analyses. The proposed changes do not alter the scope of equipment currently required to be operable or subject to surveillance testing nor does the proposed change affect any instrument setpoints or equipment safety functions.

Therefore, a significant reduction in the margin of safety would not be involved with these proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Section Chief: Claudia M. Craig.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: May 3, 2000 (PCN–516).

Description of amendment requests: The amendment application proposes to revise the San Onofre Nuclear Generating Station, Units 2 and 3, Technical Specification (TS) 3.4.3, ''RCS Pressure and Temperature (P/T) Limits,'' and the associated Bases. The proposed change would reduce the minimum boltup temperature from 86 °F to 65 °F for the reactor coolant system during the period of time when the reactor vessel head bolts are in tension.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change is a request to revise Technical Specification 3.4.3, ''Pressure Temperature Limits.'' The proposed change reduces the Minimum Boltup Temperature (MBT) from 86°F to 65°F. During operations below 86°F, the plant is in a shutdown mode, open to the atmosphere, and depressurized.

This proposed change does not affect the shape of the Pressure Temperature Limits when Reactor Coolant System (RCS) temperature is above 86°F. Therefore, the probability or consequences of an accident previously evaluated will not be increased by operating the facility in accordance with this proposed change.

Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change does not change the design or configuration of the plant. Therefore, this proposed change will not create the possibility of a new or different kind of accident from any accident that has been previously evaluated.

(3) Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

This proposed change involves reducing the MBT from 86°F to 65°F. This proposed change meets the American Society of Mechanical Engineers (ASME) Code requirements for establishing the minimum temperature in the reactor pressure vessel flange region when the pressure does not exceed 20% of the pre-operational hydrostatic test pressure. All margins of safety established by the ASME Code requirements are maintained. The operation of the facility in accordance with this proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1(WBN), Rhea County, Tennessee

Date of amendment request: April 10, 2000 (TS 99–013).

Description of amendment request: The proposed amendment requests NRC's approval to use the F* alternate repair criterion in the tubesheet region of the steam generator (SG). The F* criterion addresses the action required when degradation has been detected in the top of the mechanically expanded portion of SG tubes within the SG tubesheet.

The proposed change designates a portion of the tube for which tube degradation of a defined type does not necessitate remedial action, except as dictated for compliance with tube leakage limits as set forth in the WBN Technical Specifications (TS). The proposed amendment would modify the TS which provide tube inspection requirements and acceptance criteria to determine the level of degradation for which the tube may remain in service. The proposed amendment would add definitions required for the F* alternate plugging criterion and prescribe the portion of the tube subject to the criterion.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The presence of the tubesheet enhances the tube integrity in the region of the hardroll by precluding tube deformation beyond its initial expanded outside diameter. The resistance to both tube rupture and tube collapse is strengthened by the presence of the tubesheet in that region. Hardrolling of the tube into the tubesheet results in an interference fit between the tube and the tubesheet. Tube rupture cannot occur because the contact between the tube and tubesheet does not permit sufficient movement of tube material. In a similar manner, the tubesheet does not permit sufficient movement of tube material to permit buckling collapse of the tube during postulated loss-of-coolant-accident (LOCA) loadings.

The type of degradation for which the alternate plugging criterion, F*, has been developed (cracking with a circumferential orientation) can theoretically lead to a postulated tube rupture event, provided that the postulated through-wall circumferential crack exists near the top of the tubesheet. An evaluation including analysis and testing has been performed to determine the resistive strength of roll expanded tubes within the tubesheet. That evaluation provides the basis for the acceptance criteria for tube degradation subject to the F* criterion.

The F* length of roll expansion is sufficient to preclude tube pullout from tube degradation located below the F* distance, regardless of the extent of the tube degradation. The existing technical specification leakage rate requirements and accident analysis assumptions remain unchanged in the unlikely event that significant leakage from this region does occur. As noted above, tube rupture and pullout are not expected for tubes using the F* alternate plugging criterion. Any leakage out of the tube from within the tubesheet at any elevation in the tubesheet is fully bounded by the existing steam generator tube rupture analysis included in the WBN Unit 1 Final Safety Analysis Report (FSAR). The proposed alternate plugging criterion (F*) does not adversely impact any other previously evaluated design basis accident.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed F* tubesheet alternate plugging criterion does not introduce any significant changes to the plant design basis. Use of the criterion does not provide a mechanism to result in an accident initiated outside of the region of the tubesheet expansion. A hypothetical accident as a result of any tube degradation in the expanded portion of the tube would be bounded by the existing tube rupture accident analysis. Tube bundle structural integrity and leaktightness are expected to be maintained. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The use of the tubesheet alternate plugging criterion has been demonstrated to maintain the integrity of the tube bundle commensurate with the requirements of Regulatory Guide 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes,'' for indications in the free span of tubes and the primary to secondary pressure boundary under normal and postulated accident conditions. Acceptable tube degradation for the F* criterion is any degradation indication in the tubesheet region, more than the F* distance below either the bottom of the transition between the roll expansion and the unexpanded tube, or the top of the tubesheet, whichever is lower. The safety factors used in the verification of the strength of the degraded tube are consistent with the safety factors in the American Society of Mechanical Engineering (ASME) Boiler and Pressure Vessel Code used in steam generator design. The F* distance has been verified by testing to be greater than the length of roll expansion required to preclude both tube pullout and significant leakage during normal and postulated accident conditions. Resistance to tube pullout is based upon the primary to secondary pressure differential as it acts on the surface area of the tube, which includes the tube wall cross-section, in addition to the inside diameter-based area of the tube. The leak testing acceptance criteria are based on the primary to secondary leakage limit in the technical specifications and the leakage assumptions used in the FSAR accident analyses.

Implementation of the alternate tubesheet plugging criterion will decrease the number of tubes which must be taken out of service with tube plugs or repaired with sleeves. Both plugs and sleeves reduce the RCS flow margin; thus, implementation of the F* alternate plugging criterion will maintain the margin of flow that would otherwise be reduced in the event of increased plugging or sleeving. Based on the above, it is concluded that the proposed change does not result in a significant reduction in a loss of margin with respect to plant safety as defined in the FSAR or the bases of the WBN technical specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority (TVA), Docket No. 50–390 Watts Bar Nuclear Plant (WBN), Unit 1, Rhea County, Tennessee

Date of amendment request: April 10, 2000 (TS 99–014).

Description of amendment request: The proposed amendment would revise the WBN Unit 1 Technical Specification (TS) to incorporate new requirements associated with steam generator (SG) tube inspection and repair. The new requirements establish an alternate voltage based SG tube repair criteria at tube support plate and Flow Distribution Baffle plate intersections. This change is consistent with NRC Generic Letter 95–05 ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected By Outside Diameter Stress Corrosion Cracking.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Tube burst criteria are inherently satisfied during normal operating conditions due to the proximity of the tube support plate. Test data indicates that tube burst cannot occur within the tube support plate (TSP), even for tubes which have 100 percent through-wall electric discharge machining (EDM) notches, 0.75 inches long, provided that the TSP is adjacent to the notched area. Since tube to tube support plate proximity precludes tube burst during normal operating conditions, use of the criteria must retain tube integrity characteristics which maintain a margin of safety of 1.43 times the bounding faulted condition [main steam line break (MSLB)] differential pressure of 2405 psig. As previously stated, the Regulatory Guide (RG) 1.121 criterion requiring maintenance of a safety factor of 1.43 times the MSLB pressure differential on tube burst is satisfied by ¾-inch diameter tubing with bobbin coil indications with signal amplitudes less than V_{SL} = 6.03 volts, regardless of the indicated depth measurement. At the flow distribution baffle (FDB), a safety factor of 3 against the normal operating condition DP is applied; here a voltage of V_{SL} = 3.81 volts satisfies the burst capability recommendation.

The upper voltage repair limit (V_{URL}) will be determined prior to each outage using the most recently approved NRC database to determine the tube structural limit (V_{SL}). The structural limit is reduced by allowances for nondestructive examination (NDE) uncertainty (V_{NDE}) and growth (V_G) to establish V_{URL}. As an example, the NDE uncertainty component of 20 percent and a voltage growth allowance of 30 percent per full power year can be utilized to establish a V_{URL} of 3.71 volts for TSP indications, and 2.34 volts for the FDB indications. The 20 percent NDE uncertainty represents a square-root-sum-of-the-squares (SRSS) combination of probe wear uncertainty and analyst variability. The flaw growth allowance should be an average growth rate or 30 percent per effective full power year, whichever is larger. The 30 percent growth allowance used to determine V_{URL} is conservative for the current conditions at WBN Unit 1. The most current NRC approved database, contained in EPRI [Electric Power Research Institute] NP–7480–L, Addendum 2, was used to establish the V_{URL} values for the FDB and TSP intersections. Once approved by NRC, the industry protocol for updating the database will be followed by TVA, ensuring that the most current database is utilized for future applications of the criteria.

Relative to the expected leakage during accident condition loadings, it has been previously established that a postulated MSLB outside of containment but upstream of the main steam isolation valves (MSIV) represents the most limiting radiological condition relative to the alternate voltage based repair criteria. In support of implementation of the revised repair limit, it will be determined whether the distribution of cracking indications at the tube support plate intersections during future cycles are projected to be such that primary to secondary leakage would result in site boundary doses within a fraction of the 10 CFR 100 guidelines or control room doses within the 10 CFR 50, Appendix A, General Design Criteria (GDC)–19 limit. A separate calculation has determined this allowable MSLB leakage limit to be 10 gallons per minute (gpm) in the faulted loop assuming a reactor coolant system (RCS) dose equivalent iodine concentration of 1.0 mCi/gm. The establishment of the 10 gpm leak rate value is controlled by the 0 to 2 hour offsite doses at the site boundary for the accident initiated iodine spike case, not control room dose.

The methods for calculating the radiological dose consequences for this MSLB are consistent with FSAR Chapter 15 and therefore, the WBN licensing basis. TVA bases the calculated thyroid dose consequences on conversion factors from the International Commission on Radiation Protection (ICRP) Publication 2.

In summary, the calculated radiological consequences of the exclusion area boundary and the low population zone are larger than previously reported for the postulated steamline break event due to the increased leakage and more conservative iodine spiking factors. However, the calculated radiological consequences remain in compliance with the guidelines in the Standard Review Plan, Chapter 15, 10 CFR 50, Appendix A, GDC–19 and 10 CFR 100 reported for the postulated steamline break event. Therefore, it is concluded that the proposed changes do not result in a significant increase in the radiological consequences of an accident previously analyzed.

Consistent with the guidance of Section 2.c of Generic Letter (GL) 95–05, the WBN Unit 1 MSLB leak rate analysis performed prior to returning the SGs to service may be performed based on the projected next end-of-cycle (EOC) voltage distribution or the actual measured distribution at a given outage. The method to be used for the first outage when outside diameter stress corrosion cracking (ODSCC) indication growth rates are available will be based on the indications found during that outage. As noted in GL 95–05, it may not always be practical to complete EOC calculations prior to returning the SGs to service. Under these circumstances, it is acceptable to use the actual measured bobbin voltage distribution instead of the projected EOC voltage distribution to determine whether the reporting criteria is being satisfied.

Therefore, as implementation of the 1.0 volt voltage-based repair criteria at WBN Unit 1 does not adversely affect steam generator tube integrity and implementation is shown to result in acceptable radiological dose consequences, the proposed TS change does not result in a significant increase in the probability or consequences of an accident previously evaluated within the WBN Final Safety Analysis Report (FSAR).

B. The proposed amendment does not create the possibility of a new or different kind of accident from previously analyzed.

Implementation of the proposed steam generator tube alternate voltage based repair criteria (1.0 volts) does not introduce any significant changes to the plant design basis. Neither a single or multiple tube rupture event would be expected in a steam generator in which the repair limit has been applied (during all plant conditions).

The bobbin probe voltage-based tube repair criteria of 1.0 volt is supplemented by: enhanced eddy current inspection guidelines to provide consistency in voltage normalization, a 100 percent eddy current inspection sample size at the tube support plate elevations, and rotating pancake coil (RPC) inspection requirements for the larger indications left in service to characterize the principal degradation as ODSCC.

TVA will implement a maximum normal operating condition primary to secondary leakage rate limit of 600 gallons per day (gpd) total primary to secondary leakage and 150 gpd primary to secondary leakage per steam generator to help preclude the potential for excessive leakage during all plant conditions. The 150 gpd leakage limit is more restrictive than the current TS operating leakage limit (of 500 gpd) and is intended to provide additional margin to accommodate a stress corrosion crack which might grow at a greater than expected rate or unexpectedly extend outside the thickness of the tube support

plate. Leakage trending capability consistent with EPRI Report TR–104788, ''Primary-to-Secondary Leak Guidelines'' has been implemented at WBN Unit 1.

As steam generator tube integrity upon implementation of the 1.0 volt repair limit continues to be maintained through in-service inspection and primary to secondary leakage monitoring, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The use of the voltage-based bobbin probe tube support plate elevation repair criteria at WBN Unit 1 maintains steam generator tube integrity commensurate with the criteria of Regulatory Guide (RG) 1.121. RG 1.121 describes a method acceptable to the NRC staff for meeting GDCs 14, 15, 31, and 32 by reducing the probability or the consequences of steam generator tube rupture. This is accomplished by determining the limiting conditions of degradation of steam generator tubing, as established by in-service inspection, for which tubes with unacceptable cracking should be removed from service. Upon implementation of the proposed criteria, even under the worst case conditions, the occurrence of ODSCC at the tube support plate elevations is not expected to lead to a steam generator tube rupture event during normal or faulted plant conditions. The EOC distribution of crack indications at the tube support plate elevations is confirmed to result in acceptable primary to secondary leakage during all plant conditions and that radiological consequences are not adversely impacted.

As a preventative measure, a total of 214 tubes are excluded from the application of the ODSCC criteria because of the combined effects of loss-of-coolant-accident (LOCA) + safe shutdown earthquake (SSE) on the steam generator component (as required by GDC 2). It was determined that tube deformation or through-wall cracks could occur in these tubes.

As noted previously, implementation of the tube support plate intersection voltage-based repair criteria will decrease the number of tubes which must be repaired. The installation of steam generator tube plugs reduces the RCS flow margin. Thus, implementation of the 1.0 volt repair limit will maintain the margin of flow that would otherwise be reduced in the event of increased tube plugging.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: November 23, 1999.

Brief description of amendments: The amendments changed Technical Specification 5.5.7.c.1, ''Ventilation Filter Testing.'' The testing criteria have been changed to be consistent with the NRC request in Generic Letter 99–02, ''Laboratory Testing of Nuclear-Grade Activated Charcoal.''

Date of issuance: May 16, 2000.

Effective date: May 16, 2000.

Amendment Nos.: 209 and 237.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73086) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 16, 2000.

No significant hazards consideration comments received: No.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 22, 1999, as supplemented on March 1, 2000.

Brief description of amendments: The amendments relocate Reactor Coolant System (RCS) related cycle-specific parameter limits from the technical specifications to, and thus expanding, the Core Operating Limits Reports (COLRs) for Byron, Units 1 and 2, and Braidwood, Units 1 and 2.

Date of issuance: May 15, 2000.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 113 and 106.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 23, 2000 (65 FR 9003). The March 1, 2000, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 15, 2000.

No significant hazards consideration comments received: No.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: July 14, 1999, as supplemented on January 21, February 15, February 23, March 10, March 24, March 31 (two letters), April 7 and April 14, 2000.

Brief description of amendments: The amendments increase the maximum reactor core power level to 3489 megawatts thermal; an increase of 5 percent of rated core thermal power, for

LaSalle County Station, Units 1 and 2. In addition, the proposed amendments correct a non-conservative value in the upper limit for drywell and suppression chamber internal pressure that was discovered during the course of the power uprate review.

Date of issuance: May 9, 2000.

Effective date: For Unit 1, immediately, to be implemented within 60 days; for Unit 2, immediately, to be implemented prior to start up of cycle 9.

Amendment Nos.: 140 and 125.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the license and Technical Specifications.

Date of initial notice in ***Federal Register:*** August 25, 1999 (64 FR 46427). The letters dated January 21, February 15, February 23, March 10, March 24, two letters on March 31, April 7, and April 14, 2000, contain supplemental, clarifying information that did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 9, 2000.

No significant hazards consideration comments received: No.

Commonwealth Edison Company, Docket No. 50–374, LaSalle County Station, Unit 2, LaSalle County, Illinois

Date of application for amendment: February 28, 2000, as supplemented on April 28, 2000

Brief description of amendment: The amendment increases the Technical Specification safety limit for the Minimum Critical Power Ratio from 1.08 for two loop operation and 1.09 for single loop operation to 1.11 and 1.12, respectively.

Date of issuance: May 17, 2000.

Effective date: Immediately, to be implemented within 60 days.

Amendment No.: 126.

Facility Operating License No. NPF–18: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 22, 2000 (65 FR 15377). The April 28, 2000, submittal provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 17, 2000.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 4, 1999, as supplemented by letter dated April 19, 2000.

Brief description of amendments: The amendments revise the Technical Specifications (TS) Limiting Conditions for Operation for Reactor Coolant System (RCS) Subcooling Margin Monitor in TS Table 3.3.3–1 and revise the functions associated with surveillance requirements for RCS Loops-Test Exceptions in TS 3.4.17. By letter dated April 19, 2000, the licensee withdrew the proposal to relocate the Auxiliary Feedwater Loss of Offsite Power function from TS 3.3.2–1 to TS 3.3.2–1. The other changes requested by August 4,1999, application were addressed under separate correspondence.

Date of issuance: May 19, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 186 and 179.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 8, 1999 (64 FR 48861)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 19, 2000.

No significant hazards consideration comments received: No

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 18, 1999, as supplemented by letter dated April 20, 2000.

Brief description of amendment: The requested change would revise Technical Specification 3.5.3, ''Safety Feature Actuation System Setpoints,'' and its associated Bases to allow for an increase to the low reactor coolant system pressure setpoint. This setpoint change was requested to account for additional instrument uncertainties associated with cable insulation resistance effects and to allow for the plugging of up to 1200 tubes in each steam generator.

Date of issuance: May 10, 2000.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 207.

Facility Operating License No. DPR–51: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 26, 2000 (65 FR 4270). The April 20, 2000, letter provided clarifying information that did not change the scope of the August 18, 1999, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 10, 2000.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 15, 1999, as supplemented by letters dated March 29, 2000, April 13, 2000, April 25, 2000, and May 9, 2000.

Brief description of amendment: The amendment changed the Technical Specifications to institute a Technical Specification Bases Control Program and to provide for record retention as specified in the Quality Assurance Program Manual.

Date of issuance: May 9, 2000.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 161

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 26, 2000 (65 FR 4274). The supplements dated March 29, 2000, April 13, 2000, April 25, 2000, and May 9, 2000, did not change the scope of the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 9, 2000. No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 19, 1999.

Brief description of amendment: The proposed change modifies Technical Specification 4.5.2.f.2 by increasing the performance requirement for the low pressure safety injection pumps.

Date of issuance: May 10, 2000.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No. 162.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 26, 2000 (65 FR 4277).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 10, 2000.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 29, 1999.

Brief description of amendment: The amendment changed the Technical Specifications (TS) to extend the allowable outage time to seven days for one containment spray system (CSS) train inoperable. A new ACTION has been added to provide a shutdown requirement for the inoperability of two CSSs. The associated changes to TS Bases are included. However, the licensee requested MODE 4 end state for TS 3.6.2.1 is being deferred.

Date of issuance: May 15, 2000.

Effective date: As of the date of issuance and shall be implemented 90 days from the date of issuance.

Amendment No.: 163.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 9, 2000 (65 FR 6406). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 2000.

No significant hazards consideration comments received: No.

PECO Energy Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station (LGS), Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: June 22, 1999, as supplemented January 3, 2000.

Brief description of amendments: The amendments remove the recirculation system motor generator set stop surveillance requirement from the LGS Units 1 and 2 Technical Specifications.

Date of issuance: May 8, 2000.

Effective date: Both units—As of date of issuance, to be implemented within 30 days.

Amendment Nos.: 142 and 104.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 8, 1999 (64 FR 48864). The January 3, 2000, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the original **Federal Register** Notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 8, 2000.

No significant hazards consideration comments received: No

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing

(Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By June 14, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose

interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: May 8, 2000.

Description of amendment request: The amendment revises Technical Specification Surveillance Requirement 3.8.1.9 to increase the limit for the peak transient voltage measured following a full-load rejection by the emergency diesel generator that is being tested.

Date of issuance: May 9, 2000.

Effective date: As of its date of issuance and shall be implemented within 2 days.

Amendment No.: 140.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 9, 2000.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan, 48226.

NRC Section Chief: Claudia M. Craig.

Dated at Rockville, Maryland, this 24th day of May 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–13518 Filed 5–30–00; 8:45 am]

BILLING CODE 7590–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request; Evaluation of the ''E–Z Trial''

ACTION: Notice.

SUMMARY: As part of its effort to reduce paperwork and the burden placed on survey recipients, the Occupational Safety and Health Review Commission (OSHRC) is conducting a preclearance consultation to provide the general public and Federal agencies with an opportunity to comment on a proposed collection of information in accordance with the Paperwork Reduction Act of 1965, Public Law 104–13. OSHRC is soliciting comment concerning an information collection required to evaluate the Review Commission's ''E–Z–Trial'' program.

DATES: Written comments must be submitted by July 28, 2000.

ADDRESSES: Comments are to be submitted to Ledia Esther Bernal, OSHRC Clearance Officer, Occupational Safety and Health Review Commission, 1120 20th Street, N.W., Ninth Floor, Washington, DC 20036–3419. They may also be sent by facsimile to (202) 606–5390.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection are available for inspection at the address above. They will be mailed to persons who request copies by telephoning Ledia Esther Bernal at (202) 606–5390.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Review Commission (OSHRC) published a rule in the **Federal Register** dated August 14, 1995 establishing the ''E–Z Trial'' program. The rule was subsequently amended to eliminate the sunset provisions in the original rule and to revise the procedural rules governing the ''E–Z Trial'' program effective July 31, 1997. We are evaluating the program as modified effective July 31, 1997. The evaluation will involve surveying employers and employer representatives regarding their satisfaction with the fairness and efficiency of the process. The evaluation will also analyze data on the rate at which ''E–Z Trial'' cases go to a hearing, and on the length and cost of hearings. Finally, the evaluation will study the cycle times of these cases as compared to those of conventional cases. Information will also be gathered from Occupational Safety and Health Administration (OSHA) staff and from the Solicitor of Labor.

II. Current Action

This notice requests comment on the proposed instruments to be used in connection with the evaluation.

Type of Review: Regular Submission (new).

Title: Evaluation of ''E–Z Trial.

OMB Number: New.

Affected Public: Employers and/or their representatives, labor organizations and staff of the Office of the Solicitor of Labor who have been involved in cases with the Review Commission.

Frequency: Once.

Total Respondents: 100.

Average Time per Response: 45 minutes.

Estimated Total Reporting burden: 75 hours.

Total Annualized capital/startup costs: 0.

Total Operation and Maintenance costs: 0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. Comments will become a matter of public record.

Patricia A. Randle,

Executive Director.

[FR Doc. 00–13558 Filed 5–30–00; 8:45 am]

BILLING CODE 7600–01–U

PRESIDIO TRUST

Letterman Complex, The Presidio of San Francisco, Notice of approval of Record of Decision for the Final Environmental Impact Statement and Planning Guidelines

AGENCY: The Presidio Trust.

ACTION: Notice of Approval of Record of Decision.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–90 as amended), and the regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Presidio Trust (Trust) has prepared and approved a Record of Decision (ROD) for the Final Environmental Impact Statement and Planning Guidelines for New Development and Uses on 23 Acres within the Letterman Complex (FEIS), The Presidio of San Francisco, San Francisco, California (Presidio). The FEIS is a supplement to the 1994 Final General Management Plan Amendment (GMPA) EIS for the Presidio. The ROD documents the decision and rationale for selecting a development alternative for the 23-acre site in compliance with the mandates of the Presidio Trust Act and as guided by the GMPA. The ROD is a concise statement of the decision, alternatives considered, the nature of public involvement, and mitigating measures developed to avoid or minimize environmental impacts. Comments received on the FEIS and responses are also attached to the ROD.

DATES: The Trust has selected for implementation Alternative 5, the Digital Arts Center (identified as the proposed action in the FEIS), as the development alternative for the 23-acre site, and will implement the selected proposal as soon as practicable. This alternative and five other alternatives were fully examined in the Draft EIS that was publicly circulated and filed with the United States Environmental Protection Agency (EPA) on April 23, 1999 (64 FR 23296–97) and the FEIS that was publicly circulated and filed with the EPA on March 17, 2000 (65 FR 14558). The Presidio Trust Board of Directors reviewed and considered the ROD after an extended no-action period, and authorized the Trust's Executive Director to finalize and approve the ROD, which was signed on May 24, 2000.

MATERIALS AVAILABLE TO THE PUBLIC: The approved ROD is available for viewing on the Internet by clicking on ''Library'' and then ''Postings'' at the following website: http://www.presidiotrust.gov. Additionally, copies of the ROD are available by writing or calling: The Presidio Trust, P.O. Box 29052, San Francisco, CA 94129–0052, Phone: 415–561–5300; Fax: 415–561–5315.

The ROD is also available for review at:

The Presidio Trust Library, 34 Graham Street, San Francisco, CA 94129, Phone: 415–561–5300.

William Penn Mott, Jr. Visitor Center (Presidio) (open 7 days), Montgomery Street, Main Post, San Francisco, CA 94129, Phone: 415–561–4323.

GGNRA Park Headquarters, Building 201, Fort Mason, San Francisco, CA 94123, Phone: 415–561–4720.

San Francisco Main Library, Government Information Center, Civic Center, San Francisco, CA 94102, Phone: 415–557–4500.

San Francisco Library, Presidio Branch, 3150 Sacramento Street, San Francisco, CA 94115, Phone: 415–292–2155.

FOR FURTHER INFORMATION CONTACT: John Pelka, NEPA Compliance Coordinator, The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Telephone 415–561–5300.

Dated: May 24, 2000.

Karen A. Cook,

General Counsel.

[FR Doc. 00–13508 Filed 5–30–00; 8:45 am]

BILLING CODE 4310–4R–U

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 206(4)–3, SEC File No. 270–218, OMB Control No. 3235–0242; Rule 206(4)–4, SEC File No. 270–304, OMB Control No. 3235–0345.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995

(44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 206(4)–3, which is entitled ''Cash Payments for Client Solicitations,'' provides restrictions on cash payments for client solicitations. The rule requires that an adviser pay all solicitors' fees pursuant to a written agreement. When an adviser will provide only impersonal advisory services to the prospective client, the rule imposes no disclosure requirements. When the solicitor is affiliated with the adviser and the adviser will provide individualized services, the solicitor must, at the time of the solicitation, indicate to prospective clients that he is affiliated with the adviser. When the solicitor is not affiliated with the adviser and the adviser will provide individualized services, the colitor must, at the time of the solicitation, provide the prospective client with a copy of the adviser's brochure and a disclosure document containing information specified in rule 206(4)–3. The information rule 206(4)–3 requires is necessary to inform advisory clients about the nature of the solicitor's financial interest in the recommendation so they may consider the solicitor's potential bias, and to protect investors against solicitation activities being carried out in a manner inconsistent with the adviser's fiduciary duty to clients. Rule 206(4)–3 is applicable to all registered investment advisers. The Commission believes that approximately 1,588 of these advisers have cash referral fee arrangements. The rule requires approximately 7.04 burden hours per year adviser and results in a total of approximately 11,180 total burden hours (7.04 × 1,588) for all advisers.

Rule 206(4)–4, which is entitled ''Financial and Disciplinary Information that Investment Advisers Must Disclose to Clients,'' requires advisers to disclose certain financial and disciplinary information to clients. The disclosure requirements in rule 206(4)–4 are designed so that clients will have information about an adviser's financial condition and disciplinary events that may be material to an evaluation of the adviser's integrity or ability to meet contractual commitments to clients. We estimate that approximately 1,118 advisers are subject to this rule. The rule requires approximately 7.5 burden hours per year per adviser and amounts to approximately 8,385 total burden hours (7.5 × 1,118) for all advisers.

The estimates of burden hours set forth above are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of SEC rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: May 22, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13492 Filed 5–30–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17f–2(a); SEC File No. 270–34; OMB Control No. 3235–0034.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 17f–2(a) Fingerprinting Requirements for Securities Professionals

Rule 17f–2(a) requires that securities professionals be fingerprinted. This requirement serves to identify security risk personnel, to allow an employer to make fully informed employment decisions, and to deter possible wrongdoers from seeking employment in the securities industry. Partners, directors, officers, and employees of exchanges, broker, dealers, transfer agents, and clearing agencies are included.

It is estimated that approximately 10,000 respondents will submit fingerprint cards. It is also estimated that each respondent will submit 55 fingerprint cards. The staff estimates that the average number of hours necessary to comply with the Rule 17f–2(a) is one-half hour. The total burden is 275,000 hours for respondents, based upon past submissions. The average cost per hour is approximately $50. Therefore, the total cost of compliance for respondents is $13,750,000.

Written 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 utlity; (b) the accuracy of the agency's estimates for the curden 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 respondends, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Barrett, Associated Executive Director, Office of Information Technology, Secretary and Exchange Commission. 450 5th Street, NW, Washington, DC 20549.

Dated: May 23, 2000.

Margarett H. McFarland,

Deputy Secretary.

[FR Doc. 00–13528 Filed 5–23–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24464; 812–11938]

CIGNA Funds Group, et al.; Notice of Application

May 23, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit Life Insurance Company of North America (''LINA'') to transfer some or all of its portfolio of ''equity securities'' of companies which comprise the ''Standard & Poor's 500 Composite Stock Price Index'' (''S&P 500 Securities'' and ''S&P 500,'' respectively) to a series of CIGNA Funds Group (''CFG'') in exchange for shares of the series.

Applicants: CFG and LINA.

Filing Dates: The application was filed on January 12, 2000, and amended on May 22, 2000.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 15, 2000, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, Cigna Corporation, 900 Cottage Grove Road, Hartford, CT 06152–2215.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, (202) 942–0634, or Nadya B. Roytblat, Assistant Director, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTAL INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. CFG is an open-end management investment company registered under the Act. One of CFG's series is the Charter Large Company Stock Index Fund (''Fund''). The Fund is an index fund that replicates the composition of the S&P 500.

2. Times Square Capital Management, Inc. (the ''Adviser'') is an investment adviser registered under the Investment Adviser Act of 1940 and serves as the investment adviser to the Fund. The Adviser is an indirect wholly owned subsidiary of Cigna Corporaiton (''CIGNA'').

3. LINA is a life insurance company and an indirect wholly owned subsidiary of CIGNA. LINA is a provider of group life insurance and investment products and services. LINA has invested a portion of its portfolio of assets in S&P 500 Securities.

4. Applicants state that four shareholders own approximately 98% of the outstanding shares of the Fund. Applicants seek relief to enable LINA to invest in-kind in the Fund in the event one or more of these four shareholders redeems some or all of their shares and the redemption results in the Fund's assets being reduced below a level required for the Fund to be economically viable.

5. Applicants propose that LINA would sell some or all of its S&P 500 Securities to the Fund in exchange for shares of the Fund (the ''Transfer''). The Transfer will not affect the proportionate composition of the Fund's portfolio since the S&P 500 Securities transferred by LINA will replicate the composition of the S&P 500. The Transfer would take place as soon as practicable following a large redemption of Fund shares and a determination by the Adviser that the Transfer was necessary for the Fund to maintain critical mass.

6. The S&P 500 Securities would be valued at the last quoted sale price on the business day immediately prior to the Transfer, the same method that is used to calculate the Fund's new asset value. The number of shares to be issued by the Fund to LINA would be determined by dividing the value of the S&P 500 Securities by the current net asset value of the Fund's shares.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from selling to or purchasing from such investment company any security or other property.

2. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly controlling, controlled by, or under common control with the other person and (b) if the other person is an investment company, any investment adviser of that company. Applicants state that both CFG and LINA may be deemed to be an affiliated person of the other under section 2(a)(3) because they may be deemed to be under the common control of CIGNA. LINA thus is an affiliated person of an affiliated person of the Fund, and the Transfer may be prohibited by section 17(a).

3. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

4. Applicants submit that the terms of the Transfer satisfy the standards set forth in section 17(b). Applicants state the Fund's board of trustees (''Board''), including a majority of the trustees who are not interested persons as defined in section 2(a)(19) of the Act (''Disinterested Trustees''), found that participation in the Transfer is in the best interests of the Fund and that the interests of the existing shareholders of the Fund will not be diluted as a result of the Transfer. Applicants state that all the S&P 500 Securities to be transferred to the Fund fit into the categories of securities described in rule 17a–7(b) (1) through (3) under the Act. Applicants further state that no brokerage commission, fee (except for customary transfer fees) or other remuneration will be paid in connection with the Transfer.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The securities to be transferred to the Fund will be limited to the S&P 500 Securities.

2. The S&P 500 Securities transferred by LINA will be valued in the same manner as they would be valued for purposes of computing the Fund's net asset value, which, in the case of securities traded on a public securities market for which quotations are available, is their last reported sales price on the exchange on which the

securities are primarily traded or at the last sales price on the national securities market.

3. At the next regular meeting following the Transfer, the Board, including a majority of the Disinterested Trustees will determine: (a) whether the S&P 500 Securities were valued in accordance with condition (2); and (b) whether the acquisition of the S&P 500 Securities was consistent with the policies of the Fund as reflected in the registration statement and reports filed under the Act.

4. The Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which the Transfer occurs, the first two years in an easily accessible place, a written record of the Transfer setting forth a description of each security transferred, the terms of the transfer, and the information or materials upon which the determinations required by condition (3) were made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13529 Filed 5–30–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42816, File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Granting Approval of Amendment to the Plan for the Allocation of Regulatory Responsibilities Among the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the International Securities Exchange LLC, the National Association of Securities Dealers, Inc., the New York Stock Exchange, the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

May 23, 2000.

Notice is hereby given that the Securities and Exchange Commission (''SEC'' or ''Commission'') has issued on Order, pursuant to Sections 17(d) [1] and 11A(a)(3)(B) [2] of the Securities Exchange Act of 1934 (''Act''), granting approval of an amendment to the plan for allocating regulatory responsibility filed pursuant to Rule 17d–2 of the Act,[3] by the American Stock Exchange LLC (''Amex''), the Chicago Board Options Exchange, Inc. (''CBOE''), the Chicago Stock Exchange, Inc. (''CHX''), the International Securities Exchange LLC (''ISE''), the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange (''NYSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (collectively the ''SRO participants'').

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for, and enforce, compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or 19(g)(2) [5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[6] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[7] Rule 17d–1, adopted on April 20, 1976,[8] authorizes the Commission to name a single SRO as the designated examine authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealer's compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[9] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 8, 1983, the Commission approved the SRO participants' plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[10] The plan reduces regulatory duplication for a large number of firms currently members of two or more of the SRO participants by allocating regulatory responsibility for certain option-related sales practice matters to one of the SRO participants.

Under the plan, the SRO participant responsible for conducting options-related sales practice examinations of a firm, and investigating options-related customer complaints and terminations for cause of associated persons of that firm, is known as the firm's ''Designated Options Examining Authority'' (''DOEA''). Under the plan, only the Amex, the CBOE, the NASD and the NYSE are DOEAs. Pursuant to the plan, any other SRO of which the firm is a

[1] 15 U.S.C. 78q(d).

[2] 15 U.S.C. 78k–1(a)(3)(B).

[3] 17 CFR 240.17d–2.

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78s(g)(2).

[6] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[7] 17 CFR 240.17d–1 and 17 CFR 240.17d–2.

[8] Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18809 (May 3, 1976).

[9] Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (November 8, 1976).

[10] Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983).

member is relieved of these responsibilities during the period the firm is assigned to a DOEA.

III. Proposed Amendment to the Plan

On May 8, 2000, the parties submitted a proposed amendment to the plan. The primary purpose of the amendment is to include the ISE as an SRO participant, and to update the corporate names of three of the current SRO participants. The text of the proposed amended 17d–2 plan is as follows (additions are italicized; deletions are bracketed):

Agreement among the American Stock Exchange [Inc.] *LLC,* the Chicago Board Options Exchange, Inc., the [Midwest] *Chicago* Stock Exchange, Inc., *the International Securities Exchange LLC,* the National Association of Association of Securities Dealers, Inc., the New York Stock Exchange, the Pacific [Stock] Exchange *Inc.* [Incorporated], and the Philadelphia Stock Exchange, Inc., Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.

The Agreement, among the American Stock Exchange [Inc.] *LLC,* the Chicago Board Options Exchange, Inc., the [Midwest] *Chicago* Stock Exchange, Inc., *the International Securities Exchange LLC,* the National Association of Securities Dealers, Inc., the New York Stock Exchange, the Pacific [Stock] Exchange *Inc.* [Incorporated], and the Philadelphia Stock Exchange, Inc., hereinafter collectively referred to as the Self-Regulatory Organizations (''SROs''), is made this *8th* day of *May, 2000* pursuant to the provisions of SEC Rule 17d–2 under the Securities Exchange Act of 1934, which calls for agreements among self-regulatory organizations for plans to allocate regulatory responsibility.

WHEREAS, the SROs, are desirous of allocation regulatory responsibilities with respect to their common members (member of two or more of the SROs) for compliance with rules relating to the conduct by broker-dealers of accounts for options trading; and

WHEREAS, the SROs are desirous of executing a plan for this purpose pursuant to the provisions of Rule 17d–2 and filing such plan with the Securities and Exchange Commission (''Commission'') for its approval,

NOW, THEREFORE, in consideration of the mutual covenants contained hereafter, the SROs agree as follows:

I. The SRO identified in Exhibit A hereto as Designated Options Examining Authority (''DOEA'') for a common member will assume, except as noted below, inspection, examination and enforcement responsibility for such common member with respect to compliance by such member and persons associated with such member with (i) the rules of the SROs related to the conduct of accounts for option trading, and (ii) the provisions of the Securities Exchange Act of 1934 and the rules and regulations thereunder insofar as they apply to the conduct of accounts for options trading. Such responsibility in hereinafter referred to as the DOEA's ''Regulatory Responsibility.'' It is explicitly understood that the DOEA's Regulatory Responsibility does not include, and each of the SROs shall (unless allocated pursuant to SEC Rule 17d–2 otherwise than under this Agreement) retain full responsibility for:

(i) Surveillance and enforcement with respect to trading activities or practices involving its own marketplace, including without limitation its rules relating to the rights and obligations of specialists and other market makers;

(ii) Registration pursuant to its applicable rules of broker-dealers' associated persons as registered options principals, senior registered options principals, and compliance registered options principles; and

(iii) The discharge of its duties and obligations as a Designated Examining Authority pursuant to SEC Rule 17d–1.

Furthermore, the DOEA's Regulatory Responsibility does not include evaluation of option-related advertising, responsibility for which shall remain with the SRO to which a common member submits same for approval. Except as otherwise expressly provided herein, only the DOEA will discharge Regulatory Responsibility under this Agreement.

II. For purposes of this Agreement, the term ''Enforcement Responsibility, '' as used in the first sentence of Section I, shall mean the conduct of disciplinary proceedings to determine whether violations of pertinent laws, rules or regulations by common members and persons associated therewith have occurred. Such proceedings shall be conducted by the DOEA, except as noted below, pursuant to its applicable procedures. In instances where the DOEA does not have jurisdiction over an alleged violation of rules, it shall refer the matter to the SRO which has such jurisdiction. The SRO to which such referral is made shall conduct the appropriate proceedings pursuant to its applicable procedures. Apparent violations of another SRO's rules discovered by the DOEA pursuant to the performance of its Regulatory Responsibility, but which rules are not within the scope of the DOEA's Enforcement Responsibility, shall be referred to the relevant SRO for enforcement proceedings as such other SRO deems appropriate. However, nothing contained herein shall preclude the DOEA in its discretion from requesting another SRO to conduct an enforcement proceeding on a matter for which it has Enforcement Responsibility. If such other SRO agrees to do so, the Enforcement Responsibility in such case shall be deemed transferred to such other SRO. The SROs each agree, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another SRO in an investigation or enforcement proceeding.

III. Notwithstanding the Regulatory Responsibility of the DOEA, the SROs recognize that each of them may continue to maintain an available and appropriate mechanism for considering and acting upon request for extensions of time for option transactions pursuant to Regulation T of the Federal Reserve Board. Such extension requests may thus continue to be considered and acted upon by each SRO. However, nothing herein shall restrict the right of any SRO to enter in an agreement with another SRO relative to the granting of Regulation T Extensions. The DOEA will supply all information with respect to relevant Regulation T enforcement actions to other SROs of which such common member is a member.

IV. This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (''Council'') which shall be composed of one representative designated by each of the SROs. Each SRO shall also designate one or more persons as its alternate representative(s). In the absence of the representative of an SRO, such alternate representative shall have the same powers, duties and responsibilities as the representative. Each SRO shall file with the Chairman of the Council a list identifying its representative and alternative representative. Each SRO may, at any time, by notice to the Chairman of the Council, replace its representative and/or its alternate representative on such Council. A majority of the full Council shall constitute a quorum and, unless specifically otherwise required, the affirmative vote of a majority of the Council members present (in person, by telephone or by written consent) shall be necessary to constitute action by the Council. On the first Monday of October in each year, the Council shall elect one member of the Council to serve as Chairman and another to serve as Vice Chairman (to substitute for the Chairman in the event of his unavailability). In each case, such official shall take office effective January 1 of the next following calendar year and hold such office through December

31 of the calendar year in which he took office. [Notwithstanding the preceding relative to the election and tenure of the Chairman and Vice Chairman, an initial Chairman and Vice Chairman, named in Exhibit B hereto, shall assume such offices on the date of this Agreement is executed by the SROs and shall hold such position through December 31 of the calendar year in which they first assumed office.] All notices and other communications for the Council shall be sent to it in care of the Chairman.

V. Once appointed the DOEA of a common member, an SRO shall remain; the DOEA unless either (i) such SRO requests to be relieved of such responsibility by giving 30 calendar days written notice thereof and the Council accepts such request by appointing another SRO as the DOEA (which it shall, barring extraordinary circumstances, so do), (ii) the common member ceases to be a member of the DOEA in which case the Council shall promptly review the matter and assign another SRO as DOEA for such firm, or (iii) the Council, by reallocation, relieves the DOEA of its responsibilities. In no case may an SRO of which a common member is not a member be appointed such common member's DOEA. For no longer than the first two years of the life of this Agreement (subject to provisions (i) through (iii) above), the designations made in Exhibit A hereto shall remain in effect. Thereafter, the Council shall make general reallocations of common members no less frequently than biennially. The Council shall make such general reallocations in accordance with the provisions of this Agreement, shall be free in its discretion to retain the DOEA of any common member, and shall make such reallocations on the basis of parity, unless an SRO explicitly waives such basis. Parity, as used in this sense, means that, to the extent feasible, each SRO shall after a reallocation process, be the DOEA for the same number of firms as it was prior to such reallocation. Upon making a reallocation, the Council shall not reappoint an SRO as DOEA of a common member if any other eligible participant which has not served as DOEA for such common member requests appointment as such. Further, it is intended that appointment of DOEAs to common members will be rotated among those SROs which seek appointment as such, insofar as practicable. All determinations by the Council under this Section V with respect to allocating common members to a DOEA shall be by the affirmative vote of a majority of those Council members which are, at the time of such determination, DOEA of any common members; and Council members which are not DOEA of any common members shall not be entitled to vote on any such determination; provided, further, that no Council member shall be entitled to vote on any determination by the Council under this Section V affecting a specific common member if such common member is not a member of such Council member's SRO. For purposes of this Section V, the [Midwest] *Chicago* Stock Exchange, Inc., *the International Securities Exchange LLC,* the Pacific [Stock] Exchange, [Incorporated] *Inc.* and the Philadelphia Stock Exchange, Inc. shall not be considered DOEAs. An SRO which is not considered a DOEA for allocation purposes under Section V may apply to the Council to be considered a DOEA at any meeting of the Council. All determinations by the Council with respect to such applications shall be by the affirmative vote of a majority of those Council members, including non-DOEAs, in attendance at such meeting. However, no such determinations by the Council shall affect existing 17d–2 agreements which participating SROs may have among themselves.

VI. The DOEA shall conduct a routine inspection and examination of each common member allocated to it on a cycle not less frequently than determined by the Council. The other SROs agree that relevant information in their respective files relative to a common member will be made available to the DOEA upon request. At each quarterly meeting of the Council, each DOEA will report on the status of its examination program. In the event a DOEA believes it will not be able to complete the annual examination cycle for its allocated firms, it will so advise the Council. The Council will undertake to remedy this situation by allocating selected firms and, if necessary, lengthening the cycles for selected firms.

VII. The Council shall, concurrent with the execution of this Agreement, adopt for use by the SROs minimum option examination and inspection standards. Such standards will be used by the DOEA in discharging its Regulatory Responsibility under this Agreement. Exhibit C hereto is the minimum option examination and inspection standards adopted by the SROs.

VIII. The DOEA will, upon request, promptly furnish a copy of the report of any examination made pursuant to the provisions of this Agreement to each other SRO of which the common member examined is a member.

IX. The DOEA will, routinely, forward to each other SRO of which a common member is a member, copies of all communications regarding deficiencies noted in a report of examination conducted by the DOEA. If an examination conducted by a DOEA reveals no deficiencies, such fact will also, upon request, be communicated by the DOEA to each other SRO of which the common member concerned is a member.

X. The DOEA's Regulatory Responsibility shall include investigations into terminations for cause of persons associated with a common member relating to options, unless such termination for cause is uniquely related to another SRO's market. In the latter instance, that SRO to whose market the termination for cause relates shall discharge Regulatory Responsibility with respect to such termination for cause. In connection with a DOEA's examination, investigation and/or enforcement proceeding regarding an option-related termination for cause, the other SROs of which the common member is a member shall furnish to the DOEA, upon request, copies of all pertinent materials related thereto in their possession.

XI. It shall be the responsibility of the DOEA to discharge the Regulatory Responsibility relative to a written option-related customer complaint relevant to a common member allocated to it, unless such complaint is uniquely related to another SRO's market. In the latter instance, the DOEA shall forward the complaint to that SRO to whose market the complaint relates, and the latter shall discharge Regulatory Responsibility with respect to such complaint. If an SRO which is not the DOEA shall receive a customer complaint within the DOEA's Regulatory Responsibility, such non-DOEA shall promptly forward a copy of such complaint to the DOEA.

XII. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, to each participating SRO entitled to receipt thereof, to the attention of the SRO representative on the Council at the SRO's then principal office.

XIII. The costs incurred by each DOEA in discharging its Regulatory Responsibility under this Agreement are not reimbursable. However, any SRO participants may agree that one or more will reimburse the other(s) for costs.

XIV. The SROs shall notify the common members of this Agreement by means of a uniform joint notice approved by the Council.

XV. This Agreement may be amended in writing duly approved by each SRO.

XVI. Any of the SROs may manifest its intention to cancel its participation in this Agreement at any time upon the giving to the Council of written notice thereof at least 90 calendar days prior to such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, those common members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above, the petitioning SRO shall retain all its rights, privileges, duties and obligations hereunder.

XVII. The cancellation of its participation in this Agreement by any SRO shall not terminate this Agreement as to the SROs which remain participants. This Agreement will only terminate when the then participants therein shall notify the Commission, in writing, that they will terminate the Agreement. Such notice shall be given at least six months prior to the intended date of termination.

Limitation of Liability

No SRO nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, efforts or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the SROs and caused by the willful misconduct of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the SROs or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

Relief from Responsibility

Pursuant to Section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–2 promulgated pursuant thereto, the SROs join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those SROs which are from time to time participants in this Agreement which are not the DOEA as to a common member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

In Witness Whereof, the SROs hereto have executed this Agreement as of the date and year first above written.

Exhibit A—Designated Option Examining Authorities

American Stock Exchange, LLC

Chicago Board Options Exchange, Inc.

National Association of Securities Dealers, Inc.

New York Stock Exchange, Inc.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the amended plan. 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 amended plan that are filed with the Commission, and all written communications relating to the amended plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of each of the SRO participants. All submissions should refer to File No. S7–966 and should be submitted by June 21, 2000.

V. Discussion

The Commission continues to believe that the proposed plan is an achievement in cooperation among the SRO participants, and will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related sales practice matters that would otherwise be performed by multiple SROs. The plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the plan, the plan promotes, and will continue to promote, investor protection.

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective.[11] In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add the ISE as an SRO participant. By approving it today, the amendment can be implemented prior to the ISE beginning its operations. In addition, the original plan was published for comment, and no comments were received.[12] The Commission does not believe that the amendment raises any new regulatory issues.

This order gives effect to the amended plan submitted to the Commission that is contained in File No. S7–966. The SRO participants shall notify all members affected by the amended plan of their rights and obligations under the amended plan.

It is therefore ordered, pursuant to Sections 17(d) and 11A(a)(3)(B) of the Act, that the amended plan of the Amex, the CBOE, the CHX, the ISE, the NASD, the NYSE, the PCX, and the Phlx filed pursuant to Rule 17d–2 is approved.

It is further ordered that those SRO participants that are not the DOEA as to a particular member are relieved of those responsibilities allocated to the member's DOEA under the amended plan.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13530 Filed 5–30–00; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 240.17d–2(c).

[12] *See supra,* note 10.

[13] 17 CFR 200.30–3(a)(34)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42815, File No. 4–431]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Granting Approval of Plan Allocating Regulatory Responsibility; International Securities Exchange LLC and National Association of Securities Dealers, Inc.

May 23, 2000.

Notice is hereby given that the Securities and Exchange Commission (''SEC or Commission'') has issued an Order, pursuant to Sections 17(d)[1] and 11A(a)(3)(B)[2] of the Securities Exchange Act of 1934 (''Act''), granting approval of the plan, as amended, for allocating regulatory responsibility filed pursuant

[1] 15 U.S.C. 78q(d).

[2] 15 U.S.C. 78k–1(a)(3)(B).

to Rule 17d–2 of the Act,[3] by the International Securities Exchange LLC (''ISE'') and the National Association of Securities Dealer, Inc. (''NASD'').

Accordingly, the NASD shall assume, in addition to the regulatory responsibilities it already has under the Act, the regulatory responsibilities allocated to it under the plan, as amended. At the same time, the ISE is relieved of those regulatory responsibilities allocated to the NASD.

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for, and enforce, compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[6] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for, and enforce, compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1[7] and Rule 17d–2 under the Act. Rule 17d–1, adopted on April 20, 1976,[8] authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted rule 17d–2 under the Act.[9] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

On April 19, 2000, the Commission published notice of the filing by the ISE and the NASD of a joint plan allocating regulatory responsibility for common members.[10] No comments were received. On May 1, the parties filed a technical amendment to the plan.[11] The amended plan is intended to reduce regulatory duplication for firms that are common members of the ISE and the NASD. Included in the plan is an attachment (''ISE Certification'') that clearly delineates regulatory responsibilities with respect to ISE rules. The ISE Certification lists every ISE rule that, under the plan, the NASD would bear responsibility for overseeing and enforcing with respect to common members.

II. Discussion

The Commission finds that the proposed plan is consistent with the factors set forth in Section 17(d) of the Act and Rule 17d–2(c), in that the proposed plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among self-regulatory organizations, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed plan is an achievement in cooperation between the ISE and the NASD, which will reduce unnecessary regulatory duplication by allocating to the NASD certain responsibilities for common members that would otherwise be performed by both SROs.[12] The proposed plan promotes efficiency by reducing costs to common members. Furthermore, because the ISE and the NASD will coordinate their regulatory functions in accordance with the plan, the plan will promote investor protection.

III. Conclusion

This order gives effect to the amended plan filed with the Commission that is contained in File No. 4–431. The parties to the plan shall notify all members affected by the amended plan of their rights and obligations under the amended plan.

It is therefore ordered, pursuant to Sections 17(d) and 11A(a)(3)(B) of the Act, that the plan of the ISE and the NASD, as amended, filed pursuant to Rule 17d–2 is approved.

It is therefore ordered that the ISE is relieved of those responsibilities allocated to the NASD under the plan, as amended.

[3] 17 CFR 240.17d–2.

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78s(g)(2).

[6] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[7] 17 CFR 240.17d–1.

[8] Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18809 (May 3, 1976).

[9] Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (November 8, 1976).

[10] Securities Exchange Act Release No. 42668 (April 11, 2000), 65 FR 21048 (April 19, 2000).

[11] *See* Letter from Sharon Zackula, Assistant General Counsel, NASD Regulation, to Belinda Blaine, Associate Director, Division of Market Regulation, Commission, dated May 1, 2000 (''Amendment No. 1''). Amendment No. 1 makes non-substantive changes to the provisions of the plan regarding Advertising Materials and Regulatory Responsibility.

[12] The ISE has further reduced regulatory duplication by becoming a participant in the plan allocating regulatory responsibility concerning options-related sales practice matters, filed by the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. in 1983 (the ''Options 17d–2 Plan'') *See* Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983). On May 23, 2000, the Commission approved an amendment to the Options 17d–2 plan, which allows ISE to become a participant in the plan. *See* Securities Exchange Act Release No. 42816. The plan that is the subject of this approval order specifically excludes any obligation or responsibility by the NASD to examine common members for compliance with ISE rules for which the regulatory responsibility is allocated to an SRO under the Options Rule 17d–2 plan.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13531 Filed 5–30–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42810; File No. SR–PCX–99–17]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change Permitting Floor Brokers To Represent Orders With a Ticket-to-Follow

May 23, 2000.

I. Introduction

On June 1, 1999, the Pacific Exchange, Inc. (''Exchange'' or ''PCX'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change seeking to amend its rules on options trading to permit Floor Brokers to immediately represent intra-floor telephonic orders in the trading crowd, with a written order ticket immediately to follow. Amendment No. 1 to the proposal was submitted on November 12, 1999.[3] Notice of the proposed rule change, including Amendment No. 1, appeared in the **Federal Register** on December 8, 1999.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

Options Floor Brokers currently are not permitted to represent orders they receive over the telephone unless and until they have prepared, from outside the trading crowd, a written, time-stamped order ticket.[5] The Exchange now proposes to adopt new PCX Rule 6.2(h)(4)(C), which will permit a floor Broker in a trading crowd who receives an order from a Member or Member Firm representative located on the Trading Floor to represent that order immediately in the trading crowd, provided that: (i) an order ticket is prepared and time stamped in the member firm booth before the order is transmitted telephonically to the Floor Broker in the trading crowd; and (ii) a written, time-stamped order ticket for the order must be taken immediately to the Floor Broker in the trading crowd.[6]

The Exchange also proposes to amend PCX Rule 6.2(h)(4)(B) to eliminate the requirement that Floor Brokers who receive telephonic orders while in the trading crowd must step outside of the trading crowd, write up an order ticket and time-stamp it before representing the order in the crowd.[7] In addition, the Exchange proposes to add new section (d) to PCX Rule 6.67, which provides that a Floor Broker may represent a telephonic order, with the ticket to follow, as provided in PCX Rule 6.2(h)(4)(C). Further, the Exchange proposes to modify PCX Rule 6.85 by providing that PCX Rule 6.2(h)(4)(C) is an exception to the general rule that when a Floor Broker receives a verbal order form a Market Maker, or when a Floor Broker is requested by a Market Maker to alter an order in his possession in any way, the Floor Broker shall immediately prepare an order ticket from outside the trading crowd and time-stamp it. Accordingly, Floor Brokers who receive intra-floor telephonic orders from Market Makers will be permitted to represent those orders immediately, with the ticket immediately to follow.[8]

Under Options Floor Procedure Advice F–5 (''OFPA F–5''), hand signals may be used to increase or decrease the size of an order, to change the order's limit, to cancel an order or to activate a market order, as long as the cancellation or change to the order is ''relayed to the Floor Broker in a time-stamped, written form immediately thereafter.'' The Exchange is proposing, as a matter of consistency, to eliminate the requirement from OFPA F–5 that changes to an order must be documented in writing outside of the crowd and the ticket time-stamped, before the revised order may be represented.

III. Discussion

Section 6(b)(5)[9] of the Act requires that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.[10] Section 11A(a)(1)(C)(i)[11] of the Act states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the economically efficient execution of securities transactions. Section 11A(a)(1)(C)(ii)[12] states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers. For the reasons set forth below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[13] Further, the Commission believes that the proposed rule change is consistent with the goals of Section 11A(a)(1)(C).[14]

The Commission believes that the proposal should serve to remove impediments to and perfect the mechanism of a free and open market by reducing the amount of time before telephonic orders may be represented in the trading crowd without compromising the Exchange's audit trail. In this regard, the Commission notes that an order ticket must be prepared and time stamped in the member firm booth before the order is transmitted telephonically to the Floor Broker in the trading crowd. The Commission believes that requiring floor members to prepare a written, time-stamped order ticket before the order is transmitted to the crowd is consistent with the Exchange's audit trail requirements. Further, the Commission believes that this requirement should enable the Exchange to conduct adequate surveillance for market manipulation

[13] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael Pierson, Director, Regulatory Policy, PCX, to John Roeser, Attorney, Division of Market Regulation, Commission, dated November 10, 1999 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 42188 (December 1, 1999), 64 FR 68714.

[5] *See* Securities Exchange Act Release No. 42557 (Mar. 21, 2000), 65 FR 16680 (Mar. 29, 2000) (SR–PCX–98–30) (order approving PCX Rule 6.2(h)(4)(B), ''Floor Brokers who receive telephonic orders while in the trading crowd must step outside of the crowd, write up an order ticket and time stamp it before representing the order in the crowd''); *See also* PCX Rule 6.85, Com. .03 (''when a Floor Broker receives a verbal order from a Market Maker, or when a Floor Broker is requested by a Market Maker to alter an order in his possession in any way, the Floor Broker shall immediately prepare an order ticket from outside the trading crowd and time stamp it'').

[6] *See* Amendment No. 1, *supra* note 3.

[7] *See supra* note 5.

[8] Under PCX Rule 6.2(h)(4), Floor Brokers are not permitted to communicate directly with persons located off the Trading Floor. *See supra* note 5.

[9] 15 U.S.C. 78f(b)(5).

[10] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78k–1(a)(1)(C)(i).

[12] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78k–1(a)(1)(C)(i).

and other violations of Exchange rules and the Act.

The Commission believes that the proposal may expedite and make more efficient the process by which customer orders can be received and executed on the floor of the Exchange. The Commission also believes that the proposed rule change should increase the efficiency of transmitting orders from a member firm booth to Floor Brokers in the trading crowd by reducing the amount of time required before these orders may be represented in the crowd.

In determining to approve this proposal, the Commission notes that the Exchange represents the proposal is necessary to ensure that, as the number of option orders transmitted and represented electronically on the Exchange increases, manual orders represented by Floor Brokers are not placed at a competitive disadvantage. The Commission believes that the proposal should foster coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest by expediting and making more efficient the process by which orders can be received and executed on the floor of the Exchange. Accordingly, the Commission finds that the proposal is consistent with Section 6(b)(5) [15] of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–PCX–99–17) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13532 Filed 5–30–00; 8:45 am]

BILLING CODE 8010–01–M

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42811; File No. SR–PHLX–00–14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Regarding Listing and Trading Options on the Wireless Telecom Sector Index

May 23, 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 24, 2000,[3] the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Rule 19b–4 of the Act, proposes to list and trade European style, cash-settled options, on the Wireless Telecom Sector Index (''Index''), an equal dollar-weighted, A.M.-settled, narrow-based, index of twenty companies, involved in various aspects of wireless telecommunications services and equipment. A list of the specific companies comprising the Index, their capitalizations, six-month share volumes and the percentage weightings of these companies, as of April 10, 2000, is available from the Exchange.

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 Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx 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

The purpose of the proposal is to list for trading European style, cash-settled options on the Index, a new index developed pursuant to Exchange Rule 1009A(b). Options on the Index will provide an important hedging vehicle for basket traders who engage in trading securities that comprise this subsector of the telecommunications industry.

The following is a more detailed description of the proposed Index option:

Ticker Symbol: YLS.

Settlement Value Symbol: YSO.

Underlying Index: The Index is an equal dollar-weighted index composed of twenty stocks involved in wireless telecommunications services and equipment all of which are traded on the New York Stock Exchange (''NYSE'') or Nasdaq Stock Market (''Nasdaq''), and are, therefore, reported securities as defined in Rule 11Aa3–1 under the Act. Further, all of the stocks presently meet the Exchange's listing criteria for equity options contained in Exchange Rule 1009 and are currently the subject of listed options on U.S. options exchanges.

The Exchange notes that most of the companies represented in the Index are U.S. companies. However, to the extent that non-U.S. companies are part of or are added to the Index (such as American Depository Receipts) and therefore are not subject to comprehensive surveillance sharing agreements, those components do not and will not account for more than 20% of the weight of the Index.

As of April 10, 2000, the market capitalization of all the stocks in the Index exceeded $1 trillion and such individual capitalizations ranged from approximately $1 billion to $176 billion. All twenty component issues in the Index had monthly trading volumes in excess of one million shares over each of the past six months.

Index Calculation: The methodology used to calculate the Index is an equal dollar-weighted method, meaning that each of the component stocks is represented in the Index in approximately equal dollar amounts. The Exchange believes that this method of calculation is appropriate because it will provide each component issue with equivalent influence on the movement of the Index value instead of allowing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On March 30, 2000 and April 13, 2000, the Exchange submitted Amendment Nos. 1 and 2 to the proposed rule change, respectively, the substance of which has been incorporated into this notice. *See* letters from John Kenney, Jr., Counsel, Phlx, to John Roeser, Attorney, Commission, dated March 29, 2000 (''Amendment No. 1'') and April 13, 2000 (''Amendment No. 2'').

one highly capitalized stock to dominate the movement of the Index. To determine the initial dollar weighting of the stocks, the Exchange calculated the number of shares of each that would represent an investment of approximately $10,000 in each of those stocks comprising the Index based on closing prices on July 16, 1999. The value of the Index equals the current market value of the sum of the assigned number of shares of all of the stocks in the Index divided by the current Index divisor. The Index divisor was set to yield an initial Index value of 150 at the opening on July 19, 1999.

Index Maintenance: To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the price of the component securities as well as changes in the composition of the Index. Changes which may result in divisor adjustments include but are not limited to stock splits, dividends, spin-offs, mergers and acquisitions. In accordance with Exchange Rule 1009A, if any change in the nature of any component (*e.g.,* delisting, merger, acquisition or otherwise) in the Index will change the overall market character of the Index, the Exchange will take appropriate steps to remove the stock or replace it with another stock that the Exchange believes would be compatible with the intended market character of the Index. Any replacement components will be reported securities as defined in Rule 11Aa3–1 of the Act.[4]

Currently, the Index is composed of twenty component stocks. Absent Commission approval, the Exchange will not change the number of components to more than twenty-six or fewer than fourteen. The Exchange notes that the component stocks comprising the top 90% of the Index, by weight, will each maintain a minimum market capitalization of $75 million. The remaining 10% by weight, will each maintain a minimum market capitalization of $50 million. The component stocks comprising the top 90% of the Index, by weight, will maintain a trading volume of at least 500,000 shares per month. The trading volume for each of the component stocks constituting the bottom 10% of the Index, by weight, will maintain at least 400,000 shares per month. No fewer than 90% of the component issues by weight or fewer than 80% of the total number of the components qualify as stocks eligible for options trading.

If the Index fails at any time to satisfy one or more of the required maintenance criteria, the Exchange will notify the Commission staff immediately and will not open for trading any additional series of options on the Index, unless the above is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of options on the Index has been approved by the Commission under Section 19(b)(2) of the Act.[5] In addition to not opening for trading any additional series, the Exchange may, in consultation with the Commission, prohibit opening purchase transactions in series of options previously opened for trading to the extent that the Exchange deems such action necessary or appropriate.[6]

In addition to the maintenance criteria above, no single component of the index shall account for more than 25% of the Index and the five highest weighted component securities shall not account for more than 60% of the Index. If the Index fails to satisfy the maintenance listing standards set forth above, the Exchange shall not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of Index options has been approved by the Commission under Section 19(b)(2) of the Act.

Rebalancing: Following the close of trading on the third Friday of January, April, July and October the Index portfolio will be adjusted by changing the number of whole shares of each component so that each company is again represented in ''equal'' dollar amounts. If necessary, a divisor adjustment will be made at the rebalancing to ensure continuity of the Index's value. The newly adjusted portfolio will then become the basis for the Index's value on the first trading day following the adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly rebalances except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock dividend, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In the case of a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted to the nearest whole share to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the even of a stock addition or replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity. All stock replacements and the handling of non-routine corporate action will be announced at least ten business days in advance of such effective change, whenever possible. The Exchange will make this information available to the public through dissemination of an information circular.

Unit of Trading: Each options contract will represent $100, the Index multiplier, times the Index value. For example, an Index value of 200 will result in an option contract value of $20,000 ($100 x $200).

Exercise Price: The exercise prices will be set in accordance with Phlx Rule 1101A(a).

Settlement: A.M.-settled index options

Settlement Value: The Index value for purposes of settling outstanding Index option contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of National Market System securities traded through Nasdaq, the first reported sale price will be used for the final settlement value for expiring Index option contracts. In the event that a component security does not open for trading on the last day before the expiration of a series of Index options, the last sale price for that security will be used in calculating the Index value. However, in the event that The Options Clearing Corporation (''OCC'') determines that the current Index value is unreported or otherwise unavailable (including instances where the primary market for securities representing a substantial part of the value of the Index is not open for trading at the time when the current Index value used for exercise settlement purposes would be determined), the OCC shall determine an exercise settlement amount for the Index in accordance with Article XVII, Section 4 of the OCC By-Laws.[7]

Last Trading Day: Last business day prior to the third Friday of the month

[4] 17 CFR 240.11Aa3–1.

[5] *See* Phlx Rule 1009A.

[6] *See* Phlx Rule 1010.

[7] *See, e.g.,* OCC Article XVII, Section 4 and Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 32471 (June 24,1996) (SR–OCC–95–19).

for options which expire on the Saturday following the third Friday of that month.

Trading Hours: 9:30 a.m. to 4:02 p.m., E. T.

Position and Exercise Limits: The Index is an industry or narrow-based index; therefore, the Exchange will employ position and exercise limits pursuant to Phlx Rules 1001A(b) and 1002A, respectively. The position and exercise limits will be 31, 500 contracts.

Expiration Cycles: Three months from the March, June, September, December cycle, plus two additional near-term months.

Exercise Style: European.

Premium Quotations: Premiums will be expressed in terms of dollars and fractions of dollars pursuant to Phlx Rule 1033A. For example, a bid or offer of 1½ will represent a premium per options contract of $150 (1½×100).

The Index value will be disseminated every 15 seconds during the trading day. The Phlx has contracted with Bridge Data Inc. to compute and do all the necessary maintenance of the Index.[8] Pursuant to Phlx Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority. The Index value will also be available on broker-dealer interrogation devices to subscribers of options information. The Exchange represents that it will not list or trade this Index unless and until it has sufficient capacity to process the additional message traffic generated by the Index.[9]

The options will be traded pursuant to current Phlx rules governing the trading of index options including provisions addressing sales practices, floor trading procedures, position and exercise limits, margin requirements and trading halts and suspensions.[10] The Exchange also represents that surveillance procedures currently used to monitor trading in index options will be applicable to this Index option. These procedures include having complete access to trading activity in the underlying securities which are all traded on the NYSE or Nasdaq. In addition, the Intermarket Surveillance Group Agreement dated July 14, 1983, as amended on January 29, 1990 and June 20, 1994 will be applicable to the trading of options on the Index.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designated to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. Specifically, the Exchange believes that the introduction of the proposed the Index will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means of hedging exposure to market risks associated with the securities issued by companies that comprise this subsector of the telecommunications industry. The trading of options on the Index will permit investors to participate in the price movements of the twenty securities on which the Index is based. The trading of options on the Index will allow investors holding positions in some or all of the securities underlying the Index to hedge the risks associated with these securities. Accordingly, the Exchange believes that options on the Index will provide investors with an additional trading and hedging mechanism that outweighs any potential for manipulation that would diminish public confidence. Further, the Exchange believes that the proposed Index will have a specific impact on efficiency, competition and capital formation consistent with Section 3(f) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange is filing this rule change as constituting a stated policy, practice or interpretation with respect to the administration of Phlx Rule 1009A within the meaning of Section 19(b)(3)(A) of the Act and subparagraph (f) of Rule 19b–4 thereunder.[11] Accordingly, pursuant to the Commission's Generic Index Option Approval Order (''Approval Order''),[12] the Exchange is requesting immediate effectiveness so that options on the Phlx Wireless Telecom Index may begin trading 30 days after the date of this filing. The Phlx believes that this product complies with the Approval Order, as described above.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written 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 may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–00–14 and should be submitted by June 21, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13533 Filed 5–30–00; 8:45 am]

BILLING CODE 8010–01–M

[8] As a back-up to Bridge Data Inc., the Phlx will utilize its own internal index calculation system called the Index Calculation Engine System.

[9] *See* Amendment No. 1, *supra* note 3. The Options Price Reporting Authority (''OPRA'') represents that it has the capacity to handle the additional traffic generated by the Index. *See* letter from Joe Corrigan, Executive Director, OPRA, to Mathew Holm, Director, New Product Development, Phlx, dated March 23, 2000.

[10] *See* particularly, Phlx Rule 722, Phlx Rules 1000A through 1102A, and generally, Phlx Rules 1000 to 1080.

[11] In amendment No. 1, the Exchange designated the proposal as filed pursuant to subparagraph (f) of Rule 19b–4. *See supra* note 3.

[12] *See* Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994).

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Program: Cooperative Agreements for Benefits Planning, Assistance, and Outreach Projects; Program Announcement No. SSA–OESP–00–1

AGENCY: Social Security Administration.

ACTION: Announcement of the availability of fiscal year (FY) 2000 and 2001 cooperative agreement funds and request for applications.

SUMMARY: The Social Security Administration (SSA) announces its intention to competitively award cooperative agreements to establish community-based benefits planning, assistance, and outreach projects in every State, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands. (Throughout this announcement, the term ''State'' will be used to refer to all U.S. States, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands.) The purpose of these projects is to disseminate accurate information to beneficiaries with disabilities (including transition-to-work aged youth) about work incentives programs and issues related to such programs, to enable them to make informed choices about work.

President Clinton signed the bill that became Public Law 106–170 on December 17, 1999 to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in SSA to provide beneficiaries with disabilities meaningful opportunities to work, and to provide benefits planning and assistance services, and outreach to beneficiaries with disabilities, among other purposes. SSA must ensure that benefits planning, assistance, and outreach are available to all beneficiaries with disabilities nationally, on a statewide basis.

Note: A separate contract will be awarded, following publication of a separate notice in the *Commerce Business Daily*, to one or more organizations to develop and provide technical assistance and training on SSA's programs and work incentives, Medicare and Medicaid, and on other Federal work incentives programs to cooperative agreement award recipients.

SSA is conducting several pre-application seminars to provide interested applicants with guidance and technical assistance in preparing their applications. The following is information about where and when the seminars are scheduled:

Kansas City, Missouri

Date: June 6, 2000
Facility: Pierson Auditorium, University of Missouri at Kansas City, 5000 Holmes Avenue, Kansas City, MO 64110
Contact: Kelli Ellerbusch, 816–235–1758
Time: 2 pm to 6 pm

Oakland, California

Date: June 8, 2000
Facility: Oakland Federal Building, 1301 Clay Street, Oakland, CA 94612
Contacts: Brian McDonald, 510–251–4304; Chris Neilson, 510–628–0665
Time: 9 am to 1 pm

Washington, DC

Date: June 15, 2000
Facility: Frances Perkins Building Auditorium, 200 Constitution Avenue, NW, Washington, DC 20210
Time: 9 am to 2 pm

DATES: The closing date for receipt of cooperative agreement applications under this announcement is July 31, 2000.

FURTHER INFORMATION CONTACTS: The Internet is the primary means recommended for obtaining information on the program content of this announcement. If an applicant has a question about this announcement, that question should be referred to the following Internet email address: *TTWWIIA@ssa.gov.* When sending in a question, applicants should include program announcement number SSA–OESP–00–1 and the date of this announcement. Questions will not be answered individually; however, all questions and answers will be posted to *ssa.gov/work* web site on the *Frequently Asked Questions* page.

In the rare instances when an organization may not have access to the Internet, an applicant with a question about the program content may contact: Cindy Barcelles, Program Analyst, or Natalie Funk, Team Leader, Social Security Administration, Office of Employment Support Programs, Division of Employment Policy, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235. The telephone numbers are: Cindy Barcelles, (410) 966–2668, or Natalie Funk, (410) 965–0078. The fax number is (410) 966–1278.

To obtain an application kit, see the instructions under Part VI, Section A. General (non-programmatic) questions may also be referred to the Internet email address *TTWWIIA@ssa.gov* along with program announcement number SSA–OESP–00–1 and the date of this announcement. For general (non-programmatic) information regarding the announcement or application package where Internet access is not available, contact: E. Joe Smith, Grants Management Officer, Social Security Administration, Office of Acquisition and Grants, Grants Management Team, 1–E–4 Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, Maryland 21207–5279. The telephone numbers are: E. Joe Smith (410) 965–9503, Dave Allshouse, (410) 965–9262, or Gary Stammer, (410) 965–9501. The fax numbers are (410) 966–9310 or 966–1261.

Prospective applicants are asked to submit, preferably by June 30, 2000, a fax, post card, or letter of intent that includes (1) This program announcement number (SSA–OESP–00–1) and title (Benefits Planning, Assistance, and Outreach Program); (2) the type of proposed agency or organization; and (3) the name, postal and email addresses, and the telephone and fax numbers of the organization's key contact person. The notice of intent is not required, is not binding, and does not enter into the review process of a subsequent application. The sole purpose of the notice of intent is to allow SSA staff to estimate the number of independent reviewers needed and to avoid potential conflicts of interest in the review. The notice of intent should specify ''Attn: Benefits Planning, Assistance, and Outreach Program Notice of Intent (SSA–OESP–00–1)'' and be faxed to: (410) 966–1278; mailed to: Social Security Administration, Office of Employment Support Programs, Division of Employment Policy, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235; or emailed to: *TTWWIIA@ssa.gov* along with program announcement number SSA-OESP–00–1 and the date of this announcement.

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Part I. Program Description

A. Introduction

Section 121 of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 requires the Commissioner of Social Security (the Commissioner) to establish a community-based work incentives planning and assistance program. Therefore, the Commissioner is establishing a competitive program of cooperative agreements, the Benefits Planning, Assistance, and Outreach Program, to disseminate accurate information to beneficiaries with disabilities about work incentives programs and issues related to such programs.

The Presidential Task Force on Employment of Adults with Disabilities (PTFEAD), established under Executive Order 13078, is facilitating interagency collaboration among SSA's cooperative agreement program, the Department of Labor's (DOL) Employment and Training Administration's grant program, and the Department of Health and Human Services' Health Care Financing Administration's (HCFA) grant program. Each of the three programs is being administered separately by the respective agencies but will be initiated in FY 2000. The Task Force will provide guidance to this multi-agency process as part of their charge to design a coordinated and aggressive national policy that will bring working-age individuals with disabilities into gainful employment at a rate approaching that of the general population.

Applicants may obtain information about SSA's cooperative agreements by accessing SSA's web site, *ssa.gov/oag/grants;* DOL's grant program on the grant and contracts page at DOL's web site, *doleta.gov;* and HCFA's grant programs by accessing the TWWIIA link on HCFA's web site, *hcfa.gov.* Applicants may also access the PTFEAD link accessible from DOL's home page at *dol.gov* for additional information about the Task Force.

B. Background

Even though there has been an increase in potential employment created by technology, legislation, and changes in societal attitudes, only a small percentage of Social Security Disability Insurance (SSDI) and/or disabled or blind Supplemental Security Income (SSI) beneficiaries leave the rolls because of work activity. There are a number of reasons for this. First, beneficiaries of SSDI and SSI based on disability or blindness, by definition, have serious disabilities, which limit choices in employment. However, disability advocates report that many individuals with disabilities who receive public assistance want to work, or increase their work activity, and may be able to work, with proper assistance and support. There is also evidence that many individuals with severe disabilities do work, and are not relying on income supports.

Additionally, people with disabilities who want to work face significant barriers. Many advocates and people with disabilities contend that the fear of losing health care benefits is the largest impediment. Public health insurance and long-term care services are usually tied to income support programs such as SSDI, SSI, and Temporary Assistance to Needy Families (TANF). Employment-based health insurance is frequently not available to those with disabilities due to pre-existing condition clauses or exclusions of treatment for mental illness. Private insurance is often unaffordable for people with serious illnesses and chronic or long-term impairments, since they are charged much higher than average premiums.

Further, while the SSDI, SSI, Medicare and Medicaid programs all contain valuable work incentives provisions which can extend cash benefits and medical coverage, they are under-used and, often, are poorly understood by beneficiaries and professionals alike. The complexity and nature of the work incentives, and the interrelationship of myriad Federal, State, and local programs on which beneficiaries rely, create uncertainty and fear. Beneficiaries are concerned that they may lose vital income supports and coverage for mental and physical health care if they attempt to work.

For example, many people with disabilities rely on a patchwork of financial supports that have different eligibility criteria and application procedures. The benefits derived from a number of these programs are means-tested. Increases in income can also cause rent increases in Section 8 housing, loss of food stamps or public assistance payments. Many individuals who may be willing to risk the loss of cash benefits from TANF, SSDI or SSI cannot absorb the loss of housing subsidies and other supports.

Despite these barriers, many people with severe disabilities have managed to use existing services and work incentives to reach their goals of financial self-sufficiency, while retaining necessary supports. However, those who are successful in returning to work frequently report that the availability of a knowledgeable advocate made a difference in their ability to navigate complex program requirements and in their willingness to return to work. Further, the support of that advocate provided them a sense of security needed to maintain work activity. The projects funded under this cooperative agreement program are part of SSA's Employment Strategy for People with Disabilities to increase the number of beneficiaries who return to work and achieve self-sufficiency by delivering direct services to beneficiaries.

C. Purpose of the Benefits Planning, Assistance, and Outreach Program

The purpose of the Benefits Planning, Assistance, and Outreach Program is to provide statewide benefits planning and assistance, including information on the availability of protection and advocacy services, to all SSDI and SSI beneficiaries with disabilities, and to conduct ongoing outreach to those beneficiaries with disabilities (and to their families) who are potentially eligible to participate in State or Federal work incentives programs.

The Benefits Planning, Assistance, and Outreach Program is required by TWWIIA and is part of SSA's Employment Strategy for People with Disabilities. SSA's general aim under TWWIAA is to ensure a substantial increase in the number of beneficiaries who return to work and achieve self-sufficiency. In support of this goal, SSA is seeking well-qualified applicants to provide SSDI and SSI beneficiaries with benefits planning, assistance, and outreach. While other parts of SSA's Employment Strategy provide direct employment services to help beneficiaries become employed or increase their level of employment, this Program aims to improve beneficiaries' understanding of work options so that they may make more informed choices regarding work.

D. Benefits Planning, Assistance, and Outreach Program Goals

The Government Performance Results Act mandates that SSA establish

specific performance indicators that support SSA's strategic goals, and the Benefits Planning, Assistance and Outreach Program's objectives. SSA has instituted a comprehensive employment strategy for persons with disabilities to ensure a substantial increase in the number of beneficiaries who return to work and achieve self-sufficiency.

The goal of the Benefits Planning, Assistance, and Outreach Program is to support SSA's overall Employment Strategy for persons with disabilities by nationally providing statewide benefits planning and assistance, and conducting outreach to beneficiaries with disabilities, about Federal, State, and local work incentives programs and related issues.

To assist SSA in assessing the scope and utility of outreach and information provided under this Program, each project will be required to:

1. Collect data pertaining to benefits planning and assistance, and outreach activities as described in Part IV, Section D Data Collection and Reporting and

2. Cooperate with SSA in providing the information needed for a customer satisfaction survey on the quality of the benefits planning and assistance services being provided and for an assessment of the success of the Benefits Planning and Assistance, and Outreach Program.

Note: SSA plans to conduct such surveys in years two and five of the projects. More frequent surveys may be conducted if a need is indicated by the results of the first survey.

SSA will evaluate the data in 1. above and the results of the customer satisfaction surveys to determine the extent to which the projects were effective in providing benefits planning and assistance services, and outreach. The effectiveness of the projects will be measured by the range of beneficiaries served and responses regarding the knowledge of SSA work incentives and utility of benefits planning and assistance services. Data to be collected will include information about:

- Beneficiaries who receive comprehensive, coordinated benefits planning and assistance services, and outreach;
- Beneficiaries' demographic characteristics;
- Beneficiaries' income support characteristics (including earnings and SSA and non-SSA benefits);
- Beneficiaries' non-income support characteristics (including access to public and private health care); and
- Beneficiaries' work and benefit related goals and strategies.

Part II. Authority and Type of Awards

A. Statutory Authority and Catalog of Federal Domestic Assistance Number

Legislative authority for this cooperative agreement program is in section 1149 of the Social Security Act (Act) as established by section 121 of the TWWIIA, Public Law 106–170. The regulatory requirements that govern the administration of SSA awards are in the Code of Federal Regulations, Title 45, Parts 74 and 92. Applicants are urged to review the requirements in the applicable regulations. This program will be listed in the Catalog of Federal Domestic Assistance under Program No. 96.008, Social Security Administration—Benefits Planning, Assistance, and Outreach Program.

B. Type of Awards

All awards made under this program will be in the form of cooperative agreements. A cooperative agreement anticipates substantial involvement between SSA and the awardee during the performance of the project. Involvement will include collaboration or participation by SSA in the management of the activity as determined at the time of the award. For example, SSA will be involved in decisions involving strategy, hiring of personnel, deployment of resources, release of public information materials, quality assurance, and coordination of activities with other offices.

C. Number, Size, and Duration of Projects

Section 1149(d) of the Act authorizes annual appropriations not to exceed $23 million for FYs 2000 through 2004. Actual funding availability during this period is subject to annual appropriation by Congress. SSA will fund a limited number of awards in FY 2000 and additional awards in FY 2001. SSA anticipates all awards under this announcement will be made by December 31, 2000.

SSA will award a cooperative agreement to a qualified entity based in part on the number of beneficiaries with disabilities in the State where the project is located, with the following limitations:

- No entity shall receive a cooperative agreement for a fiscal year that is less than $50,000 or more than $300,000; and
- The total amount of all grants, cooperative agreements, or contracts awarded for the Benefits Planning, Assistance, and Outreach Program for any fiscal year (including amounts awarded for technical assistance and training contracts) may not exceed $23 million.

Within these limitations, SSA intends to establish as many projects as needed to ensure statewide benefits planning, assistance, and outreach to all SSDI and SSI beneficiaries nationally. The applicant must demonstrate in sufficient detail that the number of beneficiaries with disabilities within the targeted area is sufficient to support a minimum award ($50,000), considering that SSA must ensure that all disability beneficiaries have access to benefits planning, assistance, and outreach.

SSA intends to enter into cooperative agreements during the 5-year authorization period subject to the availability of annual appropriations by Congress. SSA may suspend or terminate any cooperative agreement in whole or in part at any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms and conditions of the cooperative agreement. SSA will promptly notify the awardee in writing of the determination and the reasons for suspension or termination together with the effective date.

D. Awardee Share of the Project Costs

Awardees of SSA cooperative agreements are required to contribute a non-Federal match of at least 5 percent toward the cost of each project. The cost of the project is the sum of the Federal share (up to 95 percent) and the non-Federal share (at least 5 percent). For example, an entity that is awarded a cooperative agreement of $100,000 would need a non-Federal share of at least $5,263. The non-Federal share may be cash or in-kind (property or services) contributions.

Part III. The Application Process

A. Eligible Applicants

A cooperative agreement may be awarded to any State or local government, public or private organization, or nonprofit or for-profit organization that the Commissioner determines is qualified to provide benefits planning, assistance, and outreach to all SSDI and SSI beneficiaries with disabilities, within the targeted geographic area. These may include Centers for Independent Living established under title VII of the Rehabilitation Act of 1973, protection and advocacy organizations, Native American tribal entities, client assistance programs established in accordance with section 112 of the Rehabilitation Act of 1973, State Developmental Disabilities Councils

established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, and State agencies administering the State program funded under part A of title IV of the Act. The Commissioner may also award a cooperative agreement to a State or local Workforce Investment Board, a Department of Labor (DOL) One-Stop Career Center System established under the Workforce Improvement Act of 1998, or a State VR agency.

SSA encourages applications from public or private agencies or organizations, including from local or divisional offices of larger or statewide agencies or organizations. Applications from local or divisional offices of larger entities, however, must demonstrate that the local or divisional office has authority to enter into cooperative agreements and to be ultimately responsible for funds.

Note: For-profit organizations may apply with the understanding that no grant funds may be paid as profit to any grant recipient. Profit is considered as any amount in excess of the allowable costs of the grant recipient. A for-profit organization is a corporation or other legal entity that is organized or operated for the profit or benefit of its shareholders or other owners and must be distinguishable or legally separable from that of an individual acting on his/her own behalf. Applications will not be accepted from applicants which do not meet the above eligibility criteria at the time of submission of applications.

Cooperative agreements may not be awarded to:

- Any individual;
- Social Security Administration Field Offices;
- Any State agency administering the State Medicaid program under title XIX of the Act;
- Any entity that the Commissioner determines would have a conflict of interest if the entity were to receive a cooperative agreement under the Benefits Planning, Assistance, and Outreach Program; or
- Any organization described in section 501(c)(4) of the Internal Revenue Code of 1968 that engages in lobbying (in accordance with section 18 of the Lobbying Disclosure Act of 1995, 2 U.S.C. 1611).

Note: Any protection and advocacy organization must fully explain how it will ensure there will be no conflict of interest between providing benefits planning and assistance services and outreach, and delivering protection and advocacy services to beneficiaries. In particular, they must show how they will ensure full protection and advocacy services will be provided when the complaint is against the Benefits Specialist or organization. Also, any organization that will apply to be an employment network under SSA's Ticket to Work and Self-Sufficiency Program, must fully explain how it will ensure there will be no conflict of interest if they also receive a cooperative agreement to provide benefits planning, assistance, and outreach. This is especially important in the area of assisting beneficiaries with PASS plans or other work incentives which will enable them to keep receiving benefits, thus delaying, or preventing entirely, payments to the employment network.

B. Targeted Geographic Area/ Population

To ensure statewide availability of benefits planning, assistance, and outreach, as required by section 1149 of the Act, SSA intends to award cooperative agreements partly on the basis of geographic area.

While SSA recognizes that not every SSDI or SSI beneficiary with a disability will access benefits planning, assistance, and outreach, it must be available to each via the project targeting a specific geographic area. Therefore, awarded projects must make those services available to all SSDI and SSI beneficiaries with disabilities within the geographic area. Because youth with disabilities is such an important population to target for those services, each project must make benefits planning, assistance, and outreach available to SSI recipients as young as age 14. In providing benefits planning, assistance, and outreach, projects must make concerted and aggressive efforts to address the needs of underserved individuals with disabilities from diverse ethnic and racial communities (e.g., Native Americans, Vietnamese). In particular, awardees should show how they intend to do outreach in ways that ensure interaction with diverse communities and must specify the geographic area they wish to cover.

Entities are encouraged to collaborate with other public and/or private organizations (*e.g.,* DOL One-Stop Career Center), through interagency agreements or other mechanisms, if necessary, to integrate services to beneficiaries with disabilities. Entities should also consider collaboration with other organizations to prepare an application for a cooperative agreement to provide benefits planning, assistance, and outreach to all beneficiaries within a specific area. For example, Native American tribal governments may collaborate to develop a proposal to cover specified reservation lands.

All applications developed jointly by more than one agency or organization must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations can be included as co-applicants, subgrantees or subcontractors. However, where more than the maximum award amount is requested, and would be awarded for the targeted geographic area, collaborating agencies should submit separate applications.

C. Application Process

The cooperative agreement application process consists of a one-stage, full application. Independent reviewers will competitively review the application against the evaluation criteria specified in this announcement (see Part V). Applications will be reviewed against others targeting the same State or locality; for example, an application targeting the State of Louisiana will be competitively reviewed against all other applications targeting Louisiana, including any that might target both Louisiana and Mississippi, or specific portions of Louisiana. (SSA must ensure that all beneficiaries with disabilities, nationally, have access to benefits planning, assistance, and outreach.)

D. Application Consideration

Applications will be initially screened for relevance to this announcement. If judged irrelevant, the application will be returned to the applicant. Also, applications that do not meet the applicant eligibility criteria in Section A above will not be accepted.

Applications that are complete and conform to the requirements of this announcement, the instructions in Form SSA–96–BK, and the separate instructions for completing Part III, Program Narrative (of the SSA–96–BK), will be reviewed competitively against the evaluation criteria specified in Part V of this announcement and evaluated by Federal and non-Federal personnel. See Part VI for instructions on obtaining Form SSA–96–BK. The results of this review and evaluation will assist the Commissioner in making award decisions. Although the results of this review are a primary factor considered in making the decisions, the review score is not the only factor used. In selecting eligible applicants to be funded, consideration will be given to achieving statewide accessibility to benefits planning, assistance, and outreach throughout the country and the U.S. territories, and to avoiding unnecessary duplication of effort.

The application requirements in Part IV are the minimum amount of required project information. Projects are responsible for collecting management information (MI) according to the guidelines provided, producing regular

reports according to the guidelines provided, and producing a final report which analyzes the successes and/or failures of the methodology used to provide benefits planning, assistance, and outreach to SSDI and SSI beneficiaries, and others.

All projects must adhere to SSA's Privacy and Confidentiality Regulations (20 CFR Part 401) for maintaining records of individuals, as well as provide specific safeguards surrounding beneficiary information sharing, paper/computer records/data, and other issues potentially arising from providing benefits planning, assistance, and outreach to SSDI and SSI beneficiaries with disabilities.

E. Application Approval

Cooperative agreement awards will be issued within the constraints of available Federal funds and at the discretion of SSA. The official award document is the ''Notice of Cooperative Agreement Award.'' It will provide the amount of the award, the purpose of the award, the term of the agreement, the total project period for which support is contemplated, the amount of financial participation required, and any special terms and conditions of the cooperative agreement.

F. Costs

Federal cooperative agreement funds may be used for allowable costs incurred by awardees in conducting benefits planning, assistance, and outreach. These costs could include administrative and overall project management costs, within the limitations discussed earlier.

Federal cooperative agreement funds are not intended to cover costs that are reimbursable under an existing public or private program, such as social services, rehabilitation services, or education. No SSDI or SSI beneficiary can be charged for any service delivered under a Benefits Planning, Assistance, and Outreach Program cooperative agreement, including preparing a PASS. Benefits planning and assistance services are intended to be free and must be made accessible to all SSA beneficiaries with disabilities in the project's target geographical area. Project funds should not be used to create new benefits or extensions of existing benefits.

Part IV. Program Requirements

A. General Requirements

The cooperative agreement awardees shall:

1. Provide the location of the targeted service area(s) (by zip codes) to SSA as part of the application (see Part III, Section B Targeted Geographic Area/Population);

2. Work with SSA's technical assistance and training contractor in arranging training for Benefits Specialists;

3. Provide a brief project description to the contractor;

4. Employ Benefits Specialists and have them attend an initial 5-day face-to-face training session within 90 days of award of the cooperative agreement. SSA's technical assistance and training contractor will provide technical assistance and training to projects about SSA's programs and work incentives (*e.g.,* trial-work period (TWP), extended period of eligibility (EPE), impairment-related work expenses (IRWE), Plan for Achieving Self-Support (PASS), 1619(a) and (b), and Medicaid buy-in provisions/Balanced Budget Act); Medicare and Medicaid; and on other Federal work incentives programs. The applicant is responsible for providing technical assistance and training to Benefits Specialists about State and local programs. (SSA will attend that training session to provide a half-day orientation session for project directors.) Have Benefits Specialists attend refresher/follow-up and new hire training sessions, as needed, and take part in the evaluation of training activities and the evaluation of ongoing training needs evaluation by the contractor.

5. Within 90 days after award, the applicant will ensure Benefits Specialists have completed training, have developed outreach plans and begun initial outreach, and are prepared to provide benefits planning and assistance services to all SSDI and SSI beneficiaries with disabilities within the targeted geographic area who are requesting these services;

6. Finalize the Management Information (MI) system data collection elements (as defined by SSA) and procedures with SSA within 60 days after award;

7. Develop and submit quarterly reports that contain MI to SSA, Office of Acquisition and Grants (OAG);

8. Develop and submit quarterly financial reports to SSA, OAG;

9. Provide a description of all planned changes to the project design for approval by SSA prior to implementation;

10. Cooperate with SSA in scheduling and conducting site visits;

11. Develop and maintain a collaborative working relationship with the local servicing Social Security office;

12. Implement an ongoing management and quality assurance process that uses MI data; and

13. Attend scheduled conferences, participate in panel and small group discussions, and make project presentations.

B. Description of Projects

The project awardees shall:

- Provide individualized benefits planning and assistance, including information on the availability of protection and advocacy services, to beneficiaries with disabilities, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Act, the program established under section 1619 of the Act, and other programs that are designed to encourage disabled beneficiaries to work;
- Conduct ongoing outreach efforts to beneficiaries with disabilities (and to the families of such beneficiaries) who are potentially eligible to participate in Federal or State work incentives programs that are designed to assist beneficiaries with disabilities to work, by preparing and disseminating information and explaining such programs. In conducting benefits planning, assistance, and outreach activities, project awardees will work in cooperation with other Federal, State, and private agencies and nonprofit organizations that serve beneficiaries with disabilities, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling, including DOL One-Stop Career Centers.

In order to be considered for an award, applicants must describe:

- Their understanding of benefits planning and assistance, including the benefits programs with which they have worked in the past;
- How they will notify all SSDI and SSI beneficiaries with disabilities in the targeted geographic area about benefits planning and assistance and provide those services to beneficiaries;
- Their understanding of outreach, and how they will conduct outreach to all SSDI and SSI beneficiaries with disabilities (and their families) in the targeted geographic area who are potentially eligible to participate in Federal or State work incentives programs designed to assist beneficiaries with disabilities to work. Particularly, how the outreach strategies, information, and materials will be modified to seek out different ethnic and racial groups;
- The scope of the project; and
- How that project achieves the Benefits Planning, Assistance, and

Outreach Program goals in Part I, Section D.

The applicants must also describe how they will address any special cultural requirements of populations *e.g.,* Native Americans) within the targeted geographic area, as well as non-English speaking populations *e.g.,* Vietnamese) and SSI recipients as young as age 14.

In providing benefits planning and assistance services, and conducting outreach, projects must be sensitive to issues such as cultural differences and non-English speaking populations within the areas they serve *e.g.,* Native Americans, Vietnamese). Specifically, projects must address the needs of underserved individuals with disabilities from diverse ethnic and racial communities and show how they intend to provide outreach in ways that ensure interaction with diverse communities.

Applicants must also provide information on:

- Collaborative relationships with relevant agencies, including SSA's field offices, and organizations *e.g.,* Centers for Independent Living, DOL One-Stop Career Centers);
- Specific services and supports that will be involved in the project and their roles;
- Case management and monitoring systems and techniques to be used;
- Methods of evaluating benefits planning, assistance, and outreach provided; and
- The MI and quality assurance process that will be used.

Applicants must also describe how Benefits Specialists will be trained on: numerous supports which are often used by people with disabilities, such as long-term care, subsidized housing, paratransit, and food stamps; variations in benefits and services in the State in which the applicant is located; that State's work incentives programs; workers' compensation and unemployment insurance programs; vocational rehabilitation services; work-related training and counseling programs; and other community-based support programs designed to enable people with disabilities to work.

Applicants must also describe how Benefits Specialists will be trained to conduct outreach by providing information, guidance, and planning to beneficiaries with disabilities on the:

- Availability and interrelation of any Federal or State work incentives programs designed to assist beneficiaries with disabilities for which the individual may be eligible to participate;
- Adequacy of any health benefits coverage that may be offered by an employer of the individual and the extent to which other health benefits coverage may be available to the individual; and
- Availability of protection and advocacy services for beneficiaries with disabilities and how to access such services.

Note: The technical assistance and training contractor may provide technical assistance materials to enable project Benefits Specialists to get information about the subjects in the preceding paragraphs. However, each awardee shall be responsible for ensuring that Benefits Specialists are well-versed in these areas.

Applicants must describe any plans they have to collaborate or coordinate with public and private organizations to achieve and/or improve their project goals and submit evidence to SSA of these organizations' capabilities, and willingness to participate (e.g., letters of intent, memoranda of understanding). Applicants should not request letters of intent or commitment from SSA field offices. SSA will assure field office cooperation.

Each applicant must describe the number of beneficiaries with disabilities it expects to serve. If the target group is not large enough to justify a minimum award of $50,000, the applicant will not be considered further.

Note: All SSDI and SSI beneficiaries (including SSI recipients as young as age 14) within the geographic area served by the project, must be able to access benefits planning, assistance, and outreach via the project.

The project may be part of a larger State initiative; e.g., a DOL One-Stop Career Center, that serves other individuals with disabilities, such as TANF recipients; however, funds provided by SSA under the cooperative agreements cannot be used to serve people with disabilities who are not beneficiaries of SSDI and/or SSI.

C. Benefits Specialist Responsibilities and Competencies

1. Responsibilities

Cooperative agreement awardees shall select individuals who will act as Benefits Specialists. Benefits Specialists will provide work incentives planning and assistance to beneficiaries with disabilities (and their families), who are potentially eligible to participate in Federal or State work incentives programs designed to assist disabled beneficiaries to work; conduct outreach efforts to beneficiaries with disabilities; and work in cooperation with Federal, State, and private agencies and nonprofit organizations that serve beneficiaries with disabilities. Benefits Specialists will also provide information on: the adequacy of health benefits coverage that may be offered by an employer of a beneficiary with a disability; the extent to which other health benefits coverage may be available to that beneficiary; and the availability of protection and advocacy services for beneficiaries with disabilities, and how to access such services.

Benefits Planning. Benefits planning requires an in-depth understanding of the current status of a beneficiary being served. Initial benefits planning will support a beneficiary over a period of several weeks to several months, concluding when the beneficiary has received guidance to support informed choices. Benefits Specialists will establish plans for beneficiaries with disabilities, and develop long-term supports that may be needed to ensure success. Following the initial benefits planning process, they will provide periodic, follow-up planning services to ensure that the information, analysis, and guidance are updated as new conditions (with regard to the applicable programs or to the individual's situation) arise.

To provide benefits planning services, Benefits Specialists will:

- Obtain and evaluate comprehensive information about a beneficiary with a disability, on the following:

—Beneficiary background information
—Disability
—Employment and earnings
—Resources
—Federal and State benefits
—Health insurance
—Work expenses
—Work incentives
—Service(s) and supports;

- Assess the potential impacts of employment and/or other changes on a beneficiary's Federal and State benefits eligibility and overall financial well-being;
- Provide information and assist the beneficiary in understanding and assessing the potential impacts of employment and/or other actions or changes on his/her life situation, and provide specific guidance regarding the affects of various work incentives;
- Develop a comprehensive framework of possible options available to a beneficiary and projected results for each as part of the career development and employment process; and
- Ensure confidentiality of all information provided.

Benefits Assistance. Benefits assistance involves the delivery of information and direct supports for the

purpose of assisting a beneficiary in dealing with benefit issues and effectively managing benefits. Benefits assistance also involves providing information and referral and problem-solving services as needed. Benefits management services will generally build on previous planning and assistance services and include periodic updates of an individual's specific information, reassessment of benefit(s) and overall impacts, education and advisement, and additional planning for monitoring and managing benefits and work incentives.

To provide benefits assistance services, Benefits Specialists will:

• Provide time-limited direct assistance to a beneficiary in the development of a comprehensive, long-term benefits management plan to guide the effective monitoring and management of Federal and State benefits and work incentives. Specific components of the plan must address:

—Desired benefit and work outcomes
—Related steps or activities necessary to achieve outcomes
—Associated dates or time frames
—Building on initial benefits planning efforts including information gathering, analysis and advisement
—Benefits/financial analysis (pre-and post-employment);

• Provide time-limited, intensive assistance to beneficiaries, their key stakeholders, and their support teams in making informed choices and establishing both employment-related goals as well as needed benefits management supports. Needed benefits assistance could include:

—How SSDI and SSI work incentives programs may lead to self-supporting employment by developing a PASS
—Developing a PASS which can be used to obtain training, education, and entrepreneurial opportunities
—How a PASS can be used to address some of the barriers to employment, such as obtaining a car for transportation needs
—The 1619(b) provisions and requirements;

• Advocate on behalf of a beneficiary with other agencies and programs, which requires in-person, telephone and/or written communication with the individual and other involved parties generally over a period of several weeks to several months;

• Provide time-limited follow-up assistance as needed to beneficiaries who have previously received benefits planning and/or other types of benefits assistance services and:

—Assist them and other involved parties to update information
—Reassess impact of employment and other changes on benefits and work incentives
—Provide additional guidance on benefit options, issues and management strategies;

• Assist beneficiaries as needed to update benefits management plan;

• Provide information, referral, and problem-solving support;

• Provide ongoing, comprehensive, benefits monitoring and management assistance to beneficiaries who are likely to experience employment, benefits, or other changes that may dramatically affect their benefit(s) status, health care, or overall financial well being; and

• Provide long-term benefits management on a scheduled, continuous basis, allowing for the planning and provision of supports at regular checkpoints, as well as critical transition points in an individual's benefits, employment and overall situation.

Outreach. Outreach activities are ongoing, systematic efforts to inform individuals of available work incentives, as well as the services and supports available to enable them to access and benefit from those work incentives. Outreach efforts should be targeted directly to SSDI and SSI beneficiaries with disabilities, their families, and to advocacy groups and service provider agencies that have regular contact with them. Outreach activities should be directed toward and sensitive to the needs of individuals from diverse ethnic backgrounds, persons with English as their second language, as well as non-English speaking persons, individuals residing in highly urban or rural areas, and other traditionally underserved groups.

To conduct ongoing outreach, Benefits Specialists will:

• Prepare and disseminate information explaining Federal or State work incentives programs and their interrelationships; and

• Work in cooperation with other Federal, State, and private agencies and nonprofit organizations that serve beneficiaries with disabilities, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling.

The Benefits Specialists will conduct outreach to SSDI and SSI beneficiaries with disabilities (and their families), who are potentially eligible to participate in Federal or State work incentives programs that are designed to assist beneficiaries with disabilities to work.

2. Competencies

A bachelor's degree is preferred. SSA may accept a combination of education and experience if the experience provides the knowledge, skills and abilities to successfully perform the duties of the position. Applicants must ensure that Benefits Specialists have the skills required to competently provide benefits planning and assistance services, and outreach.

Benefits Specialists should bring the following knowledge, skills, and abilities to the position:

• Basic math skills, with an emphasis on problem solving;
• Deductive ability with analytical thinking and creative problem solving skills;
• Acceptable interviewing skills;
• Ability to interpret Federal laws, regulations, and administrative code about public benefits;
• Communication skills (written and/or verbal);
• Knowledge of medical terminology and awareness of cultural and political issues pertaining to various populations and to various disabilities; and
• Basic computer skills.

Benefits Specialists will need to become proficient in the following knowledge, skills, and abilities:

• SSDI and SSI disability programs;
• Knowledge of all public benefits programs, including operations and inter-relationships;
• Translating technical information for lay individuals;
• Accessing information in a variety of ways (including the ability to be able to recognize when additional information is needed);
• Interpersonal skills (*e.g.,* recognize and help people manage anger and conflict, enjoy working with individuals);
• Counseling skills (ability to listen, evaluate alternatives, advise on potential cause of action);
• Knowledge of SSA field office structure and how to work with various work incentives coordinators (*e.g.,* PASS specialists, employment support representatives);
• Knowledge of the structure and design of public and private benefits systems and local community services; and
• Knowledge of ethics (*e.g.,* confidentiality, conflict of interest).

The applicant must clearly explain how it will ensure all individuals hired as Benefits Specialists will bring the previously described knowledge, skills, and abilities to the position, and how they will become proficient in the others. SSA will contract with a

separate entity to provide technical assistance and training to projects on an ongoing basis about SSA's programs and work incentives, Medicare and Medicaid, and other Federal work incentives programs. The applicant is responsible for providing technical assistance and training to Benefits Specialists about State and local programs.

D. Management Information and Reporting

In addition to cooperating with the surveys outlined in Part I, Section D, entities must provide all collected data and report the results to SSA's Office of Acquisition and Grants, as described below.

Common data elements, as defined by SSA, will be collected by all projects. The awardee and SSA will use the management information (MI) data to manage the project and to determine what additional resources or other approaches may be needed to improve the process. The data will also be valuable to SSA in its analysis of and future planning for the SSDI and SSI programs.

All projects must adhere to SSA's Privacy and Confidentiality Regulations (20 CFR part 401) for maintaining records of individuals, as well as provide specific safeguards surrounding beneficiary information sharing, paper/computer records/data, and other issues potentially arising from providing benefits planning, assistance, and outreach to SSDI and SSI beneficiaries with disabilities.

All projects shall provide for the design, development, implementation, and maintenance of an MI system, which must be compatible with SSA database specifications that are fixed-format ASCII files. The MI system shall allow for necessary data collection on SSDI and SSI beneficiaries. For the purpose of providing MI to SSA in support of the implementation and management of the projects, projects will collect, analyze, and summarize the data listed below:

Beneficiary Background Information

1. Beneficiary/recipient name (Last, First, Middle)
2. Date of birth
3. Gender
4. Special language or other considerations
5. Mailing address
6. Telephone number
7. Social Security number
8. Representative payee (RP) name (if applicable)
9. RP address
10. Current level of education
11. Whether pursuing education currently and at what level (*e.g.,* post secondary, continuing adult education, special education, vocational education)
12. Proposed educational goals
13. Primary diagnosis
14. Secondary diagnosis (if applicable)
15. Employer health care coverage at outset (if working)
16. Other health care coverage

Employment Information (current and proposed goal—where applicable)

1. Self-employed or employee
2. Type of work
3. Beginning date
4. Hours per week
5. Monthly gross earned income
6. Monthly net earned income
7. Work-related expenses

Proposed Training Information

1. Work-related training/counseling program
2. Proposed other training

Benefits (current and expected changes if employment goals are reached)

1. SSDI
2. SSI
3. Concurrent (SSDI and SSI)
4. Medicare
5. Medicaid
6. Subsidized housing or other rental subsidies
7. Food Stamps
8. General Assistance
9. Workers Compensation benefits
10. Unemployment Insurance benefits
11. Other Federal, State, or local supports, including TANF (specify)

Incentives To Be Used

1. Trial-work period (TWP)
2. Extended period of eligibility (EPE)
3. Impairment-related work expenses (IRWE)
4. Plan for achieving self-support (PASS)
5. 1619(a)
6. 1619(b)
7. Medicaid buy-in provisions/Balanced Budget Act

Services To Be Used

1. Vocational Rehabilitation (VR) services
2. Paratransit services
3. Protection and Advocacy services
4. Work-related training/counseling program
5. DOL One-Stop Career Center services
6. Transitioning youth services (from school to post-secondary education or to work)

Monthly Benefits Planning, Assistance, and Outreach Activities Performed by Benefits Planning Organization

1. Number of SSDI/SSI beneficiaries (over age 18) requesting assistance (initial and repeat requests)
2. Number of SSDI/SSI beneficiaries (ages 14 to 18) requesting assistance (initial and repeat requests)
3. Number of new benefits management plans prepared
4. Number of updated benefits management plans prepared
5. Number of presentations given at forums, conferences, meetings, *etc.*

All data elements are to be collected in accordance with precise definitions to be provided by SSA during start-up activities. Adherence to such precise definitions is crucial to the comparability of the data across project sites.

Entities awarded cooperative agreements under this notice shall submit quarterly progress reports to SSA, OAG. SSA expects that the projects will need a period of time to begin providing services and collecting management information. Therefore, the first quarterly report shall include a description of the project, a status of data collection operations, actions that were taken, planned actions, and a description of how the project is addressing the needs of individuals with disabilities from diverse ethnic and racial communities, both in benefits planning and in carrying out outreach activities.

Subsequent reports shall provide: a status of the project, any problems or proposed changes in the project (*e.g.,* requests for technical assistance from contractor, interagency agreement change); specific information (baseline data/program statistics) required by SSA, including that listed above; a description of how the project is addressing the needs of individuals with disabilities from diverse ethnic and racial communities, both in benefits planning and in carrying out outreach activities; actions that were taken, and planned actions. The quarterly reports shall be submitted to SSA, OAG, within 30 days after the end of the quarter.

SSA personnel (SSA Project Officer and/or other staff) expect to visit each project at least once in each year of the cooperative agreement. The SSA Project Officer shall review site operations, including collection of management information, and evaluate how projects are finding ways to make benefits planning, assistance, and outreach activities more effective in achieving SSA's Benefits Planning, Assistance, and Outreach Program goals.

Staff members from each project shall attend an initial training meeting that will include an orientation session by SSA, and subsequent scheduled conferences at SSA headquarters or alternate sites chosen by SSA. Those meetings will provide awardees of cooperative agreements with the opportunity to exchange information with SSA and other awardees.

E. Evaluation

Process Evaluation

The purpose of process evaluation is for SSA and the awardee to assess how the project functioned and how the process might be altered to more efficiently and/or successfully provide the services required under this section of the Act. The process evaluation will require both data collection and qualitative observational evaluation through site visits and/or project reporting.

Participant Experience

The goal of these cooperative agreements is the provision of services to enhance beneficiary awareness and understanding of SSA work incentives and thereby enhance beneficiaries' ability to make informed choices regarding work. The goal is not to provide employment services. Nevertheless, SSA is clearly interested in identifying participant outcomes under the Benefits Planning, Assistance, and Outreach Program to determine the extent to which participants achieve their employment, financial, and health care goals. SSA is thus requiring the collection of data to permit the assessment of the participants' situations (employment, benefit status, income, etc.) before service provision under these projects, and their goals after services have been provided. SSA intends to use this information to support the sample selection for participants in the customer satisfaction survey. This will allow SSA to include the experiences and outcomes of a broad range of beneficiaries.

Each project shall submit periodic reports (as described in Part IV, D Data Collection and Reporting) to SSA, OAG. Data and information that are used in preparing the reports can be used, for example, to improve: the efficiency of the project's operations, use of staff, linkages between the project and the programs for which benefits planning is needed to better meet the needs of target populations. In addition, the results from evaluation will be disseminated to other projects to promote learning, program refinements, and facilitate partnership and achievement of project objectives. Timely comprehensive MI data also allows for cost accounting, which help improve the efficiency of service approaches and may inform future policy decisions.

Part V. Application Review Process and Evaluation Criteria

A. Screening Requirements

All applications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete and conforming applications will then be evaluated.

1. Number of Copies: The applicant must submit one original signed and dated application and a minimum of two copies. The submission of seven additional copies is optional and will expedite processing, but will not affect the evaluation or scoring of the application.

2. Length: The program narrative portion of the application (Part III of the SSA–96–BK) may not exceed 30 double-spaced pages (or 15 single-spaced pages) on one side of the paper only, using standard (8½″ x 11″) size paper, and 12-point font. Attachments that support the program narrative count towards the 30-page limit.

B. Evaluation Criteria

Applications that pass the screening process will be independently reviewed by at least three individuals (primarily qualified persons from outside of SSA), who will evaluate and score the applications based on the evaluation criteria. There are four categories of criteria used to score applications: capability; relevance/adequacy of program design; resources and management; and quality assurance plan. The total points possible for an application is 100, and sections are weighted as noted in the descriptions of criteria below. The score for each application is the sum of its parts. Although the results from the independent panel reviews are the primary factor used in making funding decisions, they are not the sole basis for making awards. The Commissioner will consider other factors as well when making funding decisions. For instance, the need to assure the required geographic distribution of projects may take precedence over rankings/scores of the review panel.

Following are the evaluation criteria that SSA will use in reviewing all applications (relative weights are shown in parentheses):

1. Capability (20 points)

The applicant's capability to deliver benefits planning and assistance services will be judged by:

- Description of how entity will test for Benefits Specialist competencies listed in Part IV and provide any needed training to ensure competencies will be maintained and/or enhanced; (8 points)
- Description of the proposed administration and organization of the project, including the existence of the necessary administrative resources to effectively carry out the project; and (7 points)
- Project Director's and key staff's documentation of experience and results of past projects of this nature (extra consideration may be given to applicants based on the quality and extent of their experience in return-to-work efforts for SSDI and SSI beneficiaries with disabilities). (5 points)

2. Relevance/Adequacy of Project Design (30 points)

The adequacy of project design will be judged by:

- A description of the project operations, including how the project will work (*e.g.,* identification and notification of potential project participants about availability of benefits planning and assistance services, location for providing services, ability to travel to beneficiary, etc.) and the quality of the project design; (6 points)
- A description of how the project will address provision of benefits planning, assistance, and outreach to transition-to-work aged SSI youth; (5 points)
- A description of how the project will address provision of benefits planning, assistance, and outreach to populations with special cultural or language requirements; (5 points)
- Evidence of collaboration with relevant agencies, including collocation within a DOL One-Stop Career Center organization, in providing benefits planning and assistance services; and extent and clarity of collaborative efforts with other organizations, including letters of intent or written assurances; and (5 points)
- A concise and clear statement of the project goals and objectives; MI data to be collected; specification of data sources; and how quality assurance will be realized; (4 points)
- Description of problems that may arise and how they will be resolved; *e.g.,* how dropouts and inadequate numbers of participants will be handled; and (3 points)

• Evidence of how the approach proposed will accomplish Benefits Planning, Assistance, and Outreach Program goals. (2 points)

3. Resources and Management (30 points)

Resources and management will be judged by:

• Appropriateness of qualifications of the project personnel, as evidenced by training and experience indicating that they have the skills required to competently provide benefits planning and assistance services, and outreach; (8 points)

• Evidence of successful previous experience related to benefits planning, assistance, and outreach programs; (4 points)

• Evidence that the applicant has a working knowledge of work incentives and the various programs available to beneficiaries with disabilities; (4 points)

• Evidence of adequate facilities (*e.g.,* collocation within a DOL One-Stop Career Center) and resources to deliver services; (4 points)

• Appropriateness of the case management and monitoring systems and techniques, including an MI system, quality assurance system, and a range of other monitoring and management options; (3 points)

• Extent and quality of project assurances that sufficient resources (including personnel, time, funds, and facilities) will be available to support services to beneficiaries; (3 points)

• Evidence that the applicant will meaningfully involve family members and other representatives of target groups, including advocates in the process of delivery services; and (2 points)

• Cost effectiveness, per client costs, and reasonableness of overall project cost relative to planned services. (2 points)

4. Quality Assurance (20 points)

The applicant's quality assurance plan will be judged by:

• Extent to which training is accommodated and planned for to ensure that all Benefits Specialists maintain knowledge, skills, and abilities, and acquire more; (6 points)

• Extent to which the awardee proposes to use MI data to improve processes and ensure that all information given is accurate and pertinent; (4 points)

• Extent to which the proposed quality assurance plan complies with the requirements of SSA, in terms of data collection, reporting, and ensuring that only accurate information is provided to beneficiaries and others; (4 points)

• Extent to which the proposed staff demonstrate expertise in the area of benefits planning and assistance; and (4 points)

• The extent to which staff have experience collecting, protecting, and analyzing data on beneficiaries with disabilities to provide benefits planning and assistance services, and outreach. (2 points)

Part VI. Instructions for Obtaining and Submitting Application

A. Availability of Forms

The Internet is the primary means recommended for obtaining an application kit under this program announcement. An application kit containing all of the prescribed forms and instructions needed to apply for a cooperative agreement under this announcement may be obtained at the following Internet address: *ssa.gov/oag/grants.*

However, in the rare instances when an organization may not have access to the Internet, an application kit may be obtained by writing to: Grants Management Team, Office of Operations Contracts and Grants, OAG, Social Security Administration, 1–E–4 Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, Maryland 21207–5279.

Requests submitted by mail should include two return address labels. Also, please provide the name, title and telephone number of the individual to contact; and the organization's name, street address, city, State and zip code.

To ensure receipt of the proper kit, please include program announcement number SSA–OESP–00–1 and the date of this announcement.

B. Checklist for a Complete Application

The checklist below is a guide to ensure that the application package has been properly prepared.

—An original, signed and dated application plus at least two copies. Seven additional copies are optional but will expedite processing.

—The program narrative portion of the application (Part III of the SSA–96–BK) may not exceed thirty double-spaced pages (or fifteen single-spaced pages) on one side of the paper only, using standard (8½″ x 11″) size paper, and 12-point font. Attachments that support the program narrative count towards the 30-page limit.

—Attachments/Appendices, when included, should be used only to provide supporting documentation. Please do not include books or videotapes as they are not easily reproduced and are therefore inaccessible to reviewers.

—A complete application, which consists of the following items in this order:

(1) Part I (Face page)—Application for Federal Assistance (SF 424, REV 4–88);

(2) Table of Contents;

(3) Project Summary (not to exceed one page);

(4) Part II—Budget Information, Sections A through G (Form SSA–96–BK);

(5) Budget Justification (in Section B Budget Categories, explain how amounts were computed), including subcontract organization budgets;

(6) Part III—Application Narrative and Appendices;

(7) Part IV—Assurances;

(8) Additional Assurances and Certifications—regarding Lobbying and regarding Drug-Free Workplace; and

(9) Form SSA–3966–PC—acknowledgement of receipt of application (applicant's return address must be inserted on the form).

C. Guidelines for Application Submission

All applications for cooperative agreement projects under this announcement must be submitted on the prescribed forms included in the application kit. The application shall be executed by an individual authorized to act for the applicant organization and to assume for the applicant organization the obligations imposed by the terms and conditions of the cooperative agreement award.

In item 11 of the Face Sheet (SF 424), the applicant must clearly indicate the application submitted is in response to this announcement (SSA–OESP–00–1). The applicant also is encouraged to select a SHORT descriptive project title.

Applications must be mailed or hand-delivered to: Grants Management Team, Office of Operations Contracts and Grants, OAG, DCFAM, Social Security Administration, Attention: SSA–OESP–00–1, 1–E–4 Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, MD 21207–5279.

Hand-delivered applications are accepted between the hours of 8 a.m. and 5 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

1. Received on or before the deadline date at the above address; or

2. Mailed through the U.S. Postal Service or sent by commercial carrier on or before the deadline date and received in time to be considered during the competitive review and evaluation process. Packages must be postmarked by July 31, 2000. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a

legibly dated receipt from a commercial carrier as evidence of timely mailing. Private-metered postmarks are not acceptable as proof of timely mailing.

Applications that do not meet the above criteria are considered late applications. SSA will not waive or extend the deadline for any application unless the deadline is waived or extended for all applications. SSA will notify each late applicant that its application will not be considered.

Paperwork Reduction Act

This notice contains reporting requirements. However, the information is collected using form SSA–96–BK, Federal Assistance Application, which has the Office of Management and Budget clearance number 0960–0184.

Dated: May 25, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 00–13649 Filed 5–30–00; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 3321]

Culturally Significant Objects Imported for Exhibition Determinations: ''Egyptian Treasures From the British Museum''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition ''Egyptian Treasures from the British Museum'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Bowers Museum of Cultural Art, Santa Ana, CA from October 7, 2000 to January 2, 2001 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44; 301—4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: May 19, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 00–13539 Filed 5–30–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3322]

Culturally Significant Objects Imported for Exhibition Determinations: ''Gallery for the Arts of Korea''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition ''Gallery for the Arts of Korea,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum, New York, NY from June 2000 to June 2002 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44; 301—4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: May 19, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 00–13541 Filed 5–30–00; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF STATE

[Public Notice 3323]

Office of International Information Programs, Civnet Editorial Services; Request for Proposals

SUMMARY: The Office of Thematic Programs (IIP/T) announces an open competition for an editorial services/information technology program in support of Civnet, the civic education Internet resource. Private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501c(3), including civic education institutions, NGOs and other democracy advocates, may submit proposals to support international information activities that will assist civic education practitioners, advocates, and other interested professionals in developing programs, policies, and strategies, and in communicating with one another. The successful grantee will have substantial experience in civic education and/or democracy building, especially on the international level.

Program Information

Overview

Civnet is a web site on civic education *(http://www.civnet.org)*, and presently contains, inter alia, information on the non-governmental organization (NGO), and civic education movement called CIVITAS, as well as civics teaching resources (*e.g.,* text books, curricula, syllabi, lesson plans, great documents, articles on teaching methodology), journal articles on civil society, directories of civic education/civil society organizations, and conference transcripts from CIVITAS meetings. Civnet was conceived to address the needs of three primary groups of civic education practitioners: (1) Teachers/school administrators (K–12) (particularly in new and emerging democracies), who need practical teaching resources and the capability to network with other practitioners; (2) scholars, experts, and academics interested in civics, democracy, and civic education issues; and (3) NGOs and their leaders who support civic education, civic participation, civic journalism and civil-society building in the U.S. and around the world.

The successful proposal will require information gathering, resource development, advocacy, and public relations—via the Internet—on behalf of the global civic education movement: to promote international adoption of civic education standards and curricula; to assist international organizations, governments, and foundations in

adopting civic education reform as part of their criteria for awarding international assistance, and to persuade them to fund civic education programs; and to support, encourage, and report on the efforts of civic education NGOs in teacher training, textbook development, development of professional teacher organizations, and advocacy for civic education reform.

Detailed Information and Background

The grantee will conduct most or all of these activities using Web sites and listservs, so the grantee must have experience with Internet advocacy as well as civic education. In addition, the grantee will have to immerse itself (via telephone, email, and other communications) in the international civic education network and remain current in all efforts to promote civic education around the world. Grantee will be responsible to not only update the Civnet website regularly and thus serve as a critical communications hub, but will ensure that the site reports on all significant efforts and outcomes in the cause of advocating for civic education worldwide.

In addition to maintaining these operations, Civnet will be emphasizing the needs of civic education NGOs in the next year, and thus focussing on an additional audience: the governments, international organizations (*e.g.,* World Bank, EC, IADB), and private foundations to which the CIVITAS network will be advocating, persuading, lobbying, and seeking partnerships/funds.

The successful proposal will develop Civnet so that it becomes a means through which those in the CIVITAS network who are working to promote and strengthen civic education worldwide can shape strategy, recruit support, and share information. The grantee will demonstrate a willingness to immerse itself via telephone, email, and other forms of communications, in the worldwide CIVITAS network and remain current in all efforts to promote civic education around the world. The grantee will also maintain regular contact with the CIVITAS Steering Committee (and its Executive Board), membership, and Secretariat (located in Strasbourg, France), as well as CIVITAS liaison officers and contacts at the U.S. Department of State and other government agencies and international organizations. Grantee will also be current with all the literature and newsletters of the civic education community.

The successful applicant will serve as an Internet advocate for civic education. As such the applicant must not only understand the Internet medium, but also understand advocacy generally, and be willing to immerse itself in the burgeoning international civic education network/movement. Internet generalists without advocacy skills or a passion for this type of movement would not meet the requirements of this RFP.

Proposals from web designer or web master firms without education or democracy-building experience will not be successful. Likewise proposals from web design or IT firms that only subcontract for the subject-matter expertise will not be successful. Rather, the contractor must have a demonstrated background in the field of advocacy for education or democracy. Please do not make an inquiry or send in a proposal if you lack this fundamental criterion of the RFP.

Further Information

In addition to providing editorial services, the successful Grantee will also be responsible for serving as Civnet webmaster, HTML formatter/scripter, and will ensure that Civnet reports on a regular basis (daily or weekly depending on the advent of new developments, events, and information) on all efforts and outcomes in the cause of advocating for civic education worldwide. In particular, this will entail communicating CIVITAS messages and themes, and engaging in Internet advocacy/lobbying of governments and international organizations (IOs) to support CIVITAS efforts to implement its Actions Steps and goals.

Furthermore, the successful proposal will provide coverage of all upcoming developments that may have an impact on these efforts (such as pending legislation, IO policy changes/grants, NGO delegation meetings with IOs and other pertinent developments), and reporting on civic education meetings, workshops, and conferences.

The successful proposal will emphasize the needs of civic education NGOs in the near future, and thus focus on an additional audience: the governments, international organizations (*e.g.,* World Bank, EC, IDB), and private foundations with which the CIVITAS network will be advocating, persuading, lobbying, and seeking partnerships/funds.

While the Civnet web site must continue to fulfill its educational resource function, it must also grow to meets its intended promotional role and become a true advocacy site for civic education for democracy. Civnet must shift focus from its present general dialogue about civil society to a more deliberate strategy of strengthening the CIVITAS network and mobilizing it to press for more effective education for democracy.

One of the strongest assets the grantee should draw upon to accomplish this is the membership of the CIVITAS network itself: educators and NGO leaders engaged in efforts to implement educational reform in their own countries and to draw international support for their efforts. News and comment about these activities should become the central subject matter for Civnet in the year ahead. The grantee will have to offer strong and imaginative editorial leadership to successfully persuade the busy NGO leaders and organizers to communicate in clear and interesting ways about what they are doing or the challenges they confront. Material will have to be solicited and rewritten; inadequate contributions will have to be turned down, tactfully. Thought will have to be given to emerging issues. In addition, the grantee will engage in all basic Web mastering functions; *i.e.*, responsibility for designing, compiling, managing, and editing all aspects (even the non-advocacy aspects) of the Web site. This may entail carrying out varied tasks, including: (1) Maintaining regular and ongoing contacts with practitioners, potential contributors, and representatives of Civnet's potential audiences in the international civic education community (*e.g.* teachers, teacher trainers, educators, scholars, experts, and NGO players); (2) immersing itself and becoming well-versed in the subject matter of civic education and the current discourses on civil society; (3) collecting, compiling, and uploading civics teaching materials (for Civnet's teaching resource library), including lesson plans, syllabi, curricula, text books, and any other materials that would be useful for foreign teachers/educators/practitioners; (4) collecting (and in some cases commissioning or even writing) and proofreading articles (*e.g.*, originals, reprints, book synopses and reviews, manuals on civic standards, lectures) that may be of interest to scholars and NGO leaders; (5) maintaining the layout of Civnet as a home page that will be useful, organized, easily navigable, and appealing to Civnet's primary audiences, and that integrates all of Civnet's resources, including its library of teaching materials; (6) regularly updating the Civnet Calendar of Events; (7) utilizing listservs to promote Civnet; (8) uploading new information to Civnet's vast directory of organizations (this is maintained as an off-line database by the American Federation of

Teachers); (9) promoting and marketing Civnet to its audiences and potential audiences (this is especially important); (10) collecting whatever graphics are appropriate for uploading to Civnet; (11) writing, editing, and introducing contents on Civnet's home page and sub-pages; (12) seeking, wherever necessary, agreements to publish copyrighted material on Civnet; (13) maintaining and updating Civnet's links to other Web sites; and (14) establishing Civnet as a dynamic, current, useful, creative, and exciting Web site for the civic education community.

Grantee will seek and receive guidance from the State Department officer assigned to oversee the grant, and grantee will also heed input from the CIVITAS Executive Board and Secretariat, and from State Department officials that work to promote civic education in new and emerging democracies and countries in transition from dictatorship, and those with regional expertise.

IIP reserves the right to review, edit, and clear any materials which grantee selects to appear on Civnet. While experience in Web mastering/editing is a requirement for the proposal, it cannot be overemphasized that the principal criterion for selection will be experience in issue advocacy, preferably in the field of democracy building or education. The winning applicant would ideally demonstrate experience with and passion for democracy building or civic education in new and emerging democracies, and countries in transition from dictatorship. In other words, the winning applicant must: (1) Demonstrate proficiency with Internet advocacy; (2) the ability to interact with and immerse itself within the field of civic education advocacy; and (3) understand the basics of persuasion, public relations, lobbying, NGO recruitment, and NGO grass-roots organizing as it would be applied through the Internet. An applicant with a primarily technical background would be unsatisfactory.

Moreover, this does not call for a passive Web manager, who would merely format materials that would be sent in for publishing. The successful grantee will be actively soliciting the materials, and will be expected to cajole people in the CIVITAS network and beyond to contribute such materials and information. The grantee must be willing to edit those materials, and have the diplomatic skills to reject some materials and deal with diverse individuals and groups all over the world.

However, a civic education NGO activist with no experience or proficiency in the web will be equally deficient. The winning applicant must demonstrate some experience with web sites or electronic publications, particularly those that advocate on behalf of organizations or causes. The grantee must engage in web formatting and layout on a regular basis, and will be responsible for all parts of the web site, including but not limited to the sections on teaching resource materials.

To reiterate, the winning applicant must have a track record demonstrating not only proficiency in web editing, but also a passion for democracy building and/or civic education. Grantee must have experience in web advocacy. Successful grantee will become the communications hub of the international civic education community, a regular conversationalist with key players all over the world, an eventual possessor of a definitive email/phone rolodex of civic education actors, and possibly a fixture at civic education events. A proficient web master who does not wish to immerse itself in this civic education movement or in civic education issues will not meet the threshold requirements of this RFP.

Guidelines

The grant is expected to commence o/a August 2000 and end a/o September 30, 2001. Grantee may subcontract for services related to Civnet, such as Web hosting, technical support, database support, and other services necessary to support the site, but no additional funds will be provided for these services.

Proposals must contain: (1) An outline for Civnet for the next year that will encompass the requirements detailed above; (2) a description of the human resources and capabilities of the applicant to demonstrate the necessary experience detailed above (if the applicant is a group/consortium or more than one individual, than it must be specified how tasks will be divided up, as well as the primary contact); and (3) a comprehensive pro forma budget delineating fees and rates for the various services required. The grant award under this RFP may not exceed $125,000. Any accompanying materials and URLs demonstrating prior work or supporting materials are welcome and encouraged.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Budget Guidelines: Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Although Civnet will probably be maintained on IIP's host server, the grantee will be responsible for its own computer, communications, and office equipment for updating Civnet, accessing the Internet, emailing and FTPing files to the server, and contacting people within the CIVITAS network worldwide and those to whom grantee seeks to promote Civnet. IIP will not be responsible for supplying any equipment and communications services, including computers, modems, telephones, and Internet connections.

Requests for funds for commissioning articles on civic education, or for technical maintenance of Civnet, may be part of the proposal. The proposal may include modest commissions to participants in the CIVITAS network who follow professional developments that would interest their colleagues, but who ordinarily lack the time and incentive to communicate about these issues with their colleagues abroad.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFP should reference the above title and number IIP/T–00–1.

FOR FURTHER INFORMATION, CONTACT: The Office of Thematic Programs, IIP/T/TP, Room 567, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone 202–619–4758, fax 202–619–6557, email *pagnew@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Pen Agnew on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/rfps.* Please read all information before downloading.

Deadline for Proposals: All proposal copies must be received at the Office of International Information Programs by 5 p.m. Washington, D.C. time on July 7, 2000. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and *number* copies of the application should be sent to: U.S. Department of State, SA–44, Office of International Information Programs, IIP/T/TP, Ref.: IIP/T–00–1, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.''

Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with the Bureau. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

The Bureau therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at *http://www.itpolicy.gsa.gov.*

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Under Secretary for Public Diplomacy and Public Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program planning: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability to achieve program objectives: Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. Multiplier effect/impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. Institutional Capacity: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. Institution's Record/Ability: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. Follow-on Activities: Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

9. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

10. Cost-effectiveness: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. Cost-sharing: Proposals should maximize cost sharing through other private sector support as well as institutional direct funding contributions.

12. *Value to U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by the U.S. Department of State's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as

amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: May 16, 2000.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy and Public Affairs, U.S. Department of State.

[FR Doc. 00–13542 Filed 5–30–00; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 3320]

Discretionary Grant Programs Application Notice Establishing Closing Date for Transmittal of Certain Fiscal Year 2000 Applications

AGENCY: The Department of State invites application from domestic (U.S.) and international non-profit and educational organizations with interest and expertise in providing administrative and operational support to United States sponsored programs in Cyprus. The grantee will maintain and manage the Bicommunal Support Program (BSP) to be known as BSP 2000. The grant will be awarded through an evaluation process among the responding organizations.

SUMMARY: The purpose of this application notice is to inform potential applicant organizations of fiscal, programmatic information, and closing dates for transmittal of applications for Fiscal Year 2000 award under a program administrated by the Department of State. The program seeks to implement, under the direction of the American Embassy, Cyprus, a minimum of twelve (12) bicommunal programs for Greek Cypriots and Turkish Cypriots over a fourteen-month period starting approximately forty-five days from the notification date of grant award, but not later than 5 September 2000. The actual number of programs will be determined by availability of funds and changes in political conditions on the island.

Organization Notice: This notice contains three parts. Part I list the closing date covered by this notice. Part II consist of a statement of work (SOW) for the program. Part III provides fiscal information and evaluation criteria for the program.

Part I—Closing Date for Transmittal of Applications

An application for award must be received by mail or hand delivered by 4 pm, local time, 30 June 2000.

Applications Delivered by Mail

An Application sent by mail must be addressed to: Dr. Holly Peirce, Bicommunal Coordinator, American Embassy Nicosia, FPO, AE 09836.

Any applications received by the advisory committee staff by mail after the closing time and date, will not be considered and will be returned unopened to the applicant.

It is the responsibility of the applicant to ensure any application is received on time.

Application Delivered by Hand

An application that is hand delivered must be to: American Embassy, North Gate, Metochiou and Ploutarchou Streets, Engomi, Nicosia, Cyprus, Attention: Holly Peirce (x2064) or Rita Shipillis (x2605).

The advisory committee staff will accept hand-delivered applications between 9 am and 4 pm, local time, daily, except Saturdays, Sundays, and Cypriot and U.S. Federal Holidays.

An application that is hand delivered will not be accepted after 4:00 PM on the closing date.

Part II—Program Information

Background

a. For decades, Cyprus has been an island divided by strife between the Greek Cypriot and Turkish Cypriot communities. As a result, Cyprus is a potential flash point between two NATO allies, Greece and Turkey. The U.S. is committed to finding a reasonable and practical federal solution to the Cyprus problem. We utilize two main means in our efforts. Track I focuses on bringing the leaders of the two communities to negotiate a resolution of their difficulties. Track II creates the atmosphere for the political leaders to reach a settlement, as well as encouraging cooperation after a political solution is reached, by bringing together Cypriot opinion and business leaders on projects and activities which emphasize a political settlement. The BSP is a key part of our Track II efforts.

b. The BSP was created in January 2000 to provide a funding mechanism consistent with the legislative intent of the Economic Support Funds (ESF) annual earmark for Cyprus.

c. The BSP mechanism will carry out U. S. Embassy-designed bicommunal programs that involve key people and institutions on politically sensitive topics in support of Track I policy goals. These programs will be distinct from but complementary to, the UNDP/UNOPS Bicommunal Development Program, which funds practical bicommunal projects and aims to strengthen institutional development and civil society, and with the Fulbright Commission-administered CASP, which funds scholarships, technical training and open-competition bicommunal programs.

d. The BSP program agent (the Grantee) will implement BSP programs by awarding sub-grants. In support of its base of operations, it will maintain a full-time resident representative in Cyprus in a Nicosia Field Office to organize bicommunal programs with input from the U. S. Embassy's Bicommunal Team, communicated via the Bicommunal Coordinator (BC) or other designee. Because of the political and economic conditions on the island, the full-time resident representative should be a locally hired American. After a grantee is selected, the U. S. Embassy BC will assist the grantee to identify qualified candidates on the island. Estimated recruitment cost of the Field Office Representative (FOR) (including advertising, travel, lodging, and per diem either for a grantee representative to come to Cyprus to select and train the FOR or for the FOR to go to the US for training) should be itemized in the budget submittal. The grantee has the option to send and provide a representative to hire and train the FOR in Cyprus, or conduct job interviews by phone and train the FOR

at a location of their choice. After training, the grantee is to provide a facility and the FOR will establish and open the field office. The Grantee will implement bicommunal programs under the Embassy's direction, in furtherance of Track 1 policy goals. The BC or other Embassy designee will approve all sub-grants prior to award.

e. At present there is a Turkish-Cypriot ban on on-island bicommunal activities that necessitates that programs be conducted in the U.S. and third countries. When the ban is lifted, more programming will be done on-island. All programs will be bicommunal in nature; i.e. Greek Cypriots and Turkish Cypriots will receive training or attend conferences together. Occasionally it may be necessary to conduct separate, parallel training for both communities. Most training will be of a professional nature and focus on areas where both communities will work together in the future (*e.g.* environment, customs and immigration, finance, health, federal law enforcement, and federalism). Most training will include an element of conflict resolution skills. Groups will likely range from four to twenty participants off-island and more on-island. The typical program has lasted between one and three weeks, with an occasional smaller program of a longer duration. Potential workshop topics include, but are not limited to highway planning, fire fighting, emergency rescue techniques, NGO training, a Cyprus documentary, and ESOL teachers scholarships. The Bicommunal Coordinator will assist the FOR in bundling the selected programs for the purposes of RFPs.

Scope of Work

The Grantee shall implement the BSP program in accordance with the following:

The Grantee will:

(1) Provide at a minimum one permanent FOR, experienced in human resource development, institution strengthening, and technical assistance programming.

In addition:

(a) Grantee must be a Program Sponsor and be approved to write IAP66 forms for travel to the U. S. on J visas.

(b) Grantee must be aware that acquiring visas for Turkish Cypriots to most third-countries can be a lengthy process.

(c) Grantee must be aware that Turkish Cypriots must fly from Ercan airport to Turkey and onward from there. Most travel agents speak only Turkish, but are accustomed to working with U.S. Embassy programs.

(d) Grantee must be aware that Greek Cypriots fly from Larnaca airport. Most travel agents speak some English.

(e) The Joint Travel Regulations and the Fly America Act apply to all travel.

(2) Provide FOR(s) with administrative, logistics and programming support in the United States to carry out U.S.-based workshops.

The FOR(s) will:

(1) The FOR(s) must be competent in making travel and related arrangements, to include assisting Cypriots in acquiring visas to the U.S. and other countries, as well as arranging on-island speeches and programs.

(2) The FOR(s) must have excellent written and spoken English skills.

(3) The FOR(s) must seek and obtain policy guidance from the Embassy and demonstrate ability to work effectively in a highly charged and delicate political atmosphere. Familiarity with the Cyprus problem and/or experience working in internal conflict situations would be helpful.

(4) The FOR(s) must have the ability to function unimpeded in both communities (i.e., to cross the Green Line between the Greek Cypriot and Turkish Cypriot communities). Currently Cypriots are prevented from working in each other's communities. Due to the political sensitivity of the program, it is necessary that neither Greek Cypriots nor Turkish Cypriots be hired for this program. A local hire American citizen(s) should be contracted for the position. (See point d in Background section) Greek and/or Turkish language skills are desirable, but not necessary, as English is widely spoken in the south and among the target training audience. A translator may occasionally need to be employed for logistical dealings in the north.

Note: The Embassy will seek approval by the Government of Cyprus to grant the FOR administrative and technical (A and T) status, thereby enabling the Grantee to obtain a diplomatic pass, which facilitates travel to the north. If such status is granted to the Grantee, he/she becomes associated with the U.S. Embassy and will be asked adhere to U.S. Embassy standards of conduct. Note that spouses of diplomatic personnel have generally unimpeded access to the north and would not need A&T status.

Work Requirements

The Grantee will manage the U.S. Embassy Nicosia's BSP funds over a fourteen-month period. The Grantee will:

1. Take direction from the U.S. Embassy's Bicommunal Team via the Bicommunal Coordinator or other embassy designated individual.

2. Implement programs requested by the U.S. Embassy, via the Bicommunal Coordinator, to train U.S. Embassy-selected Greek Cypriot and Turkish Cypriot participants either in the U.S., Cyprus, or a third country.

3. Implement a minimum of twelve programs with the BSP 2000 funds within the fourteen-month period.

4. Coordinate with the Program Office any reprogramming of unspent BSP funds six months prior to the end of the grant.

5. Implement the program which will include, but is not limited to:

Cyprus-based:

(a) Draft Requests for Proposals (RFPs) for approval by the Bicommunal Coordinator and the U.S. Embassy's Bicommunal Team.

(b) Handle pre-departure logistics, including but not limited to: invitation letters, international air travel, health insurance for third-countries, passports, visas, military-service waivers, U.S. tax forms, and orientation in both communities.

(c) Consult with Bicommunal Coordinator and Public Affairs Officer (PAO) regarding favorable publicity opportunities.

(d) Issue participant reimbursements for miscellaneous expenses.

(e) Debrief participants in conjunction with Bicommunal Coordinator.

(f) Maintain accounting control over the funds provided by BSP by following standard U.S. accounting practices and the requirements of OMB Circulars A–122 and A–133.

(g) Obtain reports from sub-grantees within sixty (60) days of program completion for review by the Bicommunal Coordinator and U.S. Embassy's Bicommunal Team.

U.S.-based:

(h) Issue, receive and evaluate offers from RFPs submitted by potential sub-grantee(s). Provide recommendations to FOR and Bicommunal Coordinator.

(i) Negotiate package(s) with Embassy-selected sub-grantee.

(j) Acquire health insurance for participants in U.S.-based programs.

(k) Issue payments to sub-grantee(s).

(l) Maintain accounting control over the funds provided by BSP by following standard U.S. accounting practices and the requirements of OMB Circulars A–122 and A–133.

(m) Obtain reports from sub-grantees within sixty (60) days of program completion for review by the Bicommunal Coordinator and U.S. Embassy's Bicommunal Team.

6. Liaison with main office in United States.

7. Maintain office supervision of the Nicosia Field Office. The person

responsible for supervising the Nicosia Field Office is required to visit Cyprus at least twice during the grant for consultations.

8. Ensure the Nicosia Field Office is adequately covered, either locally or from the U.S. office, during the local Grantee's vacations.

9. Obtain Embassy Nicosia concurrence for other employment, or membership in organizations, organized political or other activity which could give the impression of partiality to one side or the other.

10. Establish the Nicosia Field Office complete with phone, fax, email, and computer with Grantee resources and at the Grantee's expense.

11. Have the Nicosia Field Office functioning with the employee(s) in place and work space acquired no later than 45 days from the date which the Grantee is notified of its bid being accepted, or 5 September 2000, whichever is sooner. The Grantee will have at least half the RFPs announced by 29 September and at least two programs scheduled to begin no later than 1 December 2000.

Reporting Requirements

a. The Grantee shall furnish two short monthly reports (a Chronological Individual Program Update and a Financial Report) on the status of the programs (including, but not limited to: title, dates, location, purpose, numbers of participants, sub-grantee, cost of individual programs, remaining budget, and any problems encountered) of the requested workshops and activities to the Bicommunal Coordinator on or before the first Monday of each month. The Embassy Bicommunal Team, via the Bicommunal Coordinator or other designee, has the authority to request that additional information be included in the reports if deemed necessary by the Embassy.

b. Provide A/LM/AQM with one administrative copy of each report.

c. The Grantee shall furnish seven (7) copies of a quarterly report and a final report in a format similar to the monthly reports to the Embassy (Bicommunal Coordinator, ADMIN, PAO, ECON/USAID, POL, DCM, and Ambassador) and one (1) copy to A/LM/AQM and one (1) to the Cyprus Desk in Washington, DC. The quarterly reports shall include but are not limited to: title, dates, location, purpose, number of participants, sub-grantee, cost of individual programs, unspent budget funding, and any problems encountered by the requested workshops to the Bicommunal Coordinator no later than September 30, 2000, December 30, 2000, March 30, 2001, June 30, 2001, and September 30, 2001. The Embassy Bicommunal Team, via the Bicommunal Coordinator or other designee, may request additional information if required by the Embassy.

d. The Grantee will revise the Administrative Budget during the seventh month to accurately reflect the actual costs of the programs and assist in the budgeting of future programs. If actual costs have exceeded the fifteen (15%) percent of the original budget, a supplemental report must be submitted to the Grant Officer explaining the cause, with justification if possible, within ten working days of the report.

e. The Grantee will provide reports on each completed sub-grant, ensure that best practices are implemented by all participants, and make suggestions for programs/economies/efficiencies, as well as providing management and accounting reports to improve the operation of BSP.

f. Under no circumstances may the Grantee expend or obligate the U.S. government for costs in excess of this cooperative agreement.

Part III—Fiscal Information and Evaluation Criteria

Awards are contingent upon the availability of funds. Funding may be available at a level up to $1.6 million. The precise level of funding will not be known until legislative action is complete. In Fiscal Year 1999 the Congress appropriated ''Economic Support Fund'' of $15,000,000 to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus. The funding for each area varies each year depending upon events and conditions on the island.

The Department cannot commit funds that may be appropriated in subsequent fiscal years. This potential multi-year program cannot receive assured funding unless such funding is supplied out of a single year's appropriation. Grant agreements may permit the expenditure from a particular year's grant to be made for up to three years after the grant's effective date.

Applications

Applications must be prepared and submitted in seven (7) copies in the form of a statement, the narrative part should not exceed 15 double spaced pages. A one page executive summary, an itemized budget and budget summary, and vitae of proposed staff must accompany this, with the exception of the FOR who may be hired locally after the award. Applicants may append other information they consider essential, although bulky submissions are discouraged and run the risk of being confusing, conflicting, and unclear. The one-page executive summary and budget submission should precede the narrative in the proposal.

The proposed program should be described fully, including goals and benefits for cooperation and reunification of the two communities. All applicants should provide detailed information about their plans and procedures for advertising, receiving, reviewing, and awarding a minimum of twelve programs, preferably in bundled RFPs.

A description of affirmative action policies and practices must be included in the application.

Applications should include certification of compliance with the provisions: (1) The Drug Free Workplace Act (PL 100–690) in accordance with Appendix C of 22 CFR 137, Subpart F; and (2) Section 319 of the Department of Interior and Related Agencies Appropriate Act (PL 101–121) in accordance with Appendix A of 22 CFR 138, New Restrictions on Lobbying Activities.

Grants awarded to eligible organizations with less than four years experience in conducting international exchange programs will be limited to $60,000.

Budget

Applicants should familiarize themselves with Department of State grant regulations contained in 22 CFR 145, ''Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations'' OMB Circular A–110, ''Grants and Agreements with Institutes of Higher Education * * * Uniform Administrative Requirements'', and ''Audits of Institutions of Higher Learning and other Non-profit Institutions'' OMB Circular A–133, and indicate or provide the following information:

(1) Whether the organization falls under OMB Circular A–21, ''Cost Principles for Educational Institutions'', or OMB Circular A–122, '' Cost Principles for Non-profit Organizations'';

(2) A detailed program budget indicating labor categories, number of employees proposed, hourly rates, and number of hours proposed, applicable overhead cost, administrative cost including rent, utilities, office equipment, travel expenses, supplies,

etc, and overall indirect rates in cost and by percentage. It is the desire of the Department of State to have the maximum utilization of the limited funds used for program operation in lieu of administrative and indirect cost. A ''Special Note'' to offerors. While the grant may not be awarded on the basis of lowest overall cost, the program cost to administrative cost and the direct cost to indirect cost ratios will be an important issue in the final selection. Applicants requesting funds to supplement a program having other sources of support should submit a current budget for it showing how specific lines in the budget would be affected by the allocation of requested grant funds. Other funding sources and amounts, when known, should be identified.

(3) The applicant's cost sharing proposal, if applicable containing appropriate details and cross-references to the requested budget.

(4) The organization's most recent audit report (the most recent U.S. Government audit report if available) and the name, address, and point of contact of the audit agency. Notice to Applicants: The threshold for grants that trigger an audit requirement under OMB Circular A–133 has been raised from $25,000.00 to $300,000.00.

(5) An indication of the offer's priorities if funding is being requested for more than one program or activity.

All payments will be made to the recipient through the Department of State.

Evaluation Factors and Proposal Selection

A Technical Evaluation Panel (TEP) will perform the technical review from the U.S. Embassy's Bicommunal Team in Nicosia.

A/LM/AQM will make the final selection after reviewing evaluation results and recommendations from the TEP. The applicant should describe its overall organizational and management structure. Domestic and international. It should describe how the capabilities of this structure will compliment actual operation and success of the program. It should describe all previous experience with similar programs and layout tentative operational plans that demonstrate complete understanding of the requirements of the Statement of Work. The proposal should reflect the institution's expertise in international affairs, especially those that pertain to the current political, economic, and social environment on the island of Cyprus. Since the BSP focuses on bringing together the Greek Cypriot and Turkish Cypriot communities on Cyprus, a perception of total impartiality in the application will also be a tantamount issue. The proposal should also demonstrate the applicant's overall management approach is rational and within reason. The technical elements of the proposal will be significantly more important than the cost proposal in the final selection process. The applicant should specifically address each of the evaluation criteria elements identified below. The proposal should address succinctly, but completely, the elements described below and follow the format requirements. Proposals should include the following items:

TAB A—Table of Contents and Executive Summary

TAB B—Narrative

The narrative should demonstrate proven ability to handle logistics as well as include the U.S. institution's mission and date of establishment.

TAB C—Budget Submission

The budget included with the proposal should be broken down into the administrative direct cost of the program and the indirect cost. Direct costs are those costs that are totally attributed to the cost of the program. Indirect costs are those costs that are attributed to the overall operation of the organization.

TAB D—Past Performance References

At a minimum, the applicant will provide the following information for three references:

- Name of the referenced organization
- Project name
- Project description
- Performance period of the contract/grant
- Amount of the contract/grant
- Technical contact person and telephone number for referenced organization
- Administrative contact person and telephone number for referenced organization

A/LM/AQM may contact representatives from the organizations cited in the examples to obtain information on the applicant's past performance. A/LM/AQM also may obtain past performance information from sources other than those identified by the applicant.

Resumes

Resumes of any key program staff, except the proposed FOR should be included in the submission. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. Resume should not exceed two pages.

The proposals will be considered on the following criteria in priority order:

A. Organizational Capabilities

1. Organizational experience and/or knowledge of the political, economic, and social environment on Cyprus.
2. Demonstrates sensitivity to political and cultural concerns of a divided Cyprus.
3. Demonstrates an understanding of the program.
4. Qualifications and experience of corporate staff.
5. The organizational structure and management capabilities of the offeror.
6. The international structure and experience of the offeror.

B. Program Capabilities

1. Ability to have Nicosia Field Office open by 21 August 2000.
2. Demonstrates understanding of program and experience and knowledge to provide the development of the Bicommunal programs.

C. Program/Administrative and Direct/Indirect Cost Comparisons and Overall Cost

Proposal Deadline

Seven copies of the proposal should be submitted by 30 June 2000, 4 pm local time to:

An Application sent by mail must be addressed to: Dr. Holly Peirce, Bicommunal Coordinator, American Embassy Nicosia, FPO, AE 09836.

An application that is hand delivered must be to: American Embassy, North Gate, Metochiou and Ploutarchou Streets, Engomi, Nicosia, Cyprus, Attention: Holly Peirce (x2064) or Rita Shipillis (x2605).

Scott McDonald,

Post Management Officer, Bureau of European Affairs, Department of State.

[FR Doc. 00–13538 Filed 5–30–00; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF STATE

[Public Notice 3324]

Notice of Open Session of the Cultural Property Advisory Committee

Pursuant to the authority vested in me, under Department of State Delegation of Authority No. 236–2, the Cultural Property Advisory Committee will meet in open session from approximately 10 am to 12 noon, on Wednesday, June 28, 2000. The session will be held in the Trustees Room, 2nd Floor, The New York Public Library, Fifth Avenue and 42nd Street, New York, NY.

This open session is solely for information exchange between the Cultural Property Advisory Committee and persons interested in the work of the Committee pursuant to 19 U.S.C. 2601, *et seq.*, the Convention on Cultural Property Implementation Act. Information about the Committee, the Act, and the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property may be found at *http://exchanges.state.gov/education/culprop.*

The Committee will make presentations about its work and about implementation of the Act followed by a question and answer period. In order to allow the maximum participation possible, individuals will be limited to five minutes each for comments/questions.

Due to the Library's security procedures and limited seating, prior notification of attendance is required. Attendees must use the entrance on 42nd Street, between Fifth and Sixth Avenues. Interested persons should contact the Cultural Property Office at (202) 619–6612 by 5 pm (ESDT), June 23.

Dated: May 25, 2000.

William B. Bader,

Assistant Secretary of State for Educational and Cultural Affairs, Department of State.

[FR Doc. 00–13543 Filed 5–30–00; 8:45 am]

BILLING CODE 4710–11–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dockets No. 301–62a and 301–100a]

Proceedings Concerning the European Communities' Regime for the Importation, Sale and Distribution of Bananas and the European Communities' Measures Concerning Meat and Meat Products

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments

SUMMARY: The interagency Section 301 Committee is soliciting written comments on possible modifications to actions taken by the United States as a result of the European Communities' (EC) failure to implement the recommendations and rulings of the World Trade Organization (WTO) Dispute Settlement Body in proceedings regarding (i) the EC's regime for the importation, sale, and distribution of bananas (the EC-Bananas case) and (ii) the EC's ban on the import of U.S. meat and meat products produced from animals treated with certain hormones (the EC-Beef Hormones case). Comments are requested with respect to the products listed in the annexes to this notice. The Section 301 Committee will consider the comments received in response to this notice, as well as comments previously received with respect to particular products. Accordingly, persons who have previously submitted comments with respect to particular products are requested not to resubmit such comments, although persons may wish to submit updates to previously submitted comments. The relevant statutory provision provides that the actions taken by the United States in the Beef and Bananas cases should be modified, unless (1) the USTR and the affected U.S. industries agree that such changes are unnecessary, or (2) resolution of the case is imminent.

DATES: To be assured of consideration, written comments should be submitted by 5 p.m. on June 14, 2000.

ADDRESSES: Comments should be addressed to: Chairman, Section 301 Committee, Attn: Implementation of WTO Recommendations, Room 100, 600 17th Street, NW, Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395–3419, for questions concerning procedures for filing submissions in response to this notice; Ralph Ives, Deputy Assistant U.S. Trade Representative, (202) 395–6127, for questions concerning the EC-Bananas case or the EC-Beef Hormones case; or William Busis, Associate General Counsel (202) 395–3150, for questions concerning procedures under Section 301 or the WTO Agreement.

SUPPLEMENTARY INFORMATION:

A. The EC-Bananas Case

The EC's regime governing the importation, sale, and distribution of bananas is discriminatory and has harmed the economic interests of the United States by denying to U.S. companies a major portion of their banana distribution business. WTO dispute settlement panels have confirmed that the EC's banana regime is inconsistent with the EC's obligations under the WTO Agreement. Furthermore, WTO arbitrators have determined that the EC's banana regime has nullified or impaired U.S. benefits under the WTO Agreement in the amount of $191.4 million per year. The procedural and substantive background of the U.S. investigation under Sections 301 to 309 of the Trade Act of 1974, as amended (''Section 301'') and the associated WTO proceedings concerning the EC's banana regime is set forth in prior notices (64 FR 19,209, 63 FR 71,665, 63 FR 63,099, 63 FR 56,687, and 63 FR 8248)

As a result of the EC's failure to comply with recommendations and rulings of the WTO Dispute Settlement Body (DSB) to bring its discriminatory banana regime into compliance with WTO obligations, on April 19, 1999 the DSB authorized the United States to suspend the application to the EC, and member States thereof, of WTO tariff concessions and related obligations covering trade in an amount of $191.4 million per year. Pursuant to that authorization, the USTR announced a list of EC products, reprinted in Annex I to this notice, that would be subject to a 100 percent rate of duty (64 FR 19209).

Since that time, the United States and the EC have continued to consult in an effort to resolve this dispute. However, the EC has still failed to bring its banana regime into compliance with the EC's obligations under the WTO Agreement.

B. The EC-Beef Hormones Case

The EC bans the import of beef and beef products produced from animals to which certain hormones have been administered, despite the facts that such products have been consumed safely for decades and that no scientific basis exists for imposing such a ban. The effect of the EC ban is to prohibit the import of substantially all U.S.-produced beef and beef products. WTO panels have confirmed that the EC has no scientific basis for banning imports of U.S. beef, and that the EC ban is inconsistent with the EC's WTO obligations. Furthermore, WTO arbitrators have determined that the EC's import ban on U.S. beef and beef products has nullified or impaired U.S. benefits under the WTO Agreement in the amount of $116.8 million each year. The procedural and substantive background of the U.S. investigation under Section 301 and the associated WTO proceedings concerning the EC's beef import ban is set forth in prior notices (64 FR 40,638 and 64 FR 14,486).

As a result of the EC's failure to comply with DSB recommendations and rulings concerning its beef import ban, on July 26, 1999 the DSB authorized the United States to suspend the application to the EC, and member States thereof, of WTO tariff concessions and related obligations covering trade in an amount of $116.8 million per year. Pursuant to that authorization, the USTR announced a list of EC products, reprinted in Annex III to this notice, that would be subject

to a 100 percent rate of duty (64 FR 40638).

Since that time, the United States and the EC have continued to consult in an effort to resolve this dispute. However, the EC has still failed to bring its measures governing the import of U.S. beef and beef products into compliance with the EC's obligations under the WTO Agreement.

C. Section 407 of the Trade and Development Act of 2000

Section 407 of the Trade and Development Act of 2000, Pub. L. 106–200, amends Section 301 by requiring the USTR to review retaliation lists or other actions under Section 301 and to revise them, in whole or in part, 120 days after their initial effective date, and every 180 days thereafter. The provision applies to actions taken under Section 301—such as the above-described actions in the EC-Bananas and the EC-Beef Hormones cases—as the result of a WTO Member's failure to implement DSB recommendations in a dispute settlement proceeding.

Section 407 provides exceptions in the event that (1) the USTR and the Section 301 petitioner (or, if USTR self-initiated the Section 301 investigation, the affected U.S. industry) agree that changing the retaliation list or other action under Section 301 is unnecessary, or (2) resolution of the case is imminent.

Section 407 provides that the standard for making changes is to select changes that are most likely to result in implementation of the DSB recommendations, or in achieving some other satisfactory resolution of the dispute. The conference report accompanying the legislation confirms that Congress intends for the USTR, in accordance with WTO dispute settlement rules, to ensure that the level of retaliation remains within the level authorized by the WTO DSB.

The provision also requires that retaliation lists—both initially and after each of the periodic changes—include reciprocal goods of the U.S. industries affected by a WTO Member's noncompliance. This reciprocity requirement applies to the retaliatory action in the EC-Beef Hormones case. However, Section 407 includes an exception that makes the reciprocity requirement inapplicable to the retaliatory action in the EC-Bananas case.

The Trade and Development Act of 2000 was enacted on May 18, 2000, and Section 407 of the Act entered into force on that date. Section 407 does not include a transition clause specifying the schedule for changes in existing retaliation lists (that is, the lists in the EC-Bananas and EC-Beef Hormones cases). The conference report accompanying the legislation states that the conferees expect initial action within 30 days after entry into force. The Section 301 Committee will work to develop recommendations consistent with this time frame and with the need to obtain and to examine public comments.

D. Request for Public Comments

The Section 301 Committee closely monitors actions taken under Section 301 to ensure that such actions remain practicable and effective in terms of obtaining the elimination of the acts, policies, or practices of foreign governments that are the subject of the 301 investigation. To assist in this monitoring and in the implementation of Section 407 of the Trade and Development Act of 2000, the USTR seeks public comments with respect to the products on the lists in the Annexes to this notice.

All products listed in the Annexes were included on preliminary lists with respect to which USTR had previously sought public comment. The Section 301 Committee will consider the comments received in response to this notice, as well as comments previously received with respect to particular products. Accordingly, persons who have previously submitted comments with respect to particular products are requested not to resubmit such comments, although persons may wish to submit updates to previously submitted comments. The Section 301 Committee will consider all public comments in developing its recommendations to the interagency Trade Policy Staff Committee, which in turn will provide recommendations to the United States Trade Representative (USTR).

Annex I consists of products, drawn from the list in Annex II, currently subject to 100 percent duties as a result of the EC's noncompliance in the EC-Bananas case. Annex II consists of a product list which the United States included in a request to the WTO DSB for authorization to suspend WTO concessions in connection with the EC-Bananas case. Annex III consists of products, drawn from the list in Annex IV, currently subject to 100 percent duties as a result of the EC's noncompliance in the EC-Beef Hormones case. Annex IV consists of a product list which the United States included in a request to the WTO DSB for authorization to suspend WTO concessions in connection with the EC-Beef Hormones case.

Concerning products currently subject to 100 percent duties (listed in Annex I for the EC-Bananas case and Annex III for the EC-Beef Hormones case), the Section 301 Committee invites comments with respect to whether the products should continue to be subject to such duties, and with respect to whether the current 100 percent rate of duty is high enough to have the intended effect of being prohibitive. Concerning products on the attached lists not currently subject to 100 percent duties (included in Annex II for the EC-Bananas case and Annex IV for the EC-Beef Hormones case), the Section 301 Committee invites comments with respect to whether the products should be subject to 100 percent duties, and with respect to whether a 100 percent rate of duty would be high enough to have the intended effect of being prohibitive.

The comments sought by the Section 301 Committee with respect to particular products include (i) whether maintaining or imposing prohibitive duties on a particular product would be practicable or effective in terms of encouraging a favorable resolution of the dispute, and (ii) whether maintaining or imposing prohibitive duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses.

In the annexed products lists, the items with respect to which comments are requested are (1) classified in the indicated headings and the subheadings of the Harmonized Tariff Schedule of the United States (HTS); and (2) the product of the indicated member States of the European Communities. The product descriptions in the annexes are for information purposes only; the product descriptions are not intended to delimit in any way the scope of products that are the subject of this notice. Rather, the numerical headings and subheadings of the HTS listed in the annexes govern the scope of this notice. In the instances where a 4-digit HTS heading appears in the left column of the lists, comments are requested with respect to any of the products classified in any of the 8-digit subheadings appearing in the HTS indented under those 4-digit headings.

To be assured of consideration, written comments should be submitted by 5:00 p.m. on June 14, 2000.

Submissions must include on the first page a clear reference in bold and/or underlining to: (1) to actions taken in the EC-Bananas case, the EC-Beef Hormones case, or both, and (2) the HTS number(s) and product(s) which are the subject of the submission. Submissions

must state clearly the position taken and describe with particularity the supporting rationale, be in English, and be provided in twenty copies to: Chairman, Section 301 Committee, Attn: Implementation of WTO Recommendations, Room 100.

Written comments will be placed in files (Docket No. 301–62a for the EC-Beef Hormones case and No. 301–100a for the EC-Bananas case) open to public inspection pursuant to 15 CFR § 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR § 2006.15. Persons wishing to submit business confidential information must certify in writing that such information is confidential in accordance with 15 CFR § 2006.15(b), and such information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of twenty copies and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary will be placed in the docket that is open to public inspection.

An appointment to review Docket Nos. 301–62a and 301–100a may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101 of the Office of the United States Trade Representative.

Dated: May 25, 2000.

William L. Busis,

Chairman, Section 301 Committee.

BILLING CODE 3190–01–U

ANNEX I

EC-Bananas - List of Products Currently Subject to Increased Duties

The products listed below are currently subject to 100 percent *ad valorem* duties as a result of the EC's noncompliance in the *EC-Bananas* case. Each of the products listed below is under consideration for continued inclusion on a revised retaliation list, and for the imposition of duties above the current 100 percent *ad valorem* rate. In particular, increased tariffs may continue to be applied to, or may be raised with respect to, articles that are (i) classified in the numerical subheadings of the Harmonized Tariff Schedule of the United States (HTS) listed below and (ii) products of one or more of the indicated member States of the European Communities. In all cases, the tariff nomenclatures in the HTS for the subheadings listed below are definitive; the product descriptions in this list are for **information purposes only**. The descriptions below are not intended to delimit in any way the scope of the products subject to increased duties.

Products of Austria, Belgium, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, or the United Kingdom:

HTS No.	Product Description
33073050	Bath preparations, other than bath salts
42022215	Handbags, with or without shoulder straps or without handle, with outer surface of sheeting of plastics
42023210	Articles of a kind normally carried in the pocket or handbag, with outer surface of reinforced or laminated plastics
48055000	Uncoated felt paper and paperboard in rolls or sheets
48192000	Folding cartons, boxes and cases of noncorrugated paper or paperboard
49119120	Lithographs on paper or paperboard, not over 0.51 mm in thickness, printed not over 20 years at time of importation
63022190	Bed linen, not knit or crochet, printed, of cotton, not containing any embroidery, lace, braid, edging, trimming, piping or applique work, not napped
85072080	Lead-acid storage batteries other than of a kind used for starting piston engines or as the primary source of power for certain electric vehicles principally designed for the transport of up to nine persons

Products of Austria, Belgium, Finland, France, the Federal Republic of Germany, Greece, Ireland, Luxembourg, Portugal, Spain, Sweden, or the United Kingdom (same as above country list, except Italy):

85167100	Electrothermic coffee or tea makers, for domestic purposes

ANNEX II

EC-Bananas - List of Products under Consideration for the Imposition of Increased Duties

The product list below **includes** the products, listed in Annex I, which are currently subject to increased duties as a result of the EC's noncompliance in the *EC-Bananas* case. All of the remaining products listed below are under consideration for the new imposition of increased duties of 100 percent *ad valorem* or more. In particular, increased tariffs may be applied to articles that are (i) classified in the numerical subheadings of the Harmonized Tariff Schedule of the United States (HTS) listed below and (ii) products of one or more of the indicated member States of European Communities. In all cases, the tariff nomenclatures in the HTS for the subheadings listed below are definitive; the product descriptions in this list are for **information purposes only**. The descriptions below are not intended to delimit in any way the scope of the products that would be subject to increased duties.

Products of Austria, Belgium, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, or the United Kingdom:

HTS Number	Product Description
02101900	Meat of swine, other than hams, shoulders, bellies (streaky) and cuts thereof, salted, in brine, dried or smoked
04069057	Pecorino cheese, from sheep's milk, in original loaves, not suitable for grating
19053000	Sweet biscuits; waffles and wafers
33073050	Bath preparations, other than bath salts
34060000	Candles, tapers and the like
39202000	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of propylene
42022215	Handbags, with or without shoulder straps or without handle, with outer surface of sheeting of plastics
42023210	Articles of a kind normally carried in the pocket or handbag, with outer surface of reinforced or laminated plastics
48055000	Uncoated felt paper and paperboard in rolls or sheets
48192000	Folding cartons, boxes and cases of noncorrugated paper or paperboard
49090040	Printed cards (except postcards) bearing personal greetings, messages or announcements, with or without envelopes or trimmings
49119120	Lithographs on paper or paperboard, not over 0.51 mm in thickness, printed not over 20 years at time of importation
61101010	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, wholly of cashmere
63022190	Bed linen, not knit or crochet, printed, of cotton, not containing any embroidery, lace, braid, edging, trimming, piping or applique work, not napped
85072080	Lead-acid storage batteries other than of a kind used for starting piston engines or as the primary source of power for certain electric vehicles principally designed for the transport of up to nine persons
85167100	Electrothermic coffee or tea makers, for domestic purposes
94051080	Chandeliers and other electric ceiling or wall lighting fittings (other than used for public spaces), not of base metal

ANNEX III

EC-Beef Hormones - List of Products Currently Subject to Increased Duties

The products listed below are currently subject to 100 percent *ad valorem* duties as a result of the EC's noncompliance in the *EC-Beef Hormones* case. Each of the products listed below is under consideration for continued inclusion on a revised retaliation list, and for the imposition of duties above the current 100 percent *ad valorem* rate. In particular, increased tariffs may continue to be applied to, or may be raised with respect to, articles that are (i) classified in the numerical headings and subheadings of the Harmonized Tariff Schedule of the United States (HTS) listed below and (ii) products of one or more of the indicated member States of the European Communities. In the instances where a 4-digit HTS heading appears in the left column of this list, products classified in any of the 8-digit subheadings appearing in the HTS under those 4-digit headings are currently subject to increased duties. In all cases, the tariff nomenclatures in the HTS for the headings and subheadings listed below are definitive; the product descriptions in this list are for **information purposes only**. The descriptions below are not intended to delimit in any way the scope of the products that would be subject to increased duties.

Products of Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, or Sweden:

HTS	Description
0201	MEAT OF BOVINE ANIMALS, FRESH OR CHILLED
0202	MEAT OF BOVINE ANIMALS, FROZEN
02031100	Meat of swine (pork), fresh or chilled, carcasses and half-carcasses
02031210	Meat of swine (pork), fresh or chilled, hams and shoulders and cuts thereof, bone in, processed
02031290	Meat of swine (pork), fresh or chilled, hams and shoulders and cuts thereof, bone in, other
02031920	Meat of swine (pork), fresh or chilled, other, processed
02031940	Meat of swine (pork), fresh or chilled, other
02032100	Meat of swine (pork), frozen, carcasses and half-carcasses
02032210	Meat of swine (pork), frozen, hams and shoulders and cuts thereof, bone in, processed
02032290	Meat of swine (pork), frozen, hams and shoulders and cuts thereof, bone in, other
02061000	Edible offal of bovine animals, fresh or chilled
02062100	Edible offal of bovine animals, frozen, tongues
02062200	Edible offal of bovine animals, frozen, livers
02062900	Edible offal of bovine animals, frozen, other
04064020	Roquefort cheese in original loaves, not grated or powdered, not processed
04064040	Roquefort cheese, other than in original loaves, not grated or powdered, not processed
07031040	Onions, other than onion sets or pearl onions not over 16 mm in diameter, and shallots, fresh or chilled
07095200	Truffles, fresh or chilled
07129010	Dried carrots, whole, cut, sliced, broken or in powder, but not further prepared

16022020	Prepared or preserved liver of goose
16022040	Prepared or preserved liver of any animal other than of goose
19054000	Rusks, toasted bread and similar toasted products
20098060	Juice of any other single fruit, (including cherries and berries), concentrated or not concentrated
21013000	Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof
21033040	Prepared mustard

Products of France, the Federal Republic of Germany, or Italy:

20021000	Tomatoes, whole or in pieces, prepared or preserved otherwise than by vinegar or acetic acid

Products of France or the Federal Republic of Germany:

05040000	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof
21041000	Soups and broths and preparations therefor
55101100	Yarn (other than sewing thread) containing 85% or more by weight of artificial staple fibers, singles, not put up for retail sale

Products of France:

15059000	Fatty substances derived from wool grease (including lanolin)
18063100	Chocolate and other cocoa preparations, in blocks, slabs or bars, filled, not in bulk
20079905	Lingonberry and raspberry jams
02101100	Hams, shoulders and cuts thereof with bone in, salted, in brine, dried or smoked
35061050	Products suitable for use as glues or adhesives, not exceeding 1 kg, put up for retail sale

ANNEX IV

EC-Beef Hormones - List of Products under Consideration for the Imposition of Increased Duties

The product list below **includes** the products, listed in Annex III, which are currently subject to increased duties as a result of the EC's noncompliance in the *EC-Beef Hormones* case. All of the remaining products listed below are under consideration for the new imposition of increased duties of 100 percent *ad valorem* or more. In particular, increased tariffs may be applied to articles that are (i) classified in the numerical headings and subheadings of the Harmonized Tariff Schedule of the United States (HTS) listed below and (ii) products of one or more of the member States of European Communities. In the instances where a 4-digit HTS heading appears in the left column of this list, products classified in any of the 8-digit subheadings appearing in the HTS under those 4-digit headings may be subject to increased duties. In all cases, the tariff nomenclatures in the HTS for the headings and subheadings listed below are definitive; the product descriptions in this list are for **information purposes only**. The descriptions below are not intended to delimit in any way the scope of the products that would be subject to increased duties.

HTS	Description
0201	MEAT OF BOVINE ANIMALS, FRESH OR CHILLED
0202	MEAT OF BOVINE ANIMALS, FROZEN
0203	MEAT OF SWINE (PORK), FRESH, CHILLED OR FROZEN
0206	EDIBLE OFFAL OF BOVINE ANIMALS, SWINE, SHEEP, GOATS, HORSES ETC., FRESH, CHILLED OR FROZEN
0207	MEAT AND EDIBLE OFFAL OF POULTRY (CHICKENS, DUCKS, GEESE, TURKEYS AND GUINEAS), FRESH, CHILLED OR FROZEN
02101100	Hams, shoulders and cuts thereof with bone in, salted, in brine, dried or smoked
02101200	Bellies (streaky) and cuts thereof of swine, salted, in brine, dried or smoked
02102000	Meat of bovine animals, salted, in brine, dried or smoked
02109020	Meat and edible offal of chickens, ducks, geese, turkeys and guineas, salted, in brine, dried or smoked; flour and meal of these animals
02109040	Meat and edible offal nesoi, salted, in brine, dried or smoked; flour and meal, nesoi
04064020	Roquefort cheese in original loaves, not grated or powdered, not processed
04064040	Roquefort cheese, other than in original loaves, not grated or powdered, not processed
05040000	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof
06039000	Cut flowers and flower buds, suitable for bouquets or ornamental purposes, dried, dyed, bleached, impregnated or otherwise prepared
06049100	Foliage, branches and other parts of plants without flowers or flower buds, and grasses, suitable for bouquets or ornamental purposes, fresh
06049930	Foliage, branches, parts of plants without flowers or buds, and grasses, suitable for bouquets or ornamental purposes, dried or bleached
07020020	Tomatoes, fresh or chilled, entered during Mar.1 to July 14, or the period Sept.1 to Nov.14 in any year

HTS	Description
07020040	Tomatoes, fresh or chilled, entered during July 15 to Aug.31 in any year
07020060	Tomatoes, fresh or chilled, entered from Nov. 15 thru the last day of Feb. of the following year
07031040	Onions, other than onion sets or pearl onions not over 16 mm in diameter, and shallots, fresh or chilled
07095200	Truffles, fresh or chilled
07129010	Dried carrots, whole, cut, sliced, broken or in powder, but not further prepared
07129074	Dried tomatoes, in powder
07129075	Dried tomatoes, whole, cut, sliced, broken or in powder, but not further prepared
07129078	Dried tomatoes, whole, cut, sliced or broken but not further prepared
08024000	Chestnuts, fresh or dried, shelled or in shell
09042020	Paprika, dried or crushed or ground
10040000	Oats
11041200	Rolled or flaked grains of oats
11042200	Grains of oats, hulled, pearled, clipped, sliced, kibbled or otherwise worked, but not rolled or flaked
15059000	Fatty substances derived from wool grease (including lanolin)
1601	SAUSAGES AND SIMILAR PRODUCTS, OF MEAT, MEAT OFFAL OR BLOOD; FOOD PREPARATIONS BASED ON THESE PRODUCTS
16021000	Homogenized preparations of meat, meat offal or blood, nesoi
16022020	Prepared or preserved liver of goose
16022040	Prepared or preserved liver of any animal other than of goose
16023100	Prepared or preserved meat or meat offal of turkeys, nesoi
16023200	Prepared or preserved meat or meat offal of chickens, nesoi
16023900	Prepared or preserved meat or meat offal of ducks, geese or guineas, nesoi
16024110	Prepared or preserved pork ham and cuts thereof, containing cereals or vegetables
16024120	Pork hams and cuts thereof, not containing cereals or vegetables, boned and cooked and packed in airtight containers
16024190	Prepared or preserved pork hams and cuts thereof, not containing cereals or vegetables, nesi
16024220	Pork shoulders and cuts thereof, boned and cooked and packed in airtight containers
16024240	Prepared or preserved pork shoulders and cuts thereof, other than boned and cooked and packed in airtight containers
16024910	Prepared or preserved pork offal, including mixtures
16024920	Pork other than ham and shoulder and cuts thereof, not containing cereals or vegetables, boned and cooked and packed in airtight containers
16024940	Prepared or preserved pork, not containing cereals or vegetables, nesoi

HTS	Description
16024960	Prepared or preserved pork mixed with beef
16024990	Prepared or preserved pork, nesoi
16025005	Prepared or preserved offal of bovine animals
16025009	Prepared or preserved meat of bovine animals, cured or pickled, not containing cereals or vegetables
16025010	Corned beef in airtight containers
16025020	Prepared or preserved beef in airtight containers, other than corned beef, not containing cereals or vegetables
16025060	Prepared or preserved meat of bovine animals, not containing cereals or vegetables, nesoi
16025090	Prepared or preserved meat of bovine animals, containing cereals or vegetables
17041000	Chewing gum, not containing cocoa, whether or not sugar-coated
17049025	Sugar confectionary cough drops, not containing cocoa
18063100	Chocolate and other cocoa preparations, in blocks, slabs or bars, filled, not in bulk
19054000	Rusks, toasted bread and similar toasted products
20021000	Tomatoes, whole or in pieces, prepared or preserved otherwise than by vinegar or acetic acid
20029000	Tomatoes, other than whole or in pieces, prepared or preserved otherwise than by vinegar or acetic acid
20029040	Tomatoes, in powder, prepared or preserved otherwise than by vinegar or acetic acid
20029080	Tomatoes (including paste and puree) prepared or preserved otherwise than by vinegar or acetic acid, nesoi
20079905	Lingonberry and raspberry jams
20083042	Satsumas, prepared or preserved, in airtight containers, aggregate quantity n/o 40,000 metric tons/calendar yr
20083046	Satsumas, prepared or preserved, in airtight containers, aggregate quantity o/40,000 metric tons/calendar yr
20084000	Pears, otherwise prepared or preserved, nesoi
20087000	Peaches (excluding nectarines), otherwise prepared or preserved, nesoi
20096000	Grape juice (including grape must), concentrated or not concentrated
20098060	Juice of any other single fruit, nesoi, (including cherries and berries), concentrated or not concentrated
20099040	Mixtures of fruit juices, or mixtures of vegetable and fruit juices, concentrated or not concentrated
21013000	Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof
21033040	Prepared mustard
21041000	Soups and broths and preparations therefor
22011000	Mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavored
23099010	Mixed feed or mixed feed ingredients used in animal feeding
35061050	Products suitable for use as glues or adhesives, nesoi, not exceeding 1 kg, put up for retail sale
55041000	Artificial staple fibers, not carded, combed or otherwise processed for spinning, of viscose rayon

HTS	Description
55101100	Yarn (other than sewing thread) containing 85% or more by weight of artificial staple fibers, singles, not put up for retail sale
85102000	Hair clippers, with self-contained electric motor
87112000	Motorcycles (incl. mopeds) and cycles, fitted w/recip. internal-combustion piston engine w/capacity o/50 but n/o 250 cc
87113000	Motorcycles (incl. mopeds) and cycles, fitted w/recip. internal-combustion piston engine w/capacity o/250 but n/o 500 cc

[FR Doc. 00–13548 Filed 5–26–00; 8:45 am]
BILLING CODE 3190–01–C

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 16, 2000 (65 FR 7913).

DATES: Comments must be submitted on or before June 30, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. sections 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 16, 2000, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 65 FR 7913. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Locomotive Safety Standards and Event Recorder.

OMB Control Number: 2130–0004.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): FRA F 6180.49A.

Abstract: Under regulations issued pursuant to Congressional mandate, 49 U.S.C. 20137, trains must be equipped with event recorders. Event recorders are devices that record train speed, hot box detection, throttle position, brake application, brake operations, time and signal conditions, and any other function that FRA considers necessary to monitor the safety of train operations. Event recorders provide FRA with information about how trains are operated, and if a train is involved in an accident, the devices afford data to FRA and other investigators necessary to determine the probable causes of the accident. Moreover, under 49 CFR Part 229, railroads are required to conduct daily, periodic, annual, and biennial tests of locomotives to measure the level of compliance with Federal regulations. The collection of information requires railroads to prepare written records indicating the repairs needed, the person making the repairs, and the type of repairs made. This information provides a locomotive engineer with information that the locomotive has been inspected and is in proper condition for use in service, and enables FRA to monitor compliance with the regulatory standards.

Title: Railroad Signal System Requirements.

OMB Control Number: 2130–0006.

Type of Request: Extension of the currently approved collection.

Affected Public: Businesses.

Form(s): FRA F 6180.14; FRA F 6180.47.

Abstract: The regulations pertaining to railroad signal systems are contained in 49 CFR Parts 233 (Signal System Reporting Requirements), 235 (Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System), and 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Systems, Devices, and Appliances). Section 233.5 provides that each railroad must report to FRA within 24 hours after learning of an accident or incident arising from the failure of a signal appliance, device, method, or system to function or indicate as required by Part 236 of this title that

results in a more favorable aspect than intended or other condition hazardous to the movement of a train. Section 233.7 sets forth the specific requirements for reporting signal failures within 15 days in accordance with the instructions printed on Form FRA F 6180.14. Finally, Section 233.9 sets forth the specific requirements for the ''Signal System Five Year Report.'' It requires that every five years each railroad must file a signal system status report. The report is to be prepared on a form issued by FRA in accordance with the instructions and definitions provided.

Title 49, part 235 of the Code of Federal Regulations, sets forth the specific conditions under which FRA approval of modification or discontinuance of railroad signal systems is required and prescribes the methods available to seek such approval. The application process prescribed under Part 235 provides a vehicle enabling FRA to obtain the necessary information to make logical and informed decisions concerning carrier requests to modify or discontinue signaling systems. Section 235.5 requires railroads to apply for FRA approval to discontinue or materially modify signaling systems. Section 235.7 defines ''material modification'' and identifies those changes that do not require agency approval. Section 235.8 provides that any railroad may petition FRA to seek relief from the requirements provided under 49 CFR Part 236.

Sections 236.10, 235.12, and 235.13 describe where the petition must be submitted, what information must be included, the organizational format, and the official authorized to sign the application. Section 235.20 sets forth the process for protesting the granting of a carrier application for signal changes or relief from the rules, standards, and instructions. This section provides the information that must be included in the protest, the address for filing the protest, the time limit for filing the protest, and the requirement that a person requesting a public hearing explain the need for such a forum. Section 236.110 required that the test results of certain signaling apparatus be recorded and specifically identify the tests required under §§ 236.102-109; §§ 236.376 to 236.387; §§ 236.576, 236.577; and §§ 236.586–236.589. Section 236.110 further provides that the test results must be recorded on pre-printed or computerized forms provided by the carrier and that the forms show the name of the railroad; place and date of the test conducted; equipment tested; tests results; repairs, replacements, and adjustments made; and the condition of the apparatus. This section also requires that the employee conducting the test must sign the form and the record be retained at the office of the supervisory official having proper authority. Results of tests made in compliance with § 236.587 must be retained for 92 days, and results of all other tests must be retained until the next record is filed, but in no case less than one year. Additionally, § 236.587 requires each railroad to make a departure test of cab signal, train stop, or train control devices on locomotives before that locomotive enters the equipped territory. This section further requires that whoever performs the test must certify in writing that the test was properly performed. The certification and the test results must be posted in the locomotive cab with a coy of the certification and test results retained at the office of a supervisory official having proper authority. However, if it is impractical to leave a copy of the certification and test results at the location of the test, the test results must be transmitted to either the dispatcher or one other designated official at each location, who must keep a written record of the test results and the name of the person performing the test. All records prepared under this section are required to be retained for 92 days. Finally, Section 236.590 requires the carrier to clean and inspect the pneumatic apparatus of automatic train stop, train control, or cab signal devices on locomotives every 736 days, and to stencil, tag, or otherwise mark the pneumatic apparatus indicating the last cleaning date.

Annual Estimated Burden Hours: 480,326 hours.

Title: Locomotive Certification (Noise Compliance Regulations).

OMB Control Number: 2130–0527.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: On January 14, 1976, the Environmental Protection Agency (EPA) issued noise emission standards pursuant to the Noise Control Act of 1972. The standards, 40 CFR Part 201, establish limits on the noise emissions generated by railroad locomotives under both stationary and moving conditions. Section 17 of the Noise Control Act also requires the Secretary of Transportation to enforce these regulations and promulgate separate regulations to ensure compliance with the same. On December 23, 1983, FRA published 49 CFR Part 210 to ensure compliance with the EPA standards. The certification and testing data ensure that locomotives built after December 31, 1979 have passed prescribed decibel standards for noise emissions under EPA regulations.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, N.W., Washington, D.C., 20503; Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, D.C. on May 24, 2000.

Margaret B. Reid,

Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 00–13534 Filed 5–30–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6270]

Notice of Public Meeting and Internet Forum on the Safety Implications of Driver Distraction When Using In-Vehicle Technologies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of public meeting and internet forum.

SUMMARY: NHTSA is holding two public events that focus on the potential safety implications associated with driver distraction while using advanced in-vehicle technologies that receive, transmit, or display various types of information. The devices of interest include those that allow drivers to phone, fax, obtain route guidance, view infrared images on a head-up display, and use the Internet and other such devices.

One event is an international Internet Forum which is expected to begin on July 5, 2000, and end on August 11, 2000. The Internet Forum will provide an opportunity for technical experts as well as the general public to download technical papers, ask questions about the papers, relate their experiences regarding the use of in-vehicle devices and their impact on safety in general and driving performance in particular, and participate in exchange of views on related technical issues. Researchers and technical experts are invited to submit papers for inclusion in the Internet Forum that focus on characterizing the current and future safety impact of driver distraction when using in-vehicle technologies, evaluating how device characteristics affect vehicle safety and determine the impact of driver distraction on safe operation of vehicles, identifying and evaluating approaches to minimize driver distraction, and recommending needed research and other safety initiatives. Overviews of ongoing research programs and descriptions of industry practices are also welcome.

NHTSA will also hold a public meeting on Tuesday, July 18, 2000, at which representatives of the public, industry, government, and safety groups are invited to share viewpoints, information, and recommendations regarding strategies to minimize potential adverse effects of driver distraction on safety when using such telematic devices. In particular, NHTSA is interested in hearing about different technologies and devices being proposed for use in vehicles which may have a bearing on safe driving, viewpoints regarding the roles of various entities in promoting best practices in the design of those devices and their use, approaches for evaluating the safety impacts of such systems, and what new research and other safety initiatives are needed. NHTSA will utilize the information from the public meeting and Internet Forum as a basis for discussions at a Technical Workshop of invited researchers and technology developers to be scheduled at a later date. The goal of the Technical Workshop is to generate recommendations for distraction reducing strategies, data needs, and research methodologies.

Persons interested in attending the public meeting might also be interested in attending the National Intelligent Vehicle Initiative Meeting, July 19–20, 2000, which will be held at the Ronald Reagan Building and International Trade Center in Washington, DC. This meeting, sponsored by the U.S. Department of Transportation and administered by SAE International, will promote public/stakeholder awareness of efforts to improve traffic safety using intelligent vehicle technologies, showcase accomplishments, and validate research and development efforts. Further information on this meeting can be found at http://www.its.dot.gov.

DATES: *Internet Forum:* The Internet Forum will be open for registration on June 23, 2000, while the technical papers will be posted on July 5, 2000. The Forum will remain active until August 11, 2000. Thereafter, the information will remain available through NHTSA's Web site for viewing only.

Public Meeting: NHTSA will hold the public meeting on Tuesday, July 18, 2000, starting at 8:30 a.m. and ending at about 5:00 p.m. or earlier as determined by the number of presenters. A preliminary agenda will be posted on NHTSA's Web site at URL http://www.nhtsa.dot.gov/nhtsa/announcements/meetings/, by June 30, 2000.

ADDRESSES: *Internet Forum:* The Internet Forum Web site address will be www.driverdistraction.org.

Public Meeting: The public meeting will be held in Room 2230, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590.

Written Comments: If you wish to submit written comments on the issues related to distraction or any topics discussed at the public meeting, those comments should be submitted to Docket No. NHTSA–99–6270 at the following address: Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. Docket hours for hand delivery are from 9:00 a.m. to 5:00 p.m. on weekdays. Comments can be sent by fax to 202–493–2251 or by electronic submission. The electronic submission procedure is described in the Docket Management section of NHTSA's Web site.

FOR FURTHER INFORMATION CONTACT:

For technical questions: Michael Perel, Office of Vehicle Safety Research, NRD–13, 400 Seventh Street, S.W., Washington, DC 20590 (telephone 202–366–5675, fax 202–366–7237, E-mail: mike.perel@nhtsa.dot.gov).

To participate in the public meeting: Rita Gibbons (telephone: 202–366–4862, fax: 202–366–5930, E-mail: rita.gibbons@nhtsa.dot.gov). E-mail or fax is preferred.

SUPPLEMENTARY INFORMATION:

A. Background

The increasing utilization of certain advanced technologies in automobiles brings both the promise of enhanced safety, comfort, security, and convenience as well as concerns about possible impact on safety if they distract driver attention from the driving task. Technologies which transmit, receive, or display information from a motor vehicle include devices such as wireless phones and Internet connections, navigation/route guidance systems, and fax capability collectively known as telematics, as well as night vision systems and others. Some in-vehicle technologies provide direct safety benefits, such as automatic crash notification to emergency medical services and hazard alerts to inform drivers of dangerous traffic and roadway conditions. However, any devices which require drivers to look at displays and/or process information, or which require drivers to perform various tasks in order to operate controls of in-vehicle devices, will also distract them and thus increase their crash risk. Distraction occurs from looking away from the road and from being mentally distracted while attending to traffic. Sometimes the activities required to operate these devices lead to drivers occasionally taking their hands off the steering wheel even for a short while. If the distraction coincides with any of such events as the sudden braking of a lead vehicle, a lead vehicle in an adjacent lane cutting in front, a pedestrian crossing the road, or an unanticipated obstacle or curve in the road simultaneously occurring, the likelihood of a crash increases substantially.

NHTSA has been concerned about the potential safety impact of driver distraction from using advanced, in-vehicle technologies for a number of years. In 1998, NHTSA published available information on the potential effects of wireless phones on traffic safety. In conjunction with the DOT Intelligent Vehicle Initiative, NHTSA completed several research studies that focused on measuring the effect of driver distraction from navigation systems on driving performance. Additional research is currently underway that focuses on drivers' use of wireless phones in naturalistic driving situations. In 1998, NHTSA sent a letter (available in Docket NHTSA–99–5098–01) to vehicle manufacturer executives urging them to personally ensure that the application of advanced technologies does not pose safety risks and to ''maintain or establish rigorous internal design protocols to address this possibility.'' While the primary focus of

that letter was inflatable restraints, the letter pointed out that the ''introduction of all new technologies, such as navigation and warning systems, head-up displays, and other intelligent systems'' must be accomplished in a way that is safe for drivers. In a February 10, 1999, public statement, the agency said that, ''Manufacturers have an obligation to thoroughly and adequately test the safety of any new technology under real world conditions prior to introduction into the marketplace.''

B. Internet Forum on the Safety Implications of Driver Distraction When Using In-Vehicle Technologies

To provide an opportunity for further technical discussions among a wider range of participants than is possible at the public meeting, NHTSA is initiating an international Internet Forum devoted to presentations of research studies and other initiatives related to the safety impact of driver distraction when using in-vehicle devices. It will also provide a forum for discussions of research and related issues by interested parties, technical professionals, and the public, both in the United States and internationally. NHTSA will also post on the Internet information on past and present research on driver distraction.

The key topics to be addressed in the Internet Forum are:

1. How do in-vehicle technologies influence driver distractions? What are the effects of distraction on safety and safe driving performance? How does distraction from in-vehicle technologies differ from and compare to distraction due to other sources?

2. Methodological challenges in measuring the influence of design features of devices, their operation, and their impact on distraction and safe driving performance.

3. Effective government, industry, and consumer actions to minimize distraction.

4. Current and future research necessary to support actions to minimize distraction.

Participation in the Internet Forum: Persons interested in submitting technical papers on current or past research or activities related to the above topics should send an electronic copy to Michael Perel by June 15, 2000. Technical papers should include an abstract, be in English, modeled after conference style proceedings, and should be about 4–5 pages in length (not including graphics). Overviews of ongoing research programs and discussions of industry practices are also welcome. NHTSA will review submissions and notify authors of acceptance within 2 weeks of receipt. Submissions will be reviewed according to the relevance of the paper to the Forum, the clarity of the writing, the validity of experimental methodology used, if any, the degree to which conclusions are supported by data, and the usefulness of the paper to decision makers in the government, practitioners, researchers, and others. Due to the relatively short time for preparation and review, persons interested in submitting material are strongly encouraged to contact Michael Perel in advance of submitting such material. The documents should be in Microsoft WORD, Corel Wordperfect, Adobe pdf, or ASCII text format. If authors have previously published studies and wish to have the studies included on the Internet Forum Web site as a resource for others interested in the topic, they should send the studies in electronic format or submit a Web site link to the material if it is already on line.

Persons not submitting a technical paper, may register to join the Forum to view technical papers, post questions to authors, join discussion groups on related topics, or answer questions about their experience using in-vehicle technologies. The Web site for registering for the conference will be www.driverdistraction.org.

Procedural matters: The Internet Forum will be open for registration on June 23, 2000. Technical papers will be posted on July 5, 2000. The Forum will be active until August 11, 2000. After that date, the material presented will be archived and remain available for viewing on NHTSA's Web site. Also, a summary of the Forum will be prepared and posted on this Web site.

C. Public Meeting

On July 18, 2000, NHTSA will conduct a public meeting, providing a forum for industry, safety, research groups, and the general public to discuss strategies for realizing the benefits of in-vehicle technologies without increasing the risk of crashes due to driver distraction. The objective of this meeting is to share viewpoints and information on the following general topics:

1. What new technologies and features are being planned for use by drivers

2. The role of various entities in promoting best practices in the design and use of these devices

3. How to evaluate the safety impacts of such systems and what are safety-relevant ways to measure driver distraction

4. Ongoing activities to promote safe use of in-vehicle technologies

5. Additional activities and research needed.

1. *Written Statements, Presentations, and Comments:* The agency has established Docket No. NHTSA–99–6270 as a repository for presentations, statements, and comments on issues related to the safety of in-vehicle technologies. Written or electronic submissions may be made to this docket at any time. For written materials, two copies should be submitted to Docket Management at the address given at the beginning of this document. The materials must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to the submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Presentations made at the public meeting will also be posted in a separate section of the Internet Forum Web site if the presenter submits an electronic version of the presentation including a separate brief abstract or overview by July 5, 2000. Any comments made at the public meeting and a summary of the discussions that take place will be posted on the Internet after the meeting. The electronic submissions for the Internet Forum should be sent by E-mail (5 mb max), floppy disk, or CD ROM to Michael Perel at the address given above.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at 400 Seventh Street, SW., Washington, DC 20590. Additionally, two copies of the above document from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation, 49 CFR Part 512.

2. *Meeting Participation:* This is a public meeting, and attendance is open to all members of the public. You may attend as a participant or an observer. If you plan to attend the meeting, contact Rita Gibbons at the address, telephone, fax, or the E-mail listed above before July 5, 2000. E-mail or Fax is preferred. If you wish to present a prepared oral statement during the meeting, please send a copy of your statement to Mr. Perel by July 5, 2000.

3. *Procedural Matters:* A written transcript of the meeting will be made. Speakers will have a maximum of 15–

20 minutes. Presenters may be questioned by a panel of government officials. Time permitting, audience members may submit written questions for the panel to ask the presenters.

Issued on: May 25, 2000.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 00–13535 Filed 5–30–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7361; Notice 1]

Freightliner Corporation; Receipt of Application for Decision of Inconsequential Noncompliance

Freightliner Corporation (Freightliner) of Portland, Oregon, has determined that some of its vehicles fail to meet the brake release time requirements of paragraph S5.3.4.1(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems.* On May 8, 1997, Freightliner filed a noncompliance information report pursuant to 49 CFR Part 573.5. In that report, Freightliner indicated that it would file a petition for inconsequential noncompliance at a future date. Freightliner states that a Petition for Inconsequential Noncompliance dated October 10, 1997 was submitted to the agency but we have no record of it. Subsequently, on February 29, 2000, Freightliner resubmitted its Petition dated October 10, 1997.

This notice of receipt of the application is published under 49 U.S.C. 30118 and 30120, and does not represent an agency decision or other exercise of judgement concerning the merits of the application.

Under the requirements of S5.3.4.1(a) of FMVSS No. 121, each truck equipped with air brakes is required to have a pressure reduction from 95 psi to 5 psi, measured at each brake chamber of the truck, in not more than 0.55 second from the initial movement (release) of the service brake control. In addition, S5.3.4.1(b) requires that a truck which is equipped to tow another air-braked vehicle is required to have a pressure reduction from the initial test pressure equivalent to 95 psi in the truck's brake chambers, to 5 psi in not more than 0.75 second, measured in a 50-cubic-inch test reservoir attached to the control line coupling, upon initial movement (release) of the service brake control. Thus the pressure in the test reservoir is required to drop from approximately 95 psi to 5 psi in not more than 0.75 second upon release of the service brake control.

Number of Non-Complying Trucks

From January 1994 through April 1996, Freightliner produced approximately 3,145 Model FLD trucks that may not have had a quick-release valve installed at the control line coupling and therefore may not meet the release timing requirements in FMVSS No. 121. Data on the number of vehicles of the 3,145 affected truck population that were built without the quick release valve are as follows. According to Freightliner's noncompliance information report, a field inspection of 34 subject vehicles indicated that 5.9 percent (two trucks) did not have the quick release valves. According to Freightliner's petition for inconsequential noncompliance, an inspection (of an unspecified number) of trucks at the St. Thomas Manufacturing Plant where these vehicles were manufactured indicated that 69 percent were manufactured without the quick release valve. Freightliner also said in its petition that a field inspection of 38 subject trucks indicated that 9 percent did not have the quick release valve installed.

We telephoned Mr. Tony Moore of Freightliner's engineering department and Mr. Larry Winslow of Freightliner's compliance department on April 4, 2000, to clarify the numbers of non-compliant vehicles and two other subjects that are discussed below. The field inspection of 38 trucks indicated in the petition included the 34 trucks identified in the noncompliance information report. When asked about the number of vehicles inspected at the St. Thomas plant, Freightliner indicated that it has documentation showing that 303 trucks were inspected, and 70 trucks or 23 percent did not have quick release valves installed. Freightliner could not locate documentation regarding how the 69 percent number in the petition was derived and believes that this number is incorrect per the documentation it now has.

Brake Release Times of Non-Complying Trucks

FMVSS No. 121, paragraph S5.3.4.1(b), requires that the release timing measured in the test reservoir from initial pressure to 5 psi shall be 0.75 second. In its petition, Freightliner states that it conducted a test program to predict the actual release timing of the subject vehicles. The results are as indicated in the table below:

[Predicted] release timing (seconds)	Vehicle population	Percent of population
0.76–0.80	773	24.5
0.81–0.85	1759	55.9
0.86–0.90	602	19.1
0.91–0.95	1	0.03
0.96–1.00	10	0.3
over 1.00	0	0

In the April 4, 2000 telephone conversation, Freightliner indicated that this prediction of release timing is based upon the length of the air tubing from the treadle valve to the trailer service air line glad hand coupling. The overall length of the air tubing varies with tractor wheelbase and the resulting vehicle population numbers in the table were derived on this basis. Without the quick release valve, the air is released through the treadle valve. As indicated in Freightliner's petition, the installation of the quick release valve releases the air at the tractor end of the trailer service air line.

Freightliner Rationale for Inconsequentiality to Safety

Freightliner does not believe that tractor glad hand timing between 0.75 and 1.00 second poses any risk or compromises highway safety. It states that brake application pressures at a highway speed of 55 mph rarely exceed 20 psi, and that when comparing the release timing from 20 psi on vehicles that would have 0.90 and 0.75 second release timing when tested according to FMVSS No. 121, the actual time differential drops to less than 0.10 second. In the April 4, 2000, telephone conversation, Freightliner clarified that the 0.10 second timing is the time for the pressure to be reduced at the glad hand coupling from 20 psi to 5 psi on trucks with no quick release valve installed. Freightliner also indicated that it did not do a comparable analysis of release timing from 20 psi with the quick release valve installed.

Freightliner believes that glad hand timing requirements were established primarily for the purpose of improving the application timing balance of combination vehicles, not the release timing. Freightliner cites the summary in Docket No. 85–07, Notice 3, as follows:

> The purpose of the glad hand timing requirements is to ensure that the air delivery from towing vehicles to towed vehicles is fast enough to apply the brakes of all vehicles in the combination at approximately the same time, thereby avoiding a reduction in the combination stability (*e.g.*, trailer bumping) caused by a slow glad hand.

Freightliner states that release timing is not mentioned, and that some

commenters in the same docket questioned NHTSA's research in justifying the proposed release timing requirement. Freightliner indicates that one commenter stated that it is difficult to determine the effect of trailer release timing and tractor/trailer release differentials on compatibility and suggested testing indicated 0.90 second is sufficient. Freightliner also indicates that another commenter argued that a 1.00 second release timing would be more practical and accomplish the objective of the proposal, and that NHTSA stated that:

> A short glad hand release time is not as important for safety and, in fact, it is not desirable to have the glad hand release before the tractor brakes.

Freightliner believes that requiring the rearmost vehicle to release last tends to ''stretch'' out the unit (vehicle combination) and make it more stable, and that slower than the required release time may actually help overall stability.

Freightliner summarizes its petition by stating that an estimated 280 to 2170 tractors were manufactured without quick release valves such that the glad hand release timing may be slightly higher than the 0.75 second specified in FMVSS No. 121, and that nearly all (99.6 percent) do not exceed 0.90 second. Freightliner believes that this timing difference of 0.0 to 0.15 second has no discernable or measurable effect on braking performance and thus no detrimental effect on highway safety. Therefore, it requests that we grant its petition to exempt it from the notification and remedy requirements of the Motor Vehicle Safety Act.

Comments and Docket Submissions

Interested persons are invited to submit written data, views, and arguments on Freightliner's petition for inconsequential noncompliance described above. Comments should refer to the Docket Number and be submitted to Docket Management at the address given above under **ADDRESSES**.

All comments received before the close of business on the closing date indicated below will be considered. The application, supporting materials, and comments also will be filed in the docket. Comments received after the closing date will also be filed and considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 30, 2000.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: May 23, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 00–13536 Filed 5–30–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM
FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of proposed revisions to the Consolidated Reports of Condition and Income (Call Report), which are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the proposed revisions prior to giving its final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before July 31, 2000.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Third Floor, Attention: 1557–0081, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov. Comments will be available for inspection and photocopying at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC 20219 between 9 a.m. and 5 p.m. on business days. Appointments for inspection of comments may be made by calling (202) 874–5043.

Board: Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, submitted by electronic mail to regs.comments@federalreserve.gov, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number: (202) 898–3838; Internet address: comments@fdic.gov]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Draft copies of the two versions of the Call Report forms that are proposed to replace the current four versions of the Call Report may be obtained at the FFIEC's web site (www.ffiec.gov) and at the FDIC's web site.[1] Draft copies of

[1] On the FDIC's web site, draft copies of the proposed Call Report forms will be attachments to the Financial Institution Letter that transmits this proposal to all institutions that file Call Reports.

Continued

these proposed revised Call Report forms also may be requested from any of the agency clearance officers whose names appear below.

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Mary M. West, Chief, Financial Reports Section, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collections of information:

Report Title: Consolidated Reports of Condition and Income.

Form Number: Current form numbers: FFIEC 031, 032, 033, and 034. Proposed form numbers: FFIEC 031 and 041.[2]

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

For OCC:

OMB Number: 1557–0081.

Estimated Number of Respondents: 2,400 national banks.

Estimated Time per Response: 41.76 burden hours.

Estimated Total Annual Burden: 400,865 burden hours.

For Board:

OMB Number: 7100–0036.

Estimated Number of Respondents: 1,014 state member banks.

Estimated Time per Response: 47.56 burden hours.

Estimated Total Annual Burden: 192,903 burden hours.

For FDIC:

OMB Number: 3064–0052.

Estimated Number of Respondents: 5,734 insured state nonmember banks.

Estimated Time per Response: 30.81 burden hours.

Estimated Total Annual Burden: 706,633 burden hours.

The estimated time per response is an average which varies by agency because of differences in the composition of the banks under each agency's supervision (e.g., size distribution of banks, types of activities in which they are engaged, and number of banks with foreign offices). The time per response for a bank is estimated to range from 14 to 500 hours, depending on individual circumstances. In addition, the effect on the time per response of the proposed changes to the Call Report that are discussed in this notice will vary from bank to bank. After adjusting to the proposed revisions to the reporting requirements, many smaller banks should experience a decrease in time per response because they do not have trust powers and are not involved in the activities for which new information would be collected. In contrast, the time per response for some large banks is expected to increase because the proposed new information would be applicable to them and because the reporting of trust activities would be moved into the Call Report from two separate trust activities reports.[3]

General Description of Report

This information collection is mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), and 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks). Except for selected items, this information collection is not given confidential treatment. Small businesses (i.e., small banks) are affected.

Abstract

Banks file Call Reports with the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of reporting banks and the industry as a whole. In addition, Call Reports provide the most current statistical data available for evaluating bank corporate applications such as mergers, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. Call Reports are also used to calculate all banks' deposit insurance and Financing Corporation assessments and national banks' semiannual assessment fees.

Current Actions

I. Overview

The agencies are requesting comment on proposed revisions to the Call Report that are intended to make the content of the report more relevant to the agencies. The more significant revisions include:

- An approximate 10 percent decrease in the number of currently existing separately reportable data items (outside of regulatory capital information) whose collection is no longer warranted;
- A new regulatory capital reporting approach that uses step-by-step ''building blocks'' to compute the key elements of the capital ratios;
- Combining the three separate report forms for banks of different sizes that have only domestic offices into a single form while retaining the separate form for banks with foreign offices;
- New information on:
  - —Nontraditional and higher risk bank activities, i.e., subprime loans, securitizations and asset sale activities, additional categories of noninterest income, and restructured derivative contracts; and
  - —Federal Home Loan Bank advances and other borrowings;
- Replacing the two separate trust activities reports with a single, streamlined trust Call Report schedule;
- Eliminating the confidential treatment for loans, leases, and other assets that are past due 30 through 89 days; and
- Eliminating the additional 15-day period that banks with more than one foreign office are given for submitting their Call Reports.

These revised reporting requirements are also designed to complement the agencies' emphasis on risk-focused supervision. Furthermore, the proposal addresses certain aspects of sections 307(b) and (c) of the Riegle Community Development and Regulatory Improvement Act of 1994 (the Riegle Act). These sections direct the federal banking agencies to work jointly toward more uniform reporting, review the information that institutions currently report, and eliminate existing reporting requirements that are not warranted for safety and soundness or other public policy purposes.

Type of Review: Revision of a currently approved collection.

The proposed revisions to the Call Report have been approved for

Financial Institution Letters can be accessed at http://www.fdic.gov/news/news/financial/2000/index.html.

[2] The FFIEC 031 report form would continue to be filed by banks with domestic and foreign offices. At present, the FFIEC 032 report form is filed by banks with domestic offices only and $300 million or more in total assets, the FFIEC 033 report form is filed by banks with domestic offices only and $100 million or more but less than $300 million in total assets, and the FFIEC 034 report form is filed by banks with domestic offices only and less than $100 million in total assets. The proposed FFIEC 041 report form would replace the FFIEC 032, 033, and 034 report forms and would be filed by all banks with domestic offices only.

[3] The Annual Report of Trust Assets (FFIEC 001) and the Annual Report of International Fiduciary Activities (FFIEC 006): for the OCC, OMB Number 1557–0127; for the Board, OMB Number 7100–0031; and for the FDIC, OMB Number 3064–0024. The FDIC does not collect the FFIEC 006.

publication by the FFIEC. The agencies would implement these proposed Call Report changes as of the March 31, 2001, report date. Nonetheless, as is customary for Call Report changes, banks are advised that, for the March 31, 2001, report date only, reasonable estimates may be provided for any new or revised item for which the requested information is not readily available. The specific wording of the captions for the new and revised Call Report items and the numbering of the items in the report forms should be regarded as preliminary.

II. Streamlining the Existing Reporting Requirements

The agencies have carefully reviewed the purposes for which and extent to which they use each data item that they currently collect from banks in the Call Report. This process involved requesting feedback from the staffs within the three agencies on the specific uses of each Call Report item. The agencies also considered the magnitude of the aggregate amounts reported for each item in the Call Report, the number and size distribution of banks reporting amounts for each Call Report item, and bankers' comments about the most burdensome aspects of the Call Report. Based on this information, the agencies identified items that appeared to be of lesser significance to them, taking into account the effect that eliminating certain items and reducing the amount of detail in certain schedules would have on the agencies. In addition, the agencies considered ways to limit the number of banks that are required to complete certain items and schedules based on bank size or other criteria in order to focus the collection of this information on those institutions for which the data are most relevant.

Based on the agencies' evaluations of their users' input, the agencies are proposing to implement numerous revisions that will streamline the existing reporting requirements. While the effect of these revisions on reporting burden, either through the outright elimination of items or reductions in the amount of detail required in certain areas, will vary across the four existing sets of reporting requirements, many of the recommended revisions will affect information currently reported by substantially all banks. In other cases, the recommended changes will apply only to a subset of banks such as those with foreign offices or banks within a particular size range. This burden-reducing effort will produce an approximate 10 percent decrease in the number of separately reportable items on the four existing sets of Call Report forms (outside of regulatory capital information) before considering the agencies' new information needs, which are discussed in Section III below. These eliminations and reductions in detail will help the agencies achieve the objective set forth in section 307(c) of the Riegle Act, which directs the agencies to review the information that institutions currently report in the Call Report and eliminate existing reporting requirements that are not warranted for safety and soundness or other public policy purposes.

As part of the streamlining process, the agencies are proposing several reporting changes that will introduce more uniformity to certain aspects of bank regulatory reporting. These changes will provide more uniformity to the Call Report requirements themselves and will bring some elements of the regulatory reporting requirements for banks, savings associations, and bank holding companies into closer alignment.[4] In this regard, over the past several years, banking organizations have sought greater consistency among the reporting requirements imposed on banks, savings associations, and bank holding companies. Thus, for example, the agencies are proposing to eliminate the differing definitional schemes for loans that now exist within the Call Report for banks of different sizes and to conform other Call Report definitions to those used by savings associations. Moreover, the proposed new regulatory capital reporting approach incorporates some elements of the format used by bank holding companies to report regulatory capital information. Other proposed modifications to the Call Report are intended to make its form and content more closely resemble the manner in which information is presented in financial statements that banks prepare in accordance with generally accepted accounting principles (GAAP) for other financial reporting purposes.

An additional outcome of this streamlining effort is that the agencies believe that there is no longer a need for three separate versions of the Call Report based on asset size for banks with domestic offices only. The agencies are therefore proposing to combine these three reports (FFIEC 032, 033, and 034) into a single report (FFIEC 041). Nevertheless, within this single report, certain schedules or items would only be applicable to banks that meet specified criteria, e.g., asset size. The agencies would retain the separate version of the Call Report for banks with foreign offices (FFIEC 031).

Increasing the uniformity of the Call Report requirements, both among banks and among the different types of institutions supervised by the federal financial institution regulators, is a necessary step toward achieving the goal of a single set of reporting requirements for the filing of core information that is set forth in section 307(b) of the Riegle Act. It should also reduce reporting burden for banking organizations comprised of two or more separate entities that must file regulatory reports with their primary federal regulators.

A. Specific Proposed Deletions, Reductions in Detail, Changes To Increase Uniformity in Regulatory Reporting, and Revisions To Conform With GAAP (Outside of Regulatory Capital Reporting)

The agencies propose to delete existing items from or reduce the amount of detail currently required in most of the schedules of the Call Report. Other changes throughout the existing report will be made to bring about more uniformity in the reporting requirements for banks or among banks and other types of financial institutions insured or supervised by the agencies or to better conform with the requirements of GAAP. In addition, the specific location of certain items within the Call Report will be modified so that it better matches the presentation required by GAAP or followed in practice by most institutions. Some of these revisions will affect information that is now collected in all four versions of the Call Report (FFIEC 031, 032, 033, and 034) while other changes may affect only one report form.

A schedule-by-schedule listing of these proposed revisions, using the current numbers and captions for the affected items, follows:

Schedule RC—Balance Sheet: For all banks:

(1) Item 15.b, ''Demand notes issued to the U.S. Treasury,'' would be eliminated as a separate item and would be reported instead as part of item 16, ''Other borrowed money.''

(2) Items 26.b, ''Net unrealized holding gains (losses) on available-for-sale securities,'' 26.c, ''Accumulated net gains (losses) on cash flow hedges,'' and 27, ''Cumulative foreign currency translation adjustments,'' would be combined and reported as ''Accumulated other comprehensive

[4] These three types of financial institutions file different regulatory report forms. Banks file Call Reports, savings associations file Thrift Financial Reports, and bank holding companies subject to consolidated reporting requirements file the FR Y–9C reports.

income.'' [5] In addition, any minimum pension liability adjustment recognized in accordance with Financial Accounting Standards Board (FASB) Statement No. 87, *Employers' Accounting for Pensions*, which banks have to net against ''Undivided profits and capital reserves'' due to the constraints of the current Call Report balance sheet, would be included in this new item for ''Accumulated other comprehensive income.'' This change would conform the presentation of the equity capital section of the Call Report balance sheet to FASB Statement No. 130, *Reporting Comprehensive Income.*

(3) Loans and leases held for sale are currently included on the balance sheet in item 4.a, ''Loans and leases, net of unearned income,'' together with loans that the bank has the intent and ability to hold for the foreseeable future or until maturity or payoff, but loans and leases held for sale are separately identified in the loan schedule in Schedule RC–C, part I, Memorandum item 5. The agencies propose to move ''Loans and leases held for sale'' onto the balance sheet as an asset category separate from the loan portfolio. This change will bring the Call Report balance sheet presentation of these two categories of loans into conformity with GAAP. However, loans and leases held for sale would continue to be reported with the bank's other loans in the loan schedule (Schedule RC–C, part I).

(4) Item 4.c, ''Allocated transfer risk reserve,'' would be deleted from the balance sheet, but would be reported in the new regulatory capital schedule, which is discussed in section II.B. below. Banks would report their loans and leases net of any allocated transfer risk reserve in the loan schedule (Schedule RC–C, part I).

(5) A new item for ''Other equity capital components'' would be added to the equity capital section of the balance sheet. This item would cover treasury stock and unearned Employee Stock Ownership Plan shares which, under GAAP, are to be reported in a contra-equity account on the balance sheet. Due to the constraints of the equity capital section of the current Call Report balance sheet, banks are forced to report these amounts as reductions of undivided profits. Thus, this change will make the equity capital section more consistent with GAAP and with the equity capital section of the balance sheet in the Thrift Financial Report.

[5] The first two of these components of ''Accumulated other comprehensive income'' would be separately identified in the proposed new regulatory capital schedule, which is discussed in Section II.B. below.

(6) Memorandum item 1 requires all banks to report the highest level of comprehensive external auditing work they have had performed during the previous year. In November 1999, the agencies issued a joint policy statement that encourages banks with less than $500 million in total assets to consider engaging an independent public accountant to perform a full scope annual audit or, alternatively, an attestation engagement to examine management's assessment of the effectiveness of their internal control structure over financial reporting or an audit of the bank's balance sheet. A new code category would be added to Memorandum item 1 to capture data on internal control attestations. Also, the instructions for code categories 1 and 2 of Memorandum item 1, which currently apply to full scope audits, would be revised to include balance sheet audits performed in accordance with generally accepted auditing standards.

Schedule RC–A—Cash and Balances Due From Depository Institutions: At present, this schedule appears only on the FFIEC 031, 032, and 033 forms, which means that the schedule is not completed by banks with domestic offices only and total assets of less than $100 million. The agencies are proposing to reduce the number of banks with domestic offices only to which this schedule applies by raising the size threshold for the schedule from $100 million to $300 million in total assets. All banks with foreign offices would continue to complete Schedule RC–A. However, for all banks to which the schedule would remain applicable, the agencies propose to delete Memorandum item 1, ''Noninterest-bearing balances due from commercial banks in the U.S.''

Schedule RC–B—Securities: For all banks:

(1) The three separate items for ''General obligations,'' ''Revenue obligations,'' and ''Industrial development and similar obligations'' (items 3.a, 3.b., and 3.c, respectively) would be combined into a single item for ''Securities issued by states and political subdivisions in the U.S.''

(2) Item 6.b, ''All other equity securities,'' *i.e.,* equity securities without readily determinable fair values, would be moved to a new item in Schedule RC–F—Other Assets. These equity securities are outside the scope of FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities.* Therefore, including them in the Call Report with available-for-sale securities in Schedule RC–B, albeit at historical cost rather than at fair value, has not been consistent with GAAP. Moving equity securities without readily determinable fair values to the other assets schedule is intended to eliminate this inconsistency.

(3) In Memorandum items 2.a and 2.b, which provide maturity and repricing data for debt securities (except collateralized mortgage obligations (CMOs), real estate mortgage investment conduits (REMICs), and stripped mortgage-backed securities), banks currently report their floating rate debt securities by repricing frequency. The agencies are proposing to change this reporting method so that floating rate debt securities would instead be reported based on their next repricing date in these two memorandum items. The interest rate risk measurement models in use at most banks take the next repricing date, not the repricing frequency, of floating rate debt securities into consideration. Therefore, this proposed change would bring the Call Report treatment of these securities into line with banks' internal risk measurement systems.

Additionally, banks now filing the FFIEC 034, *i.e.,* banks with domestic offices only and less than $100 million in total assets, would begin to report ''Foreign debt securities'' as a separate category of securities. These banks currently report foreign debt securities, if any, in item 5, ''Other debt securities.'' Uniform reporting of foreign debt securities by all banks is consistent with the agencies' emphasis on risk-focused supervision. This proposed change would not significantly increase overall reporting burden because of the small percentage of banks filing the FFIEC 034 that hold ''Foreign debt securities.''

Schedule RC–C, Part I—Loans and Leases:

(1) For all banks:

(a) The definition of ''Construction and land development'' loans (item 1.a) and, hence, the definitions for the other categories of loans secured by real estate (items 1.b through 1.e) would be revised to make them consistent with reporting requirements in this area for savings associations on the Thrift Financial Report. The Call Report instructions for ''Construction and land development'' loans currently direct banks to exclude from this loan category: (i) Loans to acquire and hold vacant land and (ii) construction loans with original maturities greater than 60 months. These two types of loans are instead reported as loans secured by farmland, 1–4 family residential properties, multifamily residential properties, or nonfarm nonresidential properties, as appropriate. The agencies are proposing

to revise the definitions for the five categories of ''Loans secured by real estate'' so that land loans and long-term construction loans are reported in a recaptioned item 1.a, ''Construction, land development, and other land loans.''

(b) The separate loan categories for ''Loans to depository institutions'' and ''Acceptances of other banks'' (items 2 and 5, respectively) would be combined.

(c) Item 6.a, ''Credit cards and related plans'' to individuals for household, family, and other personal expenditures, would be split into separate loan categories for ''Credit cards'' and ''Other revolving credit plans.'' For banks with foreign offices, this breakdown would be provided for both the consolidated bank and for domestic offices; the amount of ''Other'' consumer loans, currently reported for the consolidated bank only, would also begin to be reported for domestic offices.

(d) A single memorandum item for the total amount of a bank's ''Loans and leases restructured and in compliance with modified terms'' would replace the multiple memorandum items in which banks must currently report information about such restructured credits (Memorandum items 1.a and 1.b on the FFIEC 034, Memorandum items 2.a and 2.b on the FFIEC 033, and Memorandum items 2.a through 2.c on the FFIEC 031 and 032). Restructured loans secured by 1–4 family residential properties and restructured consumer loans would continue to be excluded from the revised Memorandum item.

(e) In Memorandum items 2.a and 2.b on the FFIEC 034 and in Memorandum items 3.a and 3.b on the FFIEC 031, 032, and 033, which provide maturity and repricing data for loans and leases, banks currently report their floating rate loans by repricing frequency. The agencies are proposing to change this reporting method so that floating rate loans would instead be reported based on their next repricing date in these two memorandum items. The interest rate risk measurement models in use at most banks take the next repricing date, not the repricing frequency, of floating rate loans into consideration. Therefore, this proposed change would bring the Call Report treatment of these loans into line with banks' internal risk measurement systems.

(f) The Memorandum items for ''Loans secured by nonfarm nonresidential properties with a remaining maturity of over five years'' and ''Commercial and industrial loans with a remaining maturity of over three years'' (Memorandum items 2.d and 2.e on the FFIEC 034 and Memorandum items 3.d and 3.e on the FFIEC 031, 032, and 033) would be deleted.

(2) For banks that currently file the FFIEC 033, *i.e.,* banks with domestic offices only and total assets of $100 million or more but less than $300 million:

(a) The five-way breakdown of ''Loans to depository institutions'' (items 2.a.(1) through 2.c.(2)) would be replaced with a single item for the total amount of such loans (plus acceptances of other banks, as discussed above).

(b) The breakdown of ''Commercial and industrial loans'' between those to U.S. addressees and those to non-U.S. addressees (items 4.a and 4.b) would be eliminated in favor of a single item for total ''Commercial and industrial loans.''

(c) Item 9.a, ''Loans for purchasing or carrying securities,'' and item 9.b, ''All other loans,'' would be combined into a single item for ''Other loans.''

(3) Banks now filing the FFIEC 034, *i.e.,* banks with domestic offices only and less than $100 million in total assets, would begin to report ''Loans to foreign governments and official institutions'' as a separate loan category. At present, these banks report these loans, if any, in item 8, ''All other loans.'' This proposed change would result in uniform reporting of these foreign exposures by all banks and would enhance the agencies' risk-focused supervision. However, it would not significantly increase overall reporting burden because of the nominal number of banks filing the FFIEC 034 that have ''Loans to foreign governments and official institutions.''

(4) Banks now filing the FFIEC 031 and 032, *i.e.,* banks with foreign offices or with $300 million or more in total assets, currently report a U.S.-non-U.S. addressee breakdown of their ''Loans secured by real estate'' when they report their past due and nonaccrual loans in Schedule RC–N and their loan charge-offs and recoveries in Schedule RI–B, part I. However, these banks are not currently required to report the amount of ''Loans secured by real estate'' to U.S. and non-U.S. addressees as of the report date in Schedule RC–C, part I. In order to enhance their ability to evaluate the performance of real estate loans by addressee, the agencies are proposing to add a memorandum item to Schedule RC–C, part I, for ''Loans secured by real estate to non-U.S. addressees (domicile)'' that would be completed by banks that would currently file the FFIEC 031 and 032.

Schedule RC–D—Trading Assets and Liabilities: This schedule must currently be completed by banks with either $1 billion or more in total assets or $2 billion or more in par/notional amount of derivative contracts. To reduce reporting burden for banks of this asset size that have minimal trading activity while, at the same time, focusing for the first time on banks with less than $1 billion in assets that are engaging in this activity, the criteria for completing this schedule would be revised. Thus, the agencies are proposing that banks that reported a quarterly average for trading assets of $2 million or more (in Schedule RC–K, item 7) for any quarter of the preceding year would complete Schedule RC–D. Banks with domestic offices only and less than $100 million in total assets would continue to be exempt from reporting this quarterly average and from completing Schedule RC–D.

Schedule RC–E—Deposit Liabilities: For all banks:

(1) The reporting of demand deposits by category of depositor in column B of the body of the deposits schedule would be eliminated, with banks reporting instead only the total amount of their demand deposits in this column. Banks would continue to provide a category-by-category breakdown of their total transaction accounts in column A, which includes their demand deposits, but the current duplicate reporting of demand deposits by category in both columns A and B would end.

(2) The number of categories of depositors used in the breakdowns of transaction and nontransaction accounts in the body of the deposit schedule would be reduced.

(a) ''Certified and official checks'' (item 6 on the FFIEC 034 and item 8 on the FFIEC 031, 032, and 033) would be combined with deposits of ''Individuals, partnerships, and corporations'' (item 1).

(b) Deposits of ''Commercial banks in the U.S.'' (item 4) and ''Other depository institutions in the U.S.'' (item 5) would be combined.

However, in order to achieve uniformity in depositor categories for all banks, institutions that currently file the FFIEC 034 would begin to report deposits of ''Banks in foreign countries'' separately from deposits of ''Foreign governments and official institutions'' instead of on a combined basis (in current item 7). This change for banks filing the FFIEC 034 would not significantly increase reporting burden because of the limited number of these banks that currently hold deposits from these categories of depositors.

(3) Memorandum item 3, ''All NOW accounts,'' would be deleted.

(4) In Memorandum items 5.a and 6.a, which provide maturity and repricing data for time deposits, banks currently

report their floating rate time deposits by repricing frequency. The agencies are proposing to change this reporting method so that floating time deposits would instead be reported based on their next repricing date in these two memorandum items. The interest rate risk measurement models in use at most banks take the next repricing date, not the repricing frequency, of floating rate time deposits into consideration. Therefore, this proposed change would bring the Call Report treatment of these deposits into line with banks' internal risk measurement systems.

In addition, for banks that file the FFIEC 031, *i.e.,* banks with foreign offices, the agencies are proposing to modify the reporting of deposits in foreign offices by category of depositor (in part II of Schedule RC–E). As was proposed above for domestic deposits, ''Certified and official checks'' in foreign offices (item 5) would be combined with deposits of ''Individuals, partnerships, and corporations'' (item 1). Deposits of U.S. depository institutions other than banks, currently reported in ''All other deposits'' in foreign offices (item 6), would be removed from this category and included with deposits of ''U.S. banks'' (item 2). This would leave only deposits of the U.S. Government and of states and political subdivisions in the U.S. remaining in what is now the ''All other deposits'' category, so this category would be recaptioned accordingly.

Schedule RC–F—Other Assets: For all banks:

(1) The scope of item 1, ''Income earned, not collected on loans,'' would be expanded to cover all ''Accrued interest receivable.'' Broadening this category to include interest earned, not collected on earning assets other than loans would be more consistent with the typical presentation of accrued interest receivable in financial statements prepared for other financial reporting purposes.

(2) The requirement that significant components of the residual ''Other'' assets item in Schedule RC–F (item 4) be itemized and described would be retained. However, to improve the usefulness of this information, the agencies plan to add preprinted captions for those components of ''Other'' assets most commonly itemized and described by banks.[6] At present, several banks may describe the same type of ''Other'' asset using different terminology, which makes it difficult for the agencies and other users of the Call Report to identify and compare banks holding particular types of ''Other'' assets in amounts exceeding the threshold for itemization. In addition to the specific captions that would be included for ''Other'' assets, the agencies would also provide blank text fields like those presently found in Schedule RC–F for assets not listed among the preprinted captions. Furthermore, the agencies request comment on suggested alternatives to the current threshold for itemizing and describing significant components of ''Other'' assets, *i.e.,* 25 percent of the total amount reported for ''Other'' assets.

(3) Memorandum item 1, ''Deferred tax assets disallowed for regulatory capital purposes,'' would be moved to the revised regulatory capital schedule (Schedule RC–R), which is discussed in Section II.B. below. This proposed change is part of an effort by the agencies to place all items collected principally for regulatory capital calculation purposes in a revised Schedule RC–R rather than having these items scattered across various Call Report schedules as they are at present.

Schedule RC–G—Other Liabilities: For all banks:

(1) Item 3, ''Minority interest in consolidated subsidiaries,'' would be moved to the liability side of the balance sheet (Schedule RC). As a result, the location where this liability category appears on the Call Report balance sheet would correspond to the location where banks and bank holding companies are instructed by Article 9 of the Securities and Exchange Commission's Regulation S–X to report any minority interest on balance sheets filed with the Securities and Exchange Commission.

(2) A specific new item for the ''Allowance for credit losses on off-balance sheet credit exposures,'' which must be reported separately on the balance sheet from the allowance for loan and lease losses, would be added to Schedule RC–G. At present, the limited number of banks that have an allowance for credit losses on off-balance credit exposures combine this allowance with their allowance for loan and lease losses when completing Schedule RI–B, part II—Changes in Allowance for Credit Losses. Because the allowance for loan and lease losses is reported on the Call Report balance sheet (Schedule RC), the amount of the allowance for credit losses on off-balance sheet exposures can be derived. However, as discussed below, the agencies are proposing to revise the scope of Schedule RI–B, part II. That change creates the need for the proposed new item in Schedule RC–G so that the agencies can identify the amount, if any, of a bank's allowance for credit losses on off-balance sheet exposures.

(4) The requirement that significant components of the residual ''Other'' liabilities item in Schedule RC–G (item 4) be itemized and described would be retained. However, consistent with the proposed change described above for the ''Other'' assets item in Schedule RC–F, the agencies plan to add preprinted captions for those components of ''Other'' liabilities most commonly itemized and described by banks. Likewise, the agencies would provide blank text fields like those presently found in Schedule RC–G for liabilities not listed among the preprinted captions. The agencies also request comment on suggested alternatives to the current threshold for itemizing and describing significant components of ''Other'' liabilities, *i.e.,* 25 percent of the total amount reported for ''Other'' liabilities.

Schedule RC–H—Selected Balance Sheet Items for Domestic Offices (FFIEC 031 only): This schedule is completed by banks with foreign offices. Memorandum items 1 and 2 for the ''Net due from the IBF of the domestic offices of the reporting bank'' or the ''Net due to the IBF'' of these offices would be deleted. In addition, consistent with the proposed change to the reporting of equity securities without readily determinable fair values discussed under Schedule RC–B above, item 16.b of Schedule RC–H, ''All other equity securities,'' would be renumbered so that it is no longer included as part of a bank's total held-to-maturity and available-for-sale securities in item 17 of Schedule RC–H.

Schedule RC–I—Selected Assets and Liabilities of IBFs (FFIEC 031 only): This schedule is completed by banks with IBFs and other types of foreign offices. The agencies are proposing to eliminate item 2, ''Total IBF loans and lease financing receivables,'' item 3, ''IBF commercial and industrial loans,'' item 5, ''IBF deposit liabilities due to banks, including other IBFs,'' and item 6, ''Other IBF deposit liabilities.''

Schedule RC–K—Quarterly Averages: For all banks:

(1) The categories of securities for which averages would be collected would be uniform for all banks and would better correspond with the securities categories in Schedule RC–B. In addition, the number of quarterly averages of securities that banks are required to report would be reduced or remain the same. Banks would report

[6] An example of a component of ''Other'' assets for which a preprinted caption would need to be added to the Call Report in 2001 would be ''Derivatives held for purposes other than trading that have a positive fair value.''

quarterly averages for the three following categories of securities: (a) U.S. Treasury securities and U.S. Government agency obligations, (b) mortgage-backed securities; and (c) all other securities.

(2) The categories of loans (in domestic offices) for which averages would be collected would also be defined uniformly for all banks required to report these averages. The loan category definitions used by all banks in Schedule RC–K would correspond to the standard definitions used in the loan schedule, Schedule RC–C. This would end the separate loan reporting scheme for banks with domestic offices only and less than $300 million in assets which currently permits these banks to define for themselves which of their loans to include in the general loan categories used in Schedule RC–K (and three other schedules) on the FFIEC 033 and 034. Adopting uniform categories and standard definitions will enable the agencies to obtain more consistent loan information for monitoring trends and critical ratios across banks and within individual institutions and is a necessary step toward achieving the Riegle Act's goal of a single set of reporting requirements for core information.

Thus, banks would report a quarterly average for total loans (in domestic offices) and for the five following categories of loans (in domestic offices): (a) Loans secured by real estate; (b) loans to finance agricultural production and other loans to farmers (except as noted below); (c) commercial and industrial loans; (d) credit cards to individuals for household, family, and other personal expenditures; and (e) other consumer loans. Banks with foreign offices would also continue to report a quarterly average for their total loans in foreign offices. The agencies would retain the existing Schedule RC–K reporting threshold for agricultural loans for banks with domestic offices only and less than $300 million in assets. These banks would not be required to report a quarterly average for ''Loans to finance agricultural production and other loans to farmers'' if these loans are less than or equal to 5 percent of total loans. In addition, a request for comment on the reporting of average loans by loan category by banks with domestic offices only and less than $25 million in assets is addressed in Section V.B. below.

(3) The quarterly averages for ''Money market deposit accounts'' and ''Other savings deposits'' (items 9.a and 9.b on the FFIEC 034; items 11.a and 11.b on the FFIEC 031, 032, and 033) would be combined. Banks would report a single quarterly average for all ''Savings deposits.''

In addition, for banks that currently file the FFIEC 034, *i.e.,* banks with domestic offices only and less than $100 million in assets, the option to report the quarterly averages for securities, loans, leases, and total assets using an average of four month-end figures would be eliminated. These averages, like the other averages in Schedule RC–K, would be calculated using either daily or weekly figures for the quarter, which are the other options presently available to these banks.

Schedule RC–L—Off-Balance Sheet Items:

(1) For all banks:

(a) Item 6, ''Participations in acceptances acquired by the reporting (nonaccepting) bank,'' and Memorandum item 3, ''Unused commitments with an original maturity exceeding one year,'' would be collected only on the proposed new regulatory capital schedule, discussed in Section II.B. below, and would be deleted from Schedule RC–L.

(b) Item 7, ''Securities borrowed,'' would no longer be collected from all banks. Instead, the amount of borrowed securities would be reported, when appropriate, in item 12, ''Other off-balance sheet liabilities.''

(c) The information collected in items 9.a, 9.b, and 9.c on the outstanding principal balance of and amount of recourse on three categories of financial asset transfers would be moved from Schedule RC–L and incorporated into the proposed new schedule on securitization and asset sale activities, which is discussed in Section III.B. below.

(d) The requirement that off-balance sheet liabilities and assets that exceed 25 percent of equity capital be itemized and described in items 12 and 13 would be retained. However, consistent with the proposed changes described above for ''Other'' assets and ''Other'' liabilities in Schedules RC–F and RC–G, the agencies plan to add preprinted captions for those off-balance sheet items most often itemized and described by banks.

The agencies would also retain blank text fields like those presently found in Schedule RC–L for off-balance sheet items not listed among the preprinted captions.

(e) Item 16.b for the gross notional amount of derivative contracts held for purposes other than trading that are not marked to market would be deleted. All derivative contracts, including those held for purposes other than trading, will be marked to market once a bank adopts FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities,* which is effective for fiscal years beginning after June 15, 2000. Thus, item 16.b will no longer have any relevance in 2001.

(2) For banks that file the FFIEC 031, 032, and 033, *i.e.,* banks with foreign offices or with $100 million or more in total assets:

(a) Items 17.c.(1) and (2) for the gross positive and gross negative fair values of derivatives held for purposes other than trading that are not marked to market would be deleted because of the effect of FASB Statement No. 133.

(b) Memorandum item 3.a, ''Participations in commitments with an original maturity exceeding one year conveyed to others,'' would be eliminated.

(3) For banks that file the FFIEC 031 and 032, *i.e.,* banks with foreign offices or with $300 million or more in total assets:

(a) Memorandum item 4, ''Standby letters of credit (and foreign office guarantees) issued to non-U.S. addressees (domicile),'' would be deleted.

(b) The information collected in Memorandum items 5.a, 5.b, and 5.c on three categories of consumer loans that have been securitized and sold would be moved from Schedule RC–L and incorporated into the proposed new schedule on securitization and asset sale activities, which is discussed in section III.B. below.

Schedule RC–M—Memoranda:

(1) For all banks:

(a) Items 4.a through 4.d, in which banks report a six-way breakdown of the ''Outstanding principal balance of 1–4 family residential mortgage loans serviced for others'' would be moved from Schedule RC–M and condensed into a two-way servicing breakdown in the proposed new schedule on securitization and asset sale activities, which is discussed in Section III.B. below.

(b) Item 6.e, ''Amount of intangible assets that have been grandfathered or are otherwise qualifying for regulatory capital purposes,'' item 7, ''Mandatory convertible debt, net of common or perpetual preferred stock dedicated to redeem the debt,'' item 9, ''Noncumulative perpetual preferred stock and related surplus,'' and Memorandum item 1, ''Reciprocal holdings of banking organizations'' capital instruments,'' would no longer be collected as specific items in Schedule RC–M, but would be incorporated into the calculation of Tier 1, Tier 2, and total risk-based capital in the proposed new regulatory capital

schedule, which is discussed in Section II.B. below.

(c) Item 6.c, ''Goodwill,'' would be moved from this schedule and would appear on the balance sheet (Schedule RC) as a specific item. This proposed change would be made to conform to the FASB's proposed accounting standard, *Business Combinations and Intangible Assets,* which would require all goodwill to be aggregated and presented as a separate line item on the balance sheet.

(d) Items 10.a through 10.f, which collect data on quarterly sales of annuities, mutual funds, and proprietary products, would be eliminated. In place of these items, each bank would respond to a ''yes'' or ''no'' question asking whether it sells private label or third party mutual funds and annuities. In addition, banks would report the total assets under the reporting bank's management in proprietary mutual funds and annuities. For banks with proprietary mutual funds and annuities, reporting the amount of assets under management should be significantly less burdensome than reporting the quarterly sales volume for these proprietary products.

(e) Item 11, ''Net unamortized realized deferred gains (losses) on off-balance sheet derivative contracts included in assets and liabilities reported in Schedule RC,'' and item 12, ''Amount of assets netted against nondeposit liabilities (and deposits in foreign offices) on the balance sheet (Schedule RC) in accordance with generally accepted accounting principles,'' would be eliminated.

(2) For banks that file the FFIEC 034, *i.e.,* banks with domestic offices only and less than $100 million in total assets, items 3.a, ''Noninterest-bearing balances due from commercial banks in the U.S,'' and 3.b, ''Currency and coin,'' would be deleted.

(3) For banks that file the FFIEC 031, 032, and 033, i.e., banks with foreign offices or with $100 million or more in total assets:

(a) Item 2, ''Federal funds sold and securities purchased under agreements to resell with U.S. branches and agencies of foreign banks,'' would be deleted.

(b) Item 13, ''Outstanding principal balance of loans other than 1–4 family residential mortgage loans that are serviced for others,'' would be moved from Schedule RC–M to the proposed new schedule on securitization and asset sales activities, which is discussed in section III.B. below. This information would continue to be reported when this balance is more than $10 million. The current requirement that the balance must also exceed 10 percent of total assets in order for it to be reported would be eliminated.

(4) For banks with $1 billion or more in total assets that file the FFIEC 031 and 032, the U.S.-non-U.S. addressee breakdown of ''Customers'' liability to this bank on acceptances outstanding'' in items 5.a and 5.b would be eliminated.

Schedule RC–N—Past Due and Nonaccrual Loans, Leases, and Other Assets:

(1) The categories of loans and leases for which past due and nonaccrual information would be collected would be defined uniformly for all banks, but banks with foreign offices or with $300 million or more in total assets would provide more detail for certain loan categories and for leases than other banks would. The loan category definitions used by all banks in Schedule RC–N would correspond to the standard definitions used in the loan schedule, Schedule RC–C. As discussed above under Schedule RC–K, this proposed change would end the separate loan reporting scheme for banks currently filing the FFIEC 033 and 034 which permits these banks to define for themselves the composition of the general loan categories used in Schedule RC–N (and three other schedules). Thus, all banks would report past due and nonaccrual information for the following categories of loans and leases: (a) Loans secured by real estate using the current breakdown from the Memoranda section of the schedule (Memorandum item 4 on the FFIEC 033 and 034; Memorandum item 3 on the FFIEC 031 and 032); [7] (b) loans to depository institutions and acceptances of other banks; (c) loans to finance agricultural production and other loans to farmers (except as noted below); (d) commercial and industrial loans; (e) credit cards to individuals for household, family, and other personal expenditures; (f) all other consumer loans; (g) loans to foreign governments and official institutions; (h) all other loans; and (i) lease financing receivables.

Banks with foreign offices or with $300 million or more in assets would also continue to report past due and nonaccrual information for: (a) Loans secured by real estate to non-U.S. addressees; (b) loans to foreign banks; (c) commercial and industrial loans to non-U.S. addressees; and (d) lease financing receivables of non-U.S. addressees. The agencies would retain the existing Schedule RC–N reporting threshold for agricultural loans for banks with domestic offices only and less than $300 million in assets. These banks would not be required to report past due and nonaccrual data for ''Loans to finance agricultural production and other loans to farmers'' if these loans are less than or equal to 5 percent of total loans.

(2) For banks that currently file the FFIEC 031 and 032, i.e., banks with foreign offices or with $300 million or more in assets, Memorandum item 4.b, ''Replacement cost of [past due derivative] contracts with a positive replacement cost,'' would be deleted. Once banks adopt FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities,* all of their derivative contracts will be carried on the balance sheet at fair value. Since the replacement cost of a derivative contract is its fair value and its book value will also be its fair value, Memorandum items 4.a., ''Book value of amounts carried as assets,'' and 4.b would duplicate each other. The caption for Memorandum item 4.a would be revised to read ''Fair value of amounts carried as assets.''

Schedule RI—Income Statement:

(1) For all banks:

(a) Consistent with the approach for reporting loan information discussed above under Schedules RC–K and RC–N, the categories of loans for which loan income (in domestic offices) would be collected would be defined uniformly for all banks required to report loan income by category. The loan category definitions used in Schedule RI would correspond to the standard definitions used in the loan schedule, Schedule RC–C. As previously discussed, this proposed change would end the separate loan reporting scheme for banks currently filing the FFIEC 033 and 034 which permits these banks to define for themselves the composition of the general loan categories used in Schedule RI (and three other schedules).

The agencies are proposing to have banks report interest and fee income for the following seven categories of loans (in domestic offices): (a) Loans secured by real estate; (b) loans to finance agricultural production and other loans to farmers (except as noted below); (c) commercial and industrial loans; (d) credit cards to individuals for household, family, and other personal expenditures; (e) all other consumer loans; (f) loans to foreign governments and official institutions; and (g) all other

[7] In addition to the categories of loans secured by real estate in the current breakdown, banks that file the FFIEC 031, i.e., banks with foreign offices, would also separately report their past due and nonaccrual loans secured by real estate in foreign offices, but they would no longer separately report their past due and nonaccrual loans secured by real estate to U.S. addressees.

loans. Banks with foreign offices would also continue to report the total amount of their interest and fee income on loans in foreign offices. The agencies would retain the existing Schedule RI reporting threshold for agricultural loans for banks with domestic offices only and less than $300 million in assets. These banks would not be required to report interest and fee income on ''Loans to finance agricultural production and other loans to farmers'' if these loans are less than or equal to 5 percent of total loans. In addition, a request for comment on the reporting of loan income by loan category by banks with domestic offices only and less than $25 million in assets is addressed in section V.B. below.

(b) The method of reporting tax-exempt income from loans and leases to states and political subdivisions in the U.S. used by banks that currently file the FFIEC 034 would be extended to all banks. Thus, the agencies are proposing to have all banks report the combined amount of their tax-exempt loan and lease income in a single income statement Memorandum item. This would mean that, going forward, the body of the income statement (Schedule RI) would contain only a single item (item 1.b) for income from lease financing receivables and it would no longer contain any items for income on ''Obligations (other than securities and leases) of states and political subdivisions in the U.S.''

(c) The categories of securities for which interest and dividend income would be collected would be uniform for all banks and would correspond with the securities categories for which quarterly averages are collected in Schedule RC–K. In addition, the number of categories of securities income that banks are required to report would be reduced or remain the same. Banks would report their income for the three following categories of securities in the body of the income statement: (a) U.S. Treasury securities and U.S. Government agency obligations; (b) mortgage-backed securities; and (c) all other securities. Banks would report their ''Income on tax-exempt securities issued by states and political subdivisions in the U.S.'' in a new income statement Memorandum item rather than in the income statement (Schedule RI) itself.

(d) The agencies are proposing to add a new item for ''Other interest income'' to the interest income section of Schedule RI. This new item would be used for reporting interest income on assets other than those properly reported in items 1 through 5 of the Call Report balance sheet (Schedule RC), e.g., interest income on interest-only strips receivable (not in the form of a security) that are reported in Schedule RC–F, item 3. In addition, because this proposed new item is currently included in the interest income section of the income statement in the Board's FR Y–9C bank holding company report, this change would increase the uniformity between that report's income statement and Call Report Schedule RI.

(e) The separate interest expense items for interest on ''Money market deposit accounts'' and ''Other savings deposits'' (items 2.a.(2)(a) and (b) on the FFIEC 032, 033, and 034; items 2.a.(1)(b)(1) and (2) on the FFIEC 031) would be combined. Banks would report an interest expense item for interest on all ''Savings deposits.''

(f) Item 4.a, ''Provision for credit losses,'' would be revised so that it includes only the provision for loan and lease losses. Banks would report any provision for credit losses on off-balance sheet exposures in ''Other noninterest expense'' and they would itemize and describe this provision in Schedule RI–E—Explanations, if it is significant.

(g) Item 4.b, ''Provision for allocated transfer risk,'' would be eliminated as a specific income statement item. Banks would report any provision for allocated transfer risk in ''Other noninterest expense'' and itemize and describe it in Schedule RI–E if it is significant.

(h) Memorandum item 12, ''Deferred portion of total applicable income taxes included in Schedule RI, items 9 and 11,'' would be deleted.

(2) For banks currently filing the FFIEC 031, 032, and 033, i.e., banks with foreign offices or with total assets of $100 million or more:

(a) A threshold test would be added to determine which banks should complete Memorandum items 8.a through 8.d, which provide a breakdown of trading revenue by risk exposure. At present, regardless of the amount of a bank's trading revenue, the bank must report the breakdown. To take a more risk-focused approach to reporting this information, the agencies are proposing to require that only those banks that reported a quarterly average for trading assets of $2 million or more (in Schedule RC–K, item 7) for any quarter of the preceding year would report the trading revenue breakdown. This is the same threshold test proposed for Schedule RC–D—Trading Assets and Liabilities. In addition, Section III.C. below discusses the agencies' proposal to collect separate information on trading revenue from cash instruments from banks with $5 billion or more in notional amount of derivatives.

(b) Memorandum items 9.a through 9.c request banks to disclose the impact of derivatives held for purposes other than trading on interest income, interest expense, and noninterest income (expense). For reporting beginning in 2001 when FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities,* is in effect, the instructions for these items, and possibly the items themselves, will need to be revised because all derivatives will be reported on the balance sheet at fair value and the accounting for fair value and cash flow hedges under Statement No. 133 differs from current hedge accounting practices. The agencies request comment on how the existing instructions for Memorandum items 9.a through 9.c, or these three items themselves, should be modified in response to Statement No. 133. In particular, banks are encouraged to describe the information they plan to provide for internal management purposes on the effect of derivatives held for purposes other than trading on their earnings.

(3) Banks currently filing the FFIEC 031 and 032, i.e., banks with foreign offices or with total assets of $300 million or more, must report the amount of ''Credit losses on off-balance sheet derivatives'' in Memorandum item 10. With all derivatives carried on the balance sheet at fair value after banks adopt FASB Statement No. 133, credit losses related to derivatives will be reflected in the fair value of these instruments and no allowances for credit losses on derivatives should be maintained. Thus, the agencies request comment on how the existing instructions for Memorandum item 10 should be revised in response to Statement No. 133. The agencies would be especially interested in comments explaining how banks plan to measure and report credit losses on derivatives for internal management purposes.

Schedule RI–A—Changes in Equity Capital: For all banks:

(1) The agencies are proposing to change the manner in which the previous year-end balance of equity capital is reported in this schedule so that it better corresponds with how this balance is presented in financial statements prepared in accordance with GAAP. At present, banks must report the ''Total equity capital originally reported'' in the Call Report for the previous year-end in item 1. If the bank has filed any amendments to this previous year-end Call Report that affected its originally reported total equity capital, these equity capital adjustments are reported in item 2, and the amended equity capital balance for

the previous year-end is reported in item 3. The agencies are proposing to eliminate item 2 and, in effect, have banks report what is now reported in item 3 as their previous year-end equity capital balance. Thus, as Schedule RI–A would be revised, banks would report the ''Total equity capital most recently reported'' for the previous year-end in item 1. Next, the agencies propose to combine items 9, ''Cumulative effect of changes in accounting principles from prior years,'' and 10, ''Corrections of material accounting errors from prior years,'' and designate the combined items as item 2, ''Restatements due to corrections of material accounting errors and changes in accounting principles,'' of revised Schedule RI–A. The next item in revised Schedule RI–A (item 3) would then be captioned ''Balance end of previous calendar year as restated.''

(2) The net amount of a bank's treasury stock transactions, which is now included in item 5, ''Sale, conversion, acquisition, or retirement of capital stock, net,'' would be reported in a new item. This item would enable the agencies to monitor the volume and extent of this activity during the year-to-date reporting period. Moreover, this proposed change would bring the reporting of treasury stock transactions in Schedule RI–A into closer conformity with the reporting of these transactions in the corresponding schedule in the Board's FR Y–9C bank holding company report.

(3) Items 11.a, ''Change in net unrealized holding gains (losses) on available-for-sale securities,'' and 11.b., ''Change in accumulated net gains (losses) on cash flow hedges,'' (and, on the FFIEC 031 only, item 12, ''Foreign currency translation adjustments'') would be combined and replaced by an item for ''Other comprehensive income.'' This item would also include any minimum pension liability adjustment recognized during the year-to-date in accordance with GAAP, which banks currently have to report elsewhere in Schedule RI–A. Identifying ''Other comprehensive income'' in the changes in equity capital schedule is consistent with FASB Statement No. 130, *Reporting Comprehensive Income.*

In addition, banks now filing the FFIEC 034, *i.e.,* banks with domestic offices only and less than $100 million in total assets, would begin to complete Schedule RI–A quarterly rather than annually as of December 31. Sound financial reporting practices dictate that an institution prepare a year-to-date reconcilement of equity capital in its workpapers each quarter to ensure that it properly measures the total equity capital to be reported on the Call Report balance sheet. Thus, completing Schedule RI–A each quarter should not represent a significant increase in burden for most banks that file the FFIEC 034. Compared to annual reporting, quarterly completion of this schedule should also improve the accuracy of the reported data by enabling the agencies to more promptly identify any direct entries to equity capital that should have been recorded in earnings or another account. In addition, banks that file the FFIEC 034 currently report the amount of cash dividends declared during the calendar year-to-date in Schedule RI, Memorandum item 5, in the quarters when they do not complete Schedule RI–A. As part of this proposed change, Memorandum item 5 would be deleted.

Schedule RI–B—Charge-Offs and Recoveries on Loans and Leases and Changes in Allowance for Credit Losses: For all banks:

(1) The proposed changes to the categories of loans and leases for which charge-offs and recoveries are reported in Part I of this schedule would be the same as those discussed above for past due and nonaccrual loans and leases in Schedule RC–N. Thus, the loan and lease categories in Schedule RI–B, part I, would be defined uniformly for all banks using the standard definitions from the loan schedule (Schedule RC–C), but banks with foreign offices or with $300 million or more in total assets would provide more detail for certain loan categories and for leases than other banks would. As previously mentioned, this proposed change would end the separate loan reporting scheme for banks currently filing the FFIEC 033 and 034 which permits these banks to define for themselves the composition of the general loan categories used in Schedule RI–B, part I. Thus, banks would report past due and nonaccrual information for the following categories of loans and leases: (a) Loans secured by real estate using the current breakdown from Memoranda item 5; [8] (b) loans to depository institutions and acceptances of other banks; (c) loans to finance agricultural production and other loans to farmers (except as noted below); (d) commercial and industrial loans; (e) credit cards to individuals for household, family, and other personal expenditures; (f) all other consumer loans; (g) loans to foreign governments and official institutions, (h) all other loans, and (i) lease financing receivables.

Banks with foreign offices and banks with domestic offices only and $300 million or more in assets would also continue to report past due and nonaccrual information for: (a) Loans secured by real estate to non-U.S. addressees; (b) loans to foreign banks; (c) commercial and industrial loans to non-U.S. addressees; and (d) lease financing receivables of non-U.S. addressees. The agencies would retain the existing Schedule RI–B, part I, reporting threshold for agricultural loans for banks with domestic offices only and less than $300 million in assets. These banks would not be required to report past due and nonaccrual data for ''Loans to finance agricultural production and other loans to farmers'' if these loans are less than or equal to 5 percent of total loans.

(2) The scope of part II would be revised to cover changes in the allowance deleted.for loan and lease losses rather than the entire allowance for credit losses. In addition, similar to the proposal discussed above for Schedule RI–A—Changes in Equity Capital, the agencies would change the manner in which the previous year-end balance of the allowance is reported in Schedule RI–B, part II, so that it better corresponds with its presentation in financial statements prepared in accordance with GAAP. At present, banks report the balance of the allowance as ''originally reported'' in their previous year-end Call Report in item 1. The effects of any amendments to the previous year-end Call Report on the allowance as originally reported are included in item 5, ''Adjustments.'' The agencies are proposing to revise item 1 to eliminate the need to report these adjustments from amended Call Reports in item 5. Thus, banks would report the ''Balance most recently reported'' for the previous year-end allowance for loan and lease losses in item 1.

In addition, banks now filing the FFIEC 034, *i.e.,* banks with domestic offices only and less than $100 million in total assets, would begin to complete Schedule RI–B, part II, quarterly rather than annually as of December 31 for the same reasons cited above in the discussion of quarterly reporting of Schedule RI–A. The principal items that enter into the year-to-date reconcilement of the allowance for loan and lease losses are charge-offs, recoveries, and the provision for loan and lease losses, all of which each bank already reports quarterly. Thus, completing Schedule RI–B, part II, each quarter should not represent a

[8] In addition to the categories of loans secured by real estate in the current breakdown, banks that file the FFIEC 031, i.e., banks with foreign offices, would also separately report their charge-offs and recoveries on loans secured by real estate in foreign offices, but they would no longer separately report their charge-offs and recoveries on loans secured by real estate to U.S. addressees.

significant increase in burden for most banks that file the FFIEC 034.

Schedule RI–D—Income From International Operations (FFIEC 031 only):

(1) In part I—Estimated Income From International Operations, the reporting of interest income and expense by booking location and related adjustments in items 1 and 2 would be streamlined and replaced with items that are more consistent with the approach used in the remainder of part I for international operations. Thus, those banks that are required to complete this schedule would report their ''Gross interest income'' and their ''Gross interest expense'' attributable to international operations. From these two figures, banks would report their ''Net interest income attributable to international operations.'' Because of this streamlined approach, Memorandum items 1 and 2 on intracompany interest income and expense, respectively, would be deleted.

(2) Part II—Supplementary Details on Income from International Operations, which has been collected to accommodate certain data needs of the Departments of Commerce and Treasury, would be eliminated.

Schedule RI–E—Explanations: For all banks:

(1) The requirement that banks itemize and describe significant components of other noninterest income and other noninterest expense in items 1 and 2 would be retained. However, similar to proposals discussed above for Schedules RC–F, RC–G, and RC–L, the agencies propose to add preprinted captions for the most commonly itemized and described categories of other noninterest income and expense. Blank text fields like those presently contained in items 1 and 2 would be retained for noninterest income and expense items not specifically covered in the preprinted captions. Furthermore, the agencies request comment on the current thresholds for itemizing and describing significant components of other noninterest income and other noninterest expense, *i.e.*, 10 percent of the total amount reported for other noninterest income and other noninterest expense, respectively. In particular, the agencies request comment on whether it would be more appropriate to base the threshold for itemizing and describing significant components of both other noninterest income and other noninterest expense on the sum of ''Net interest income'' plus ''Total noninterest income.''

(2) Item 2.a, ''Amortization expense of intangible assets,'' would be moved from Schedule RI–E to the income statement (Schedule RI), where it would be split into separate items for ''Amortization expense of intangible assets (excluding goodwill)'' in the noninterest expense section and ''Goodwill charges.'' This latter item would be reported on a net-of-tax basis and placed after item 10, whose caption would be revised to read ''Income (loss) before goodwill charges, extraordinary items, and other adjustments.'' The ''Goodwill charges'' item would be followed by a new item captioned ''Income (loss) before extraordinary items and other adjustments.'' The agencies are proposing these changes in response to the FASB's proposed accounting standard, Business Combinations and Intangible Assets, which requires this method of financial statement presentation for goodwill charges and the amortization expense for intangible assets other than goodwill. The agencies will monitor the progress of this proposed accounting standard in order to ensure that the presentation of these items in the Call Report income statement conforms to the presentation required by the FASB's final standard on business combinations and intangible assets.

(3) To conform to the changes proposed above for Schedules RI–A and RI–B:

(a) Item 4, ''Equity capital adjustments from amended Reports of Income (from Schedule RI–A, item 2),'' would be deleted.

(b) Items 5, ''Cumulative effect of changes in accounting principles from prior years (from Schedule RI–A, item 9),'' and 6, ''Corrections of material accounting errors from prior years (from Schedule RI–A, item 10),'' would be combined and recaptioned as ''Restatements due to corrections of material accounting errors and changes in accounting principles from prior years (from Schedule RI–A, item 2).''

(c) The scope of item 8 would be revised to cover ''Adjustments to allowance for loan and lease losses (from Schedule RI–B, part II, item 4).''

As the preceding listing of proposed revisions shows, even though the agencies are proposing to reduce the number of different versions of the Call Report from four to two, there will continue to be differences in the amount of information that banks will be required to report to the agencies. These differences are primarily based on whether a bank has any foreign offices (as defined in the Call Report instructions) and on a bank's total assets.[9] For example, Schedule RC–A—Cash and Balances Due From Depository Institutions would be completed by all banks with foreign offices or with $300 million or more in total assets. In some cases, the threshold for determining which banks must report certain information is based on other criteria. For example, to implement a more risk-focused approach to the reporting of trading activity, the agencies are proposing that banks (with foreign offices or with $100 million or more in total assets) that reported a quarterly average for trading assets of $2 million or more (in Schedule RC–K, item 7) for any quarter of the preceding year must complete Schedule RC–D—Trading Assets and Liabilities each quarter of the current year.

However, questions have been raised as to whether using reporting thresholds, other than those based on total assets or other readily available information that all banks must report, is an effective method for exempting banks from reporting certain information in the Call Report and thereby reducing reporting burden. For example, if the agencies ask banks to report the amount of a certain type of asset only if a bank has more than a specified dollar amount of this type of asset, is this less burdensome than simply requiring all banks to report the amount of this type of asset? In other words, what effect would Call Report reporting thresholds of this type have on the reporting burden imposed on individual banks and on banks as a whole?

B. Proposed New Regulatory Capital Reporting Approach

The agencies propose to revise the regulatory capital schedule (Schedule RC–R) by incorporating many of the reporting concepts of the Call Report's optional regulatory capital worksheet as well as some of those contained in the regulatory capital schedule currently filed by bank holding companies on the FR Y–9C report form. Under the agencies' proposal, all banks would be required to complete the entire revised regulatory capital schedule.

In general, the proposed revised format would use a systematic, step-by-step ''building block'' approach under which all banks would report the various components and adjustments that determine Tier 1, Tier 2, and total capital, as well as risk-weighted assets. This means that all bank capital ratios—the Tier 1 leverage ratio, the Tier 1 risk-based capital ratio, and the total risk-based capital ratio—would be derived

[9] Unless otherwise specified, the measurement date for determining whether a bank meets a particular reporting threshold, such as the total assets threshold, is June 30 of the preceding year.

directly from the items that banks report on this schedule. These ratios would also be disclosed in the schedule. To eliminate redundant reporting, the agencies expect that the Call Report preparation software products used by most banks would automatically take, *i.e.*, carry forward, the carrying values of all on-balance sheet asset values and the face value or notional amount of most off-balance sheet items used in the capital calculations from other areas of the Call Report and enter these amounts into the proposed revised schedule. These carried-forward values would function as ''control totals'' and banks would allocate these amounts to the appropriate risk weight categories in accordance with the risk-based capital guidelines.

Currently, banks with total assets of less than $1 billion that have total capital greater than or equal to 8 percent of ''adjusted total assets,'' as defined, need to complete only existing items 1–3.f on Schedule RC–R. All other banks must complete the current version of Schedule RC–R in its entirety. Existing item 3 requires the reporting of the major capital categories—Tier 1, Tier 2, Tier 3, and total risk-based capital—as well as risk-weighted assets and average total assets, which is used in the Tier 1 leverage ratio. The amounts reported in these existing items should be the amounts determined by banks for their own internal capital analyses consistent with the applicable capital standards. These items, *i.e.,* items 3.a through 3.f, are so-called ''self-reported'' capital items. The first part of the proposed revised regulatory capital schedule would essentially replicate the steps that banks are already going through to determine the major capital categories on a ''self-reported'' basis and therefore should not impose significant additional reporting burden. Moreover, to facilitate this proposed step-by-step ''building block'' approach to computing these capital categories, the agencies propose to move a number of items that are collected principally for regulatory capital calculation purposes from their currently scattered locations in other Call Report schedules to their more logical position in the proposed revised capital schedule. For example, the item for ''Deferred tax assets disallowed for regulatory capital purposes'' that is currently collected in Schedule RC–F—Other Assets, would now be included in the proposed revised Schedule RC–R. In addition, existing Schedule RC–R items 2.a and 2.b, which require the reporting of qualifying limited-life capital instruments that are includible in Tier 2 capital, would be collected on a combined basis in the proposed revised schedule.

Existing items 4–9 of Schedule RC–R would be replaced with a format that closely resembles the format of Part 2 of the current Call Report optional regulatory capital worksheet (and portions of Schedule HC–I of the bank holding company FR Y–9C report). Banks' Call Report software would take the carrying values of banks' balance sheet asset categories, as reported on Schedule RC, and automatically carry these amounts forward to column A of the on-balance sheet portion of the proposed revised capital schedule. Banks would then allocate these asset values to the appropriate risk weight categories in accordance with the risk-based capital guidelines to the same extent that they do at present for their own internal capital analyses, which is part of the same process banks currently use when determining net risk-weighted assets for ''self-reported'' item 3.d.(1) of Schedule RC–R.[10] During the allocation, column B of the on-balance sheet portion of the proposed schedule would be used by banks to report assets that are not subject to risk weighting under the capital guidelines. For banks that currently complete Schedule RC–R in its entirety, column B would be equivalent to existing item 8 of Schedule RC–R.

Similarly, banks' Call Report software would automatically take the face value or notional amount of those off-balance sheet items included in the calculation of risk-weighted assets that are reported elsewhere in the Call Report (generally, in Schedule RC–L) and include these amounts in column A of the off-balance sheet portion of the proposed regulatory capital schedule. However, banks would need to separately identify the amounts of their low-level recourse transactions and other financial assets sold with recourse. The Call Report software products would likely embed the credit conversion factors applicable to the various off-balance sheet items into the software for this schedule.[11] The software should then calculate the credit equivalent amount for each off-balance sheet item (column B) by multiplying the face or notional amount by the credit conversion factor. Banks would next allocate the credit equivalent amounts to the appropriate risk weight categories like they do for their own internal risk-based capital analyses.[12] As with the on-balance sheet items, banks must currently follow this same allocation process for their off-balance sheet items in order to complete the calculation of their net risk-weighted assets for ''self-reported'' item 3.d.(1) of Schedule RC–R.

An advantage to this ''building block'' approach is that banks, the agencies, and other Call Report users would be assured that the sum of the amounts allocated to each risk weight category (plus the on-balance sheet items not subject to risk weighting) would agree to the balance sheet total for each asset category and the credit equivalent amount for each off-balance sheet item. This type of approach has been used for many years in the bank holding company FR Y–9C report and, from comments the agencies have received in the past, seems to be the preferred risk-based capital reporting format by bankers who must complete both the Call Report and the FR Y–9C. Furthermore, via the Call Report preparation software products used by most banks, a large portion of the inputs to the proposed schedule's risk-weighting process for both on- and off-balance sheet items would be taken automatically from other parts of the Call Report. These software products should also perform the final calculation of total risk-weighted assets as well as the risk-based and leverage capital ratios reported in the proposed schedule. Thus, the power of the software should help minimize reporting burden.

Overall, the agencies believe that the proposed revisions to the regulatory capital schedule of the Call Report provide a rational, systematic approach to reporting the elements of capital as well as the components of risk-weighted assets. The proposed approach should offer both enhanced and efficient

[10] For risk-based capital purposes, banks are not required to identify each on-balance sheet asset and off-balance sheet item that qualifies for a risk weight of less than 100 percent (50 percent for derivatives). Thus, when completing the proposed revised Schedule RC–R, each bank would decide for itself how detailed an analysis of its assets and off-balance sheet items it wishes to perform and how many of the specific lower risk-weighted items it wishes to identify. In other words, a bank can pick and choose among the asset items and the credit equivalent amounts of off-balance sheet items that have a risk weight that is less than the maximum and risk-weight them accordingly, or simply risk-weight some or all of these items at a 100 percent risk weight (50 percent for derivatives).

[11] For the retained recourse on financial assets sold with low-level recourse, banks would have the ability to apply their institution-specific factors if they use the ''direct reduction method'' for converting low-level exposures to credit equivalent amounts.

[12] For example, if a bank has $100 face value of performance standby letters of credit and the credit conversion factor for these letters of credit is 50 percent, then the credit equivalent amount is $50. The bank would assign the credit equivalent amount of $50 to the appropriate risk weight categories according to the obligor or, if relevant, the guarantor or the nature of the collateral in accordance with the risk-based capital guidelines.

reporting for both banks and Call Report users.

III. Proposed New Information

In addition to streamlining the existing Call Report requirements by eliminating information that is no longer of significant value, the agencies are also endeavoring to improve the relevance of the Call Report by identifying new types of information that are considered critical to the agencies' supervisory data needs going forward. In so doing, the agencies have focused primarily on new activities and other recent developments that may expose institutions to new or different types of risk. The agencies expect that most of the proposed new reporting requirements discussed below will affect a relatively small percentage of banks because of the limited number of institutions that are involved in the activities these reporting requirements address.

Furthermore, by proposing to implement the following new reporting requirements in the same reporting period as the Call Report streamlining changes, banks will be able to make all of the necessary systems changes at one time. The agencies believe that combining these various types of revisions into a single package should result in lower start-up costs and reporting burden for banks from a systems perspective.

The agencies are currently reviewing various provisions of the Gramm-Leach-Bliley Act (Pub. L. 106–102, codified at 15 U.S.C. 6801 *et seq.*), which was signed into law on November 12, 1999. Because of the new affiliations that banks are permitted to have and the new activities in which banks and bank subsidiaries may engage, the agencies may need to implement changes to the Call Report in the future on account of this new law.

A. Subprime Loans

Subprime lending is a high-risk activity that poses increased risk to the institutions involved and to the deposit insurance funds if appropriate safeguards are not in place. Insured institutions have increasingly entered the subprime lending market in recent years, and industry analysts predict that many nonbank subprime specialists will seek to be acquired by insured institutions to take advantage of the relatively less expensive, more stable funding source that insured deposits provide. The exact number of institutions involved in subprime lending is not known with certainty; however, the FDIC has estimated that approximately 150 insured institutions currently have significant exposures in the subprime lending business. Despite a favorable economic environment, a disproportionate number of insured institutions that engage in subprime lending are problem institutions. The estimated number of insured subprime lenders represents just over one percent of all insured institutions, yet they account for nearly 20 percent of all problem institutions.

The actual extent of insured institutions' involvement in subprime lending is not known because there is no periodic reporting of this activity to the banking agencies. The estimates that have been made come from examination data, but the quality and timeliness of the subprime lending data gleaned from examination reports is constrained by inconsistent reporting and by the length of the examination cycle. The issue of timeliness is particularly troublesome from a safety and soundness perspective, since subprime lending tends to be a volume-oriented business that encourages rapid portfolio growth. Consequently, there is no reliable way to regularly monitor individual institutions' subprime lending programs. In several instances, this has resulted in the unexpected and severe deterioration in the condition of an institution from one examination to the next.

Accordingly, the agencies are proposing to add a number of new items to the Call Report on subprime lending. These proposed items would make possible the early detection and proper supervision of subprime lending programs through offsite monitoring procedures. Banks involved in subprime lending would report quarter-end data for the following eight categories of subprime loans in their loan portfolios: (1) Revolving, open-end loans secured by 1–4 family residential properties extended under lines of credit, (2) closed-end loans secured by first liens on 1–4 family residential properties, (3) closed-end loans secured by junior liens on 1–4 family residential properties, (4) loans secured by other properties, (5) credit cards to individuals for household, family, and other personal expenditures, (6) consumer loans secured by automobiles, (7) other consumer loans, and (8) other subprime loans. This information would be reported in new Memorandum items in the loan schedule (Schedule RC–C, part I). Thus, for example, the proposed Memorandum item for subprime closed-end loans secured by first liens on 1–4 family residential properties should contain all subprime loans that are included in Schedule RC–C, part I, item 1.c.(2)(a). Banks involved in subprime lending would also report their past due and nonaccrual subprime loans and the year-to-date charge-offs and recoveries on these loans in new Memorandum items in Schedules RC–N and RI–B, part I. In these two areas, two broader loan categories would be used: loans secured by real estate and loans not secured by real estate.

The quality and validity of the proposed subprime lending information to be collected in the Call Report hinges on a workable definition of subprime lending. Furthermore, subprime loans could be defined on the basis of either (a) loan portfolios or programs that possess certain characteristics or (b) individual loans with these characteristics. Whether the portfolio or program approach or the individual loan approach ultimately is adopted, the agencies are proposing the following definition of subprime loans for purposes of reporting information on these loans in the Call Report:

> Subprime loans are extensions of credit to borrowers who, at the time of the loan's origination, exhibit characteristics indicating a significantly higher risk of default than traditional bank lending customers. Risk of default may be measured by traditional credit risk measures, *e.g.,* credit/repayment history and debt-to-income levels, or by alternative measures such as credit scores. Subprime borrowers represent a broad spectrum of debtors ranging from those who have exhibited repayment problems prior to origination of their loans due to an adverse event, such as job loss or medical emergency, to those who persistently mismanage their finances and debt obligations. Subprime lending does not include loans to borrowers who have had minor, temporary credit difficulties since the origination of their loans but are now current. Subprime loans may take the form of direct extensions of credit; loans purchased from other lenders, including delinquent or credit impaired loans purchased at a discount; and automobile or other financing paper purchased from other lenders or dealers.

The agencies invite comment on all aspects of the proposed new Call Report items on subprime lending. In particular, the agencies seek comment on the proposed definition of subprime loans generally and on the following issues relating to this definition:

(1) Should all individual subprime loans be reported in the proposed new Call Report items or should only those subprime loans that are held in a segregated portfolio or program be reported? Do you foresee any difficulties in reporting individual subprime loans or segregated groups of subprime loans?

(2) Based on the proposed definition of subprime loans above, approximately what percentage of your bank's loan portfolio would currently be categorized

as subprime? Using your bank's own internal definition of a subprime loan, what percentage of your loan portfolio does your bank currently classify as subprime? Please indicate whether these percentages are based on an individual subprime loan approach or a segregated portfolio or program approach. To the extent possible, provide percentages for your bank's loan portfolio under both approaches.

(3) What criteria does your bank use to determine which loans are subprime? Are the criteria the same for all types of loans, *e.g.,* mortgage, automobile, and credit cards? If not, how do they differ?

(4) In defining subprime loans, which factor(s) listed below are the best indicators of a higher risk of default?

(a) Higher loan fees.

(b) Higher interest rates. For example, should all loans made at a contract rate 200 basis points above the rate that is offered to a traditional bank customer for the same type of loan be included as subprime loans?

(c) Debt-to-income ratios. For example, should a loan to a borrower with a specific debt-to-income ratio above a stipulated level automatically be a subprime loan?

(d) Delinquency history. For example, should a loan be categorized as subprime if the customer's credit history at the time of the loan's origination indicates that he or she had two or more payments that were 30 days past due in the last 12 months or had loans charged off in the last 12 months? When would your bank consider that a customer's delinquency history makes that customer a subprime borrower?

(e) Loan-to-value ratio. Is there a loan-to-value ratio above which a loan secured by real estate would be considered subprime?

(f) Credit scores or other ratings. If your bank uses credit scoring to determine whether a loan should be categorized as subprime, are the scores custom or generic bureau scores?

(1) If generic bureau scores were used, below what score cutoff would a loan be considered subprime?

(2) Does the score cutoff differ by loan type?

(g) Bankruptcy status. For example, how far back in the customer's credit history would your bank go to determine whether a bankruptcy should affect your categorization of a loan?

(h) Lack of credit history.

(i) Other factors. Please identify any other factor that should be considered an indicator of a higher risk of default and explain why it should be considered.

(5) Should the definition of subprime be identical for all types of loans, or should it differ by type of loan, *e.g.,* mortgage, automobile, and credit cards?

(6) Can your bank determine from its records whether borrowers with subprime characteristics have credit support (*e.g.,* public or private guarantees, co-signers, and insurance) on specific loans? If yes, do you categorize loans with such credit support as subprime loans?

(7) The proposed subprime loan definition relies on differences between traditional and ''higher risk'' borrowers? How should the agencies take into account shifts in that difference (*e.g.,* what happens if ''traditional'' lending standards drop)?

(8) Should the subprime loan definition distinguish between institutions that target higher risk borrowers as opposed to those institutions that serve a community in an economically disadvantaged area where the repayment ability of area borrowers can be or has been adversely affected?

(9) Should there be a de minimus level of subprime loans below which reporting is not required?

(10) Should smaller institutions be treated differently from larger institutions for reporting purposes?

(11) What types of loans or lending programs, if any, should be excluded from the definition of subprime loans or, if included in the definition, reported separately from other subprime loans? Please explain the reasons for the exclusion or separate reporting.

(12) Should the proposed Call Report items on subprime loans be treated as confidential for a limited period of time in order to give banks time to resolve issues surrounding which loans should and should not be reported as subprime?

Although this proposal would create several new Call Report items, the burden of reporting this information will fall only upon those institutions engaged in subprime lending as it will be defined. Even if the number of banks involved in this activity turns out to be, say, four times the current estimate, these proposed new reporting requirements would affect only 6 percent of the banks that file Call Reports. The agencies would welcome any additional information commenters can provide on the number of banks that are subprime lenders in order to improve the agencies' assessment of the potential reporting burden of this proposal.

B. Bank Securitization and Asset Sale Activities

At present, the Call Report includes several items in various schedules that the agencies use to assess bank involvement in securitization and asset sale activities. The items generally focus on the securitization and sale of 1–4 family residential mortgages and consumer loans. However, over the past few years, the scope and volume of bank asset securitization activities have expanded significantly beyond the traditional 1–4 family residential mortgage and consumer loan areas into other areas, most notably into the areas of home equity and commercial lending. The agencies propose to revise and expand the information collected in the Call Report to facilitate more effective analysis of the impact of securitization and asset sale activities on bank credit exposures. In this regard, the agencies are proposing to introduce a separate new Call Report schedule (Schedule RC–S) that would comprehensively capture information related to bank securitization and asset sale activities.

Under this proposal, banks involved in securitization and asset sale activities would report quarter-end (or year-to-date) data for seven loan categories similar to the manner in which they report their loan portfolios. These data would cover 1–4 family residential loans, home equity lines, credit card receivables, auto loans, other consumer loans, commercial and industrial loans, and all other loans. For each loan category, banks would report: (1) The outstanding principal balance of assets sold and securitized with recourse or seller-provided credit enhancements, (2) the maximum amount of credit exposure arising from recourse or credit enhancements to securitization structures (separately for those sponsored by the reporting bank and those sponsored by other institutions), (3) the past due amounts and charge-offs and recoveries on the underlying securitized assets, (4) the amount of any commitments to provide liquidity to the securitization structures, (5) the outstanding principal balance of assets sold with recourse or seller-provided credit enhancements that have not been securitized, and (6) the maximum amount of credit exposure arising from assets sold with recourse or seller-provided credit enhancements that have not been securitized. A limited amount of information would also be collected on bank credit exposures to asset-backed commercial paper conduits.

For the home equity line, credit card receivable, and the commercial and industrial loan categories, banks would also report the amount of any ownership (or seller's) interests in securitizations that are carried as securities and the past due amounts and charge-offs and recoveries on the assets underlying

these seller's interests. The agencies request comment on whether these proposed items for ownership (or seller's) interests in securitizations should also include seller's interests not in security form that continue to be carried as loans on the balance sheet or whether information on these non-security seller's interests should be collected separately. Expanding the proposal to incorporate data on seller's interests that are not in security form would provide the agencies a complete picture of this element of banks' securitization activities. The agencies also request comment on whether banks are engaging in transactions in which they retain ownership (or seller's) interests in asset securitizations that involve loans outside of the three categories included in the proposal (*i.e.,* home equity lines, credit card receivables, and commercial and industrial loans).

In addition, the agencies request comment on the manner in which banks' internal management reports capture information on asset securitization activities. In particular, do bank management reports primarily furnish information on the basis of whether the bank provides recourse or credit enhancements (which is the basis upon which proposed Schedule RC–S is structured, consistent with the agencies' risk-based capital requirements) or do these reports primarily furnish information on the basis of whether the bank performs the servicing on the underlying assets?

With the collection of this expanded information on bank securitization and asset sale activities, the following existing Call Report items on Schedule RC–L would be eliminated:

(1) For all banks, items 9.a.(1) and (2) on the outstanding principal balance and amount of recourse exposure on first lien 1–4 family residential mortgage loans sold with recourse, and items 9.b.(1) and (2) on the outstanding principal balance and amount of recourse exposure on other financial assets sold with recourse.

(2) For banks filing the FFIEC 031 and 032, *i.e.,* banks with foreign offices or with $300 million or more in total assets, Memorandum items 5.a, 5.b, and 5.c on the outstanding amount of auto loans, credit cards, and other consumer loans that have been securitized and sold (with servicing retained).

In addition, the six items on 1–4 family residential mortgage loan servicing that all banks currently complete on Schedule RC–M (items 4.a through 4.d) would be combined into two items and moved to the proposed new securitization and asset sale activities schedule. These two items would cover residential mortgages serviced for others with credit enhancements and with no credit enhancements. The separate Schedule RC–M item on the servicing of all other loans (item 13), which is currently reported by banks filing the FFIEC 031, 032, and 033, *i.e.,* banks with foreign offices or with $100 million or more in total assets, would be moved to the proposed new schedule and would be applicable to all banks. This servicing item would continue to be reported only if the amount is more than $10 million, but the agencies would eliminate the additional current threshold that it must exceed 10 percent of total assets in order to be reported.

Based on a review of the Call Report information currently collected on assets transferred with recourse, mortgages serviced with recourse, and securitized consumer loans, the agencies estimate that approximately 5 percent of all banks are currently involved in securitization and asset sale activities. Thus, although the proposed new schedule would collect a considerable amount of information on these activities, most banks will not be affected by Schedule RC–S and the increase in reporting burden associated with the schedule's new or expanded information will be confined to a relatively small segment of the banking industry.

On a related matter, the agencies also propose to collect information to facilitate more effective assessments of bank credit and other exposures related to their portfolios of asset-backed securities. Currently, virtually all non-mortgage asset-backed securities are reported in a single Call Report item, *i.e.,* Schedule RC–B, item 5, ''Other debt securities.'' The proposed segregation of specific categories of asset-backed securities from ''Other debt securities'' would promote risk-focused supervision by enhancing the agencies' ability to assess credit exposures and asset concentrations. Under the proposal, banks would report quarter-end fair value and amortized cost information for six categories of asset-backed securities that are currently included in the item for ''Other debt securities.'' The six categories are securities backed by: (1) Home equity lines, (2) credit card receivables, (3) auto loans, (4) other consumer loans, (5) commercial and industrial loans, and (6) all other loans.

C. Additional Categories of Noninterest Income

Noninterest income has grown substantially over the last few years as a source of revenue for banks. For 1999, noninterest income in the aggregate for commercial banks accounted for 42 percent of their net interest income plus noninterest income, 8 percentage points higher than in 1994. Most of this growth in noninterest income has come from new or expanded services provided by banks. A more detailed breakdown of noninterest income would provide the agencies with valuable supervisory information on the amount and type of fee-generating activities within the bank.

Therefore, the agencies are proposing to add several new noninterest income categories to those currently collected in the Call Report income statement (Schedule RI). These categories were selected in part based on a review of noninterest income information currently reported by banks in Schedule RI–E—Explanations. In this schedule, banks must itemize and describe, using their own terminology, their most significant categories of ''Other noninterest income.'' Three of the proposed new income statement categories represent items, or modifications of items, for which specific preprinted captions currently appear in Schedule RI–E (items 1.a, 1.b, and 1.c and items 2.b, 2.c, and 2.d). As a result, these items would no longer be reported in Schedule RI–E.

The categories of noninterest income that would be added as specific items on the Call Report income statement are: (1) Investment banking, advisory, brokerage, and underwriting fees and commissions, (2) venture capital revenue, (3) net servicing fees, (4) net securitization income, (5) insurance commissions and fees, (6) loan and other credit-related fees (not reported as part of interest and fee income on loans), (7) net gains (losses) on sales of loans, (8) net gains (losses) on sales of other real estate owned, and (9) net gains (losses) on sales of other assets (excluding securities). The current income statement item for ''Other fee income'' (item 5.b.(1) on the FFIEC 034; item 5.f.(1) on the FFIEC 031, 032, and 033) would be discontinued. These new noninterest income items would be included on the report forms for all banks. However, in most cases, small banks are not likely to be involved in several of these activities or transactions and, therefore, will be subject to only limited additional reporting burden in this area.

The new noninterest income items would provide greater comparability among the categories of noninterest income currently reported by banks. Some of the proposed noninterest income categories would represent the only information provided in the Call

Report on certain bank activities. By collecting more detailed noninterest income data, the significance of each of these activities can be compared to other income-generating activities of the bank.

Finally, for the limited number of large banks that have $5 billion or more in notional amount of derivatives held for trading, the agencies are proposing to modify the information currently collected on trading revenue by risk exposure (in Schedule RI, Memorandum item 8). In order to distinguish between trading revenue from cash instruments and from derivative contracts, these banks would begin to report their revenue from cash instruments by risk exposure in addition to their total trading revenue by risk exposure.

D. Federal Home Loan Bank Advances

As of year-end 1999, over 5,300 or approximately three fifths of the 8,600 insured commercial banks were members of the Federal Home Loan Bank System. Nearly all of the more than 1,600 thrift institutions, including FDIC-supervised savings banks, also were members. Many commercial banks have joined the Federal Home Loan Bank System in recent years in order to gain a new source of funding. As a result, the volume of Federal Home Loan Bank advances to commercial banks has risen dramatically. The Federal Home Loan Bank System had advances outstanding of $155 billion to about 3,700 commercial banks at the end of 1999 according to aggregate data that the Federal Housing Finance Board (FHFB) supplied to the agencies. These advances represented almost 40 percent of total advances of $392 billion to all Federal Home Loan Bank System members at the end of 1999. Federal Home Loan Bank advances to banks and thrifts are expected to further increase because recent legislation expands the types of assets that institutions can pledge as collateral for advances.

At present, Federal Home Loan Bank advances are reported as part of a bank's ''Other borrowed money'' in the Call Report (Schedule RC, item 16). The aggregate amount of ''Other borrowed money'' at commercial banks has increased significantly over the past few years, growing at a faster rate than the total liabilities of commercial banks. Between year-end 1994 and 1999, aggregate ''Other borrowed money'' more than doubled to $508 billion. Thus, about 30 percent of aggregate ''Other borrowed money'' currently consists of advances from Federal Home Loan Banks. While the agencies have been able to obtain information on advances indirectly through the FHFB and relate it to Call Report data on borrowings, the agencies' future ability to obtain timely and consistent data on advances may be more difficult after the FHFB implements its plan to give the 12 Federal Home Loan Banks more autonomy and reporting responsibility.

Therefore, to improve their monitoring and understanding of individual banks' funding sources, asset-liability management, and liquidity, the agencies are proposing to have banks report Federal Home Loan Bank advances separately from their remaining ''Other borrowed money,'' including the existing three-way maturity breakdown of these borrowings. This would also provide more consistent information on borrowings by banks and savings associations because the latter already report the amount of their Federal Home Loan Bank advances on the Thrift Financial Report.

In addition to Federal Home Loan Bank advances, ''Other borrowed money'' includes other types of nondeposit liabilities to third parties that may be partially or fully secured by bank assets. Examples of these collateralized borrowings include loans sold under repurchase agreements that mature in more than one business day, mortgage indebtedness on bank premises, and borrowings from Federal Reserve Banks. The FDIC is currently evaluating the effect of bank assets that secure borrowings in the context of risk to the insurance funds and the setting of appropriate deposit insurance assessment rates. Accordingly, the agencies seek comment on the existing availability of information in bank records on the collateralization of bank borrowings and the amounts and types of collateral involved. To the extent it is not currently available, comment is requested on the burden associated with developing and maintaining this information. Data on the collateral securing bank borrowings would also enable the agencies to more efficiently evaluate the cost of resolving a failed or failing institution and market it to potential acquirers.

E. Restructured Derivative Contracts

The agencies propose to require that banks with foreign offices or with $300 million or more in total assets report the fair value of derivative contracts carried as assets that have been restructured or renegotiated for reasons related to the counterparty's financial difficulties. This new item would exclude derivative contracts that are 30 days or more past due. The purpose for adding this item is to obtain better and more complete information about the general credit quality and performance of banks' derivatives. Currently, the Call Report collects past due information on these contracts (Schedule RC-N, Memorandum item 4); however, this item rarely shows significant volumes of delinquent derivative contracts because the contracts are often either renegotiated and restructured or charged off before they become more than 30 days past due. Because counterparty credit risk is a significant consideration in the assessment of derivative transactions, information on restructured contracts is important for supervisory purposes and will complement the data that banks already report on past due derivatives and on credit losses on derivatives.

Based on December 31, 1999, Call Report data, less than 500 banks currently report that they have derivative contracts outstanding. Moreover, the seven largest commercial bank participants in the derivatives market hold 95 percent of the notional amount of all derivatives held by commercial banks. Approximately 90 percent of the Call Report information currently collected on derivative contracts is reported by banks with total assets of $1 billion or more. Thus, the burden associated with the collection of the proposed new item on restructured derivative contracts would be concentrated in large banks.

IV. Reporting of Trust Data

The agencies propose to change the manner in which banks report information on their trust activities. Thus, for banks, the agencies would replace the existing Annual Report of Trust Assets (FFIEC 001) and the Annual Report of International Fiduciary Activities (FFIEC 006) with a Fiduciary and Related Services Schedule (Fiduciary Schedule). This new schedule (Schedule RC-T) would become part of the bank Call Report. Under this proposal, banks that have total fiduciary assets greater than $100 million or fiduciary income greater than 10 percent of their combined net interest and noninterest income, as well as all nondeposit trust companies that file Call Reports, would be required to report certain trust information in Schedule RC–T quarterly.[13] This

[13] A number of entities that do not submit Call Reports to the agencies file the existing trust reports. In this regard, savings associations and savings and loan service corporations with trust powers currently file the FFIEC 001. Likewise, state-chartered nondeposit trust companies that are subsidiaries of a bank or savings association, bank holding company, savings and loan holding company, or savings and loan service corporation also file the FFIEC 001. Bank subsidiaries located outside the United States, and bank holding

information includes the number of accounts and the market value of trust assets for eight categories of fiduciary activities and a fiduciary and related services income statement. This group of quarterly reporters would include approximately one-half of the 2,300 institutions conducting fiduciary activities. In the aggregate, these institutions hold more than 90 percent of total fiduciary assets. These institutions would also report data on corporate trust activities, collective investment funds and common trust funds, fiduciary settlements and other losses, and types of assets held in personal trust and agency accounts at year-end only. The remaining trust institutions would report the preceding information, except the fiduciary income statement and fiduciary settlements and other losses, annually as they do at present. The fiduciary and related services income statement and the items on fiduciary settlements and other losses would be treated as confidential information on an individual institution basis, which would maintain the treatment accorded this information in the Annual Report of Trust Assets. The agencies have applied this confidential treatment to this trust income and loss information because these data generally pertain to only a portion of a reporting institution's total operations and not to the institution as a whole.

Collecting certain data in the new Fiduciary Schedule from the larger trust institutions each quarter will provide the agencies with critical supervisory information relating to both national and international fiduciary activities on a more timely basis. This will enable the agencies to identify trends and changing risk profiles relating to fiduciary activities more quickly.

Most of the 51 data items that would be reported quarterly in the Fiduciary Schedule are currently included in the annual trust reports. Modifications have been made to some of the existing items to improve their value and usefulness. An additional 48 data items would only be collected annually in the December 31 report. The total number of separately reportable data items in the proposed Fiduciary Schedule represents a decrease of almost 60 percent in the number of reportable items in the FFIEC 001 and FFIEC 006 combined. Although roughly half of the trust institutions would have a new quarterly filing requirement under which they would report trust data they now report only annually, these institutions should already have a reporting system in place to track this information. In addition, small trust institutions would at most have to provide trust data in 69 items once each year. Thus, the agencies believe this proposal should not produce a significant overall increase in reporting burden for trust institutions.

The agencies are proposing to add the new Fiduciary Schedule to the Call Report instead of retaining separate trust reports in order to facilitate the timely collection and processing of the information. Institutions filing the current annual trust reports generally must submit their reports within 45 days after year-end. Electronically submitted annual trust reports, first allowed for year-end 1998 reporting, have a 75-day filing deadline. By moving the reporting of fiduciary information into the Call Report, the submission deadline for the Call Report would apply to this reporting requirement. Consistent with the proposal discussed in Section V.D. below to shorten the Call Report submission period for banks with foreign offices, the length of time that trust institutions would have for completing the Fiduciary Schedule would be reduced from 45 days to 30 days for most institutions and from 75 days to 30 days for institutions that file electronically.

The agencies invite comment on all aspects of the proposed Fiduciary Schedule. In particular, the agencies seek comment on the following issues relating to this schedule:

(1) Do the proposed criteria for determining which institutions should report quarterly adequately capture those institutions that should report fiduciary activities more frequently than annually because of the extent of their involvement with these activities? If not, what should the criteria be?

(2) What types of difficulties, if any, will institutions encounter in complying with the proposed reduction in the amount of time for reporting trust information in spite of the significant decrease in the amount of data that institutions would be required to report?

(3) Are the categories of trust accounts for which asset and income information would be reported in the proposed Fiduciary Schedule an improvement over the current reporting structure of the Annual Report of Trust Assets (FFIEC 001) and are the proposed trust account categories clear? Is there an alternative categorization of trust accounts for asset and income reporting purposes that would increase the schedule's usefulness?

(4) Is net fiduciary and related services income, as it would be reported in the proposed schedule, a useful performance measure? Is the proposed single item for ''Expenses'' too broad or restrictive to allow for meaningful peer analysis? Should intracompany income credits be included, as proposed, in computing net fiduciary and related services income?

(5) Should individual institution fiduciary income and loss information continue to be accorded confidential treatment with only aggregate income and loss data made available to the public or should the agencies make some or all of this individual institution data publicly available?

(6) What fiduciary-related trends and ratios should be reported in the Bank Performance Report and how should they be presented?

(7) The FFIEC currently issues an annual publication, ''Trust Assets of Financial Institutions,'' containing data reported in the Annual Report of Trust Assets (FFIEC 001). Should the FFIEC continue to produce such a publication and, if so, which types of data from the proposed schedule should the publication contain and how often should the FFIEC publish the data?

(8) The proposed schedule would replace the Annual Report of International Fiduciary Activities (FFIEC 006). The information on fiduciary accounts in foreign offices in the proposed schedule is currently reported in the FFIEC 006, but the agencies have not made the information collected in the FFIEC 006 available to the public. In contrast, the foreign office fiduciary account information in the proposed Fiduciary Schedule would be publicly available. Should the agencies continue to treat this foreign office information as confidential and, if so, for what reasons?

V. Other Issues for Which Public Comment is Requested

A. Subchapter S Bank Dividends Distributed to Cover Shareholders' Personal Tax Liabilities

Approximately 1,300 banks have so far elected Subchapter S status for federal income tax purposes, thereby shifting the liability for the payment of taxes on the bank's taxable income from the bank to its shareholders. As a result, Subchapter S banks typically increase their dividend payments to shareholders to provide them with sufficient funds to cover their personal tax liabilities for their share of the bank's earnings. However, the agencies have not been

companies with subsidiaries or affiliates located outside the United States, that provide trust services at any foreign location currently file the FFIEC 006. This Call Report proposal does not address the trust reporting requirements that would be applicable to these entities in 2001.

fully successful in estimating the effect that Subchapter S status has on a bank's earnings and dividends by adjusting for an assumed tax rate in the Uniform Bank Performance Report (UBPR). This approach has been questioned by bankers at some Subchapter S banks who have felt the results disclosed in the UBPR were inaccurate for their individual institutions. As a consequence, the agencies have found it difficult to make valid comparisons of the dividend rates and after-tax earnings of Subchapter S banks and banks that are subject to federal corporate income taxes, *i.e.*, Subchapter C banks.

For this reason, the agencies are considering whether to add a new Call Report item in which Subchapter S banks would report the dollar amount of dividends being distributed to shareholders to cover their personal tax liabilities for the bank's taxable income. Based on comments made by bankers from some Subchapter S banks, they already determine this dividend amount after consulting with their larger shareholders.

These bankers believe that it would be more accurate for the UBPR to adjust their reported earnings and dividends using these dollar amounts in place of a calculation that applies an assumed tax rate to bank earnings. Therefore, the agencies request comment on:

(1) Whether Subchapter S banks normally perform such an analysis as part of their dividend-setting process,

(2) How these banks determine the amount to distribute to shareholders given the shareholders' differing personal tax positions,

(3) Whether the amounts distributed to cover shareholders' personal tax liabilities are measured consistently from year to year, and

(4) Whether the agencies should add a new Call Report item in which Subchapter S banks would report the amount of dividends distributed to cover shareholders' personal tax liabilities.

B. Reporting of Loan Income and Averages by Small Banks

Banks with domestic offices only and less than $25 million in assets are not currently required to report a breakdown of their total loan income by loan category or their quarterly average for total loans by loan category. This reporting approach for the smallest banks took effect in 1984 and was intended to limit the reporting burden on these institutions at a time when their loan systems were believed to be primarily manual rather than automated. These small banks do, however, report a breakdown of their loan portfolios by loan category as of each quarter-end report date and they also report their past due and nonaccrual loans and their charge-offs and recoveries by loan category each quarter. With the increased use of technology, even by small banks, since 1984, and the requirement to file Call Reports electronically, the reason for exempting banks with less than $25 million in assets from reporting loan income and averages by loan category may no longer be valid.

Removing this small bank exemption would improve the agencies' offsite monitoring capability for these banks, thereby enhancing their risk-focused supervision. The agencies would be able to detect changes in the loan yields for the separate loan categories within an individual small bank's loan portfolio and compare this to changes in the loan volume in those categories and to the yields on these loan categories at peer group banks. This would provide the agencies a means to more promptly identify a small bank's move to higher risk, higher yielding loans. Removing this exemption would also increase the consistency of the information available on bank lending for all banks, which may prove useful to the management of small banks as they evaluate their own institution's performance.

If the exemption from reporting loan income and averages were eliminated for banks with domestic offices only and less than $25 million in assets, these banks would report a breakdown of their total interest and fee income on loans using the following loan categories: (1) Loans secured by real estate, (2) commercial and industrial loans, (3) credit cards to individuals for household, family, and other personal expenditures, (4) other consumer loans, (5) loans to foreign governments and official institutions, and (6) all other loans. In addition, those banks with less than $25 million in assets that have ''Loans to finance agricultural production and other loans to farmers'' (Schedule RC–C, part I, item 3) exceeding 5 percent of total loans would report the amount of income on these agricultural loans. Banks with domestic offices only and less than $25 million in assets would report quarterly averages for: (1) Loans secured by real estate, (2) commercial and industrial loans, (3) credit cards to individuals for household, family, and other personal expenditures, and (4) other consumer loans. Those banks meeting the 5 percent of total loans test would also report a quarterly average for their ''Loans to finance agricultural production and other loans to farmers.''

Thus, the agencies request comment on the merits of eliminating the exemption from reporting loan income and averages by loan category for banks with domestic offices only and less than $25 million in assets. In particular, the agencies request comment on the extent to which these banks' loan systems are automated and on the availability of this loan category information.

C. Eliminating Confidential Treatment for Certain Past Due and Nonaccrual Data

An important public policy issue for the agencies has been how to use market discipline to complement supervisory resources. Market discipline relies on market participants having information about the risks and financial condition of banking organizations. The Call Report, in particular, is widely used by securities analysts, rating agencies, and large institutional investors as sources of bank-specific data. Disclosure that increases transparency should lead to more accurate market assessments of risk and value. This, in turn, should result in more effective market discipline on banking organizations.

Despite this emphasis on market discipline, the FFIEC and the agencies currently accord confidential treatment to the information banks report in Schedule RC–N of the Call Report on the amounts of their loans, leases, and other assets that are past due 30 through 89 days and still accruing (and on the amount of restructured loans and leases that are past due 90 days or more and still accruing or in nonaccrual status). This is the only financial information currently collected on the Call Report that is treated as confidential on an individual bank basis. The agencies publish aggregate data derived from these confidential items. In contrast, the information banks report on the amounts of their loans, leases, and other assets that are 90 days or more past due and still accruing or that are in nonaccrual status has been publicly available since June 30, 1983. Nevertheless, the agencies have not precluded banks from publicly disclosing the past due and restructured data that the agencies treat as confidential, provided individual borrower information is not released. In order to give the public, including banks, more complete information on the level of and trends in bank asset quality at individual institutions, the agencies are proposing to eliminate the confidential treatment for the 30–89 days past due (and restructured) items beginning with the amounts reported as of March 31, 2001.

In addition, the agencies request comment on whether they should also make publicly available the individual bank 30–89 day past due (and restructured) Call Report information for some number of quarters prior to the first quarter of 2001. This would enable Call Report users outside the agencies to better understand the trend of delinquent loans by giving these users current data that they can compare to the 30–89 day past due (and restructured) information for quarters ending December 31, 2000. If prior quarters' data are made publicly available, comment is requested on which past quarter should be chosen as the earliest quarter for which the agencies make these data publicly available, *e.g.,* March 31, 2000, or March 31, 1996.

D. Shortening the Submission Period for Banks with Foreign Offices

Banks are required to submit their Call Reports electronically so that they are received by the banking agencies' electronic collection agent no later than 30 days after the quarter-end report date, *e.g.,* by April 30 for the March 31 report. However, banks that have (or have previously had) more than one foreign office, other than a ''shell'' branch or an International Banking Facility, are permitted an additional 15 days to file their Call Reports, *e.g.,* by May 15 for the March 31 report. These banks with foreign offices have been provided this additional time to complete and submit their reports since at least 1980. This privilege was granted, at least in part, because of the length of time it took these banks to receive information from overseas offices that was needed for Call Report purposes.

The agencies begin using individual bank Call Report data for monitoring and other analytical purposes as soon as the report has been received without waiting for the editing and validation process to be completed. However, for the banks with more than one foreign office, a group that includes the banking system's largest institutions, this process cannot begin until as much as 45 days after the quarter-end report date. Thus, the agencies' monitoring and analysis of risk exposures in individual banks and for the banking system as whole is impeded by the delayed submission of Call Report data by banks with more than one foreign office. Furthermore, with the technological advances over the past 20 years, bank systems have the ability to receive data from overseas offices on a much more timely basis.[14] The 15-day extension also gives banks with foreign offices a comparative advantage over the remainder of the industry that must submit its data within 30 days. The compilation and timely analysis of aggregate statistics on the banking industry's condition and performance also suffers from having to contend with the two different submission deadlines, particularly because the banks whose data are received the latest hold the bulk of the banking system's assets, liabilities, capital, and earnings.

Accordingly, the agencies believe that there may no longer be sufficient justification for banks with more than one foreign office to have a lengthier submission period than other institutions. The agencies are therefore proposing to eliminate the additional 15-day period that these banks have for filing their Call Reports. Banks that would be affected by this proposed change are specifically invited to comment on any difficulties that this change would present.

VI. Request for Comment

In addition to the issues upon which comment has been requested above, comments are invited on:

(a) Whether the proposed revisions to the Call Report collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this Notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection request.

Dated: May 22, 2000.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, May 23, 2000.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 22nd day of May, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–13511 Filed 5–30–00; 8:45 am]

BILLING CODES OCC: 4810–33–P, Board: 6210–01–P, FDIC: 6714–01–P

[14] For example, internationally active banking organizations routinely provide the securities markets with consolidated financial information long before their bank subsidiaries with foreign offices file their Call Reports.

Corrections

Federal Register

Vol. 65, No. 105

Wednesday, May 31, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 97–98; FCC 00–116]

Rules and Policies Governing Pole Attachments

Correction

In rule document 00–11911 beginning on page 31270 in the issue of Wednesday, May 17, 2000, make the following corrections:

1. On page 31273, in the third equation from the top, in the third variable from the left, in the second line, ''Depreciation on (Poles)'' should read ''Depreciation (Poles)''.

§1.1404 [Corrected]

2. On page 31282, in the first column, in §1.1404, in paragraph (g)(1)(vii), in the second line, ''paragraph (g)(i)(vi)'' should read ''paragraph (g)(1)(vi)''.

3. On the same page, in the same column, in paragraph (g)(1)(viii), in the second line, ''paragraph (g)(i)(vi)'' should read ''paragraph (g)(1)(vi)''.

[FR Doc. C0–11911 Filed 5–30–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act; Lower Living Standard Income Level

Correction

In notice document 00–11978 beginning on page 30630 in the issue of Friday, May 12, 2000, make the following correction:

On page 30633, following ''Table 3 '', add ''Table 4 - Seventy Percent of Updated 2000 Lower Living Standard Income Level (LLSIL), by Family Size'', as set forth below.

Table 4 - Seventy Percent of Updated 2000 Lower Living Standard Income Level (LLSIL), by Family Size

To use the seventy percent LLSIL value, where it is stipulated for WIA programs, individuals must begin by locating the region or metropolitan area where they reside. These are listed in Tables 1, 2 and 3. Individuals must locate their region or metropolitan statistical area and then find the seventy percent LLSIL amount for that location. The seventy percent LLSIL figures are listed in the last column to the right on each of the three tables. These figures apply to a family of four. Larger and smaller family eligibility is based on a percentage of the family of four. To determine eligibility for other size families consult the table below.

To use Table 4, locate the seventy percent LLSIL value that applies to the individual's region or metropolitan area from Tables 1, 2 or 3. Find the same number in the "family of four" column of Table 4. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the maximum household income the individual is permitted in order to qualify as economically disadvantaged under WIA.

Where the HHS poverty level for a particular family size is greater than the corresponding LLSIL figure, the LLSIL figure is indicated in parentheses. Individuals from these size families may consult the 2000 HHS poverty guidelines found in the Federal Register, Vol. 65, No. 31, February 15, 2000, pp. 7555-7557 (on the Internet at http://aspe.hhs.gov/poverty/00poverty.htm) to find the higher eligibility standard. Individuals from Alaska and Hawaii should consult the HHS guidelines for the generally higher poverty levels that apply in their states.

Family of One	Family of Two	Family of Three	Family of Four	Family of Five	Family of Six
($6,000)	($9,820)	($13,480)	($16,640)	($19,640)	$22,970
($6,180)	$10,130	($13,900)	$17,160	$20,250	$23,690
($6,240)	($10,220)	($14,030)	$17,320	$20,440	$23,910
($6,500)	($10,650)	$14,620	$18,040	$21,290	$24,900
($6,500)	($10,650)	$14,630	$18,050	$21,300	$24,910
($6,510)	($10,660)	$14,630	$18,060	$21,320	$24,930
($6,540)	($10,720)	$14,710	$18,160	$21,430	$25,070
($6,660)	($10,920)	$14,990	$18,500	$21,830	$25,530
($6,690)	($10,960)	$15,050	$18,570	$21,920	$25,630
($6,830)	($11,190)	$15,350	$18,950	$22,370	$26,160
($6,900)	$11,300	$15,520	$19,150	$22,600	$26,430
($6,920)	$11,330	$15,560	$19,200	$22,660	$26,500
($6,930)	$11,360	$15,590	$19,240	$22,710	$26,560
($6,940)	$11,370	$15,610	$19,260	$22,730	$26,580
($7,120)	$11,670	$16,020	$19,770	$23,330	$27,290
($7,180)	$11,760	$16,150	$19,930	$23,520	$27,510
($7,210)	$11,820	$16,220	$20,020	$23,630	$27,630
($7,220)	$11,830	$16,240	$20,040	$23,650	$27,660
($7,250)	$11,880	$16,310	$20,130	$23,760	$27,780
($7,310)	$11,980	$16,450	$20,300	$23,960	$28,020
($7,340)	$12,020	$16,500	$20,370	$24,040	$28,120
($7,400)	$12,120	$16,630	$20,530	$24,230	$28,340
($7,410)	$12,150	$16,670	$20,580	$24,290	$28,410
($7,640)	$12,520	$17,190	$21,210	$25,030	$29,270
($7,720)	$12,650	$17,360	$21,430	$25,290	$29,580
($7,810)	$12,800	$17,570	$21,680	$25,590	$29,920
($7,820)	$12,820	$17,600	$21,720	$25,630	$29,980
($7,900)	$12,950	$17,780	$21,940	$25,890	$30,280
($8,050)	$13,200	$18,120	$22,360	$26,390	$30,860
$9,010	$14,770	$20,270	$25,020	$29,530	$34,530
$9,110	$14,930	$20,500	$25,300	$29,860	$34,920
$9,560	$15,660	$21,490	$26,530	$31,310	$36,620
$9,620	$15,760	$21,640	$26,710	$31,520	$36,860

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Federal Register

Wednesday,
May 31, 2000

Part II

Federal Emergency Management Agency

44 CFR Part 61

National Flood Insurance Program (NFIP); Insurance Coverage and Rates; Proposed Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067–AD01

National Flood Insurance Program (NFIP); Insurance Coverage and Rates

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: We (the Federal Insurance Administration of FEMA) are proposing changes to the Standard Flood Insurance Policy (SFIP). The proposed changes include: rendering the SFIP in ''plain language'' and restructuring its format to resemble the homeowners policy. We are also using this opportunity to propose changes in the policy's coverage.

DATES: Please send your comments on the proposal on or before July 31, 2000.

ADDRESSES: Please send your comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (email) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: James S. P. Shortley, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, 202–646–3418, (facsimile) 202–646–4327, (email) *James.Shortley@fema.gov.*

SUPPLEMENTARY INFORMATION:

Plain Language Initiative

On June 1, 1998, President Clinton directed the heads of Federal departments and agencies to ensure that their communications with the public be in ''plain language.'' That directive established January 1, 1999, as the date when Federal executive agencies and departments must use plain language in all proposed and final rules published in the **Federal Register**. This proposal to revise the three separate forms of the Standard Flood Insurance Policy (SFIP)—the Dwelling Form, the General Property Form, and the Residential Condominium Building Association Policy—complies with that directive.

Implementing Guidance

In drafting the proposed revisions of the SFIP, we followed the guidance on plain language developed by the National Partnership for Reinventing Government and provided on July 28, 1998 by Vice President Gore to the Federal executive agencies and departments and independent agencies.

Customer Review

On September 15, 1999, in Lancaster, Pennsylvania, we convened a focus group of eight flood insurance policyholders—four had suffered flood losses and four had never had a flood loss—to help us judge the readability of our draft revised flood insurance policy. The group compared the readability of the current Dwelling Form of the SFIP with a semi-final draft of our proposed revision. These are comments that the participants offered about our proposed rewrite: ''Everything I looked at was easier.'' It had ''more specific language'' and was ''worded much better.'' It was in ''layman's terms you can understand,'' and it made it ''easier to look up everything.'' Members of the focus group found that our proposed policy revision had shorter sentences than the current policy, had better organization, and used words that were easier to understand. The version of the SFIP we are proposing is essentially the version that the focus group reviewed with only minor editorial changes.

The focus group recommended several specific additions that would make the proposed rewrite even easier for policyholders to use:

- Include a table of contents,
- Add an index of key words at the end of the policy,
- Insert page headers of major section sections at the top of each page,
- Use a variety of graphic devices to highlight headings and subheadings, and
- Add a section on frequently asked questions.

We agree with most of these suggestions, which we will incorporate in the printed version of the SFIP that the policyholder receives and uses. They will not however appear in this proposed rule or in the Code of Federal Regulations.

The focus group also suggested that we post the SFIP on the internet. We are already doing that: the current Standard Flood Insurance Policy is one of the ''Quick Links'' found at our web site: *www.fema.gov/nfip.* We will continue that practice and post the revised policy too once we publish the final rule, as well as this proposed rule, on our web site.

We do not believe that adding a new section to the policy on frequently asked questions, however, is necessary. Our web site contains the link, ''Basic Questions and Answers about Flood Insurance,'' which gives the public, policyholders, and insurance agents ready access to specific information about coverage. We have also developed printed public education and public information materials that serve that purpose as well.

External Customers

Our two largest external customer groups that use the SFIP are: (1) Roughly four million property owners who buy flood insurance and need to understand the terms of their contract for flood insurance, and (2) hundreds of thousands of private insurance agents across the country who sell and service the SFIP. Any revision to the SFIP must serve the needs of both groups: our policyholders for an easy-to-read flood insurance policy, and licensed private insurance agents for a flood insurance policy that is organized like the more familiar homeowners policy. There are also smaller, specialized customer groups that use the SFIP such as claims adjusters, insurance underwriters, auditors, etc., who will benefit from a policy that is clearer and easier to use.

Compatibility With the Homeowners Policy

Making the SFIP conform more closely with the homeowners has been a long-standing recommendation of our partners in the insurance industry. We have received comments in the past that the flood insurance policy and coverages available under it should as nearly as possible ''look'' like other insurance policies which are commonly bought by the public or sold and handled by insurance agents in order to promote the greatest utilization of the NFIP.

To help us make the SFIP conform with the homeowners policy, we contracted with Insurance Services Organization (ISO), Inc. ISO restructured the proposed rewrite of the SFIP so that it ''looks'' more like ISO's version of the homeowners policy, specifically HO–3. ISO also provided us an initial draft of that restructuring in plain language, which we used as a starting point to meet the Administration's standards for plain language communications with the public. By making the SFIP ''look'' and ''feel'' like homeowners policies, we believe the desk level staff in insurance agencies will be more comfortable with the SFIP since it will follow the same sequence and use the same format as its industry model. This we believe will help serve the goal of having more of the nation's property owners in flood-prone areas protected from uninsured flood losses.

Summary of Proposed Coverage Changes

We are also proposing some changes in coverage for the three policy forms.

The following tables compare the current coverage under the SFIP with the proposed changes:

TABLE 1.—LAND SUBSIDENCE, SEWER BACK-UP, AND SEEPAGE

Proposed change in SFIP coverage	Current SFIP coverage
The proposed changes would not affect the coverage for losses from ''subsidence of land'' along the shore of a lake or other body of water as a result of flood-related erosion.	Pay for losses from subsidence of land along the shore of a lake or other body of water as a result of flood-related erosion.
Not pay for any losses from other land subsidence	Pay for losses from other land subsidence under certain circumstances.
Pay for losses from sewer back-up and seepage if there is a general condition of flooding and the flood waters touch the structure. Remove the current requirements for replacement cost coverage on the building and for the loss occurring within 72 hours after the flood has receded for sewer back-up and seepage losses. Do not apply a separate deductible to claims for sewer back-up and seepage.	Pay for losses from sewer back-up and seepage: If there is a general condition of flooding in the general area; If the building has replacement cost coverage; and If the loss occurs within 72 hours after the flood has receded. Apply a separate deductible to claims for these losses.

As noted in the preceding table, we pay, in the current policy, for losses from sewer backup if flooding is ''in the area.'' We are proposing a more verifiable standard to adjust sewer backup losses, namely, that flood waters must touch the insured building. This proposed change would give us a more objective standard for adjusting claims for sewer backup losses.

Also, as the preceding table shows, there are two references to the subsidence of land in the current policy. The first is in our definition of ''flood.'' Section 1370 of the National Flood Insurance Act of 1968 mandates that the term ''flood'' shall also include ''the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels.'' The second reference to land subsidence is in the Dwelling Form: currently we pay for losses from land subsidence when certain criteria are met such as amount of insurance coverage in force on the dwelling, the duration of flooding (''no later than 72 hours after the flood has receded''), and the proximity of the flood (''in the area''). The proposed changes do not include any revision to the statutory reference to ''subsidence of land'' in the policy's definition of ''flood.'' The proposed revisions would however eliminate coverage for land subsidence in any other situation.

TABLE 2.—LOSS MITIGATION MEASURES AND LOSS ASSESSMENTS

Proposed change in SFIP coverage	Current SFIP coverage
Increase the amount we will pay for the labor and materials of certain mitigation activities (*e.g.,* sandbagging) to $1,000.	We currently pay up to $750 for materials and labor for mitigation efforts such as sandbagging.
Increase to $1,000 the amount we will pay for removal of personal property from a flood-threatened building.	We currently pay up to $500 for the removal of personal property in anticipation of the flood.

TABLE 3.—PERSONAL PROPERTY, MOTORIZED VEHICLES AND SPECIAL NEEDS

Proposed change in SFIP coverage	Current SFIP coverage
We will permit a renter to apply 10% of contents coverage to cooking stoves, ranges, or refrigerators belonging to the renter, as well as to improvements by the renter to the building.	No coverage under the Dwelling Form.
We will permit a condominium unit owner to apply 10% of the contents coverage to losses to interior walls, floors, and ceilings under the Dwelling Form.	No coverage.
We will increase to $2500 what we will pay for flood losses to collectibles, artwork, furs, etc., and add to the list business contents.	We now pay only up to $250 for eligible flood losses to collectibles, artwork, furs, etc.
Pay for losses to self-propelled vehicles that service the premises and assist handicapped persons provided the vehicles are in a building on the premises.	We only pay for losses to self-propelled vehicles that service the building.

TABLE 4.—LOSS SETTLEMENT FOR MANUFACTURED HOMES AND INTERPRETATION OF COMMON WALL

Proposed change in SFIP coverage	Current SFIP coverage
We propose to change how we settle losses for double-wide manufactured homes. We propose to settle losses for these structures with materials on a replacement cost basis but never more than 1.5 times the actual cash value.	Replacement cost interpreted for total losses as the value shown in NADA guide for mobile homes.

TABLE 4.—LOSS SETTLEMENT FOR MANUFACTURED HOMES AND INTERPRETATION OF COMMON WALL—Continued

Proposed change in SFIP coverage	Current SFIP coverage
We propose to treat as part of the building additions or extensions attached by a rigid exterior wall, a solid load-bearing interior wall, a stairway, an elevated walkway, or a roof. At the insured's option, these additions and extensions may be separately insured. If the addition or extension is attached by a common interior wall, it may not be insured as a separate building.	We currently only treat, as part of the building, extensions or additions that are connected by a common wall. Additions and extensions connected by a covered breezeway, for example, are treated as separate buildings—not as part of the building.

TABLE 5.—REDUCTION AND RESTORATION (REFORMATION) OF COVERAGE LIMITS

Proposed change in SFIP coverage	Current SFIP coverage
We propose to add a policy restoration (reformation) provision for situations when an application or endorsement is received without all the necessary information. We propose to require the applicant to submit the missing information within 60 days. If the missing information is not received within 60 days, and a loss occurs, the maximum amount of insurance available is limited to the lesser of: the amount originally requested or the amount of coverage the original premium paid would buy, using the correct rating information.	No such provision.

We are also proposing to add coverage in basements and in enclosures of elevated buildings for water softeners, water filters and faucets. In addition, we are proposing to add coverage for damage from the pressure of water against the structure with the requirement that there be surface flooding in the area as well. On the other hand, we are proposing to exclude from coverage scrip and stored value cards. The revisions to the policy we are proposing would also exclude any losses caused by the policyholder's failure to inspect and maintain the property after the flood recedes. We are also proposing to eliminate the option for a ''scheduled building policy.'' The NFIP scheduled building policy has had little use. The only incentive for the insured to select this option, if eligible, is a small saving on the expense constant.

The proposed rule would change the ''Closed Basin Lake'' endorsement in all three policy forms. Currently, policyholders must have ''NFIP flood insurance continuously in effect from a date established by FEMA until'' the policyholder files a claim. The current rule is silent however about how much flood insurance needs to be continuously in force. This means that a policyholder could technically meet this criterion for continuous coverage by buying a minimal amount of flood coverage initially, keeping the minimal amount of coverage in effect, and then increasing the face amount of the policy when the structure is eligible for relocation. The proposed change would require that policyholders have the same amount of insurance in effect continuously from the date set by FEMA until the policyholder files a claim. The proposed change would still allow the policyholder to buy recommended increases in coverage at policy renewal to keep pace with inflation.

We are retaining in the proposed rule coverage for detached garages, but we are proposing also to eliminate coverage for detached carports since they do not have two walls—one of the criteria under the definition of building. We are also proposing to eliminate the requirement for a minimum premium. The proposed rule would add to the definition of ''flood'' the criteria we currently use for an event to qualify as a ''flood.'' Those criteria—currently included in the list of exclusions—requires that a qualifying flood event under the policy must inundate two properties or two acres. The proposed consolidation of the criteria into the definition of ''flood'' would be much more useful for the policyholder to understand the scope of coverage under the policy.

Of special note is the proposed change on pollutants. The current SFIP has a pollution exclusion for Increased Cost of Compliance coverage only. We are proposing to add to the SFIP a general pollution exclusion, similar to that in the industry's HO–3 policy. The HO–3 policy's pollution exclusion only applies, however, if the pollution damage is caused by a peril other than the sixteen named perils in that policy's Personal Property Coverage. Since we cover only one peril, flood, our proposed pollution exclusion is for all coverage under the SFIP, and hence is broader than the HO–3's pollution exclusion.

We are also proposing to eliminate the reference to the policy's minimum premiums at 44 CFR 61.10 since our proposed revision of the policy would eliminate references to a minimum premium as well.

In addition to these proposed coverage changes, we are proposing to change how we define loss in progress to make our intent clearer on when coverage begins in connection with loan closings. Also, we are proposing a change to the ''Mortgage'' clause, which follows more closely the format of HO–3. While the latter proposals are not coverage changes per se, we believe, if adopted, they would make the benefits to and responsibilities of lenders clearer.

Exclusive Federal Jurisdiction and Applicable Law

Standard Flood Insurance Policies are sold by a number of private Write Your Own (WYO) insurance companies and directly to the public by the Federal Insurance Administration. Because the National Flood Insurance Program is national in scope and accomplishes a number of programmatic missions in addition to making affordable flood insurance generally available to the public, the SFIP provides that its terms cannot be altered, varied or waived except by the written authority of the Federal Insurance Administrator. The Administrator intends that the same benefits should be available to insureds wherever the insured property is located, or whether the policy is purchased from a WYO insurance company or from the Federal Government. Thus, there is a need for uniformity in the interpretation of and

standards applicable to the policies and their administration. Therefore, we have clarified the policy language pertaining to jurisdiction, venue and applicable law to emphasize that matters pertaining to the Standard Flood Insurance Policy, including issues relating to and arising out of claims handling, must be heard in Federal court and are governed exclusively by Federal law.

National Environmental Policy Act

This proposed rule falls within the exclusion category 44 CFR 10.8(d)(2)(ii) which addresses the preparation, revision, and adoption of regulations, directives, and other guidance documents related to actions that qualify for categorical exclusions. Qualifying for this exclusion and because no other extraordinary circumstances have been identified, this proposed rule will not require the preparation of either an environmental assessment or environmental impact statement as defined by the National Environmental Policy Act.

Executive Order 12866, Regulatory Planning and Review

In the course of preparing this proposed rule we have considered the requirements of Executive Order 12866 of September 30, 1993, 58 FR 51735, and have concluded that this proposed rule is not a significant regulatory action within the meaning of section 2(f) of the Executive Order. The rule would accomplish three principal changes:

(1) It would render the SFIP in ''plain English'';

(2) It restructures the format to resemble the basic homeowners policy; and

(3) It would make several changes in the policy's coverage.

In all other substantive aspects the SFIP is unchanged from its past version.

Of 18 proposed changes that affect coverage, we summarize 11 in Tables 1 through 5 of this preamble. We summarize the remaining 7 changes in the paragraphs that immediately follow the tables. The 18 proposed changes are evenly divided between changes that add or increase coverage and changes that reduce or remove coverage or require certain coverage from a date certain to the time a claim is filed for ''closed basin lake'' claims.

For each revised policy provision, we made two estimates: the first was the percentage of claims that would be impacted by the revised provision; the second estimate was the dollar impact that provision would have on each affected claim. We multiplied these two amounts to develop the dollar impact of each change spread over all program claims. We then summed those dollar amounts to arrive at an estimated decrease of $83.12 in the average paid claim under these revised policy provisions. We estimate that during the first fiscal year after enactment the NFIP would have about 4.3 million policyholders and about 55,900 total flood losses. If so, that would result in an annual savings to the Program of approximately $4.6 million resulting from the proposed changes to the policy.

For the reasons stated we have concluded that this rule is not a significant regulatory action within the meaning of Executive Order 12866. The Office of Management and Budget has reviewed the proposed rule under the provisions of Executive Order 12866.

Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, as amended. OMB has assigned control numbers 3067–0021 and 3067–0022 to the collection of information under this proposed rule.

We estimate that the public reporting and recordkeeping burden for the collection of information titled ''Claims for National Flood Insurance Program'' to average 4.0 hours per claim. The estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information requirements. The information required under the terms of the Standard Flood Insurance Policy described in appendices A(1), A(2), and A(3) of the proposed rule is collected using the following FEMA forms:

FEMA Form No.	Title	Burden estimate
81–16	Application.	
and		
81–67	Preferred Risk Application	12 minutes.*
81–17	Cancellation	7.5 minutes.
81–18	Endorsement	9 minutes.
81–25	V-Zone Risk Factor	15 minutes.
81–40	Worksheet-contents-personal property	2.5 hours.
81–41	Worksheet-building	2.5 hours.
81–41A.	Worksheet-building (Cont'd)	1.0 hour.
81–42	Proof of loss	5–6 minutes.
81–42A	Increased Cost of Compliance Proof of Loss	2.0 hours.
81–43	Notice of loss	4 minutes.
81–44	Statement as to full cost to repair	6–7 minutes.
81–57	National Flood Insurance Program Preliminary report	4 minutes.
81–58	National Flood Insurance Program Final report	4 minutes.
81–59	National Flood Insurance Program Narrative report	5–6 minutes.
81–63	Cause of Loss and Subrogation report	45 minutes to 1 hour.
81–98	Increased Cost of Compliance Adjuster Report	15 minutes.
N/A	Renewal Premium Notice	3 minutes.
N/A	Request for Policy Processing and Renewal Information Letter	9 minutes.

*The Preferred Risk Applications and the regular Flood Insurance Applications are now processed and recorded together. There is no breakdown available to separate the burden of each application.

Executive Order 13132, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 13132, Federalism, dated August 4, 1999.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 61

Claims, Flood insurance.

Accordingly, we propose to amend 44 CFR Part 61 as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p.376.

§ 61.10 [Removed]

2. We remove § 61.10.

3. We revise Appendix A(1) to Part 61, Dwelling Form, to read as follows:

APPENDIX A(1) TO PART 61

Federal Emergency Management Agency, Federal Insurance Administration

Standard Flood Insurance Policy

DWELLING FORM

Please read the policy carefully. The flood insurance provided is subject to limitations, restrictions and exclusions. This policy covers only:

1. A non-condominium residential building designed for principal use as a dwelling place of one to four families, or

2. A single family dwelling unit in a condominium building.

I. Agreement

The Federal Emergency Management Agency provides flood insurance under the terms of the National Flood Insurance Act of 1968 and its Amendments, and Title 44 of the Code of Federal Regulations.

We will pay you for direct physical loss by or from flood to your insured property if you:

1. Have paid the correct premium;

2. Comply with all terms and conditions of this policy; and

3. Have furnished accurate information and statements.

We have the right to review the information you give us at any time and to revise your policy based on our review.

II. Definitions

A. In this policy, ''you'' and ''your'' refer to the insured(s) shown on the Declarations Page of this policy. ''We'', ''us'' and ''our'' refer to the insurer.

Some definitions are complex because they are provided as they appear in the law or regulations, or result from court cases. The precise definitions are intended to protect you.

Flood, as used in this flood insurance policy, means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of at least two or more properties (one of which is your property) from:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation or runoff of surface waters from any source.

c. Mudflows.

2. The collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels which result in a flood as defined in *Flood*, paragraph A.1.a above.

B. The following are the other key definitions we use in this policy:

1. *Act.* The National Flood Insurance Act of 1968 and any amendments to it.

2. *Actual Cash Value.* The cost to replace an insured item of property at the time of loss, less the value of its physical depreciation.

3. *Application.* The statement made and signed by you or your agent in applying for this policy. The application gives information we use to determine the eligibility of the risk, the kind of policy to be issued and the correct premium payment. The application is part of this flood insurance policy. For us to issue you a policy, the correct premium payment must accompany the application.

4. *Base Flood.* A flood having a one percent chance of being equaled or exceeded in any given year.

5. *Basement.* Any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

6. *Building.*

a. A structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

b. A manufactured home (a ''manufactured home,'' also known as a mobile home, is a structure that is built on a permanent chassis and affixed to a permanent foundation and that is transported to its site in one or more sections); or

c. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

Building does not mean a gas or liquid storage tank or a recreational vehicle, park trailer or other similar vehicle, except as described in 6.c., above.

7. *Cancellation.* The ending of the insurance coverage provided by this policy before the expiration date.

8. *Condominium.* That form of ownership of real property in which each unit owner has an undivided interest in common elements.

9. *Condominium Association.* The entity made up of the unit owners responsible for the maintenance and operation of:

a. Common elements owned in undivided shares by unit owners;

b. Other real property in which the unit owners have use rights; where membership in the entity is a required condition of unit ownership.

10. *Declarations Page.* A computer-generated summary of information you furnish in the application for insurance. The declarations page also describes the term of the policy, limits of coverage, and displays the premium and our name. The declarations page is a part of this flood insurance policy.

11. *Described Location.* The location where the building(s) or personal property are found. The described location is shown on the declarations page.

12. *Direct Physical Loss By or From Flood.* Loss or damage to insured property, directly caused by a flood. Direct physical loss must be evidenced by physical changes to the property.

13. *Dwelling.* A building designed for use as a residence for no more than four families or a single-family unit in a building under a condominium form of ownership.

14. *Elevated Building.* A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

15. *Emergency Program.* The initial phase of a community's participation in the National Flood Insurance Program. During this phase, only limited amounts of insurance are available under the Act.

16. *Expense Constant.* A flat charge that you must pay on each new or renewal policy to defray the expenses of the Federal Government related to flood insurance.

17. *Federal Policy Fee.* A flat charge that you must pay on each new or renewal policy to defray certain administrative expenses incurred in

carrying out the National Flood Insurance Program. This fee covers expenses not covered by the expense constant.

18. *Improvements.* Fixtures, alterations, installations, or additions comprising a part of the insured dwelling or the apartment unit in which you reside.

19. *Mudflow.* A river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water. Other earth movements, such as landslide, slope failure, or a saturated soil mass moving by liquidity down a slope, are not mudflows.

20. *National Flood Insurance Program (NFIP).* The program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations in title 44 of the Code of Federal Regulations, Subchapter B.

21. *Policy.* The entire written contract between you and us. It includes:

a. This printed form;

b. The application and declarations page;

c. Any endorsements that may be issued; and

d. Any renewal certificate indicating that coverage has been instituted for a new policy and new policy term.

Only one dwelling, specifically described by you in the application, may be insured under this policy.

22. *Pollutants.* Includes, but is not limited to, any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed.

23. *Post-FIRM Building.* A building for which construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

24. *Probation Premium.* A flat charge you must pay on each new or renewal policy issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24.

25. *Regular Program.* The final phase of a community's participation in the National Flood Insurance Program. In this phase, a Flood Insurance Rate Map is in effect and full limits of coverage are available under the Act.

26. *Special Flood Hazard Area.* An area having special flood or mudflow, and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1–30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1–30, V1–30, VE, or V.

27. *Unit.* A single-family unit you own in a condominium building.

28. *Valued Policy.* A policy in which the insured and the insurer agree on the value of the property insured, that value being payable in the event of a total loss. The Standard Flood Insurance Policy is not a valued policy.

III. Property Covered

A. Coverage A—Building Property

We insure against direct physical loss by or from flood to:

1. The dwelling at the described location, or for a period of 45 days at another location as set forth in III.C.2.b., Property Removed to Safety.

2. Additions and extensions attached to and in contact with the dwelling by means of a rigid exterior wall, a solid load-bearing interior wall, a stairway, an elevated walkway, or a roof. At your option, additions and extensions connected by any of these methods may be separately insured. Additions and extensions attached to and in contact with the building by means of a common interior wall that is not a solid load-bearing wall are always considered part of the dwelling and may not be separately insured.

3. A detached garage, used as such, at the described location. Coverage is limited to no more than 10% of the limit of liability on the dwelling. Use of this insurance is at your option but reduces the building limit of liability.

4. Materials and supplies to be used for construction, alteration or repair of the dwelling or a detached garage while the materials and supplies are stored in a fully enclosed building at the described location or on an adjacent property.

5. A building under construction, alteration or repair at the described location.

a. If the structure is not yet walled or roofed as described in the definition for building (See B.6.a.) then coverage applies:

(1) Only while such work is in progress; or

(2) If such work is halted, only for a period of up to 90 continuous days thereafter.

b. However, coverage does not apply until the building is walled and roofed if the lowest floor, including the basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is:

(1) Below the base flood elevation in Zones AH, AE, A1–30, AR, AR/AE, AR/AH, AR/A1–30, AR/A, AR/AO; or

(2) Below the base flood elevation adjusted to include the effect of wave action in Zones VE or V1–30.

The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1–30 and the top of the floor in Zones AH, AE, A1–30, AR, AR/AE, AR/AH, AR/A1–30, AR/A, AR/AO.

6. A manufactured home or a travel trailer as described in the Definitions Section (See II.B.6.b.and II.B.6.c.).

If the manufactured home or travel trailer is in a special flood hazard area, it must be anchored in the following manner at the time of the loss:

a. By over-the-top or frame ties to ground anchors; or

b. In accordance with the manufacturer's specifications; or

c. In compliance with the community's floodplain management requirements unless it has been continuously insured by the NFIP at the same described location since September 30, 1982.

7. The following items of property which are covered under Coverage A only:

a. Awnings and canopies;

b. Blinds;

c. Built-in dishwashers;

d. Built-in microwave ovens;

e. Carpet permanently installed over unfinished flooring;

f. Central air conditioners;

g. Elevator equipment;

h. Fire sprinkler systems;

i. Freezers, walk-in.

j. Furnaces and radiators;

k. Garbage disposal units;

l. Hot water heaters, including solar water heaters;

m. Light fixtures;

n. Outdoor antennas and aerials fastened to buildings;

o. Permanently installed cupboards, bookcases, cabinets, paneling, and wallpaper;

p. Plumbing fixtures;

q. Pumps and machinery for operating pumps;

r. Ranges, cooking stoves, and ovens;

s. Refrigerators; and

t. Wall mirrors, permanently installed.

8. Items of property in a building enclosure lower than the lowest elevated floor of an elevated post-FIRM building located in zones A1–30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–30, or VE, or in a basement, regardless of the zone. Coverage is limited to the following:

a. Any of the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

(1) Central air conditioners;

(2) Cisterns and the water in them;

(3) Drywall for walls and ceilings in a basement and the cost of labor to nail it, unfinished and unfloated and not taped, to the framing;

(4) Electrical junction and circuit breaker boxes;

(5) Electrical outlets and switches;

(6) Elevators, dumbwaiters and related equipment, unless installed below the base flood elevation after September 30, 1987;

(7) Fuel tanks and the fuel in them;

(8) Furnaces and hot water heaters;

(9) Heat pumps;

(10) Nonflammable insulation in a basement;

(11) Oil tanks and oil in them;

(12) Pumps and tanks used in solar energy systems;

(13) Stairways and staircases attached to the building, not separated from it by elevated walkways;

(14) Sump pumps;

(15) Water softeners, water filters and faucets installed as an integral part of the plumbing system;

(16) Well water tanks and pumps;

(17) Required utility connections for any item in this list; and

(18) Footings, foundations, posts, pilings, piers, or other foundation walls and anchorage systems required to support a building.

b. Clean-up.

B. Coverage B—Personal Property

1. If you have purchased personal property coverage, we insure against direct physical loss by or from flood to personal property inside a building at the described location, if:

a. The property is owned by you or your household family members; and

b. At your option, the property is owned by guests and servants.

Personal property is also covered for a period of 45 days at another location as set forth in III.C.2.b., Property Removed to Safety.

Personal property in a building that is not fully enclosed must be secured to prevent flotation out of the building. If the personal property does float out during a flood, it will be conclusively presumed that it was not reasonably secured. In that case there is no coverage for such property.

2. Coverage for personal property includes the following property, subject to paragraph B.1. above, which is covered under Coverage B. only:

a. Air conditioning units—portable or window type;

b. Carpets, not permanently installed, over unfinished flooring;

c. Carpets over finished flooring;

d. Clothes washers and dryers;

e. ''Cook-out'' grills;

f. Food freezers, other than walk-in, and food in any freezer; and

g. Portable microwave ovens and portable dishwashers.

3. Coverage for items of property in a building enclosure lower than the lowest elevated floor of an elevated post-FIRM building located in zones A1–30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–30, or VE, or in a basement, regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

a. Air conditioning units—portable or window type;

b. Clothes washers and dryers; and

c. Food freezers, other than walk-in, and food in any freezer;

4. If you are a tenant and have insured personal property under Coverage B in this policy, we will cover such property, including your cooking stove or range and refrigerator. The policy will also cover improvements made or acquired solely at your expense in the dwelling or apartment unit in which you reside, but for not more than 10% of the limit of liability shown for personal property on the declarations page. Use of this insurance is at your option but reduces the personal property limit of liability.

5. If you are the owner of a unit and have insured personal property under Coverage B in this policy, we will also cover your interior walls, floor and ceiling (not otherwise covered under a flood insurance policy purchased by your condominium association) for not more than 10% of the limit of liability shown for personal property on the declarations page. Use of this insurance is at your option but reduces the personal property limit of liability.

6. Special Limits. We will pay no more than $2,500 for any one loss to one or more of the following kinds of personal property:

a. Artwork, photographs, collectibles, or memorabilia, including but not limited to, porcelain or other figures, and sports cards;

b. Rare books, manuscripts or autographed items;

c. Jewelry, watches, precious and semi-precious stones, articles of gold, silver or platinum;

d. Furs or any article containing fur which represents its principal value; or

e. Personal property used in any business.

7. We will pay only for the functional value of antiques.

C. Coverage C—Other Coverages

1. Debris Removal.

We will pay reasonable expenses to remove debris directly caused by flood, provided the debris is:

a. Debris from property:

(1) That you do not own;

(2) That originates from beyond the boundaries of the described location, and

(3) That is physically on or in the insured building; or

b. Debris of the insured property anywhere.

If you or a member of your household perform the removal work, the value of your work will be based on the Federal minimum wage.

This coverage does not increase the Coverage A or Coverage B Limit of Liability.

2. Loss Avoidance Measures

a. Sandbags, Supplies and Labor

(1) We will pay up to $1,000 for costs you incur to protect the insured building from a flood or imminent danger of flood, including:

(a) Your reasonable expenses to buy:

(i) Sandbags, including sand to fill them;

(ii) Fill for temporary levees;

(iii) Pumps; and

(iv) Plastic sheeting and lumber used in connection with these items.

(b) The value of work, at the Federal minimum wage, that you or a member of your household perform.

(2) This coverage for Sandbags, Supplies and Labor only applies if damage to insured property by or from flood is imminent and the threat of flood damage is apparent enough to lead a person of common prudence to anticipate flood damage. One of the following must also occur:

(a) A general and temporary condition of flooding in the area near the described location must occur, even if the flood does not reach the building; or

(b) A legally authorized official must issue an evacuation order or other civil order for the community in which the building is located calling for measures to preserve life and property from the peril of flood.

This coverage does not increase the Coverage A or Coverage B Limit of Liability.

b. Property Removed to Safety

(1) We will pay up to $1,000 for the reasonable expenses you incur to move insured property to another place other than the described location that contains the property in order to protect it from flood or the imminent danger of flood.

Reasonable expenses include the value of work, at the Federal minimum wage, that you or a member of your household perform.

(2) If you move insured property to another location other than the described location that contains the property, in order to protect it from flood or the imminent danger of flood,

we will cover such property while at that location for a period of 45 consecutive days from the date you first begin to move it there. The personal property that is moved must be placed in a fully enclosed building, or otherwise reasonably protected from the elements.

Any property removed, including a moveable home described in Definition 6. Building, paragraphs b. and c. must be placed above ground level or outside of the special flood hazard area.

This coverage does not increase the Coverage A or Coverage B Limit of Liability.

3. Condominium Loss Assessments.

a. If this policy insures a unit, we will pay, up to the Coverage A limit of liability, your share of loss assessments charged against you by the condominium association in accordance with the condominium association's articles of association, declarations and your deed.

The assessment must be made as a result of direct physical loss by or from flood during the policy term, to the building's common elements.

b. We will not pay any loss assessment charged against you:

(1) And the condominium association by any governmental body;

(2) That results from a deductible under the insurance purchased by the condominium association insuring common elements;

(3) That results from a loss to personal property, including contents of a condominium building;

(4) That results from a loss sustained by the condominium association that was not reimbursed under a flood insurance policy written in the name of the association under the Act because the building was not, at the time of loss, insured for an amount equal to the lesser of:

(a) 80% or more of its full replacement cost; or

(b) The maximum amount of insurance permitted under the Act;

(5) To the extent that payment under this policy for a condominium building loss, in combination with payments under any other NFIP policies for the same building loss, exceeds the maximum amount of insurance permitted under the Act for that kind of building; or

(6) To the extent that payment under this policy for a condominium building loss, in combination with any recovery available to you as a tenant in common under any NFIP condominium association policies for the same building loss, exceeds the amount of insurance permitted under the Act for a single-family dwelling.

Loss assessment coverage does not increase the Coverage A Limit of Liability.

D. Coverage D—Increased Cost of Compliance

A. General.

This policy pays you to comply with a State or local floodplain management law or ordinance affecting repair or reconstruction of a structure suffering flood damage. Compliance activities eligible for payment are: elevation, floodproofing, relocation, or demolition (or any combination of these activities) of your structure. Eligible floodproofing activities are limited to:

1. Non-residential structures.

2. Residential structures with basements that satisfy FEMA's standards published in the Code of Federal Regulations (44 CFR 60.6 (b) or (c)).

B. Limit of Liability.

$20,000 is the maximum we will pay you for this Coverage D (Increased Cost of Compliance), which only applies to policies with building coverage (Coverage A). Our payment of claims under Coverage D is in addition to the amount of coverage which you selected on the application and which appears on the Declarations Page. But the maximum you can collect under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Compliance) cannot exceed the maximum permitted under the Act. We do NOT charge a separate deductible for a claim under Coverage D.

C. Eligibility.

1. A structure covered under Coverage A—Building Property sustaining a loss caused by a flood as defined by this policy must:

a. Be a ''repetitive loss structure.'' A ''repetitive loss structure'' is one that meets the following conditions:

(1) The structure is covered by a contract of flood insurance issued under the NFIP.

(2) The structure has suffered flood damage on 2 occasions during a 10-year period which ends on the date of the second loss.

(3) The cost to repair the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each flood loss.

(4) In addition to the current claim, the NFIP must have paid the previous qualifying claim, and the State or community must have a cumulative, substantial damage provision or repetitive loss provision in its floodplain management law or ordinance being enforced against the structure; or

b. Be a structure that has had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.

2. This Coverage D pays you to comply with State or local floodplain management laws or ordinances that meet the minimum standards of the National Flood Insurance Program found in the Code of Federal Regulations at 44 CFR 60.3. We pay for compliance activities that exceed those standards under these conditions:

a. Paragraph C. 1. a. above.

b. Elevation or floodproofing in any risk zone to preliminary or advisory base flood elevations provided by FEMA which the State or local government has adopted and is enforcing for flood-damaged structures in such areas. (This includes compliance activities in B, C, X, or D zones which are being changed to zones with base flood elevations. This also includes compliance activities in zones where base flood elevations are being increased, and a flood-damaged structure must comply with the higher advisory base flood elevation.) Increased Cost of Compliance coverage does not apply to situations in B, C, X, or D zones where the community has derived its own elevations and is enforcing elevation or floodproofing requirements for flood-damaged structures to elevations derived solely by the community.

c. Elevation or floodproofing above the base flood elevation to meet State or local ''freeboard'' requirements, i.e., that a structure must be elevated above the base flood elevation.

3. Under the minimum NFIP criteria at 44 CFR 60.3(b)(4), States and communities must require the elevation or floodproofing of structures in unnumbered A zones to the base flood elevation where elevation data is obtained from a Federal, State, or other source. Such compliance activities are also eligible for Coverage D.

4. This coverage will also pay for the incremental cost, after demolition or relocation, of elevating or floodproofing a structure during its rebuilding at the same or another site to meet State or local floodplain management laws or ordinances, subject to Exclusion E.7. below.

5. This coverage will also pay to bring a flood-damaged structure into compliance with state or local floodplain management laws or ordinances even if the structure had received a variance before the present

loss from the applicable floodplain management requirements.

D. Conditions.

1. When a structure covered under Coverage A—Building Property sustains a loss caused by a flood, our payment for the loss under this Coverage D will be for the increased cost to elevate, floodproof, relocate, or demolish (or any combination of these activities) caused by the enforcement of current State or local floodplain management ordinances or laws. Our payment for eligible demolition activities will be for the cost to demolish and clear the site of the building debris or a portion thereof caused by the enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

2. When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise required by current floodplain management ordinances or laws.

E. Exclusions.

Under this Coverage D (Increased Cost of Compliance) we will not pay for:

1. The cost to comply with any floodplain management law or ordinance in communities participating in the Emergency Program.

2. The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

3. The loss in value to any insured building or other structure due to the requirements of any ordinance or law.

4. The loss in residual value of the undamaged portion of a building demolished as a consequence of enforcement of any State or local floodplain management law or ordinance.

5. Any Increased Cost of Compliance under this Coverage D:

a. Until the building is elevated, floodproofed, demolished, or relocated on the same or to another premises; and

b. Unless the building is elevated, floodproofed, demolished, or relocated as soon as reasonably possible after the loss, not to exceed two years.

6. Any code upgrade requirements, *e.g.*, plumbing or electrical wiring, not specifically related to the State or local floodplain management law or ordinance.

7. Any compliance activities needed to bring additions or improvements made after the loss occurred into compliance with State or local floodplain management laws or ordinances.

8. Loss due to any ordinance or law that you were required to comply with before the current loss.

9. Any rebuilding activity to standards that do not meet the NFIP's minimum requirements. This includes any situation where the insured has received from the State or community a variance in connection with the current flood loss to rebuild the property to an elevation below the base flood elevation.

10. Increased Cost of Compliance for a garage or carport.

11. Any structure insured under an NFIP Group Flood Insurance Policy.

12. Assessments made by a condominium association on individual condominium unit owners to pay increased costs of repairing commonly owned buildings after a flood in compliance with State or local floodplain management ordinances or laws.

F. Other Provisions.

1. Increased Cost of Compliance coverage will not be included in the calculation to determine whether coverage meets the 80% insurance-to-value requirement for replacement cost coverage as set forth in Section VII. V. Loss Settlement.

2. All other conditions and provisions of the policy apply.

IV. Property Not Covered

We do not cover any of the following:

1. Personal property not inside a building;

2. A building, and personal property in it, located entirely in, on, or over water or seaward of mean high tide if it was constructed or substantially improved after September 30, 1982;

3. Open structures, including a building used as a boathouse or any structure or building into which boats are floated, and personal property located in, on or over water;

4. Recreational vehicles other than travel trailers described in the Definitions Section (see II.B.6.c.) whether affixed to a permanent foundation or on wheels;

5. Self-propelled vehicles or machines, including their parts and equipment. However, we do cover self-propelled vehicles or machines not licensed for use on public roads that are:

a. Used mainly to service the described location or

b. Designed and used to assist handicapped persons, while the vehicles or machines are inside a building at the described location;

6. Land, land values, lawns, trees, shrubs, plants, growing crops, or animals;

7. Accounts, bills, coins, currency, deeds, evidences of debt, medals, money, scrip, stored value cards, postage stamps, securities, bullion, manuscripts, or other valuable papers;

8. Underground structures and equipment, including wells, septic tanks and septic systems;

9. Those portions of walks, walkways, decks, driveways, patios and other surfaces, all whether protected by a roof or not, located outside the perimeter, exterior walls of the insured building or the building in which the insured unit is located;

10. Containers, including related equipment, such as, but not limited to, tanks containing gases or liquids;

11. Buildings or units and all their contents if more than 49% of the actual cash value of the building is below ground, unless the lowest level is at or above the base flood elevation and is below ground by reason of earth having been used as insulation material in conjunction with energy efficient building techniques;

12. Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks;

13. Aircraft or watercraft, or their furnishings and equipment;

14. Swimming pools, hot tubs, spas, and their equipment such as, but not limited to, heaters, filters, pumps, and pipes, wherever located;

15. Property not eligible for flood insurance pursuant to the provisions of the Coastal Barrier Resources Act and the Coastal Barrier Improvement Act and amendments to these Acts;

16. Loss to any building or personal property located on land leased from the Federal Government, arising from or incident to the flooding of the land by the Federal Government, where the lease expressly holds the Federal Government harmless under flood insurance issued under any Federal Government program.

17. A detached garage used or held for use for residential (*i.e.* dwelling), business or farming purposes;

18. Personal property you own in common with other unit owners comprising the membership of a condominium association.

V. Exclusions

A. We only pay for direct physical loss by or from flood, which means that we do not pay you for:

1. Loss of revenue or profits;

2. Loss of access to the insured property or described location;

3. Loss of use of the insured property or described location;

4. Loss from interruption of business or production;

5. Any additional living expenses incurred while the insured building is being repaired or is unable to be occupied for any reason;

6. The cost of complying with any ordinance or law:

a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of property, including removal of any resulting debris. This exclusion does not apply to any eligible activities that we describe in Coverage D—Increased Cost of Compliance; or

b. Requiring you or others to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effect of, any pollutant; or

7. Any other economic loss you suffer.

B. We do not insure a loss directly or indirectly caused by a flood that is already in progress at the time and date:

1. The policy term begins; or

2. Coverage is added at your request.

C. We do not insure for loss to property caused directly by earth movement even if the earth movement is caused by flood. Some examples of earth movement that we do not cover are:

1. Earthquake;

2. Landslide;

3. Land subsidence;

4. Sinkholes;

5. Destabilization or movement of land that results from accumulation of water in subsurface land area; or

6. Gradual erosion.

We do, however, pay for losses from erosion and mudflows that are specifically covered under our definition of flood.

D. We do not insure for direct physical loss caused directly or indirectly by any of the following:

1. The pressure or weight of ice;

2. Freezing or thawing;

3. Rain, snow, sleet, hail, or water spray;

4. Water, moisture, mildew, or mold damage that results primarily from any condition:

a. Substantially confined to the dwelling; or

b. That is within your control, including but not limited to:

(1) Design, structural or mechanical defects;

(2) Failures, stoppages, or breakage of water or sewer lines, drains, pumps, fixtures, or equipment; or

(3) Failure to inspect and maintain the property after a flood recedes;

5. Water or water-borne material that:

a. Backs up through sewers or drains;

b. Discharges or overflows from a sump, sump pump or related equipment; or

c. Seeps or leaks on or through the covered property, unless the property has been, at the same time, damaged by flood;

6. The pressure or weight of water unless the damaged property has been, at the same time, damaged by flood;

7. Power, heating or cooling failure unless the failure results from direct physical loss by or from flood to power, heating or cooling equipment on the described location;

8. Discharge, dispersal, seepage, migration, release, or escape of pollutants;

9. Theft, fire, explosion, wind, or windstorm;

10. Anything that you or any member of your household do or conspires to do to deliberately cause loss by flood; or

11. Alteration of the insured property that significantly increases the risk of flooding.

VI. Deductibles

A. When a loss is covered under this policy, we will pay only that part of the loss that exceeds your deductible amount, subject to the limit of liability that applies. The deductible amount is shown on the declarations page.

However, when a building under construction, alteration, or repair does not have at least two rigid exterior walls and a fully secured roof at the time of loss, your deductible amount will be two times the deductible that would otherwise apply to a completed building.

B. In each loss from flood, separate deductibles apply to the building and personal property insured by this policy.

C. The deductible does NOT apply to:

1. III.C.2. Loss Avoidance Measures;

2. III.C.3. Condominium Loss Assessments Coverage; or

3. III.D. Increased Cost of Compliance Coverage.

VII. General Conditions

A. Pair and Set Clause.

In case of loss to an article that is part of a pair or set, we will have the option of paying you:

1. An amount equal to the cost of replacing the lost, damaged or destroyed article, minus its depreciation, or

2. The amount that represents the fair proportion of the total value of the pair or set that the lost, damaged or destroyed article bears to the pair or set.

B. Concealment or Fraud and Policy Voidance.

1. With respect to all insureds under this policy, this policy:

a. Is void,

b. Has no legal force or effect,

c. Cannot be renewed, and

d. Cannot be replaced by a new flood policy, if, before or after a loss, you or any other insured or your agent have at any time:

(1) Intentionally concealed or misrepresented any material fact or circumstance,

(2) Engaged in fraudulent conduct, or

(3) Made false statements relating to this policy or any other NFIP insurance.

2. This policy will be void as of the date wrongful acts of B.1. above were committed.

3. Fines, civil penalties, and imprisonment under applicable Federal laws may also apply to the acts of fraud or concealment described above.

4. This policy is also void for reasons other than fraud, misrepresentation, or wrongful act. This policy is void from its inception and has no legal force under the following conditions:

a. If the property is located in a community that was not participating in the NFIP on the policy's inception date and did not join or re-enter the program during the policy term and before the loss occurred; or

b. If the property listed on the application is otherwise not eligible for coverage under the NFIP.

C. Other Insurance.

1. If a loss covered by this policy is also covered by other insurance that includes flood coverage not issued under the Act, we will not pay more than the amount of insurance that you are entitled to for lost, damaged or destroyed property insured under this policy subject to the following:

a. We will pay only the proportion of the loss that the amount of insurance that applies under this policy bears to the total amount of insurance covering the loss, unless b. or c. below applies.

b. If the other policy has a provision stating that it is excess insurance, this policy will be primary.

c. This policy will be primary (but subject to its own deductible) up to the deductible in the other flood policy (except another policy as described in Paragraph C.1.b. above). When the other deductible amount is reached, this policy will participate in the same proportion that the amount of insurance under this policy bears to the total amount of both policies, for the remainder of the loss.

2. If there is other insurance in the name of your condominium association covering the same property covered by this policy, then this policy will be in excess over the other insurance.

D. Amendments, Waivers, Assignment.

This policy cannot be changed nor can any of its provisions be waived without the express written consent of the Federal Insurance Administrator. No action that we take under the terms of this policy constitutes a waiver of any of our rights. You may assign this policy in writing when you transfer title of your property to someone else except under these conditions:

1. When this policy covers only personal property; or

2. When this policy covers a structure during the course of construction.

E. Cancellation of the Policy by You.

1. You may cancel this policy at any time.

2. If you cancel this policy, you may be entitled to a full or partial refund of premium under our applicable rules and regulations.

F. Non-Renewal of the Policy by Us.

Your policy will not be renewed:

1. If the community where your covered property is located stops participating in the NFIP, or

2. Your building has been declared ineligible under section 1316 of the Act.

G. Reduction and Restoration of Coverage.

1. If the premium we received from you was not enough to buy the kind and amount of coverage you requested, we will provide only the amount of coverage that can be purchased for the premium payment we received.

2. The amount of coverage resulting from the reduction described in 1. above can be restored to the amount you requested as follows:

a. Discovery of Insufficient Premium or Incomplete Rating Information Before a Loss.

(1) If we discover before you have a flood loss that your premium payment was not enough to buy the requested amount of coverage, we will send you and any mortgagee or trustee known to us a bill for the required additional premium for the current policy term (or that portion of the current policy term following any endorsement changing the amount of coverage). If you or the mortgagee or trustee pay the additional premium within 30 days from the date of our bill, we will restore the amount of coverage to the originally requested amount effective to the beginning of the current policy term (or subsequent date of any endorsement changing the amount of coverage).

(2) If we determine before you have a flood loss that the rating information we have is incomplete and prevents us from calculating the additional premium, we will ask you to send the required information. You must submit the information within 60 days of our request. Once we determine the amount of additional premium for the current policy term, we will follow the procedure in (1) above.

(3) If we do not receive the additional premium (or additional information) by the date it is due, the amount of coverage can only be restored by endorsement with any appropriate waiting period.

b. Discovery of Insufficient Premium or Incomplete Rating Information After a Loss.

(1) If we discover after you have a flood loss that your premium payment was not enough to buy the requested amount of coverage, we will send you and any mortgagee or trustee known to us a bill for the required additional premium for the current and the prior policy terms. If you or the mortgagee or trustee pay the additional premium within 30 days of the date of our bill, we will restore the amount of coverage to the originally requested amount effective to the beginning of the prior policy term.

(2) If we discover after you have a flood loss that the rating information we have is incomplete and prevents us from calculating the additional premium, we will ask you to send the required information. You must submit the information before your claim can be paid. Once we determine the amount of additional premium for the current and prior policy terms, we will follow the procedure in (1) above.

(3) If we do not receive the additional premium by the date it is due, your flood insurance claim will be settled based on the reduced amount of coverage. The amount of coverage can only be restored by endorsement subject to any appropriate waiting period.

3. However, if we find that you or your agent intentionally did not tell us, or falsified, any important fact or circumstance or did anything fraudulent relating to this insurance, the provisions of Condition B. above apply.

H. Policy Renewal.

1. This policy will expire at 12:01 a.m. on the last day of the policy term.

2. We must receive the payment of the appropriate renewal premium within 30 days of the expiration date.

3. If we find, however, that your renewal notice was not placed into the U.S. Postal Service, or if it was mailed properly, it was prepared in a way, *e.g.,* with an incorrect, incomplete, or illegible address, to delay its delivery to you before the due date for the renewal premium, then we will follow these procedures:

a. If you or your agent notified us, not later than one year after the date on which the payment of the renewal premium was due, of non-receipt of a renewal notice before the due date for the renewal premium, and we determine that the circumstances in the preceding paragraph apply, we will mail a second bill providing a revised due date, which will be 30 days after the date on which the bill is mailed.

b. If we do not receive the premium requested in the second bill by the revised due date, then we will not renew the policy. In that case, the policy will remain as an expired policy as of the expiration date shown on the declarations page.

4. In connection with the renewal of this policy, we may ask you during the policy term to re-certify, on a Recertification Questionnaire that we will provide to you, the rating information used to rate your most recent application for or renewal of insurance.

I. Conditions Suspending or Restricting Insurance.

We are not liable for loss that occurs while there is a hazard that is increased by any means within your control or knowledge.

J. Requirements in Case of Loss.

In case of a flood loss to insured property, you must:

1. Give prompt written notice to us;

2. As soon as reasonably possible, separate the damaged and undamaged property, putting it in the best possible order so that we may examine it;

3. Prepare an inventory of damaged property showing the quantity, description, actual cash value, and amount of loss. Attach all bills, receipts and related documents;

4. Within 60 days after the loss, send us a proof of loss, which is your statement of the amount you are claiming under the policy signed and sworn to by you, and which furnishes us with the following information:

a. The date and time of loss;

b. A brief explanation of how the loss happened;

c. Your interest (for example, ''owner'') and the interest, if any, of others in the damaged property;

d. Details of any other insurance that may cover the loss;

e. Changes in title or occupancy of the covered property during the term of the policy;

f. Specifications of damaged buildings and detailed repair estimates;

g. Names of mortgagees or anyone else having a lien, charge or claim against the insured property;

h. Details about who occupied any insured building at the time of loss and for what purpose; and

i. The inventory of damaged personal property described in 3. above.

5. In completing the proof of loss, you must use your own judgment

concerning the amount of loss and justify that amount.

6. You must cooperate with our adjuster or representative in the investigation of the claim.

7. The insurance adjuster whom we hire to investigate your claim may furnish you with a proof of loss form, and she or he may help you to complete it. However, this is matter of courtesy only and you must still send us a proof of loss within sixty days after the loss even if the adjuster does not furnish the form or help you complete it.

8. We have not authorized the adjuster to approve or disapprove claims or to tell you whether we will approve your claim.

9. At our option, we may accept an adjuster's report of the loss instead of your proof of loss. The adjuster's report will include information about your loss and the damages you sustained. You must sign the adjuster's report. At our option, we may require you to swear to the report.

K. Our Options After a Loss.

Options we may, in our sole discretion, exercise after loss include the following:

1. At such reasonable times and places that we may designate, you must:

a. Show us or our representative the damaged property;

b. Submit to examination under oath, while not in the presence of another insured, and sign the same; and

c. Permit us to examine and make extracts and copies of:

(1) Any policies of property insurance insuring you against loss and the deed establishing your ownership of the insured real property;

(2) Condominium association documents including the Declarations of the condominium, its Articles of Association or Incorporation, Bylaws, rules and regulations, and other relevant documents if you are a unit owner in a condominium building; and

(3) All books of accounts, bills, invoices and other vouchers, or certified copies pertaining to the damaged property if the originals are lost.

2. We may request, in writing, that you furnish us with a complete inventory of the lost, damaged or destroyed property, including:

a. Quantities and costs;

b. Actual cash values or replacement cost (whichever is appropriate);

c. Amounts of loss claimed; and

d. Any written plans and specifications for repair of the damaged property that you can make reasonably available to us.

3. If we give you written notice within 30 days after we receive your signed, sworn proof of loss, we may:

a. Repair, rebuild or replace any part of the lost, damaged or destroyed property with material or property of like kind and quality or its functional equivalent; and

b. Take all or any part of the damaged property at the value that we agree upon or its appraised value.

L. No Benefit To Bailee.

No person or organization, other than you, having custody of covered property will benefit from this insurance.

M. Loss Payment.

1. We will adjust all losses with you. We will pay you unless some other person or entity is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after we receive your proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by you in lieu of a proof of loss) and:

a. We reach an agreement with you;

b. There is an entry of a final judgment; or

c. There is a filing of an appraisal award with us, as provided in VII. P.

2. If we reject your proof of loss in whole or in part you may:

a. Accept our denial of your claim;

b. Exercise your rights under this policy; or

c. File an amended proof of loss as long as it is filed within 60 days of the date of the loss or within any extension of time allowed by the Administrator.

N. Abandonment.

You may not abandon to us damaged or undamaged property insured under this policy.

O. Salvage.

We may permit you to keep damaged property insured under this policy after a loss and we will reduce the amount of the loss proceeds payable to you under the policy by the value of the salvage.

P. *Appraisal.*

If you and we fail to agree on the actual cash value or, if applicable, replacement cost of your damaged property to settle upon the amount of loss, then either may demand an appraisal of the loss. In this event, you and we will each choose a competent and impartial appraiser within 20 days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or we may request that the choice be made by a judge of a court of record in the state where the covered property is located. The appraisers will separately state the actual cash value, the replacement cost and the amount of loss to each item. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of actual cash value and loss, or if it applies, the replacement cost and loss.

Each party will:

1. Pay its own appraiser; and

2. Bear the other expenses of the appraisal and umpire equally.

Q. Mortgage Clause.

The word ''mortgagee'' includes trustee.

Any loss payable under Coverage A—Building Property will be paid to any mortgagee of whom we have actual notice and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

If we deny your claim, that denial will not apply to a valid claim of the mortgagee, if the mortgagee:

1. Notifies us of any change in the ownership or occupancy, or substantial change in risk of which the mortgagee is aware;

2. Pays any premium due under this policy on demand if you have neglected to pay the premium; and

3. Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so.

All of the terms of this policy will then apply directly to the mortgagee.

If we decide to cancel or not renew this policy, it will continue in effect for the benefit of the mortgagee only for 30 days after we notify the mortgagee of the cancellation or non-renewal.

If we pay the mortgagee for any loss and deny payment to you, we are subrogated to all the rights of the mortgagee granted under the mortgage on the property. Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

R. Suit Against Us.

You may not sue us to recover money under this policy unless you have complied with all the requirements of the policy. If you do sue, you must start the suit within one year of the date of the written denial of all or part of the claim, and you must file the suit in the United States District Court of the district in which the covered property was located at the time of loss. This requirement applies to any claim that you may have under this policy and to any dispute that you may have arising out of the handling of any claim under the policy.

S. Subrogation.

Whenever we make a payment for a loss under this policy, we are subrogated to your right to recover for that loss from any other person. That means that your right to recover for a

loss that was partly or totally caused by someone else is automatically transferred to us, to the extent that we have paid you for the loss. We may require you to acknowledge this transfer in writing. After the loss, you may not give up our right to recover this money or do anything that would prevent us from recovering it. If you make any claim against any person who caused your loss and recover any money, you must pay us back first before you may keep any of that money.

T. Continuous Lake Flooding.

1. Where an insured building has been flooded by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in a covered loss to an insured building equal to or greater than the building policy limits plus the deductible or the maximum payable under the policy for any one building loss, we will pay you the lesser of these two amounts without waiting for the further damage to occur if you sign a release agreeing:

a. To make no further claim under this policy;

b. Not to seek renewal of this policy;

c. Not to apply for any flood insurance under the Act for property at the described location, and;

d. Not to seek a premium refund for current or prior terms.

If the policy term ends before an insured building has been flooded continuously for 90 days, the provisions of this paragraph 1. will apply as long as the insured building suffers a covered loss before the policy term ends.

2. If your insured building is subject to continuous lake flooding from a closed basin lake, you may elect to file a claim under either paragraph 1. above or this paragraph 2. (A ''closed basin lake'' is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) Under this paragraph we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

a. Lake flood waters must damage or imminently threaten to damage your building.

b. Before approval of your claim, you must:

(1) Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and

(2) Grant the conservation easement contained in the Federal Emergency Management Agency's (FEMA) ''Policy Guidance for Closed Basin Lakes,'' to be recorded in the office of the local recorder of deeds. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding. FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures that it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the NFIP and are insured under the NFIP, they will not be eligible for the benefits of this paragraph 2. If a U.S. Army Corps of Engineers-certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC; and

(3) Comply with paragraphs T.1.a. through T.1.d. above.

c. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if you show there is sufficient reason to extend the time.

d. Before the final payment of your claim, you must acquire an elevation certificate and a floodplain development permit from the local floodplain administrator for the new location of your building.

e. Before the approval of your claim, the community having jurisdiction over your building must:

(1) Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use ordinance, that is consistent with the provisions specified in the easement required in paragraph T. 2.b. above.

(2) Agree to declare and report any violations of this ordinance to FEMA so that under Sec. 1316 of the National Flood Insurance Act of 1968, as amended, flood insurance to the building can be denied; and

(3) Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of paragraph T.2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of paragraph T.2.b. above.

f. Before the approval of your claim, the affected State must take all action set forth in FEMA's ''Policy Guidance for Closed Basin Lakes.''

g. You must have NFIP flood insurance coverage continuously in effect from a date established by FEMA until you file a claim under paragraph T.2. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement. For the purpose of honoring a claim under this paragraph T.2, we will not consider to be in effect any increased coverage that became effective after the date established by FEMA. The exception to this is any increased coverage in the amount suggested by your insurer as an inflation adjustment.

h. This paragraph T.2. will be in effect for a community when the FEMA Regional Director for the affected region provides to the community, in writing, the following:

(1) Confirmation that the community and the State are in compliance with the conditions in e. and f. above, and

(2) The date by which you must have flood insurance in effect.

U. Duplicate Policies Not Allowed.

1. We will not insure your property under more than one NFIP policy.

If we find that the duplication was not knowingly created, we will give you written notice. The notice will advise you that you may choose one of several options under the following procedures:

a. If you choose to keep in effect the policy with the earlier effective date, you may also choose to add the coverage limits of the later policy to the limits of the earlier policy. The change will become effective as of the effective date of the later policy.

b. If you choose to keep in effect the policy with the later effective date, you may also choose to add the coverage

limits of the earlier policy to the limits of the later policy. The change will be effective as of the effective date of the later policy.

In either case, you must pay the pro rata premium for the increased coverage limits within 30 days of the written notice. In no event will the resulting coverage limits exceed the permissible limits of coverage under the Act or your insurable interest, whichever is less. We will make a refund to you, according to applicable NFIP rules, of the premium for the policy not being kept in effect.

2. The insured's option under Condition U. Duplicate Policies Not Allowed to elect which NFIP policy to keep in effect does not apply when duplicates have been knowingly created. Losses occurring under such circumstances will be adjusted according to the terms and conditions of the earlier policy. The policy with the later effective date must be canceled.

V. Loss Settlement.

1. Introduction.

This policy provides three methods of settling losses, Replacement Cost, Special Loss Settlement and Actual Cash Value. Each method is used for a different type of property as explained in paragraphs V.1. a., b., and c. below.

a. Replacement Cost Loss Settlement described in 2. below applies to a single-family dwelling provided:

(1) It is your principal residence, which means, at the time of loss, you or your spouse lived there for 80% of:

(a) The 365 days immediately preceding the loss; or

(b) The period of your ownership, if you owned the dwelling for less than 365 days, and

(2) At the time of loss, the amount of insurance in this policy that applies to the dwelling is 80% or more of its full replacement cost immediately before the loss, or is the maximum amount of insurance available under the NFIP.

b. Special Loss Settlement described in 3. below applies to a single-family dwelling that is a travel trailer or a manufactured or mobile home.

c. Actual Cash Value loss settlement applies to a single-family dwelling not subject to replacement cost or special loss settlement, and to the property listed in paragraph V.4. below.

2. Replacement Cost Loss Settlement.

The following loss settlement conditions apply to a single-family dwelling described in paragraph V.1.a. above:

a. We will pay to repair or replace the damaged dwelling after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:

(1) The building limit of liability shown in the declarations;

(2) The replacement cost of that part of the dwelling damaged, with materials of like kind and quality and for like use; or

(3) The necessary amount actually spent to repair or replace the damaged part of the dwelling for like use.

b. If the dwelling is rebuilt at a new location, the cost described above is limited to the cost that would have been incurred if the dwelling had been rebuilt at its former location.

c. When the full cost of repair or replacement is more than $1000 or more than 5% of the whole amount of insurance that applies to the dwelling, we will not be liable for any loss under paragraph V.2.a. above or paragraph V.4.a.(2) below unless and until actual repair or replacement is completed.

d. You may disregard the replacement cost conditions above and make claim under this policy for loss to dwellings on an actual cash value basis. You may then make claim for any additional liability according to paragraphs 2.a., b., and c. above, provided you notify us of your intent to do so within 180 days after the date of loss.

e. If the community in which your dwelling is located has been converted from the Emergency Program to the Regular Program during the current policy term then we will consider the maximum amount of available NFIP insurance to be the amount that was available at the beginning of the current policy term.

3. Special Loss Settlement.

The following loss settlement conditions apply to a dwelling that is a manufactured or mobile home or a travel trailer, as defined in Section II Definitions, B., paragraphs 6.b. and c.:

a. If such a dwelling is at least 16 feet wide when fully assembled and has at least 600 square feet within its perimeter walls when fully assembled, and is totally destroyed or damaged to such an extent that, in our judgment, it is not economically feasible to repair, at least to its pre-damaged condition, we will, at our discretion:

(1) Pay the least of the following amounts:

(a) The lesser of the replacement cost of the dwelling or 1.5 times the actual cash value.

(b) The Building Limit of liability shown on your Declarations Page.

b. If such a dwelling is partially damaged and, in our judgment, it is economically feasible to repair it to its pre-damaged condition, we will settle the loss according to the Replacement Cost conditions in paragraph V.2. above.

4. Actual Cash Value.

The types of property noted below are subject to actual cash value (or in the case of V.a.(2), proportional) loss settlement. ''Actual cash value'' is defined in Section II—Definitions.

a. A dwelling, at the time of loss, when the amount of insurance on the dwelling is both less than 80% of its full replacement cost immediately before the loss and less than the maximum amount of insurance available under the NFIP. In that case, we will pay the greater of the following amounts, but not more than the amount of insurance that applies to that dwelling:

(1) The actual cash value of the damaged part of the dwelling; or

(2) A proportion of the cost to repair or replace the damaged part of the dwelling, without deduction for physical depreciation and after application of the deductible.

This proportion is determined as follows: If 80% of the full replacement cost of the dwelling is less than the maximum amount of insurance available under the NFIP, then the proportion is determined by dividing the actual amount of insurance on the dwelling by the amount of insurance that represents 80% of its full replacement cost. But if 80% of the full replacement cost of the dwelling is greater than the maximum amount of insurance available under the NFIP, then the proportion is determined by dividing the actual amount of insurance on the dwelling by the maximum amount of insurance available under the NFIP.

b. A two, three or four family dwelling.

c. A unit that is not used exclusively for single-family dwelling purposes.

d. Detached garages.

e. Personal property.

f. Appliances, carpets and carpet pads.

g. Outdoor awnings, outdoor antennas or aerials of any type, and other outdoor equipment.

h. Any property covered under this policy that is abandoned after a loss and remains as debris anywhere on the described location.

i. A dwelling that is not the principal residence of the insured.

5. Amount of Insurance Required.

To determine the amount of insurance required for a dwelling immediately before the loss, do not include the value of:

a. Footings, foundations, piers, or any other structures or devices that are below the undersurface of the lowest basement floor and support all or part of the dwelling;

b. Those supports listed in a. above, that are below the surface of the ground inside the foundation walls if there is no basement; and

c. Excavations and underground flues, pipes, wiring, and drains.

Note: The Coverage D limit of liability is not included in the determination of the amount of insurance required.

VIII. Liberalization Clause

If we make a change that broadens your coverage under this edition of our policy, but does not require any additional premium, then that change will automatically apply to your insurance as of the date we implement the change, provided that this implementation date falls within 60 days before or during the policy term stated in the Declarations Page.

IX. What Law Governs

This policy and all disputes arising from the handling of any claim under the policy are governed exclusively by the flood insurance regulations issued by FEMA, the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, *et seq.*), and Federal common law.

In Witness Whereof, we have signed this policy below and hereby enter into this Insurance Agreement.

Jo Ann Howard,

Administrator,

Federal Insurance Administration.

4. We revise Appendix A(2) to Part 61, General Property Form, to read as follows:

APPENDIX A(2) TO PART 61

Federal Emergency Management Agency, Federal Insurance Administration

Standard Flood Insurance Policy

GENERAL PROPERTY POLICY

Please read the policy carefully. The flood insurance coverage provided is subject to limitations, restrictions and exclusions.

This policy provides no coverage:

1. In a regular program community, for a residential condominium building, as defined in this policy; and

2. Except for personal property coverage, for a unit in a condominium building.

I. Agreement

The Federal Emergency Management Agency provides flood insurance under the terms of the National Flood Insurance Act of 1968 and its Amendments, and Title 44 of the Code of Federal Regulations.

We will pay you for direct physical loss by or from flood to your insured property if you:

1. Have paid the correct premium;

2. Comply with all terms and conditions of this policy; and

3. Have furnished accurate information and statements.

We have the right to review the information you give us at any time and to revise your policy based on our review.

II. Definitions

A. In this policy, ''you'' and ''your'' refer to the insured(s) shown on the Declarations Page of this policy. ''We'', ''us'' and ''our'' refer to the insurer.

Some definitions are complex because they are provided as they appear in the law or regulations, or result from court cases. The precise definitions are intended to protect you.

Flood, as used in this flood insurance policy, means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of at least two or more properties (one of which is your property) from:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation or runoff of surface waters from any source.

c. Mudflows.

2. The collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels which result in a flood as defined in paragraph A.1.a. above.

B. The following are the other key definitions we use in this policy:

1. *Act.* The National Flood Insurance Act of 1968 and any amendments to it.

2. *Actual Cash Value.* The cost to replace an insured item of property at the time of loss, less the value of its physical depreciation.

3. *Application.* The statement made and signed by you or your agent in applying for this policy. The application gives information we use to determine the eligibility of the risk, the kind of policy to be issued and the correct premium payment. The application is part of this flood insurance policy. For us to issue you a policy, the correct premium payment must accompany the application.

4. *Base Flood.* A flood having a one percent chance of being equaled or exceeded in any given year.

5. *Basement.* Any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

6. *Building.*

a. A structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

b. A manufactured home (a ''manufactured home,'' also known as a mobile home, is a structure that is built on a permanent chassis and affixed to a permanent foundation and that is transported to its site in one or more sections); or

c. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

d. *Building* does not mean a gas or liquid storage tank or a recreational vehicle, park trailer or other similar vehicle, except as described in paragraph 6. c., above.

7. *Cancellation.* The ending of the insurance coverage provided by this policy before the expiration date.

8. *Condominium.* That form of ownership of real property in which each unit owner has an undivided interest in common elements.

9. *Condominium Association.* The entity, formed by the unit owners, responsible for the maintenance and operation of:

a. Common elements owned in undivided shares by unit owners; and

b. Other real property in which the unit owners have use rights when membership in the entity is a required condition of unit ownership.

10. *Declarations Page.* A computer-generated summary of information you furnish in the application for insurance. The declarations page also describes the term of the policy, limits of coverage, and displays the premium and our name. The declarations page is a part of this flood insurance policy.

11. *Described Location.* The location where the building or personal property is found. The described location is shown on the declarations page.

12. *Direct Physical Loss By or From Flood.* Loss or damage to insured property, directly caused by a flood. Direct physical loss must be evidenced by physical changes to the property.

13. *Elevated Building.* A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

14. *Emergency Program.* The initial phase of a community's participation in the National Flood Insurance Program. During this phase, only limited amounts of insurance are available under the Act.

15. *Expense Constant.* A flat charge that you must pay on each new or renewal policy to defray the expenses of the Federal Government related to flood insurance.

16. *Federal Policy Fee.* A flat charge that you must pay on each new or renewal policy to defray certain administrative expenses incurred in

carrying out the National Flood Insurance Program. This fee covers expenses not covered by the expense constant.

17. *Improvements.* Fixtures, alterations, installations, or additions comprising a part of the insured building.

18. *Mudflow.* A river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water. Other earth movements, such as landslide, slope failure, or a saturated soil mass moving by liquidity down a slope, are not mudflows.

19. *National Flood Insurance Program (NFIP).* The program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations in title 44 of the Code of Federal Regulations, subchapter B.

20. *Policy.* The entire written contract between you and us. It includes:

a. This printed form;

b. The application and declarations page;

c. Any endorsements that may be issued; and,

d. Any renewal certificate indicating that coverage has been instituted for a new policy and new policy term.

Only one building, specifically described by you in the application, may be insured under this policy.

21. *Pollutants.* Includes, but is not limited to, any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed.

22. *Post-FIRM Building.* A building for which construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

23. *Probation Premium.* A flat charge you must pay on each new or renewal policy issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24.

24. *Regular Program.* The final phase of a community's participation in the National Flood Insurance Program. In this phase, a Flood Insurance Rate Map is in effect and full limits of coverage are available under the Act.

25. *Residential Condominium Building.* A building, owned and administered as a condominium, containing one or more family units and in which at least 75% of the floor area is residential.

26. *Special Flood Hazard Area.* An area having special flood or mudflow, and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1–30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1–30, V1–30, VE, V.

27. *Stock* means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping. *Stock* does not include any property not covered under Section IV. Property Not Covered, except the following:

a. Parts and equipment for self-propelled vehicles;

b. Furnishings and equipment for watercraft;

c. Spas and hot-tubs, including their equipment; and

d. Swimming pool equipment.

28. *Unit.* A unit in a condominium building.

29. *Valued Policy.* A policy in which the insured and the insurer agree on the value of the property insured, that value being payable in the event of a total loss. The Standard Flood Insurance Policy is not a valued policy.

III. Property Covered

A. Coverage A—Building Property

We insure against direct physical loss by or from flood to:

1. A building described in the declarations page at the described location. If the building is a condominium building and the named insured is the condominium association, Coverage A includes all units within the building and the improvements within the units, provided the units are owned in common by all unit owners.

2. We also insure building property for a period of 45 days at another location, as set forth in III.C.2.b., Property Removed to Safety.

3. Additions and extensions attached to and in contact with the building by means of a rigid exterior wall, a solid load-bearing interior wall, a stairway, an elevated walkway, or a roof. At your option, additions and extensions connected by any of these methods may be separately insured. Additions and extensions attached to and in contact with the building by means of a common interior wall that is not a solid load-bearing wall are always considered part of the building and may not be separately insured.

4. The following fixtures, machinery and equipment, all while within the building or fastened to the building, and owned by the named insured, which are covered under Coverage A only;

a. Awnings and canopies;

b. Blinds;

c. Carpet permanently installed over unfinished flooring;

d. Central air conditioners;

e. Elevator equipment;

f. Fire extinguishing apparatus;

g. Fire sprinkler systems;

h. Freezers, walk-in;

i. Furnaces;

j. Light fixtures;

k. Outdoor antennas and aerials attached to buildings;

l. Permanently installed corner cupboards, bookcases, paneling, and wallpaper;

m. Pumps and machinery for operating pumps;

n. Ventilating equipment; and

o. Wall mirrors, permanently installed.

p. In the units within the building, installed:

(1) Built-in dishwashers;

(2) Built-in microwave ovens;

(3) Garbage disposal units;

(4) Hot water heaters, including solar water heaters;

(5) Kitchen cabinets;

(6) Plumbing fixtures;

(7) Radiators;

(8) Ranges;

(9) Refrigerators; and

(10) Stoves.

5. Materials and supplies to be used for construction, alteration or repair of the insured building while the materials and supplies are stored in a fully enclosed building at the described location or an adjacent property.

6. A building under construction, alteration or repair at the described location.

a. If the structure is not yet walled or roofed as described in the definition for building (See II.6.a.), then coverage applies:

(1) Only while such work is in progress; or

(2) The work is halted, only for a period of up to 90 continuous days thereafter.

b. However, coverage does not apply until the building is walled and roofed if the lowest floor, including the basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is:

(1) Below the base flood elevation in Zones AH, AE, A1–30, AR, AR/AE, AR/AH, AR/A1–30, AR/A, AR/AO; or

(2) Below the base flood elevation adjusted to include the effect of wave action in Zones VE or V1–30.

7. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1–30 and the top of the floor in Zones AH, AE, A1–30, AR, AR/AE, AR/AH, AR/A1–30, AR/A, AR/AO.

8. A manufactured home or a travel trailer as described in the Definitions Section (See II.B.6.b. and II.B.6.c.).

If the manufactured home or travel trailer is in a special flood hazard area, it must be anchored in the following manner at the time of the loss:

a. By over-the-top or frame ties to ground anchors; or

b. In accordance with the manufacturer's specifications; or

c. In compliance with the community's floodplain management requirements unless it has been continuously insured by the NFIP at the same described location since September 30, 1982.

9. Items of property in a building enclosure lower than the lowest elevated floor of an elevated post-FIRM building located in zones A1–30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–30, or VE, or in a basement, regardless of the zone. Coverage is limited to the following:

a. Any of the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

(1) Central air conditioners;

(2) Cisterns and the water in them;

(3) Drywall for walls and ceilings in a basement and the cost of labor to nail it, unfinished and unfloated and not taped, to the framing;

(4) Electrical junction and circuit breaker boxes;

(5) Electrical outlets and switches;

(6) Elevators, dumbwaiters and related equipment, unless installed below the base flood elevation after September 30, 1987;

(7) Fuel tanks and the fuel in them;

(8) Furnaces and hot water heaters;

(9) Heat pumps;

(10) Nonflammable insulation in a basement;

(11) Oil tanks and oil in them;

(12) Pumps and tanks used in solar energy system;

(13) Stairways and staircases attached to the building, not separated from it by elevated walkways;

(14) Sump pumps;

(15) Water softeners, water filters and faucets installed as an integral part of the plumbing system;

(16) Well water tanks and pumps;

(17) Required utility connections for any item in this list; and

(18) Footings, foundations, posts, pilings, piers, or other foundation walls and anchorage systems required to support a building.

b. Clean-up.

B. Coverage B—Personal Property

1. If you have purchased personal property coverage, we insure, subject to paragraphs B.2., 3. and 4. below, against direct physical loss by or from flood to personal property inside a fully enclosed insured building:

a. Owned solely by you, or in the case of a condominium, owned solely by the condominium association and used exclusively in the conduct of the business affairs of the condominium association; or

b. Owned in common by the unit owners of the condominium association.

We also insure such personal property for 45 days while stored at a temporary location, as set forth in III.C.2.b., Property Removed to Safety.

2. When this policy covers personal property, coverage will be either for household personal property or other than household personal property, while within the insured building, but not both.

a. If this policy covers household personal property, it will insure household personal property usual to a living quarters, that:

(1) Belongs to you, or a member of your household, or at your option:

(a) Your domestic worker;

(b) Your guest; or

(2) You may be legally liable for.

b. If this policy covers other than household personal property, it will insure your:

(1) Furniture and fixtures;

(2) Machinery and equipment;

(3) Stock; and

(4) All other personal property owned by you and used in your business.

3. Coverage for personal property includes the following property, subject to paragraphs B.1.a. and B.1.b. above, which is covered under Coverage B. only:

a. Air conditioning units installed in the building;

b. Carpet, not permanently installed, over unfinished flooring;

c. Carpets over finished flooring;

d. Clothes washers and dryers;

e. ''Cook-out'' grills;

f. Food freezers, other than walk-in, and the food in any freezer;

g. Outdoor equipment and furniture stored inside the insured building;

h. Ovens and the like;

i. Portable microwave ovens and portable dishwashers; and

j. Refrigerators.

4. Items of property in a building enclosure lower than the lowest elevated floor of an elevated post-FIRM building located in zones A1–30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–30, or VE, or in a basement, regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

a. Air conditioning units—portable or window type;

b. Clothes washers and dryers; and

c. Food freezers, other than walk-in, and food in any freezer.

5. *Special Limits.* We will pay no more than $2,500 for any loss to one or more of the following kinds of personal property:

a. Artwork, photographs, collectibles, or memorabilia, including but not limited to, porcelain or other figures, and sports cards;

b. Rare books, manuscripts or autographed items;

c. Jewelry, watches, precious and semi-precious stones, articles of gold, silver or platinum;

d. Furs or any article containing fur which represents its principal value; or

6. We will pay only for the functional value of antiques.

7. If you are a tenant, you may apply up to 10% of the Coverage B limit to improvements:

a. Made a part of the building you occupy; and

b. You acquired, or made at your expense, even though you cannot legally remove.

This coverage does not increase the amount of insurance that applies to insured personal property.

8. If you are a condominium unit owner, you may apply up to 10% of the Coverage B limit to cover loss to interior:

a. Walls,

b. Floors, and

c. Ceilings, that are not covered under a policy issued to the condominium association insuring the condominium building.

This coverage does not increase the amount of insurance that applies to insured personal property.

9. If you are a tenant, personal property must be inside a fully enclosed building.

C. Coverage C—Other Coverages

1. Debris Removal.

We will pay reasonable expenses to remove debris directly caused by flood provided the debris is:

a. Debris from property:

(1) That you do not own;

(2) That originates from beyond the boundaries of the described location, and

(3) That is physically on or in the insured building; or

b. Debris of the insured property anywhere.

If you perform the removal work, the value of your work will be based on the Federal minimum wage.

This coverage does not increase the Coverage A or Coverage B Limit of Liability.

2. Loss Avoidance Measures.

a. Sandbags, Supplies and Labor.

(1) We will pay up to $1,000 for the costs you incur to protect the insured building from a flood or imminent danger of flood, including:

(a) Your reasonable expenses to buy:

(i) Sandbags, including sand to fill them;

(ii) Fill for temporary levees;

(iii) Pumps; and

(iv) Plastic sheeting and lumber used in connection with these items; and

(b) The value of work, at the Federal minimum wage, that you perform.

(2) This coverage for Sandbags, Supplies and Labor only applies if damage to insured property by or from flood is imminent and the threat of flood damage is apparent enough to lead a person of common prudence to anticipate flood damage. One of the following must also occur:

(a) A general and temporary condition of flooding in the area near the described location must occur, even if the flood does not reach the insured building; or

(b) A legally authorized official must issue an evacuation order or other civil order for the community in which the insured building is located calling for measures to preserve life and property from the peril of flood.

This coverage does not increase the Coverage A or Coverage B limit of liability.

b. Property Removed to Safety.

(1) We will pay up to $1,000 for the reasonable expenses you incur to move insured property to another place other than the described location that contains the property in order to protect it from flood or the imminent danger of flood. Reasonable expenses include the value of work, at the Federal minimum wage, that you perform.

(2) If you move insured property to another location other than the described location that contains the property, in order to protect it from flood or the imminent danger of flood, we will cover such property while at that location for a period of 45 consecutive days from the date you first begin to move it there. The personal property that is moved must be placed in a fully enclosed building, or otherwise reasonably protected from the elements.

Any property removed, including a moveable home described in II. Definitions, Building, paragraphs b. and c., must be placed above ground level or outside of the special flood hazard area.

This coverage does not increase the Coverage A or Coverage B limit of liability.

D. Coverage D—Increased Cost of Compliance Coverage

A. General.

This policy pays you to comply with a State or local floodplain management law or ordinance affecting repair or reconstruction of a structure suffering flood damage. Compliance activities eligible for payment are: elevation, floodproofing, relocation, or demolition (or any combination of these activities) of your structure. Eligible floodproofing activities are limited to:

1. Non-residential structures.

2. Residential structures with basements that satisfy FEMA's standards published in the Code of Federal Regulations (44 CFR 60.6 (b) or (c)).

B. Limit of Liability.

$20,000 is the maximum we will pay you for this Coverage D (Increased Cost of Compliance), which only applies to policies with building coverage (Coverage A). Our payment of claims under Coverage D is in addition to the amount of coverage which you selected on the application and which appears on the Declarations Page. But the maximum you can collect under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Compliance) cannot exceed the maximum permitted under the Act. We do NOT charge a separate deductible for a claim under Coverage D.

C. Eligibility.

1. A structure covered under Coverage A—Building Property sustaining a loss caused by a flood as defined by this policy must:

a. Be a ''repetitive loss structure.'' A ''repetitive loss structure'' is one that meets the following conditions:

(1) The structure is covered by a contract of flood insurance issued under the NFIP.

(2) The structure has suffered flood damage on 2 occasions during a 10-year period which ends on the date of the second loss.

(3) The cost to repair the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each flood loss.

(4) In addition to the current claim, the NFIP must have paid the previous qualifying claim, and the State or community must have a cumulative, substantial damage provision or repetitive loss provision in its floodplain management law or ordinance being enforced against the structure; or

b. Be a structure that has had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.

2. This Coverage D pays you to comply with State or local floodplain management laws or ordinances that meet the minimum standards of the National Flood Insurance Program found in the Code of Federal Regulations at 44 CFR 60.3. We pay for compliance activities that exceed those standards under these conditions:

a. C.1.a. above.

b. Elevation or floodproofing in any risk zone to preliminary or advisory base flood elevations provided by FEMA which the State or local government has adopted and is enforcing for flood-damaged structures in such areas. (This includes compliance activities in B, C, X, or D zones which are being changed to zones with base flood elevations. This also includes compliance activities in zones where base flood elevations are being increased, and a flood-damaged structure must comply with the higher advisory base flood elevation.) Increased Cost of Compliance coverage does not apply to situations in B, C, X, or D zones where the community has derived its own elevations and is enforcing elevation or floodproofing requirements for flood-damaged structures to elevations derived solely by the community.

c. Elevation or floodproofing above the base flood elevation to meet State or local ''freeboard'' requirements, *i.e.,* that a structure must be elevated above the base flood elevation.

3. Under the minimum NFIP criteria at 44 CFR 60.3(b)(4), States and communities must require the elevation or floodproofing of structures in unnumbered A zones to the base flood elevation where elevation data is obtained from a Federal, State, or other source. Such compliance activities are also eligible for Coverage D.

4. This coverage will also pay for the incremental cost, after demolition or relocation, of elevating or floodproofing a structure during its rebuilding at the same or another site to meet State or local floodplain management laws or ordinances, subject to Exclusion E.7. below.

5. This coverage will also pay to bring a flood-damaged structure into compliance with state or local floodplain management laws or ordinances even if the structure had received a variance before the present loss from the applicable floodplain management requirements.

D. Conditions.

1. When a structure covered under Coverage A—Building Property sustains a loss caused by a flood, our payment for the loss under this Coverage D will be for the increased cost to elevate, floodproof, relocate, or demolish (or any combination of these activities) caused by the enforcement of current State or local floodplain management ordinances or laws. Our payment for eligible demolition activities will be for the cost to demolish and clear the site of the building debris or a portion thereof caused by the enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

2. When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise required by current floodplain management ordinances or laws.

E. Exclusions.

Under this Coverage D (Increased Cost of Compliance) we will not pay for:

1. The cost to comply with any floodplain management law or ordinance in communities participating in the Emergency Program.

2. The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

3. The loss in value to any insured building or other structure due to the requirements of any ordinance or law.

4. The loss in residual value of the undamaged portion of a building demolished as a consequence of enforcement of any State or local floodplain management law or ordinance.

5. Any Increased Cost of Compliance under this Coverage D:

a. Until the building is elevated, floodproofed, demolished, or relocated on the same or to another premises; and

b. Unless the building is elevated, floodproofed, demolished, or relocated as soon as reasonably possible after the loss, not to exceed two years.

6. Any code upgrade requirements, *e.g.,* plumbing or electrical wiring, not specifically related to the State or local floodplain management law or ordinance.

7. Any compliance activities needed to bring additions or improvements made after the loss occurred into compliance with State or local floodplain management laws or ordinances.

8. Loss due to any ordinance or law that you were required to comply with before the current loss.

9. Any rebuilding activity to standards that do not meet the NFIP's minimum requirements. This includes any situation where the insured has received from the State or community a variance in connection with the current flood loss to rebuild the property to an elevation below the base flood elevation.

10. Increased Cost of Compliance for a garage or carport.

11. Any structure insured under an NFIP Group Flood Insurance Policy.

12. Assessments made by a condominium association on individual condominium unit owners to pay increased costs of repairing commonly owned buildings after a flood in compliance with State or local floodplain management ordinances or laws.

F. Other Provisions.

All other conditions and provisions of the policy apply.

IV. Property Not Covered

A. We do not cover any of the following property:

1. Personal property not inside a building;

2. A building, and personal property in it, located entirely in, on, or over water or seaward of mean high tide, if it was constructed or substantially improved after September 30, 1982;

3. Open structures, including a building used as a boathouse or any structure or building into which boats are floated, and personal property located in, on or over water;

4. Recreational vehicles other than travel trailers described in the II. Definitions, Building, paragraph c., whether affixed to a permanent foundation or on wheels;

5. Self-propelled vehicles or machines, including their parts and equipment. However, we do cover self-propelled vehicles or machines, provided they are not licensed for use on public roads and are:

a. Used mainly to service the described location or

b. Designed and used to assist handicapped persons, while the vehicles or machines are inside a building at the described location;

6. Land, land values, lawns, trees, shrubs, plants, growing crops, or animals;

7. Accounts, bills, coins, currency, deeds, evidences of debt, medals, money, scrip, stored value cards, postage stamps, securities, bullion, manuscripts, or other valuable papers;

8. Underground structures and equipment, including wells, septic tanks and septic systems;

9. Those portions of walks, walkways, decks, driveways, patios and other surfaces, all whether protected by a roof or not, located outside the perimeter, exterior walls of the insured building;

10. Containers including related equipment, such as, but not limited to, tanks containing gases or liquids;

11. Buildings or units and all their contents if more than 49% of the actual cash value of the building is below ground, unless the lowest level is at or above the base flood elevation and is below ground by reason of earth having been used as insulation material in conjunction with energy efficient building techniques;

12. Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks;

13. Aircraft or watercraft, or their furnishings and equipment;

14. Swimming pools, hot tubs, spas, and their equipment such as, but not limited to, heaters, filters, pumps, and pipes, wherever located;

15. Property not eligible for flood insurance pursuant to the provisions of the Coastal Barrier Resources Act and the Coastal Barrier Improvement Act of 1990 and amendments to these Acts; and

16. Loss to any building or personal property located on land leased from the Federal Government, arising from or incident to the flooding of the land by the Federal Government, where the lease expressly holds the Federal Government harmless under flood insurance issued under any Federal Government program.

17. Personal property used in connection with any incidental commercial occupancy or use of the building;

18. Personal property owned by or in the care, custody or control of a unit owner, except for property of the type and under the circumstances set forth under III. Coverage B—Personal Property of this policy;

19. A residential condominium building located in a Regular Program community.

V. Exclusions

A. We only provide coverage for direct physical loss by or from flood, which means that we do not pay you for:

1. Loss of revenue or profits;

2. Loss of access to the insured property or described location;

3. Loss of use of the insured property or described location;

4. Loss from interruption of business or production;

5. Any additional expenses incurred while the insured building is being repaired or is unable to be occupied for any reason;

6. The cost of complying with any ordinance or law:

a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of property, including removal of any resulting debris. This exclusion does not apply to any eligible activities that we describe in Coverage D—Increased Cost of Compliance; or

b. Requiring you or others to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effect of, any pollutant; or

7. Any other economic loss.

B. We do not insure a loss directly or indirectly caused by a flood that is in progress at the time and date:

1. The policy term begins; or

2. Coverage is added at your request.

C. We do not insure for loss to property caused directly by earth movement even if the earth movement is caused by flood. Some examples of earth movement that we do not cover are:

1. Earthquake;

2. Landslide;

3. Land subsidence;

4. Sinkholes;

5. Destabilization or movement of land that results from accumulation of water in subsurface land areas; or

6. Gradual erosion. We do, however, pay for losses from erosion and mudflows that are specifically covered under our definition of flood.

D. We do not insure for direct physical loss caused directly or indirectly by:

1. The pressure or weight of ice;

2. Freezing or thawing;

3. Rain, snow, sleet, hail, or water spray;

4. Water, moisture, mildew, or mold damage that results primarily from any condition:

a. Substantially confined to the insured building; or

b. That is within your control including, but not limited to:

(1) Design, structural or mechanical defects;

(2) Failures, stoppages, or breakage of water or sewer lines, drains, pumps, fixtures, or equipment; or

(3) Failure to inspect and maintain the property after a flood recedes;

5. Water or water-borne material that:

a. Backs up through sewers or drains;

b. Discharges or overflows from a sump, sump pump or related equipment; or

c. Seeps or leaks on or through insured property,

unless the damaged insured property has been, at the same time, damaged by flood;

6. The pressure or weight of water unless the damaged insured property has been, at the same time, damaged by flood;

7. Power, heating or cooling failure unless the failure results from direct physical loss by or from flood to power, heating or cooling equipment situated on the described location;

8. Discharge, dispersal, seepage, migration, release, or escape of pollutants;

9. Theft, fire, explosion, wind, or windstorm;

10. Anything that you or your agents do or conspire to do to deliberately cause loss by flood; or

11. Alteration of the insured property that significantly increases the risk of flooding.

VI. Deductibles

A. When a loss is covered under this policy, we will pay only that part of the loss that exceeds the applicable deductible amount, subject to the limit of liability that applies. The deductible amount is shown on the declarations page.

However, when a building under construction, alteration or repair does not have at least two rigid exterior walls and a fully secured roof at the time of loss, your deductible amount will be two times the deductible that would otherwise apply to a completed building.

B. In each loss from flood, separate deductibles apply to the building and personal property insured by this policy.

C. No deductible applies to:

1. III.C.2. Loss Avoidance Measures; or

2. III.D. Increased Cost of Compliance Coverage.

VII. General Conditions

A. Pair and Set Clause.

In case of loss to an article that is part of a pair or set, we will have the option of paying you:

1. An amount equal to the cost of replacing the lost, damaged or destroyed article, less depreciation, or

2. An amount which represents the fair proportion of the total value of the pair or set that the lost, damaged or destroyed article bears to the pair or set.

B. Concealment or Fraud and Policy Voidance.

1. With respect to all insureds under this policy, this policy:

a. Is void,

b. Has no legal force or effect,

c. Cannot be renewed, and

d. Cannot be replaced by a new flood policy,

if, before or after a loss, you or any other insured or your agent have at any time:

(1) Intentionally concealed or misrepresented any material fact or circumstance,

(2) Engaged in fraudulent conduct, or

(3) Made false statements

relating to this policy or any other NFIP insurance.

2. This policy will be void as of the date the wrongful acts described in B. 1. above were committed.

3. Fines, civil penalties, and imprisonment under applicable Federal laws may also apply to the acts of fraud or concealment described above.

4. This policy is also void for reasons other than fraud, misrepresentation, or wrongful act. This policy is void from its inception and has no legal force under the following conditions:

a. If the property listed on the application is not eligible for coverage under the NFIP; or

b. If the property is located in a community that was not participating in the NFIP on the policy's inception date and did not join or re-enter the program during the policy term and before the loss occurred.

C. Other Insurance.

1. If a loss covered by this policy is also covered by other insurance that includes flood coverage not issued under the Act, we will not pay more than the amount of insurance that you are entitled to for lost, damaged or destroyed property insured under this policy subject to the following:

a. We will pay only the proportion of the loss that the amount of insurance that applies under this policy bears to the total amount of insurance covering the loss, unless b. or c. below applies.

b. If the other policy has a provision stating that it is excess insurance, this policy will be primary.

c. This policy will be primary (but subject to its own deductible) up to the deductible in the other flood policy (except another policy as described in C.1.b. above). When the other deductible amount is reached, this policy will participate in the same proportion that the amount of insurance under this policy bears to the total amount of both policies, for the remainder of the loss.

2. Where this policy covers a condominium association and there is a flood insurance policy in the name of a unit-owner that covers the same loss as this policy, then this policy will be primary.

D. Amendments, Waivers, Assignment.

This policy cannot be changed nor can any of its provisions be waived without the express written consent of the Federal Insurance Administrator. No action that we take under the terms of this policy can constitute a waiver of any of our rights. You may assign this policy in writing when you transfer title of your property to someone else except under these conditions:

1. When this policy covers only personal property; or

2. When this policy covers a structure during the course of construction.

E. Cancellation of Policy by You.

1. You may cancel this policy at any time.

If you cancel this policy, you may be entitled to a full or partial refund of premium under our applicable rules and regulations.

F. Non-Renewal of the Policy by Us.

Your policy will not be renewed:

1. If the community where your covered property is located stops participating in the NFIP, or

2. Your building has been declared ineligible under section 1316 of the Act.

G. Reduction and Restoration of Coverage.

1. If the premium we received from you was not enough to buy the kind and amount of coverage you requested, we will provide only the amount of coverage that can be purchased for the premium payment we received.

2. The amount of coverage resulting from the reduction described in 1. above can be restored to the amount you requested as follows:

a. Discovery of Insufficient Premium or Incomplete Rating Information Before a Loss.

(1) If we discover before you have a flood loss that your premium payment was not enough to buy the requested amount of coverage, we will send you and any mortgagee or trustee known to us a bill for the required additional premium for the current policy term (or that portion of the current policy term following any endorsement changing the amount of coverage). If you or the mortgagee or trustee pay the additional premium within 30 days from the date of our bill, we will restore the amount of coverage to the originally requested amount effective to the beginning of the current policy term (or subsequent date of any endorsement changing the amount of coverage).

(2) If we determine before you have a flood loss that the rating information we have is incomplete and prevents us from calculating the additional premium, we will ask you to send the required information. You must submit the information within 60 days of our request. Once we determine the amount of additional premium for the current policy term, we will follow the procedure in (1) above.

(3) If we do not receive the additional premium (or additional information) by the date it is due, the amount of coverage can only be restored by endorsement subject to any appropriate waiting period.

b. Discovery of Insufficient Premium or Incomplete Rating Information After a Loss.

(1) If we discover after you have a flood loss that your premium payment was not enough to buy the requested amount of coverage, we will send you and any mortgagee or trustee known to us a bill for the required additional premium for the current and the prior policy terms. If you or the mortgagee or trustee pay the additional premium within 30 days of the date of our bill, we will restore the amount of coverage to the originally requested amount effective to the beginning of the prior policy term.

(2) If we discover after you have a flood loss that the rating information we have is incomplete and prevents us from calculating the additional premium, we will ask you to send the required information. You must submit the information before your claim can be paid. Once we determine the amount of additional premium for the current and prior policy terms, we will follow the procedure in (1) above.

(3) If we do not receive the additional premium by the date it is due, your flood insurance claim will be settled based on the reduced amount of coverage. The amount of coverage can only be restored by endorsement subject to any appropriate waiting period.

3. However, if we find that you or your agent intentionally did not tell us, or falsified, any important fact or circumstance or did anything fraudulent relating to this insurance, the provisions of Condition B. above apply.

H. Policy Renewal.

1. This policy will expire at 12:01 a.m. on the last day of the policy term.

2. We must receive the payment of the appropriate renewal premium within 30 days of the expiration date.

3. If we find, however, that your renewal notice was not placed into the U.S. Postal Service, or if it was mailed properly, it was prepared in a such a way, *e.g.,* with an incorrect, incomplete, or illegible address, as to delay its delivery to you before the due date for the renewal premium, then we will follow these procedures:

a. If you or your agent notified us, not later than one year after the date on which the payment of the renewal premium was due, of nonreceipt of a renewal notice before the due date for the renewal premium, and we determine that the circumstances in the preceding paragraph apply, we will mail a second bill providing a revised due date, which will be 30 days after the date on which the bill is mailed.

b. If we do not receive the premium requested in the second bill by the revised due date, then we will not renew the policy. In that case, the policy will remain as an expired policy as of the expiration date shown on the declarations page.

4. In connection with the renewal of this policy, we may ask you during the policy term to re-certify, on a Recertification Questionnaire that we will provide to you, the rating information used to rate your most recent application for or renewal of insurance.

I. Conditions Suspending or Restricting Insurance

We are not liable for loss that occurs while there is a hazard that is increased by any means within your control or knowledge.

J. Requirements in Case of Loss.

In case of a flood loss to insured property, you must:

1. Give prompt written notice to us;

2. As soon as reasonably possible, separate the damaged and undamaged property, putting it in the best possible order so that we may examine it;

3. Prepare an inventory of damaged property showing the quantity, description, actual cash value, and amount of loss. Attach all bills, receipts and related documents;

4. Within 60 days after the loss, send us a proof of loss, which is your statement as to the amount you are claiming under the policy signed and sworn to by you, and which furnishes us with the following information:

a. The date and time of loss;

b. A brief explanation of how the loss happened;

c. Your interest (for example, ''owner'') and the interest, if any, of others in the damaged property;

d. Details of any other insurance that may cover the loss;

e. Changes in title or occupancy of the insured property during the term of the policy;

f. Specifications of damaged buildings and detailed repair estimates;

g. Names of mortgagees or anyone else having a lien, charge or claim against the insured property;

h. Details about who occupied any insured building at the time of loss and for what purpose; and

i. The inventory of damaged property described in 3. above.

5. In completing the proof of loss, you must use your own judgment

concerning the amount of loss and justify that amount.

6. You must cooperate with our adjuster or representative in the investigation of the claim.

7. The insurance adjuster whom we hire to investigate your claim may furnish you with a proof of loss form, and she or he may help you to complete it. However, this is a matter of courtesy only, and you must still send us a proof of loss within sixty days after the loss even if the adjuster does not furnish the form or help you to complete it.

8. We have not authorized the adjuster to approve or disapprove claims or to tell you whether we will approve your claim.

9. At our option, we may accept an adjuster's report of the loss instead of your proof of loss. The adjuster's report will include information about your loss and the damages you sustained. You must sign the adjuster's report. At our option, we may require you to swear to the report.

K. Our Options After a Loss.

Options that we may, in our sole discretion, exercise after loss include the following:

1. At such reasonable times and places that we may designate, you must:

a. Show us or our representative the damaged property;

b. Submit to examination under oath, while not in the presence of another insured, and sign the same; and

c. Permit us to examine and make extracts and copies of:

(1) Any policies of property insurance insuring you against loss and the deed establishing your ownership of the insured real property;

(2) Condominium association documents including the Declarations of the condominium, its Articles of Association or Incorporation, Bylaws, and rules and regulations; and

(3) All books of accounts, bills, invoices and other vouchers, or certified copies pertaining to the damaged property if the originals are lost.

2. We may request, in writing, that you furnish us with a complete inventory of the lost, damaged, or destroyed property, including:

a. Quantities and costs;

b. Actual cash value;

c. Amounts of loss claimed; and

d. Any written plans and specifications for repair of the damaged property that you can make reasonably available to us.

3. If we give you written notice within 30 days after we receive your signed, sworn proof of loss, we may:

a. Repair, rebuild or replace any part of the lost, damaged or destroyed property with material or property of like kind and quality or its functional equivalent; and

b. Take all or any part of the damaged property at the value that we agree upon or its appraised value.

L. No Benefit to Bailee.

No person or organization, other than you, having custody of covered property will benefit from this insurance.

M. Loss Payment.

1. We will adjust all losses with you. We will pay you unless some other person or entity is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after we receive your proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by you in lieu of a proof of loss) and:

a. We reach an agreement with you;

b. There is an entry of a final judgment; or

c. There is a filing of an appraisal award with us, as provided in VII. P.

2. If we reject your proof of loss in whole or in part you may:

a. Accept such denial of your claim;

b. Exercise your rights under this policy; or

c. File an amended proof of loss as long as it is filed within 60 days of the date of the loss or within any extension of time allowed by the Administrator.

N. Abandonment.

You may not abandon damaged or undamaged insured property to us.

O. Salvage.

We may permit you to keep damaged insured property after a loss and we will reduce the amount of the loss proceeds payable to you under the policy by the value of the salvage.

P. Appraisal.

If you and we fail to agree on the actual cash value of the damaged property so as to determine the amount of loss, either may demand an appraisal of the loss. In this event, you and we will each choose a competent and impartial appraiser within 20 days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or we may request that the choice be made by a judge of a court of record in the state where the insured property is located. The appraisers will separately state the actual cash value and the amount of loss to each item. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of actual cash value and loss.

Each party will:

1. Pay its own appraiser; and

2. Bear the other expenses of the appraisal and umpire equally.

Q. Mortgage Clause.

The word ''mortgagee'' includes trustee.

Any loss payable under Coverage A—Building Property will be paid to any mortgagee of whom we have actual notice and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages. If we deny your claim, that denial will not apply to a valid claim of the mortgagee, if the mortgagee:

1. Notifies us of any change in the ownership or occupancy, or substantial change in risk of which the mortgagee is aware;

2. Pays any premium due under this policy on demand if you have neglected to pay the premium; and

3. Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so.

All of the terms of this policy will then apply directly to the mortgagee.

If we decide to cancel or not renew this policy, it will continue in effect for the benefit of the mortgagee only for 30 days after we notify the mortgagee of the cancellation or non-renewal.

If we pay the mortgagee for any loss and deny payment to you, we are subrogated to all the rights of the mortgagee granted under the mortgage on the property. Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

R. Suit Against Us.

You may not sue us to recover money under this policy unless you have complied with all the requirements of the policy. If you do sue, you must start the suit within one year of the date of the written denial of all or part of the claim and you must file the suit in the United States District Court of the district in which the insured property was located at the time of loss. This requirement applies to any claim that you may have under this policy and to any dispute that you may have arising out of the handling of any claim under the policy.

S. Subrogation.

Whenever we make a payment for a loss under this policy, we are subrogated to your right to recover for that loss from any other person. That means that your right to recover for a loss that was partly or totally caused by someone else is automatically transferred to us, to the extent that we have paid you for the loss. We may require you to acknowledge this transfer in writing. After the loss, you may not give up our right to recover this money

or do anything which would prevent us from recovering it. If you make any claim against any person who caused your loss and recover any money, you must pay us back first before you may keep any of that money.

T. Continuous Lake Flooding.

1. Where an insured building has been flooded by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in a covered loss to an insured building equal to or greater than the building policy limits plus the deductible or the maximum payable under the policy for any one building loss, we will pay you the lesser of these two amounts without waiting for the further damage to occur if you sign a release agreeing:

a. To make no further claim under this policy;

b. Not to seek renewal of this policy;

c. Not to apply for any flood insurance under the Act for property at the described location, and;

d. Not to seek a premium refund for current or prior terms.

If the policy term ends before an insured building has been flooded continuously for 90 days, the provisions of this paragraph 1. will apply as long as the insured building suffers a covered loss before the policy term ends.

2. If your insured building is subject to continuous lake flooding from a closed basin lake, you may elect to file a claim under either paragraph 1. above or this paragraph 2. (A ''closed basin lake'' is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) Under this paragraph we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

a. Lake flood waters must damage or imminently threaten to damage your building.

b. Before approval of your claim, you must:

(1) Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and

(2) Grant the conservation easement contained in the Federal Emergency Management Agency's (FEMA) ''Policy Guidance for Closed Basin Lakes,'' to be recorded in the office of the local recorder of deeds. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding. FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures that it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the NFIP and are insured under the NFIP, they will not be eligible for the benefits of this paragraph T.2. If a U.S. Army Corps of Engineers-certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC; and

(3) Comply with T.1.a. through T.1.d. above.

c. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if you show there is sufficient reason to extend the time.

d. Before the final payment of your claim, you must acquire an elevation certificate and a floodplain development permit from your local floodplain administrator for the new location of your building.

e. Before the approval of your claim, the community having jurisdiction over your building must:

(1) Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use ordinance, that is consistent with the provisions specified in the easement required in T.2.b. above.

(2) Agree to declare and report any violations of this ordinance to FEMA so that under Sec. 1316 of the National Flood Insurance Act of 1968, as amended, flood insurance to the building can be denied; and

(3) Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of T.2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of T.2.b. above.

f. Before the approval of your claim, the affected State must take all action set forth in FEMA's ''Policy Guidance for Closed Basin Lakes.''

g. You must have NFIP flood insurance coverage continuously in effect from a date established by FEMA until you file a claim under this paragraph 2. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement. For the purpose of honoring a claim under this paragraph T.2, we will not consider to be in effect any increased coverage that became effective after the date established by FEMA. The exception to this is any increased coverage in the amount suggested by your insurer as an inflation adjustment.

h. This paragraph T.2. will be in effect for a community when the FEMA Regional Director for the affected region provides to the community, in writing, the following:

(1) Confirmation that the community and the State are in compliance with the conditions in T.2.e. and T.2.f. above, and

(2) The date by which you must have flood insurance in effect.

U. Duplicate Policies Not Allowed.

1. Property may not be insured under more than one NFIP policy.

If we find that the duplication was not knowingly created, we will give you written notice. The notice will advise you that you may choose one of several options under the following procedures:

a. If you choose to keep in effect the policy with the earlier effective date, you may also choose to add the coverage limits of the later policy to the limits of the earlier policy. The change will become effective as of the effective date of the later policy.

b. If you choose to keep in effect the policy with the later effective date, you may also choose to add the coverage limits of the earlier policy to the limits of the later policy. The change will be effective as of the effective date of the later policy.

In either case, you must pay the pro rata premium for the increased coverage

limits within 30 days of the written notice. In no event will the resulting coverage limits exceed the permissible limits of coverage under the Act or your insurable interest, whichever is less. We will make a refund to you, according to applicable NFIP rules, of the premium for the policy not being kept in effect.

2. The insured's option under this Condition U. Duplicate Policies Not Allowed to elect which NFIP policy to keep in effect does not apply when duplicates have been knowingly created. Losses occurring under such circumstances will be adjusted according to the terms and conditions of the earlier policy. The policy with the later effective date must be canceled.

V. Loss Settlement.

We will pay the least of the following amounts after application of the deductible:

1. The applicable amount of insurance under this policy;

2. The actual cash value; or

3. The amount it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss.

VIII. Liberalization Clause

If we make a change that broadens your coverage under this edition of our policy, but does not require any additional premium, then that change will automatically apply to your insurance as of the date we implement the change, provided that this implementation date falls within 60 days before or during the policy term stated in the Declarations Page.

IX. What Law Governs

This policy and all disputes arising from the handling of any claim under the policy are governed exclusively by the flood insurance regulations issued by FEMA, the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, *et seq.*), and Federal common law.

In Witness Whereof, we have signed this policy below and hereby enter into this Insurance Agreement.

Jo Ann Howard,

Administrator, Federal Insurance Administration.

5. We revise Appendix A(3) to Part 61, Residential Condominium Building Association Policy, to read as follows:

APPENDIX A(3) TO PART 61

Federal Emergency Management Agency, Federal Insurance Administration

Standard Flood Insurance Policy

RESIDENTIAL CONDOMINIUM BUILDING ASSOCIATION POLICY

I. Agreement

Please read the policy carefully. The flood insurance provided is subject to limitations, restrictions and exclusions.

This policy covers only a residential condominium building in a regular program community. if the community reverts to emergency program status during the policy term and remains as an emergency program community at time of renewal, this policy cannot be renewed.

The Federal Emergency Management Agency provides flood insurance under the terms of the National Flood Insurance Act of 1968 and its Amendments, and Title 44 of the Code of Federal Regulations.

We will pay you for direct physical loss by or from flood to your insured property if you:

1. Have paid the correct premium;
2. Comply with all terms and conditions of this policy; and
3. Have furnished accurate information and statements.

We have the right to review the information you give us at any time and to revise your policy based on our review.

II. Definitions

A. In this policy, ''you'' and ''your'' refer to the insured(s) shown on the Declarations Page of this policy. ''We'', ''us'' and ''our'' refer to the insurer.

Some definitions are complex because they are provided as they appear in the law or regulations, or result from court cases. The precise definitions are intended to protect you.

''Flood'', as used in this flood insurance policy, means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of at least two or more properties (one of which is your property) from:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation or runoff of surface waters from any source.

c. Mudflows.

2. The collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels which result in a flood as defined in ''Flood'' paragraph A.1.a above.

B. The following are the other key definitions we use in this policy:

1. *Act.* The National Flood Insurance Act of 1968 and any amendments to it.

2. *Actual Cash Value.* The cost to replace an insured item of property at the time of loss, less the value of its physical depreciation.

3. *Application.* The statement made and signed by you or your agent in applying for this policy. The application gives information we use to determine the eligibility of the risk, the kind of policy to be issued and the correct premium payment. The application is part of this flood insurance policy for us to issue you a policy, the correct premium payment must accompany the application.

4. *Base Flood.* A flood having a one percent chance of being equaled or exceeded in any given year.

5. *Basement.* Any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

6. *Building.*

a. A structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

b. A manufactured home (a ''manufactured home'', also known as a mobile home, is a structure that is built on a permanent chassis and affixed to a permanent foundation and that is transported to its site in one or more sections); or

c. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

Building does not mean a gas or liquid storage tank or a recreational vehicle, park trailer or other similar vehicle, except as described in 6.c., above.

7. *Cancellation.* The ending of the insurance coverage provided by this policy before the expiration date.

8. *Condominium.* That form of ownership of real property in which each unit owner has an undivided interest in common elements.

9. *Condominium Association.* The entity, formed by the unit owners, responsible for the maintenance and operation of:

a. Common elements owned in undivided shares by unit owners; and

b. Other real property in which the unit owners have use rights; when membership in the entity is a required condition of unit ownership.

10. *Declarations Page.* A computer-generated summary of information you furnish in the application for insurance.

The declarations page also describes the term of the policy, limits of coverage, and displays the premium and our name. The declarations page is a part of this flood insurance policy.

11. *Described Location.* The location where the building or personal property are found. The described location is shown on the declarations page.

12. *Direct Physical Loss By or From Flood.* Loss or damage to insured property, directly caused by a flood. Direct physical loss must be evidenced by physical changes to the property.

13. *Elevated Building.* A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

14. *Emergency Program.* The initial phase of a community's participation in the National Flood Insurance Program. During this phase, only limited amounts of insurance are available under the Act.

15. *Expense Constant.* A flat charge that you must pay on each new or renewal policy to defray the expenses of the Federal Government related to flood insurance.

16. *Federal Policy Fee.* A flat charge that you must pay on each new or renewal policy to defray certain administrative expenses incurred in carrying out the National Flood Insurance Program. This fee covers expenses not covered by the expense constant.

17. *Improvements.* Fixtures, alterations, installations, or additions comprising a part of the residential condominium building, including improvements in the units.

18. *Mudflow.* A river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water. Other earth movements, such as landslide, slope failure, or a saturated soil mass moving by liquidity down a slope, are not mudflows.

19. *National Flood Insurance Program (NFIP).* The program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations in title 44 of the Code of Federal Regulations, Subchapter B.

20. *Policy.* The entire written contract between you and us. It includes:

a. This printed form;

b. The application and declarations page;

c. Any endorsements that may be issued; and

d. Any renewal certificate indicating that coverage has been instituted for a new policy and new policy term.

Only one building, specifically described by you in the application, may be insured under this policy.

21. *Pollutants.* Includes, but is not limited to, any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed.

22. *Post-FIRM Building.* A building for which construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

23. *Probation Premium.* A flat charge you must pay on each new or renewal policy issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24.

24. *Regular Program.* The final phase of a community's participation in the National Flood Insurance Program. In this phase, a Flood Insurance Rate Map is in effect and full limits of coverage are available under the Act.

25. *Residential Condominium Building.* A building, owned and administered as a condominium, containing one or more family units and in which at least 75% of the floor area is residential.

26. *Special Flood Hazard Area.* An area having special flood or mudflow, and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1–30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1–30, V1–30, VE, V.

27. *Unit.* A single-family unit in a residential condominium building.

28. *Valued Policy.* A policy in which the insured and the insurer agree on the value of the property insured, that value being payable in the event of a total loss. The Standard Flood Insurance Policy is not a valued policy.

III. Property Covered

A. Coverage A—Building Property

We insure against direct physical loss by or from flood to:

1. The residential condominium building described in the declarations page at the described location, including all units within the building and the improvements within the units.

2. We also insure such building property for a period of 45 days at another location, as set forth in III.C.2.b., Property Removed to Safety.

3. Additions and extensions attached to and in contact with the building by means of a rigid exterior wall, a solid load-bearing interior wall, a stairway, an elevated walkway, or a roof. At your option, additions and extensions connected by any of these methods may be separately insured. Additions and extensions attached to and in contact with the building by means of a common interior wall that is not a solid load-bearing wall are always considered part of the building and may not be separately insured.

4. The following fixtures, machinery and equipment, all while within the building or fastened to the building, including its units, which are covered under Coverage A only:

a. Awnings and canopies;

b. Blinds;

c. Carpet permanently installed over unfinished flooring;

d. Central air conditioners;

e. Elevator equipment;

f. Fire extinguishing apparatus;

g. Fire sprinkler systems;

h. Freezers, walk-in;

i. Furnaces;

j. Light fixtures;

k. Outdoor antennas and aerials fastened to buildings;

l. Permanently installed corner cupboards, bookcases, paneling, and wallpaper;

m. Pumps and machinery for operating pumps;

n. Ventilating equipment; and

o. Wall mirrors, permanently installed.

p. In the units within the building, installed:

(1) Built-in dishwashers;

(2) Built-in microwave ovens;

(3) Garbage disposal units;

(4) Hot water heaters, including solar water heaters;

(5) Kitchen cabinets;

(6) Plumbing fixtures;

(7) Radiators;

(8) Ranges;

(9) Refrigerators; and

(10) Stoves.

5. Materials and supplies to be used for construction, alteration or repair of the insured building while the materials and supplies are stored in a fully enclosed building at the described location or an adjacent property.

6. A building under construction, alteration or repair at the described location.

a. If the structure is not yet walled or roofed as described in the definition for building (see II. Definitions, B.6. Building, paragraph a.), then coverage applies:

(1) Only while such work is in progress; or

(2) If such work is halted, only for a period of up to 90 continuous days thereafter.

However, coverage does not apply until the building is walled and roofed if the lowest floor, including the basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is:

(3) Below the base flood elevation in Zones AH, AE, A1–30, AR, AR/AE, AR/AH, AR/A1–30, AR/A, AR/AO; or

(4) Below the base flood elevation adjusted to include the effect of wave action in Zones VE or V1–30.

The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1–30 and the top of the floor in Zones AH, AE, A1–30, AR, AR/AE, AR/AH, AR/A1–30, AR/A, AR/AO.

7. A manufactured home or a travel trailer as described in the Definitions Section (See II. Definitions, B. Building, paragraphs b. and c.).

If the manufactured home is in a special flood hazard area, it must be anchored in the following manner at the time of the loss:

a. By over-the-top or frame ties to ground anchors; or

b. In accordance with the manufacturer's specifications; or

c. In compliance with the community's floodplain management requirements unless it has been continuously insured by the NFIP at the same described location since September 30, 1982.

8. Items of property in a building enclosure lower than the lowest elevated floor of an elevated post-FIRM building located in zones A1–30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–30, or VE, or in a basement, regardless of the zone. Coverage is limited to the following:

a. Any of the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

(1) Central air conditioners;

(2) Cisterns and the water in them;

(3) Drywall for walls and ceilings in a basement and the cost of labor to nail it, unfinished and unfloated and not taped, to the framing;

(4) Electrical junction and circuit breaker boxes;

(5) Electrical outlets and switches;

(6) Elevators, dumbwaiters and related equipment, unless installed below the base flood elevation after September 30, 1987;

(7) Fuel tanks and the fuel in them;

(8) Furnaces and hot water heaters;

(9) Heat pumps;

(10) Nonflammable insulation in a basement;

(11) Oil tanks and oil in them;

(12) Pumps and tanks used in solar energy systems;

(13) Stairways and staircases attached to the building, not separated from it by elevated walkways;

(14) Sump pumps;

(15) Water softeners, water filters and faucets installed as an integral part of the plumbing system;

(16) Well water tanks and pumps;

(17) Required utility connections for any item in this list; and

(18) Footings, foundations, posts, pilings, piers, or other foundation walls and anchorage systems required to support a building.

b. Clean-up.

B. Coverage B—Personal Property

1. If you have purchased personal property coverage, we insure, subject to paragraphs 2. and 3. below, against direct physical loss by or from flood to personal property that is inside a fully enclosed insured building and is:

a. Owned by the unit owners of the condominium association in common, meaning property in which each unit owner has an undivided ownership interest; or

b. Owned solely by the condominium association and used exclusively in the conduct of the business affairs of the condominium association.

We also insure such personal property for 45 days while stored at a temporary location, as set forth in III.C.2.b., Property Removed to Safety.

2. Coverage for personal property includes the following property, subject to paragraph B.1., above, which is covered under Coverage B only:

a. Air conditioning units—portable or window type;

b. Carpet, not permanently installed, over unfinished flooring;

c. Carpets over finished flooring;

d. Clothes washers and dryers;

e. ''Cook-out'' grills;

f. Food freezers, other than walk-in, and the food in any freezer;

g. Outdoor equipment and furniture stored inside the insured building;

h. Ovens and the like;

i. Portable microwave ovens and portable dishwashers; and

j. Refrigerators.

3. Items of property in a building enclosure lower than the lowest elevated floor of an elevated post-FIRM building located in zones A1–30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–30, or VE, or in a basement, regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source:

a. Air conditioning units—portable or window type;

b. Clothes washers and dryers; and

c. Food freezers, other than walk-in, and the food in any freezer.

4. Special Limits. We will pay no more than $2,500 for any one loss to one or more of the following kinds of personal property:

a. Artwork, photographs, collectibles, or memorabilia, including but not limited to, porcelain or other figures, and sports cards;

b. Rare books, manuscripts or autographed items;

c. Jewelry, watches, precious and semi-precious stones, articles of gold, silver or platinum;

d. Furs or any article containing fur which represents its principal value.

5. We will pay only for the functional value of antiques.

C. Coverage C—Other Coverages

1. Debris Removal.

We will pay reasonable expenses to remove debris directly caused by flood provided the debris is:

a. Debris from property:

(1) That you do not own;

(2) That originates from beyond the boundaries of the described location; and

(3) That is physically on or in the insured building; or

b. Debris of the insured property anywhere.

If you perform the removal work, the value of your work will be based on the Federal minimum wage.

This coverage does not increase the Coverage A or Coverage B Limit of Liability.

2. Loss Avoidance Measures.

a. Sandbags, Supplies and Labor.

(1) We will pay up to $1,000 for the costs you incur to protect the insured building from a flood or imminent danger of flood, including:

(a) Your reasonable expenses to buy:

(i) Sandbags, including sand to fill them;

(ii) Fill for temporary levees;

(iii) Pumps; and

(iv) Plastic sheeting and lumber used in connection with these items; and

(b) The value of work, at the Federal minimum wage, that you perform.

(2) This coverage for Sandbags, Supplies and Labor is subject to the following: Damage to insured property by or from flood is imminent and the threat of flood damage is apparent enough to lead a person of common prudence to anticipate flood damage. One of the following must also occur:

(a) A general and temporary condition of flooding in the area near the described location must occur, even if the flood does not reach the insured building; or

(b) A legally authorized official must issue an evacuation order or other civil

order for the community in which the insured building is located calling for measures to preserve life and property from the peril of flood.This coverage does not increase the Coverage A or Coverage B Limit of Liability.

b. Property Removed to Safety.

(1) We will pay up to $1,000 for the reasonable expenses you incur to move insured property to another place other than the described location that contains the property in order to protect it from flood or the imminent danger of flood.

Reasonable expenses include the value of work, at the Federal minimum wage, that you perform.

(2) If you move insured property to another location other than the described location that contains the property, in order to protect it from flood or the imminent danger of flood, we will cover such property while at that location for a period of 45 consecutive days from the date you first begin to move it there. The personal property that is moved must be placed in a fully enclosed building, or otherwise reasonably protected from the elements.

Any property removed, including a moveable home described in Definition 6. Building, paragraphs b. and c., must be placed above ground level or outside of the special flood hazard area.

This coverage does not increase the Coverage A or Coverage B Limit of Liability.

D. Coverage D—Increased Cost of Compliance Coverage

A. General.

This policy pays you to comply with a State or local floodplain management law or ordinance affecting repair or reconstruction of a structure suffering flood damage. Compliance activities eligible for payment are: elevation, floodproofing, relocation, or demolition (or any combination of these activities) of your structure. Eligible floodproofing activities are limited to:

1. Non-residential structures.

2. Residential structures with basements that satisfy FEMA's standards published in the Code of Federal Regulations [44 CFR 60.6 (b) or (c)].

B. Limit of Liability.

$20,000 is the maximum we will pay you for this Coverage D (Increased Cost of Compliance), which only applies to policies with building coverage (Coverage A). Our payment of claims under Coverage D is in addition to the amount of coverage which you selected on the application and which appears on the Declarations Page. But the maximum you can collect under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Compliance) cannot exceed the maximum permitted under the Act. We do NOT charge a separate deductible for a claim under Coverage D.

C. Eligibility.

1. A structure covered under Coverage A—Building Property sustaining a loss caused by a flood as defined by this policy must:

a. Be a ''repetitive loss structure.'' A ''repetitive loss structure'' is one that meets the following conditions:

(1) The structure is covered by a contract of flood insurance issued under the NFIP.

(2) The structure has suffered flood damage on 2 occasions during a 10-year period which ends on the date of the second loss.

(3) The cost to repair the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each flood loss.

(4) In addition to the current claim, the NFIP must have paid the previous qualifying claim, and the State or community must have a cumulative, substantial damage provision or repetitive loss provision in its floodplain management law or ordinance being enforced against the structure; or

b. Be a structure that has had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.

2. This Coverage D pays you to comply with State or local floodplain management laws or ordinances that meet the minimum standards of the National Flood Insurance Program found in the Code of Federal Regulations at 44 CFR 60.3. We pay for compliance activities that exceed those standards under these conditions:

a. C.1.a. above.

b. Elevation or floodproofing in any risk zone to preliminary or advisory base flood elevations provided by FEMA which the State or local government has adopted and is enforcing for flood-damaged structures in such areas. (This includes compliance activities in B, C, X, or D zones which are being changed to zones with base flood elevations. This also includes compliance activities in zones where base flood elevations are being increased, and a flood-damaged structure must comply with the higher advisory base flood elevation.) Increased Cost of Compliance coverage does not apply to situations in B, C, X, or D zones where the community has derived its own elevations and is enforcing elevation or floodproofing requirements for flood-damaged structures to elevations derived solely by the community.

c. Elevation or floodproofing above the base flood elevation to meet State or local ''freeboard'' requirements, *i.e.*, that a structure must be elevated above the base flood elevation.

3. Under the minimum NFIP criteria at 44 CFR 60.3(b)(4), states and communities must require the elevation or floodproofing of structures in unnumbered A zones to the base flood elevation where elevation data is obtained from a Federal, State, or other source. Such compliance activities are also eligible for Coverage D.

4. This coverage will also pay for the incremental cost, after demolition or relocation, of elevating or floodproofing a structure during its rebuilding at the same or another site to meet State or local floodplain management laws or ordinances, subject to Exclusion E.7. below relating to improvements.

5. This coverage will also pay to bring a flood-damaged structure into compliance with state or local floodplain management laws or ordinances even if the structure had received a variance before the present loss from the applicable floodplain management requirements.

D. Conditions.

1. When a structure covered under Coverage A—Building Property sustains a loss caused by a flood, our payment for the loss under this Coverage D will be for the increased cost to elevate, floodproof, relocate, or demolish (or any combination of these activities) caused by the enforcement of current State or local floodplain management ordinances or laws. Our payment for eligible demolition activities will be for the cost to demolish and clear the site of the building debris or a portion thereof caused by the enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

2. When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise required by current floodplain management ordinances or laws.

E. Exclusions.

Under this Coverage D (Increased Cost of Compliance) we will not pay for:

1. The cost to comply with any floodplain management law or

ordinance in communities participating in the Emergency Program.

2. The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

3. The loss in value to any insured building or other structure due to the requirements of any ordinance or law.

4. The loss in residual value of the undamaged portion of a building demolished as a consequence of enforcement of any State or local floodplain management law or ordinance.

5. Any Increased Cost of Compliance under this Coverage D:

a. Until the building is elevated, floodproofed, demolished, or relocated on the same or to another premises; and

b. Unless the building is elevated, floodproofed, demolished, or relocated as soon as reasonably possible after the loss, not to exceed two years.

6. Any code upgrade requirements, *e.g.*, plumbing or electrical wiring, not specifically related to the State or local floodplain management law or ordinance.

7. Any compliance activities needed to bring additions or improvements made after the loss occurred into compliance with State or local floodplain management laws or ordinances.

8. Loss due to any ordinance or law that you were required to comply with before the current loss.

9. Any rebuilding activity to standards that do not meet the NFIP's minimum requirements. This includes any situation where the insured has received from the State or community a variance in connection with the current flood loss to rebuild the property to an elevation below the base flood elevation.

10. Increased Cost of Compliance for a garage or carport.

11. Any structure insured under an NFIP Group Flood Insurance Policy.

12. Assessments made by a condominium association on individual condominium unit owners to pay increased costs of repairing commonly owned buildings after a flood in compliance with State or local floodplain management ordinances or laws.

F. Other Provisions.

1. Increased Cost of Compliance coverage will not be included in the calculation to determine whether coverage meets the coinsurance requirement for replacement cost coverage under VIII. General Conditions, V. Loss Settlement.

2. All other conditions and provisions of the policy apply.

IV. Property Not Covered

We do not cover any of the following:

1. Personal property not inside a building;

2. A building, and personal property in it, located entirely in, on, or over water or seaward of mean high tide, if constructed or substantially improved after September 30, 1982;

3. Open structures, including a building used as a boathouse or any structure or building into which boats are floated, and personal property located in, on or over water;

4. Recreational vehicles other than travel trailers described in the Definitions Section (see II.B.6.c.) whether affixed to a permanent foundation or on wheels;

5. Self-propelled vehicles or machines, including their parts and equipment. However, we do cover self-propelled vehicles or machines, provided they are not licensed for use on public roads that are:

a. Used mainly to service the described location or

b. Designed and used to assist handicapped persons, while the vehicles or machines are inside a building at the described location;

6. Land, land values, lawns, trees, shrubs, plants, growing crops, or animals;

7. Accounts, bills, coins, currency, deeds, evidences of debt, medals, money, scrip, stored value cards, postage stamps, securities, bullion, manuscripts, or other valuable papers;

8. Underground structures and equipment, including wells, septic tanks and septic systems;

9. Those portions of walks, walkways, decks, driveways, patios and other surfaces, all whether protected by a roof or not, located outside the perimeter, exterior walls of the insured building;

10. Containers, including related equipment, such as, but not limited to, tanks containing gases or liquids;

11. Buildings and all their contents if more than 49% of the actual cash value of the building is below ground, unless the lowest level is at or above the base flood elevation and is below ground by reason of earth having been used as insulation material in conjunction with energy efficient building techniques;

12. Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks;

13. Aircraft or watercraft, or their furnishings and equipment;

14. Swimming pools, hot tubs, spas, and their equipment such as, but not limited to, heaters, filters, pumps, and pipes, wherever located;

15. Property not eligible for flood insurance pursuant to the provisions of the Coastal Barrier Resources Act and the Coastal Barrier Improvements Act of 1990 and amendments to these Acts.

16. Loss to any building or personal property located on land leased from the Federal Government, arising from or incident to the flooding of the land by the Federal Government, where the lease expressly holds the Federal Government harmless under flood insurance issued under any Federal Government program.

17. Personal property used in connection with any incidental commercial occupancy or use of the building.

V. Exclusions

A. We only pay for direct physical loss by or from flood, which means that we do not pay you for:

1. Loss of revenue or profits;

2. Loss of access to the insured property or described location;

3. Loss of use of the insured property or described location;

4. Loss from interruption of business or production;

5. Any additional living expenses incurred while the insured building is being repaired or is unable to be occupied for any reason;

6. The cost of complying with any ordinance or law:

a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of property, including removal of any resulting debris. This exclusion does not apply to any eligible activities that we describe in Coverage D—Increased Cost of Compliance; or

b. Requiring you or others to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effect of, any pollutant; or

7. Any other economic loss.

B. We do not insure a loss directly or indirectly caused by a flood that is in progress at the time and date:

1. The policy term begins; or

2. Coverage is added at your request.

C. We do not insure for loss to property caused directly by earth movement even if the earth movement is caused by flood. Some examples of earth movement that we do not cover are:

1. Earthquake;

2. Landslide;

3. Land subsidence;

4. Sinkholes;

5. Destabilization or movement of land that results from accumulation of water in subsurface land areas; or

6. Gradual erosion.

We do, however, pay for losses from erosion and mudflows that are specifically covered under our definition of flood.

D. We do not insure for direct physical loss caused directly or indirectly by:

1. The pressure or weight of ice;

2. Freezing or thawing;

3. Rain, snow, sleet, hail, or water spray;

4. Water, moisture, mildew, or mold damage that results primarily from any condition:

a. Substantially confined to the insured building; or

b. That is within your control including, but not limited to:

(1) Design, structural or mechanical defects;

(2) Failures, stoppages, or breakage of water or sewer lines, drains, pumps, fixtures or equipment; or

(3) Failure to inspect and maintain the property after a flood recedes;

5. Water or water-borne material that:

a. Backs up through sewers or drains; or

b. Discharges or overflows from a sump, sump pump or related equipment; or

c. Seeps or leaks on or through insured property, unless the damaged insured property has been, at the same time, damaged by flood;

6. The pressure or weight of water unless the damaged insured property has been, at the same time, damaged by flood;

7. Power, heating or cooling failure unless the failure results from direct physical loss by or from flood to power, heating or cooling equipment situated on the described location;

8. Discharge, dispersal, seepage, migration, release, or escape of pollutants;

9. Theft, fire, explosion, wind, or windstorm;

10. Anything that you or your agents do or conspire to do to deliberately cause loss by flood; or

11. Alteration of the insured property that significantly increases the risk of flooding.

VI. Deductibles

A. When a loss is covered under this policy, we will pay only that part of the loss that exceeds the applicable deductible amount, subject to the limit of insurance that applies. The deductible amount is shown on the declarations page.

However, when a building under construction, alteration or repair does not have at least two rigid exterior walls and a fully secured roof at the time of loss, your deductible amount will be two times the deductible that would otherwise apply to a completed building.

B. In each loss from flood, separate deductibles apply to the building and personal property insured by this policy.

C. No deductible applies to:

1. III.C.2. Loss Avoidance Measures; or

2. III.D. Increased Cost of Compliance Coverage.

VII. Coinsurance

A. This Coinsurance Section applies only to coverage on the building.

B. We will impose a penalty on loss payment unless the amount of insurance applicable to the damaged building is:

1. At least 80% of its replacement cost; or

2. The maximum amount of insurance available for that building under the NFIP, whichever is less.

C. If the actual amount of insurance on the building is less than the required amount in accordance with the terms of VII. B. above, then loss payment is determined as follows (subject to all other relevant conditions in this policy including those pertaining to valuation, adjustment, settlement and payment of loss):

1. Divide the actual amount of insurance carried on the building by the required amount of insurance.

2. Multiply the amount of loss, before application of the deductible, by the figure determined in C.1. above.

3. Subtract the deductible from the figure determined in C.2. above.

We will pay the amount determined in C.3. above, or the amount of insurance carried, whichever is less. The amount of insurance carried, if in excess of the applicable maximum amount of insurance available under the NFIP, is reduced accordingly.

Examples

EXAMPLE #1 (INADEQUATE INSURANCE)

Replacement value of the building	$250,000
Required amount of insurance (80% of replacement value of $250,000)	$200,000
Actual amount of insurance carried	$180,000
Amount of the loss	$150,000
Deductible	$500

Step 1: 180,000 ÷ 200,000 = .90 (90% of what should be carried.)
Step 2: 150,000 × .90 = 135,000
Step 3: 135,000 − 500 = 134,500

We will pay no more than $134,500. The remaining $15,500 is not covered due to the coinsurance penalty ($15,000) and application of the deductible ($500).

EXAMPLE #2 (ADEQUATE INSURANCE)

Replacement value of the building	$500,000
(80% of replacement value is $400,000)	
Required amount of insurance	$400,000
Actual amount of insurance carried	$400,000
Amount of the loss	$200,000
Deductible	$500

In this example there is no coinsurance penalty, because the actual amount of insurance carried meets the required amount. We will pay no more than $199,500 ($200,000 amount of loss minus the $500 deductible).

D. In calculating the full replacement cost of a building:

1. The replacement cost value of any covered building property will be included;

2. The replacement cost value of any building property not covered under this policy will not be included; and

3. Only the replacement cost value of improvements installed by the condominium association will be included.

VIII. General Conditions

A. Pair and Set Clause.

In case of loss to an article that is part of a pair or set, we will have the option of paying you:

1. An amount equal to the cost of replacing the lost, damaged or destroyed article, less depreciation; or

2. An amount which represents the fair proportion of the total value of the pair or set that the lost, damaged or destroyed article bears to the pair or set.

B. Concealment or Fraud and Policy Voidance.

1. With respect to all insureds under this policy, this policy:

a. Is void,

b. Has no legal force or effect,

c. Cannot be renewed, and

d. Cannot be replaced by a new flood policy, if, before or after a loss, you or any other insured or your agent have at any time:

(1) Intentionally concealed or misrepresented any material fact or circumstance,

(2) Engaged in fraudulent conduct, or

(3) Made false statements, relating to this policy or any other NFIP insurance.

2. This policy will be void as of the date the wrongful acts described in B.1. above were committed.

3. Fines, civil penalties, and imprisonment under applicable Federal laws may also apply to the acts of fraud or concealment described above.

4. This policy is also void for reasons other than fraud, misrepresentation, or wrongful act. This policy is void from its inception and has no legal force under the following conditions:

a. If the property listed on the application is not eligible for coverage under the NFIP; or

b. If the property is located in a community that was not participating in the NFIP on the policy's inception date and did not join or re-enter the program during the policy term and before the loss occurred.

C. Other Insurance.

1. If a loss covered by this policy is also covered by other insurance that includes flood coverage not issued under the Act, we will not pay more than the amount of insurance that you are entitled to for lost, damaged or destroyed property insured under this policy subject to the following:

a. We will pay only the proportion of the loss that the amount of insurance that applies under this policy bears to the total amount of insurance covering the loss, unless paragraph C.1.b. or paragraph C.1.c. immediately below applies.

b. If the other policy has a provision stating that it is excess insurance, this policy will be primary.

c. This policy will be primary (but subject to its own deductible) up to the deductible in the other flood policy (except another policy as described in paragraph C.1.b. above). When the other deductible amount is reached, this policy will participate in the same proportion that the amount of insurance under this policy bears to the total amount of both policies, for the remainder of the loss.

Where there is a flood insurance policy in the name of a unit-owner that covers the same loss as this policy, then this policy will be primary.

D. Amendments, Waivers, Assignment.

This policy cannot be changed nor can any of its provisions be waived without the express written consent of the Federal Insurance Administrator. No action that we take under the terms of this policy constitutes a waiver of any of our rights. You may assign this policy in writing when you transfer title of your property to someone else except under these conditions:

1. When this policy covers only personal property; or

2. When this policy covers a structure during the course of construction.

E. Cancellation of Policy by You.

1. You may cancel this policy at any time.

2. If you cancel this policy, you may be entitled to a full or partial refund of premium under our applicable rules and regulations.

F. Non-Renewal of the Policy by Us.

Your policy will not be renewed:

1. If the community where your covered property is located stops participating in the NFIP, or

2. Your building has been declared ineligible under section 1316 of the Act.

G. Reduction and Restoration of Coverage.

1. If the premium we received from you was not enough to buy the kind and amount of coverage you requested, we will provide only the amount of coverage that can be purchased for the premium payment we received.

2. The amount of coverage resulting from the reduction described in 1. above can be restored to the amount you requested as follows:

a. Discovery of Insufficient Premium or Incomplete Rating Information Before a Loss.

(1) If we discover before you have a flood loss that your premium payment was not enough to buy the requested amount of coverage, we will send you and any mortgagee or trustee known to us a bill for the required additional premium for the current policy term (or that portion of the current policy term following any endorsement changing the amount of coverage). If you or the mortgagee or trustee pay the additional premium within 30 days from the date of our bill, we will restore the amount of coverage to the originally requested amount effective to the beginning of the current policy term (or subsequent date of any endorsement changing the amount of coverage).

(2) If we determine before you have a flood loss that the rating information we have is incomplete and prevents us from calculating the additional premium, we will ask you to send the required information. You must submit the information within 60 days of our request. Once we determine the amount of additional premium for the current policy term, we will follow the procedure in (1) above.

(3) If we do not receive the additional premium (or additional information) by the date it is due, the amount of coverage can only be restored by endorsement subject to any appropriate waiting period.

b. Discovery of Insufficient Premium or Incomplete Rating Information After a Loss.

(1) If we discover after you have a flood loss that your premium payment was not enough to buy the requested amount of coverage, we will send you and any mortgagee or trustee known to us a bill for the required additional premium for the current and the prior policy terms. If you or the mortgagee or trustee pay the additional premium within 30 days of the date of our bill, we will restore the amount of coverage to the originally requested amount effective to the beginning of the prior policy term.

(2) If we discover after you have a flood loss that the rating information we have is incomplete and prevents us from calculating the additional premium, we will ask you to send the required information. You must submit the information before your claim can be paid. Once we determine the amount of additional premium for the current and prior policy terms, we will follow the procedure in (1) above.

(3) If we do not receive the additional premium by the date it is due, your flood insurance claim will be settled based on the reduced amount of coverage. The amount of coverage can only be restored by endorsement subject to any appropriate waiting period.

3. However, if we find that you or your agent intentionally did not tell us, or falsified, any important fact or circumstance or did anything fraudulent relating to this insurance, the provisions of paragraph B. Concealment or Fraud and Policy Voidance above apply.

H. Policy Renewal.

1. This policy will expire at 12:01 a.m. on the last day of the policy term.

2. We must receive the payment of the appropriate renewal premium within 30 days of the expiration date.

3. If we find, however, that your renewal notice was not placed into the U.S. Postal Service, or if it was mailed properly, it was prepared in such a way, e.g., with an incorrect, incomplete, or illegible address, as to delay its delivery to you before the due date for the renewal premium, then we will follow these procedures:

a. If you or your agent notified us, not later than one year after the date on which the payment of the renewal premium was due, of nonreceipt of a renewal notice before the due date for the renewal premium, and we determine that the circumstances in the preceding paragraph apply, we will mail a second bill providing a revised due date, which will be 30 days after the date on which the bill is mailed.

b. If we do not receive the premium requested in the second bill by the revised due date, then we will not renew the policy. In that case, the policy will remain as an expired policy as of the expiration date shown on the declarations page.

4. In connection with the renewal of this policy, we may ask you during the policy term to re-certify, on a Recertification Questionnaire that we will provide to you, the rating information used to rate your most recent application for or renewal of insurance.

I. Conditions Suspending or Restricting Insurance.

We are not liable for loss that occurs while there is a hazard that is increased by any means within your control or knowledge.

J. Requirements in Case of Loss.

In case of a flood loss to insured property, you must:

1. Give prompt written notice to us;

2. As soon as reasonably possible, separate the damaged and undamaged property, putting it in the best possible order so that we may examine it.

3. Prepare an inventory of damaged personal property showing the quantity, description, actual cash value, and amount of loss. Attach all bills, receipts and related documents;

4. Within 60 days after the loss, send us a proof of loss, which is your statement as to the amount you are claiming under the policy signed and sworn to by you, and which furnishes us with the following information:

a. The date and time of loss;

b. A brief explanation of how the loss happened;

c. Your interest (for example, ''owner'') and the interest, if any, of others in the damaged property;

d. Details of any other insurance that may cover the loss;

e. Changes in title or occupancy of the insured property during the term of the policy;

f. Specifications of damaged insured buildings and detailed repair estimates;

g. Names of mortgagees or anyone else having a lien, charge or claim against the insured property;

h. Details about who occupied any insured building at the time of loss and for what purpose; and

i. The inventory of damaged personal property described in 3. above.

5. In completing the proof of loss, you must use your own judgment concerning the amount of loss and justify that amount.

6. You must cooperate with our adjuster or representative in the investigation of the claim.

7. The insurance adjuster whom we hire to investigate your claim may furnish you with a proof of loss form, and she or he may help you to complete it. However, this is a matter of courtesy only and you must still send us a proof of loss within sixty days after the loss even if the adjuster does not furnish the form or help you complete it.

8. We have not authorized the adjuster to approve or disapprove claims or to tell you whether we will approve your claim.

9. At our option, we may accept an adjuster's report of the loss instead of your proof of loss. The adjuster's report will include information about your loss and the damages you sustained. You must sign the adjuster's report. At our option, we may require you to swear to the report.

K. Our Options After a Loss.

Options that we may, in our sole discretion, exercise after loss include the following:

1. At such reasonable times and places that we may designate, you must:

a. Show us or our representative the damaged property;

b. Submit to examination under oath, while not in the presence of another insured, and sign the same; and

c. Permit us to examine and make extracts and copies of:

(1) Any policies of property insurance insuring you against loss and the deed establishing your ownership of the insured real property;

(2) Condominium association documents including the Declarations of the condominium, its Articles of Association or Incorporation, Bylaws, and rules and regulations; and

(3) All books of accounts, bills, invoices and other vouchers, or certified copies pertaining to the damaged property if the originals are lost.

2. We may request, in writing, that you furnish us with a complete inventory of the lost, damaged, or destroyed property, including:

a. Quantities and costs;

b. Actual cash values or replacement cost (whichever is appropriate);

c. Amounts of loss claimed; and

d. Any written plans and specifications for repair of the damaged property that you can make reasonably available to us.

3. If we give you written notice within 30 days after we receive your signed, sworn proof of loss, we may:

a. Repair, rebuild or replace any part of the lost, damaged or destroyed property with material or property of like kind and quality or its functional equivalent; and

b. Take all or any part of the damaged property at the value that we agree upon or its appraised value.

L. No Benefit to Bailee.

No person or organization, other than you, having custody of covered property will benefit from this insurance.

M. Loss Payment.

1. We will adjust all losses with you. We will pay you unless some other person or entity is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after we receive your proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by you in lieu of a proof of loss) and:

a. We reach an agreement with you;

b. There is an entry of a final judgment; or

c. There is a filing of an appraisal award with us, as provided in VIII. P.

2. If we reject your proof of loss in whole or in part you may:

a. Accept such denial of your claim;

b. Exercise your rights under this policy; or

c. File an amended proof of loss as long as it is filed within 60 days of the date of the loss or within any extension of time allowed by the Administrator.

N. Abandonment.

You may not abandon damaged or undamaged insured property to us.

O. Salvage.

We may permit you to keep damaged insured property after a loss and we will reduce the amount of the loss proceeds payable to you under the policy by the value of the salvage.

P. Appraisal.

If you and we fail to agree on the actual cash value or, if applicable, replacement cost of the damaged property so as to determine the amount of loss, then either may demand an appraisal of the loss. In this event, you and we will each choose a competent and impartial appraiser within 20 days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or we may request that the choice be made by a judge of a court of record in the state where the insured property is located. The appraisers will separately state the actual cash value, the replacement cost and the amount of loss to each item. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of actual cash value and loss, or if it applies, the replacement cost and loss.

Each party will:

1. Pay its own appraiser; and

2. Bear the other expenses of the appraisal and umpire equally.

Q. Mortgage Clause.

The word ''mortgagee'' includes trustee.

Any loss payable under Coverage A—Building will be paid to any mortgagee of whom we have actual notice and you, as interests appear. If more than one mortgagee is named, the order of

payment will be the same as the order of precedence of the mortgages.

If we deny your claim, that denial will not apply to a valid claim of the mortgagee, if the mortgagee:

1. Notifies us of any change in the ownership or occupancy, or substantial change in risk of which the mortgagee is aware;

2. Pays any premium due under this policy on demand if you have neglected to pay the premium; and

3. Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so.

All of the terms of this policy will then apply directly to the mortgagee.

If we decide to cancel or not renew this policy, it will continue in effect for the benefit of the mortgagee only for 30 days after we notify the mortgagee of the cancellation or non-renewal.

If we pay the mortgagee for any loss and deny payment to you, we are subrogated to all the rights of the mortgagee granted under the mortgage on the property.

Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

R. Suit Against Us.

You may not sue us to recover money under this policy unless you have complied with all the requirements of the policy. If you do sue, you must start the suit within one year of the date of the written denial of all or part of the claim and you must file the suit in the United States District Court of the district in which the insured property was located at the time of loss. This requirement applies to any claim that you may have under this policy and to any dispute that you may have arising out of the handling of any claim under the policy.

S. Subrogation.

Whenever we make a payment for a loss under this policy, we are subrogated to your right to recover for that loss from any other person. That means that your right to recover for a loss that was partly or totally caused by someone else is automatically transferred to us, to the extent that we have paid you for the loss. We may require you to acknowledge this transfer in writing. After the loss, you may not give up our right to recover this money or do anything that would prevent us from recovering it. If you make any claim against any person who caused your loss and recover any money, you must pay us back first before you may keep any of that money.

T. Continuous Lake Flooding.

1. Where an insured building has been flooded by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in a covered loss to an insured building equal to or greater than the building policy limits plus the deductible or the maximum payable under the policy for any one building loss, we will pay you the lesser of these two amounts without waiting for the further damage to occur if you sign a release agreeing:

a. To make no further claim under this policy;

b. Not to seek renewal of this policy;

c. Not to apply for any flood insurance under the Act for property at the described location and;

d. Not to seek a premium refund for current or prior terms.

If the policy term ends before an insured building has been flooded continuously for 90 days, the provisions of this paragraph T.1. will apply as long as the insured building suffers a covered loss before the policy term ends.

2. If your insured building is subject to continuous lake flooding from a closed basin lake, you may elect to file a claim under either paragraph T.1. above or this paragraph T.2. (A ''closed basin lake'' is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) Under this paragraph we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

a. Lake flood waters must damage or imminently threaten to damage your building.

b. Before approval of your claim, you must:

(1) Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and

(2) Grant the conservation easement contained in the Federal Emergency Management Agency's (FEMA) ''Policy Guidance for Closed Basin Lakes,'' to be recorded in the office of the local recorder of deeds. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding. FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures that it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the NFIP and are insured under the NFIP, they will not be eligible for the benefits of this paragraph T.2. If a U.S. Army Corps of Engineers-certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC; and

(3) Comply with paragraphs T.1.a. through T.1.d. above.

c. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if you show there is sufficient reason to extend the time.

d. Before the final payment of your claim, you must acquire an elevation certificate and a floodplain development permit from your local floodplain administrator for the new location of your building.

e. Before the approval of your claim, the community having jurisdiction over your building must:

(1) Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use ordinance, that is consistent with the provisions specified in the easement required in paragraph T.2.b. above.

(2) Agree to declare and report any violations of this ordinance to FEMA so that under Sec. 1316 of the National Flood Insurance Act of 1968, as amended, flood insurance to the building can be denied; and

(3) Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of T.2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-

restricted, consistent with the provisions of T.2.b. above.

f. Before the approval of your claim, the affected State must take all action set forth in FEMA's ''Policy Guidance for Closed Basin Lakes.''

g. You must have NFIP flood insurance coverage continuously in effect from a date established by FEMA until you file a claim under this paragraph T.2. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement. For the purpose of honoring a claim under this paragraph T.2, we will not consider to be in effect any increased coverage that became effective after the date established by FEMA. The exception to this is any increased coverage in the amount suggested by your insurer as an inflation adjustment.

h. This paragraph T.2. will be in effect for a community when the FEMA Regional Director for the affected region provides to the community, in writing, the following:

(1) Confirmation that the community and the State are in compliance with the conditions in paragraphs T.2.e. and T.2.f. above, and

(2) The date by which you must have flood insurance in effect.

U. Duplicate Policies Not Allowed.

1. We will not insure your property under more than one NFIP policy.

If we find that the duplication was not knowingly created, we will give you written notice. The notice will advise you that you may choose one of several options under the following procedures:

a. If you choose to keep in effect the policy with the earlier effective date, you may also choose to add the coverage limits of the later policy to the limits of the earlier policy. The change will become effective as of the effective date of the later policy.

b. If you choose to keep in effect the policy with the later effective date, you may also choose to add the coverage limits of the earlier policy to the limits of the later policy. The change will be effective as of the effective date of the later policy.

In either case, you must pay the pro rata premium for the increased coverage limits within 30 days of the written notice. In no event will the resulting coverage limits exceed the permissible limits of coverage under the Act or your insurable interest, whichever is less. We will make a refund to you, according to applicable NFIP rules, of the premium for the policy not being kept in effect.

2. The insured's option under this condition U. Duplicate Policies Not Allowed to elect which NFIP policy to keep in effect does not apply when duplicates have been knowingly created. Losses occurring under such circumstances will be adjusted according to the terms and conditions of the earlier policy. The policy with the later effective date must be canceled.

V. Loss Settlement.

1. Introduction.

This policy provides three methods of settling losses, Replacement Cost, Special Loss Settlement and Actual Cash Value. Each method is used for a different type of property as explained in paragraphs V.1.a., b., and c. below.

a. Replacement Cost Loss Settlement described in paragraph V.2. below applies to buildings.

b. Special Loss Settlement described in paragraph V.3. below applies to a travel trailer or a manufactured home.

c. Actual Cash Value loss settlement applies to all other property covered under this policy, as outlined in paragraph V.4. below.

2. Replacement Cost Loss Settlement

a. We will pay to repair or replace a damaged or destroyed building, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:

(1) The amount of insurance in this policy that applies to the building;

(2) The replacement cost of that part of the building damaged, with materials of like kind and quality and for like occupancy and use; or

(3) The necessary amount actually spent to repair or replace the damaged part of the building for like occupancy and use.

b. We will not be liable for any loss on a Replacement Cost Coverage basis unless and until actual repair or replacement of the damaged building or parts thereof, is completed.

c. If a building is rebuilt at a location other than the described location, we will pay no more than it would have cost to repair or rebuild at the described location, subject to all other terms of Replacement Cost Loss Settlement.

3. Special Loss Settlement.

The following loss settlement conditions apply to a manufactured home or a travel trailer, as defined in Section II—Definitions, B., paragraphs 6.b. and c.:

a. If such a manufactured home or travel trailer is at least 16 feet wide when fully assembled and has at least 600 square feet within its perimeter walls when fully assembled, and is totally destroyed or damaged to such an extent that, in our judgment, it is not economically feasible to repair, at least to its pre-damaged condition, we will, at our discretion pay the least of the following amounts:

(1) The lesser of the replacement cost of the manufactured home or travel trailer or 1.5 times the actual cash value; or

(2) The Building Limit of liability shown on your Declarations Page.

b. If such a manufactured home or travel trailer is partially damaged and, in our judgment, it is economically feasible to repair it to its pre-damaged condition, we will settle the loss according to the Replacement Cost Loss Settlement conditions in paragraph V.2. above.

4. Actual Cash Value.

a. The types of property noted below are subject to actual cash value loss settlement. ''Actual cash value'' is defined in II. Definitions.

(1) Personal property;

(2) Insured property abandoned after a loss and that remains as debris at the described location.

(3) Outside antennas and aerials, awning, and other outdoor equipment, all whether attached to the buildings or not;

(4) Carpeting and pads; and

(5) Appliances.

b. We will pay the least of the following amounts:

(1) The applicable amount of insurance under this policy;

(2) The actual cash value; or

(3) The amount it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss.

VIII. Liberalization Clause

If we make a change that broadens your coverage under this edition of our policy, but does not require any additional premium, then that change will automatically apply to your insurance as of the date we implement the change, provided that this implementation date falls within 60 days before or during the policy term stated in the Declarations Page.

IX. What Law Governs

This policy and all disputes arising from the handling of any claim under the policy are governed exclusively by the flood insurance regulations issued by FEMA, the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, *et seq.*), and Federal common law.

In Witness Whereof, we have signed this policy below and hereby enter into this Insurance Agreement.

Jo Ann Howard,

Administrator,

Federal Insurance Administration.

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

Dated: May 18, 2000.

Jo Ann Howard,

Administrator, Federal Insurance Administration.

[FR Doc. 00–13298 Filed 5–30–00; 8:45 am]

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Federal Register

Wednesday,
May 31, 2000

Part III

Department of Health and Human Services

42 CFR Part 130

Ricky Ray Hemophilia Relief Fund Program; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 130

RIN 0906–AA56

Ricky Ray Hemophilia Relief Fund Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Interim final rule.

SUMMARY: The Ricky Ray Hemophilia Relief Fund Act of 1998, established the Ricky Ray Hemophilia Relief Fund Program designed to provide compassionate payments to certain individuals with blood-clotting disorders, such as hemophilia, who contracted HIV through the use of antihemophilic factor administered between July 1, 1982, and December 31, 1987. The Act also provides for payments to certain persons who contracted HIV from the foregoing individuals. Specified survivors of these categories of individuals may also receive payments. The Department is seeking public comment on this interim final rule to establish procedures and requirements for documentation of eligibility and to establish a mechanism for providing compassionate payments to individuals who are eligible for payment under the statute.

DATES: This regulation is effective on July 31, 2000. Written comments must be submitted on or before June 30, 2000. Petitions may be postmarked, or accompanied by a receipt from a commercial carrier or U.S. Postal Service, on but not before July 31, 2000.

ADDRESSES: All comments concerning this interim final rule should be submitted to the Ricky Ray Program Office, Bureau of Health Professions (BHPr), Health Resources and Services Administration, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Comments will be available for public inspection at the above address in room 8A–54, BHPr/HRSA, between the hours of 8:30 a.m. and 5 p.m. on Federal Government work days.

FOR FURTHER INFORMATION CONTACT: Neil H. Sampson, Deputy Associate Administrator for Health Professions, Bureau of Health Professions, Health Resources and Services Administration, (301) 443–2330.

SUPPLEMENTARY INFORMATION: The Ricky Ray Hemophilia Relief Fund Act of 1998 (Pub. L. 105–369) established a Trust Fund with an authorization of $750 million to ''provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated antihemophilic factor * * *'' The statute mandates payments of $100,000 to any individual with HIV infection who has any blood-clotting disorder and was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987. The spouse or former spouse of such an individual who acquired HIV from that individual is eligible for payment, and children who acquired HIV through perinatal transmission from a parent who is or was one of the persons described above may also be eligible for payment. In addition to these individuals, certain survivors also may be eligible for payment: a lawful spouse of the person with HIV; if there is no surviving spouse, the payment is to be made in equal shares to all children of the person with HIV; if there is no surviving spouse or children, the parents of the person with HIV will receive the payment in equal shares. If none of these individuals is living, the money will remain in the Fund. There is no provision for payment to be made to an estate or any individual other than those explicitly mentioned.

In order to receive a payment, either the individual who is eligible for payment, or his or her personal representative, must file a petition for payment with sufficient documentation to prove that he or she meets the requirements of the statute. The statute mandates that the Secretary of Health and Human Services establish requirements for documentation and establish a mechanism for paying the eligible individuals.

The purpose of this interim final rule is to seek public comment on the documentation we will require for payment as well as on our payment process.

Background

When the statute was passed in 1998, it included, as noted above, an authorization for $750 million, and a directive to pay $100,000 to eligible individuals. At that time, however, there were no funds appropriated to implement this statute. We were concerned that the statute expired 5 years from enactment, and we did not know when, if ever, Congress would appropriate funds to implement it. There was also the possibility that funds might be appropriated in later years, forcing us to begin the actual implementation process near the time when the statute would expire. We sought a solution to preserve the rights of eligible individuals so that they would not be disadvantaged should one of the less desirable funding scenarios develop.

The solution we devised was to allow individuals who believed that they were eligible for payment under this statute to file Notices of Intent. We wanted to preserve the rights of these individuals while at the same time, keeping the burden on them to a minimum. Since we did not know if funds would ever be made available, we did not want people to spend great time and effort rushing to file their petitions with the documentation required to prove they were eligible. Consequently, we published a notice in the **Federal Register** on March 24, 1999 (64 FR 14251), asking for Notices of Intent from individuals who believed they were eligible for payment. These Notices of Intent were minimal: the petitioner's name, address, and phone number, and similar information about the petitioner's attorney or other representative. We stated that eligible individuals would be able to file a formal petition for payment if and when we were provided the funds to implement the statute. We received more than 6,000 notices. We made clear in the **Federal Register** that these notices did not qualify individuals for payment, but simply preserved their rights under the statute. Payments would be based on petitions filed with appropriate documentation at a later time. As explained below, now that funds have been appropriated, we have begun the payment process which requires a formal petition. This process supersedes the Notice of Intent process, and, therefore, a Notice of Intent is no longer necessary.

In November 1999, we received an appropriation of $75 million to implement the statute, of which up to $10 million may be used for administrative expenses. We continued our work to establish the administrative mechanisms to pay individuals. These mechanisms include the organizational structure to manage the program, a Ricky Ray Fund in the Department of the Treasury, Privacy Act/Confidentiality regulations, and accounting procedures. We have also met with a wide range of organizations and expert individuals, seeking their input on how best to implement the statute. We also intensified our efforts to establish the proper regulatory framework for implementation; hence this rule.

The Current Appropriation

The statute requires payments of $100,000 to eligible individuals. The appropriation for this statute in FY 2000

is $75 million, of which up to $10 million may be used for administrative expenses. Since the FY 2000 appropriation is less than the $750 million that was authorized for the Ricky Ray Hemophilia Relief Fund, there are insufficient funds at this time to pay all individuals we believe will be eligible (up to 7,500) a $100,000 payment. We will pay the full $100,000 to individuals who file petitions ''in the order received'' until all appropriated funds are expended. Further petitions that are reviewed and determined to be eligible will remain in queue for payment from subsequent appropriations. The FY 2000 Supplemental Appropriations Bill requests an additional $100 million for the Fund. The President's budget for FY 2001 proposes $100 million, of which up to $10 million may be used for administrative expenses, for the Ricky Ray Fund. Assuming funds are provided in subsequent years, our intention is to continue the payment process until all eligible petitions have been paid before the Fund expires in FY 2004, as required under current statute.

Summary of Regulation

This regulation can be conceptualized in three parts: the process for payment, the documentation required to prove eligibility, and the reconsideration process.

The Process for Payment

Given the fact that the statute requires payments to be made to individuals who file petitions ''in the order received,'' we need to establish a process to ensure this provision is met. First, we need to establish a date on which we will begin to accept petitions. It is important to set this specific date to allow all eligible individuals an equal opportunity to file. We are establishing July 31, 2000, as the first day we will accept petitions. No petition sent (*i.e.,* postmarked) earlier will be accepted, and we will return any petition postmarked before that date. The fact that someone filed a Notice of Intent in response to the **Federal Register** notice of March 24, 1999, does not establish a place in queue. In addition, there is no need to file a Notice of Intent before a full petition is filed. As noted above, the Notice of Intent was our method for preserving the right to file in case funds were not appropriated in sufficient time to allow for a reasonable process for filing petitions within the statutory deadline. To the extent feasible, we hope to forward a copy of the petition form to all individuals who filed a Notice of Intent.

Since we have only enough money under this year's appropriation to pay a relatively small number of eligible individuals, we need to establish an equitable process to determine the ''order received.'' We are establishing July 31, 2000, as the date on which we will begin to accept petitions. Any petition postmarked on that date, or stamped by a commercial carrier or the U.S. Postal Service on that date, will be considered as ''first to arrive.'' Petitions postmarked later will be sorted after those postmarked on the initial date. Petitions with earlier postmarks *will be returned.* Furthermore, no private meter postmarks will be allowed and, to assure fairness to all petitioners, we will not accept hand-delivered petitions.

We expect that there will be many petitions postmarked on the initial date. Therefore, these petitions will be the ''first received.'' To ensure fairness in the payment process, we will begin a random selection procedure to determine the order in which petitions will be processed among the ''first received.'' This process will be equitable to allow sufficient time for distant mailings.

It is our intention to begin to select envelopes containing the petitions ''first received'' in a random manner and begin numbering them from one until all are numbered. We will continue this procedure for petitions postmarked on later days. We will then begin with number one and continue to process petitions and make payments as long as funds are available.

Important Notice

The process described above, in light of limited appropriations, means that those who file complete petitions earlier will be paid before those who file later or who file without complete documentation. We encourage all potential petitioners to complete their petitions and to compile all required documents, so that they can have their petitions postmarked on or as close to the initial date as possible.

We are required under the statute to determine whether a petition is eligible for payment ''not later than 120 days after the date the petition is filed.'' We anticipate receiving thousands of petitions within a short time. We cannot process them all simultaneously and have insufficient funds to pay all petitions that are processed. Therefore, we intend to implement this provision based on the date we determine that a petition is complete.

As a part of this process, if we open a petition and determine it is incomplete, we will notify the petitioner of this and give the petitioner 60 calendar days from the date of notification to submit the missing information. In the event that the petitioner is unable to secure the required documentation to complete the petition, the petitioner may submit a statement to the Secretary within 60 calendar days which shows good cause why the required legal and/or medical documentation is not available. If the petition is completed within that timeframe or if we determine that the petitioner has provided an adequate showing of good cause for not submitting the required documentation, and the petitioner is eligible for payment, we will pay that petitioner based on the number assigned in the random numbering process. If the required documentation is not included even after the opportunity to complete this documentation within 60 days, or if an adequate showing of good cause why the documentation is unavailable is not provided, the petition will be denied, subject to a right of reconsideration. Any subsequent filing of a petition will result in that petition being assigned a new number based on the date it is postmarked.

Filing Deadlines

First, we note that the Ricky Ray Hemophilia Relief Fund Act states that the Secretary may not pay a petition unless it is filed within 3 years after the date of the enactment of the Act. This statute was enacted on November 12, 1998; thus, the statutory filing deadline is November 11, 2001. However, since November 11, 2001, is a Sunday and is the Veteran's Day holiday, and since November 12, 2001, is the day on which Veteran's Day holiday is observed by the Federal Government, we have extended the deadline for filing a petition to Tuesday, November 13, 2001.

Second, we are calling special attention to the deadline for filing full petitions as it relates to our Notice of Intent procedures described in the **Federal Register** of March 24, 1999. The Notice of Intent was described in that March 24 document as satisfying the statutory filing deadline of November 11, 2001. However, as noted above, that procedure was an interim one that we developed before we knew whether Congress would provide funds to operate the program. Now that we have funds for paying petitions and for operating the program, we are able to establish a procedure which requires compliance with the statutory deadline. Therefore, even if a timely Notice of Intent was filed, a petitioner must file a full petition by the November 13, 2001, deadline. Furthermore, any individual who has not filed a Notice of Intent

need not file such a notice; it is only the filing of a full petition that will establish eligibility under the statute. Finally, those who filed a Notice of Intent should understand that their place in queue for processing and payment will be determined by the date of submission of their full petitions and will not be related to the date they filed their Notices of Intent or to the case numbers assigned to those notices.

We would also like to note other deadlines that apply under the regulation. First, where a petitioner submits a petition which is denied payment, the petitioner may file a new petition, which includes documentation that was not included in the original petition. The deadline for filing this new petition is November 13, 2001. Second, where a petitioner submits a petition and the Secretary has not yet made the determination whether the petition meets the requirements of the Act, the petitioner may supplement the original petition with additional documentation. The petitioner may file this supplemental documentation at any time until the date of the Secretary's determination. Third, where a survivor files an amendment to a petition, which is required when a petition has already been submitted but the petitioner has died before payment is made, the deadline for filing this amendment is the date of the Secretary's determination of eligibility or the date of payment, whichever is later. Survivors must file amendments to petitions in order to retain the original assigned order number and to receive payment under the Act.

Documentation Required

It is extremely important to establish the medical and legal documentation required so that we can begin to make payments to individuals who are eligible for payment. We are attempting to balance our fiduciary and accountability responsibilities with our desire to impose a minimal burden on those who file a petition. We are therefore, providing two options to meet the medical documentation requirement. The first is medical records, test results, prescription information, or other documentation deemed credible by the Secretary (which may include, but is not limited to, infusion logs and packing slips). The second is a sworn affidavit by a doctor or nurse practitioner verifying that the relevant medical requirements have been satisfied. We are also requiring a variety of legal documents from most petitioners. We encourage all petitioners to consult the Petition Documentation Checklist to determine the specific documentation required for each petition.

A. Persons with HIV

The terms used below refer to the relationship to the individual with a blood-clotting disorder and HIV.

1. To prove an individual with a blood-clotting disorder is eligible for payment, the petition must include medical documentation that the individual had a blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987, and contracted an HIV infection.

2. For lawful spouses with HIV who are filing, in addition to the medical documentation for the individual with a blood-clotting disorder, the petition must include evidence of marriage consisting of a marriage certificate or other proof of a lawful marriage and proof that the spouse has HIV.

3. For former lawful spouses with HIV, we are requiring the medical documentation for the individual with a blood-clotting disorder, proof that he or she was married to the individual with a blood-clotting disorder at any time after the individual's treatment with antihemophilic factor (the date of treatment must have been between July 1, 1982, and December 31, 1987), proof of the termination of the marriage (such as a divorce certificate), and medical documentation which shows with reasonable certainty that the former spouse contracted HIV from the individual with a blood-clotting disorder.

4. For the child with HIV who is filing (or for whom a personal representative is filing) because the parent is or was one of the persons described above, in addition to medical documentation for the individual with a blood-clotting disorder, we are requiring a birth certificate or other proof that the person filing is, in fact, the child of an individual with a blood-clotting disorder or his or her spouse or former spouse, a marriage certificate or other proof of a lawful marriage between the individual with a blood-clotting disorder and his spouse or former spouse, and medical documentation that the child acquired HIV infection through perinatal transmission from the individual with a blood-clotting disorder or his or her former spouse.

B. Survivors of Persons with HIV

1. For the surviving spouse of a person with HIV, in addition to the medical and legal documentation for the person with HIV, we are requiring evidence of the death of the person with HIV, evidence of a lawful marriage, and a sworn statement that they were married at the time of the death of the person with HIV.

2. For the surviving child/children of a person with HIV, in addition to the medical and legal documentation for the person with HIV, we are requiring evidence of the death of the person with HIV, evidence that the petitioner is, in fact, the child or stepchild of the person with HIV, and a sworn statement that either states that there are no other survivors eligible for payment or provides information about others who are eligible.

3. For the surviving parent of a person with HIV, in addition to the medical and legal documentation for the person with HIV, we are requiring proof of the death of the person with HIV, evidence to prove that the petitioner is, in fact, the parent, and a sworn statement that either states that there are no other survivors eligible for payment or provides information about others who are eligible.

In cases in which more than one (*i.e.*, multiple) surviving children or surviving parents are filing, they may file one petition form jointly, which will contain the required documentation for all survivors, or they can file separate petition forms, which together will contain all of the required documentation for all survivors. In either case, survivors who have submitted all required documentation and are otherwise eligible for payment under the Act, will be paid their share(s) of the payment. Payment share(s) for multiple surviving children or surviving parents who do not submit the required documentation will remain in the Fund until such time as they complete their petitions by submitting such documentation or, if they have not submitted the documentation until the time that the Fund terminates, will revert back to the Treasury.

Petitioners Who Filed Claims Under the Factor Concentrate Settlement

We expect that many petitioners have previously filed claims under the ''Factor Concentrate Settlement'' (that is, under the class settlement in the case of *Susan Walker* v. *Bayer Corporation, et al.*). In order for these petitioners to satisfy the documentation requirements, they may submit original or duplicate copies of the documents submitted in the class action. However, while the settlement documents may be submitted, they do not necessarily meet all of the documentation requirements under the Ricky Ray Hemophilia Relief Fund Act. Thus, if the documents submitted in the class action do not

consist of all documentation required under the Act, these petitioners must submit additional documentation in order to establish eligibility under the Act.

The Reconsideration Process

Every individual who filed a petition and is denied payment may ask for a reconsideration. The request must be sent to the Deputy Associate Administrator for Health Professions, Health Resources and Services Administration, at the address designated in the regulation. The request must be received by the Department within 60 calendar days of the date the Department denied payment. The request should state the reasons for the reconsideration, but may not include any additional documentation not previously provided. The Deputy Associate Administrator will convene a panel to review all requests. The panel will consist of three individuals who are independent of the Ricky Ray Program Office and who are qualified to evaluate the petitions. The panel will review the case and make a recommendation to the Deputy Associate Administrator, who will review the recommendation and make a final determination as to whether or not the petitioner is eligible for payment. If the petition is deemed eligible for payment, it will be processed as soon as practicable in accordance with available funds.

Assistance Available to the Public

The Ricky Ray Program office will respond to inquiries from petitioners and other individuals regarding program policies and Trust Fund status, as well as questions relating to the content, format and procedure for filing a full petition. This information may be obtained by telephoning the Ricky Ray Program Office at 1–888–496–0338 between the hours of 8:30 a.m. and 5 p.m. (Eastern Standard Time). This is a toll-free number. Interested parties may also contact the Program office by regular or electronic mail. The e-mail address is *Rray__program@hrsa.gov*. Additional program information, including downloadable versions of all forms needed to file a petition, may be obtained at the Ricky Ray Program Office website located at *http://www.hrsa.gov/bhpr/rickyray*. The website will be regularly updated.

Justification for Omitting Notice of Proposed Rulemaking

The Department has decided to issue this document as an interim final regulation with a comment period of 30 days after publication in the **Federal Register**. Under 5 U.S.C. 553(b), the Secretary has determined that it is contrary to the public interest to follow proposed rulemaking procedures before issuance of these regulations. We make this finding for the following reasons:

The purpose of the statute is to provide compassionate payments to individuals with blood-clotting disorders and HIV, to certain other individuals, and to their survivors. These are individuals with significant medical and other financial needs, and a delay in their ability to obtain the compassionate payments to which they are entitled would be inconsistent with the statutory purpose, with their needs, and thus, with the public interest. In addition, should any such individual die without one of the survivors described in the statute, no payment is permitted to be made to that individual's estate. The sooner the rule becomes effective, the more eligible individuals will be able to recover the statutory payment.

In addition, we believe that the streamlined filing procedures provided for by this rule will impose a minimal burden on petitioners and thus should not result in any controversy. Nevertheless, we are providing for a 30-day comment period which will expire 30 days before the effective date of the rule specified above. Thus, should we receive any significant comments that would cause us to revise this rule in any way that would affect the filing of the petitions, we will be able to do so, or to advise potential petitioners of our intent to do so, before they take any final action to file.

Economic and Regulatory Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety distributive and equity effects). In addition, under the Regulatory Flexibility Act (RFA) of 1980, if a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of the rule on small entities and analyze regulatory options that could lessen the impact of the rule.

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding an unnecessary burden. Regulations which are ''significant'' because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department has determined that resources to implement this rule are required only of petitioners in submitting their petitions and of the Department in reviewing them. Therefore, in accordance with the RFA of 1980, and the Small Business Regulatory Enforcement Fairness Act of 1996, which amended the RFA, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities. The Secretary has also determined that this rule does not meet the criteria for a major rule as defined by Executive Order 12866 and would have no major effect on the economy or Federal expenditures.

We have determined that the rule is not a ''major rule'' within the meaning of the statute providing for Congressional Review of Agency Rulemaking, 5 U.S.C. 801. We have made this decision because Congress, not the Department, determined the amount of compensation to be disbursed to eligible petitioners under the Act. In promulgating this rule, the Department is not exercising any discretion as to the amount of money given to petitioners deemed eligible under the Act.

Nor on the basis of family well-being will the provisions of this rule for the payment of awards to petitioners affect the following family elements: family safety, family stability; marital commitment; parental rights in the education, nurture and supervision of their children; family functioning, disposable income or poverty; or the behavior and personal responsibility of youth, as determined under section 654(c) of the Treasury and General Government Appropriations Act of 1999. This rule does not have an effect on disposable income because it provides compassionate payments to eligible petitioners without imposing a corresponding burden on petitioners.

Paperwork Reduction Act of 1995

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA) of 1995, the Department is required to solicit public comments, and receive final Office of Management and Budget (OMB) approval, on any information collection requirements set forth in rulemaking. As indicated, in order to implement the Ricky Ray Hemophilia Relief Fund Act of 1998, certain information is required as set forth in §§ 130.20, 130.21, 130.22, 130.23, 130.30, and 130.31 in this rule.

In accordance with the PRA, we are submitting to OMB at this time the

following requirements for seeking emergency review of these provisions. We are requesting an emergency review because the data collection and reporting of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320, to ensure the timely availability of data as necessary to ensure payment to eligible petitioners. Delaying the data collection would delay implementation of the statutory purpose of providing compassionate payments to individuals with blood-clotting disorders and HIV, to certain other persons, and to their survivors. It is clear that eligible petitioners have significant medical and financial needs, and the emergency review will minimize any delay in their ability to obtain the compassionate payments to which they are entitled in accordance with the statutory purpose. Further, by statute, if an individual dies before receiving payment and there is no eligible survivor, as described in the statute, the $100,000 will revert to the Trust Fund. Implementing this regulation and making payments as soon as possible will ensure that Congress' intent in making compassionate payments to eligible individuals will be implemented, to the extent possible. We are requesting OMB's review and approval of this collection within 15 days from the date of publication of this rule, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below within 13 days from the date of publication of this rule. During this 180-day approval period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on the requirements set forth.

Collection of Information: The Ricky Ray Hemophilia Relief Fund Program.

Description of Respondents: Individuals who have an HIV infection and have any form of blood-clotting disorder, such as hemophilia, and were treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987. The spouse and former spouse of such individuals who acquired HIV from that individual qualify for payment, and children who acquired HIV through perinatal transmission from an eligible parent also qualify. In addition to these individuals, certain survivors also qualify.

Estimated Annual Reporting: The estimated annual reporting for this data collection is three hours for completing the petition and providing supporting documentation and one hour for the physician documentation. The estimated annual response burden is as follows:

Form	Number of respondents*	Responses per respondent	Hourly response	Total burden hours	Wage rate	Total hour cost
Petition Form and Supporting Documentation	5,000	1	3	15,000	$15	$225,000
Physician Documentation	1,000	1	1	1,000	40	40,000
Total	6,000			16,000		265,000

*It is estimated that no more than 7,500 individuals would be eligible for payment under the statute, and all petitions must be submitted by November 13, 2001. The burden estimate in this table is calculated by annualizing the predicted number of respondents over an 18-month period in which a petition may be filed. Approximately 6,000 of these eligible individuals may have existing documentation resulting from the class settlement *Susan Walker* v. *Bayer Corporation et al.*

The annual burden estimate includes the time required to review and complete the petition as well as the time to obtain and provide further medical and legal documentation of eligibility. Comments on this information collection activity should be sent to Wendy A. Taylor, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, 725 17th Street, NW., Washington, DC 20053; FAX: (202) 395–6974.

List of Subjects in 42 CFR Part 130

Blood diseases, Federal aid programs, HIV/AIDS, Indemnity payments, Reporting and recordkeeping requirements.

Dated: April 26, 2000.

Claude Earl Fox,

Administrator, Health Resources and Services Administration.

Approved: May 12, 2000.

Donna E. Shalala,

Secretary.

For the reasons stated above, the Department of Health and Human Services adds to Chapter I of Title 42 CFR, a new Subchapter L, and within Subchapter L a new Part 130 to read as follows:

SUBCHAPTER L—COMPASSIONATE PAYMENTS

PART 130—RICKY RAY HEMOPHILIA RELIEF FUND PROGRAM

Subpart A—General Provisions

Sec.
130.1 Purpose.
130.2 Definitions.
130.3 Amount of payments.

Subpart B—Criteria for Eligibility

130.10 Who is eligible for payment under the Act—living persons with HIV.
130.11 Who is eligible for payment under the Act—survivors of persons with HIV.

Subpart C—Documentation Required for Complete Petitions

130.20 Form of medical documentation.
130.21 What documentation is required for petitions filed by living persons with HIV?
130.22 What documentation is required for petitions filed by survivors of persons with HIV, which are filed in cases where the person with HIV dies before filing a petition?
130.23 What documentation is required for amendments to petitions, which are filed by survivors of persons with HIV?

Subpart D—Procedures for Filing and Paying Complete Petitions

130.30 Who may file a petition for payment or an amendment to a petition?
130.31 How and when is a petition for payment filed?
130.32 How and when will the Secretary determine the order of receipt of petitions?
130.33 How will the Secretary determine whether a petition is complete?
130.34 How will the Secretary determine whether to pay a petition?
130.35 How and when will the Secretary pay a petition?

Subpart E—Reconsideration Procedures

130.40 Reconsideration of denial of petitions.

Subpart F—Attorney Fees

130.50 Limitation on agent and attorney fees.
APPENDIX A TO PART 130—DEFINITION OF HIV INFECTION OR HIV

APPENDIX B TO PART 130— CONFIDENTIAL PHYSICIAN OR NURSE PRACTITIONER AFFIDAVIT
APPENDIX C TO PART 130— PETITION FORM, PETITION INSTRUCTIONS, AND DOCUMENTATION CHECKLIST

Authority: Secs. 101–108 of Pub. L. 105–369, 112 Stat. 3368 (42 U.S.C. 300c–22 note); sec. 215 of the Public Health Service Act (42 U.S.C. 216).

Subpart A—General Provisions

§ 130.1 Purpose.

This part establishes criteria and procedures for implementation of the Ricky Ray Hemophilia Relief Fund Act of 1998 (the Act). This statute provides for compassionate payments to certain individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus (HIV) due to contaminated antihemophilic factor within a specified time period, as well as to certain persons who contracted HIV from these individuals. In the event the individual eligible for payment is deceased, the Act also provides for payments to certain survivors of this individual.

§ 130.2 Definitions.

As used in this part:

(a) *Act* means the Ricky Ray Hemophilia Relief Fund Act of 1998, 42 U.S.C. 300c–22 note, as amended.

(b) *Antihemophilic factor* means any blood product (including, but not limited to, fresh frozen plasma, cryoprecipitate, factor VIII concentrate, and factor IX concentrate) used to treat a blood-clotting disorder.

(c) *Blood-clotting disorder* means a disorder (including, but not limited to, hemophilia and von Willebrand's disease) in which the blood does not clot normally, usually resulting in prolonged bleeding.

(d) *Child with HIV* means the individual described in § 130.10(c).

(e) *Former lawful spouse* means a person to whom an individual described in § 130.10(a):

(1) Was married according to the laws of the place where the person resided at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, and December 31, 1987); and

(2) Is no longer married.

(f) *Former lawful spouse with HIV* means the individual described in § 130.10(b)(2).

(g) *Fund* means the ''Ricky Ray Hemophilia Relief Fund,'' which is a Trust Fund established in the Treasury of the United States and administered by the Secretary of the Treasury.

(h) *Hemophilia* means a bleeding disorder in which a clotting factor (including, but not limited to, factors VIII or IX) is missing or does not function normally.

(i) *HIV infection* or *HIV* means any of the following:

(1) *For individuals diagnosed with the HIV infection at any age, including infants:* the presence of an opportunistic disease characteristic of AIDS, sufficient to satisfy the definition of HIV infection as set forth in Appendix A to this part; or

(2) *For individuals diagnosed with the HIV infection at over 15 months of age:* the presence of laboratory evidence of HIV based on identification of:

(i) HIV antibodies;

(ii) HIV viral antigens;

(iii) HIV viral cultures; or

(iv) Plasma HIV RNA; or

(3) *For infants diagnosed with the HIV infection due to perinatal transmission at or before 15 months of age:* identification of the presence of HIV by a positive virologic test (*i.e.,* detection of HIV by culture, HIV antigen, or HIV DNA or RNA polymerase chain reaction [PCR]).

(j) *Individual with a blood-clotting disorder and HIV* means the individual described in § 130.10(a).

(k) *Lawful spouse* means a person to whom an individual described in § 130.10(a) is married according to the laws of the place where the person resides on the date the petition is filed. If the laws of the place where the person resides consider an individual who is legally separated or in a common law marriage to be married, then such a person is a lawful spouse.

(l) *Lawful spouse with HIV* means the individual described in § 130.10(b)(1).

(m) *Perinatal transmission* means transmission of HIV infection from mother to child that occurs during pregnancy, delivery, or breastfeeding.

(n) *Person(s) with HIV* means all of the individuals described in § 130.10(a), (b) or (c).

(o) *Place* means any State of the United States of America, the District of Columbia, and United States territories, commonwealths, and possessions.

(p) *Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department to whom the authority involved has been delegated.

§ 130.3 Amount of payments.

If there are sufficient amounts in the Fund to make payments, the Secretary will make a single payment of $100,000 to eligible individuals, as defined in accordance with subpart B of this part.

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Subpart B—Criteria for Eligibility

§ 130.10 Who is eligible for payment under the Act—living persons with HIV.

The following individuals are eligible for payment under the Act if they are living at the time that payment is to be made on a petition and have an HIV infection:

(a) An individual who has any form of blood-clotting disorder, such as hemophilia, who was treated with antihemophilic factor at any place defined in § 130.2(o), or at any diplomatic area or military installation of the United States, at any time during the time period from July 1, 1982, to December 31, 1987.

(b) An individual who is:

(1) The lawful spouse of the individual with a blood-clotting disorder and HIV; or

(2) The former lawful spouse of the individual with a blood-clotting disorder and HIV, if the former lawful spouse can assert with reasonable certainty, through medical documentation, transmission of HIV from the individual with a blood-clotting disorder and HIV.

(c) An individual who acquired the HIV infection through perinatal transmission from a parent who is the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV or the former lawful spouse with HIV.

§ 130.11 Who is eligible for payment under the Act—survivors of persons with HIV.

(a) Survivors of persons with HIV, as described in § 130.10, are eligible for payment under the Act if:

(1) The person with HIV dies before filing a petition under the Act. In this case, an eligible survivor may file a petition as a survivor of the person with HIV, as set forth in § 130.22; or

(2) The person with HIV has filed a petition under the Act, but dies before payment is made. In this case, an eligible survivor must file an amendment to the petition in order to retain the assigned order number and to receive payment under the Act, as set forth in § 130.23.

(b) Payments to survivors shall be made in the following order:

(1) If the person with HIV is survived by a spouse who is living at the time of payment, the payment shall be made to the surviving spouse (*hereinafter* referred to as ''the surviving spouse'').

(2) If the person with HIV is not survived by a living spouse, the payment shall be made in equal shares to all children of the individual who are living at the time of payment (*hereinafter* referred to as ''the surviving child/children'').

(3) If the person with HIV is not survived by a spouse or children who are living at the time of payment, the payment shall be made in equal shares to the parents of the individual who are living at the time of payment (*hereinafter* referred to as ''the surviving parent(s)).

(c) If the person with HIV is not survived at the time payment is to be made by any of the survivors listed in paragraph (b) of this section, no payments will be made for the person with HIV and the payment will revert back to the Fund.

(d) For purposes of this section, the following definitions apply:

(1) The term *spouse* means a person who was lawfully married to the person with HIV according to the laws of the place where the person resided at the time of death.

(2) The term *child* includes a recognized natural child, a stepchild who lived with the person with HIV in a regular parent-child relationship, and an adopted child.

(3) The term *parent* includes fathers and mothers through adoption.

Subpart C—Documentation Required for Complete Petitions

§ 130.20 Form of medical documentation.

In all instances in which medical documentation is referred to, medical documentation may be submitted in the following forms:

(a) Copies of relevant portions of medical records, records maintained by a physician, nurse, or other licensed health care provider, test results, prescription information, or other documentation deemed credible by the Secretary; or

(b) An affidavit, signed under penalty of perjury, by a physician or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. Such an affidavit must include the physician or nurse practitioner's State and license number. A sample affidavit is set forth at Appendix B to this part.

§ 130.21 What documentation is required for petitions filed by living persons with HIV?

The following rules apply to all petitions filed by persons with HIV:

(a) All petitions filed under the Act must include written medical documentation showing the following:

(1) That the individual described in § 130.10(a) has (or had) a blood-clotting disorder, such as hemophilia;

(2) That the individual with a blood-clotting disorder and HIV was treated with antihemophilic factor at any time between July 1, 1982, to December 31, 1987; and

(3) That the individual with a blood-clotting disorder and HIV has (or had) an HIV infection under any of the criteria set out in the definition of HIV infection at § 130.2(i).

(b) *The individual.* Petitions filed by the individual with a blood-clotting disorder and HIV need only include the documentation described in paragraph (a) of this section.

(c) *The lawful spouse.* Petitions filed by the lawful spouse with HIV must include the following written documentation:

(1) The documentation described in paragraph (a) of this section;

(2) Medical documentation showing that the lawful spouse with HIV has an HIV infection; and

(3) A marriage certificate or other proof of a lawful marriage, which shows that the lawful spouse with HIV and the individual with a blood-clotting disorder and HIV are married.

(d) *The former lawful spouse.* Petitions filed by the former lawful spouse with HIV must include the following written documentation:

(1) The documentation described in paragraph (a) of this section;

(2) Medical documentation showing that the former lawful spouse with HIV has an HIV infection;

(3) A marriage certificate or other proof of a lawful marriage, which shows that the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV were married at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, to December 31, 1987);

(4) A divorce certificate or other proof of termination of the marriage between the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV; and

(5) Medical documentation which shows with reasonable certainty that the former lawful spouse with HIV contracted HIV from the person with a blood-clotting disorder and HIV.

(e) *The child.* Petitions filed by the child with HIV must include the following written documentation:

(1) The documentation described in paragraph (a) of this section;

(2) Medical documentation showing that the child with HIV has an HIV infection;

(3) A birth certificate or other proof, which shows that the child with HIV is the child of:

(i) The individual with a blood-clotting disorder and HIV;

(ii) The lawful spouse with HIV; or

(iii) The former lawful spouse with HIV;

(4) A marriage certificate or other proof of a lawful marriage, which shows that the lawful spouse with HIV or the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV are/were married, *except* where the individual with a blood-clotting disorder and HIV is the mother of the child with HIV;

(5) Medical documentation showing that the child with HIV acquired an HIV infection through perinatal transmission from a parent who is:

(i) The individual with a blood-clotting disorder and HIV;

(ii) The lawful spouse with HIV; or

(iii) The former lawful spouse with HIV; and

(6) Where the child with HIV acquired an HIV infection through perinatal transmission from the former lawful spouse with HIV, medical documentation which shows with reasonable certainty that the former lawful spouse with HIV contracted HIV from the person with the blood-clotting disorder and HIV.

§ 130.22 What documentation is required for petitions filed by survivors of persons with HIV, which are filed in cases where the person with HIV dies before filing a petition?

(a) In those cases in which the person with HIV, as described in § 130.10, dies before filing a petition under the Act, a survivor of that person, as described in § 130.11, may file a petition.

(b) Petitions filed by survivors must include two types of information:

(1) Documentation regarding the person with HIV; and

(2) Documentation regarding the eligibility of the survivor to receive payments as a survivor of the person with HIV.

(c) Petitions filed by survivors must include the following information regarding the person with HIV:

(1) *The individual.* Petitions filed by a survivor of the individual with a blood-clotting disorder and HIV must include the documentation described in § 130.21(b).

(2) *The lawful spouse.* Petitions filed by a survivor of the lawful spouse with HIV must include the documentation described in § 130.21(c).

(3) *The former lawful spouse.* Petitions filed by a survivor of the former lawful spouse with HIV must include the documentation described in § 130.21(d).

(4) *The child.* Petitions filed by a survivor of the child with HIV must include the documentation described in § 130.21(e).

(d) Petitions filed by survivors must include the following information regarding the relationship between the survivor and the person with HIV:

(1) *The surviving spouse.* Petitions filed by the surviving spouse must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A marriage certificate or other proof of a lawful marriage, which shows that the survivor was the spouse, as defined in § 130.11(d)(1), of the person with HIV; and

(iii) A sworn statement signed by the surviving spouse which states that the surviving spouse and the person with HIV were married at the time of that individual's death.

(2) *The surviving child/children.* Petitions filed by the surviving child/children must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A birth certificate, adoption certificate, documentation that shows that the survivor is the stepchild of the person with HIV (for example, a certificate of marriage between the survivor's parent and the person with HIV), or other documentation which shows that the survivor is the child, as defined in § 130.11(d)(2), of the person with HIV; and

(iii) A sworn statement signed by the surviving child/children which either:

(A) States that, to the best of the petitioner's knowledge, there are no other survivors who are eligible for payment under the Act, as described in § 130.11 (*i.e.,* no eligible surviving spouses or other surviving children); or

(B) Provides information regarding other survivors who are eligible for payment under the Act.

(3) *The surviving parent(s).* Petitions filed by the surviving parent(s) must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A birth certificate, adoption certificate or other documentation which shows that the survivor is the parent, as defined in § 130.11(d)(3), of the person with HIV; and

(iii) A sworn statement signed by the surviving parent(s) which either:

(A) States that, to the best of the petitioner's knowledge, there are no other survivors who are eligible for payment under the Act, as described in § 130.11 (*i.e.,* no eligible surviving spouse, surviving children or other surviving parents); or

(B) Provides information regarding other survivors who are eligible for payment under the Act.

§ 130.23 What documentation is required for amendments to petitions, which are filed by survivors of persons with HIV?

(a) The following survivors must file amendments to petitions in order to retain the assigned order number described in § 130.32 and to receive payment under the Act:

(1) A survivor of the person with HIV, when the person with HIV has filed a petition under the Act, but then died before receiving payment;

(2) The next-ranked survivor eligible to receive payment under the Act, as described in § 130.11(b), when a previously-ranked survivor has filed a petition or an amendment to a petition as a survivor of the person with HIV, but then died before receiving payment; and

(3) In the case of petitions filed by multiple survivors (*i.e.,* multiple surviving children or multiple surviving parents), where one of the survivors dies before receiving payment, the other survivors must file an amendment in order to notify the Secretary that the payment should be made to, and divided among, only the remaining survivors.

(b) Survivors described in paragraph (a) of this section shall amend the original petition by filing the petition form set forth at Appendix C to this part, including the section pertaining to amendments to petitions.

(c) Amendments to petitions filed by survivors must include the following documentation:

(1) Survivors described in paragraph (a)(1) of this section must include the documentation described in § 130.22(d), which shows that the survivor is eligible to file a petition as a survivor of the person with HIV.

(2) Survivors described in paragraph (a)(2) of this section must include:

(i) The documentation described in § 130.22(d), which shows that the survivor is eligible to file a petition as a survivor of the person with HIV; and

(ii) A death certificate for the survivor whose petition is being amended, or other evidence of that survivor's death.

(3) Survivors described in paragraph (a)(3) of this section must include a death certificate for the survivor who has died, or other evidence of that survivor's death.

(d) Amendments to petitions filed by survivors described in paragraph (a) of this section will retain the same order number assigned to the original petition.

(e) In those cases in which the Secretary has reviewed the original petition prior to receiving an amendment to the petition, the Secretary will determine whether to pay the survivors described in paragraph (a) as follows:

(1) If the Secretary has determined that the original petition does not include all of the documentation described in this Subpart C (*i.e.,* it is incomplete), the survivor will be given the opportunity to complete the petition prior to a final determination in accordance with the procedures set forth at § 130.33.

(2) If the Secretary has determined that the original petition does not meet the requirements of the Act, the survivor will be so notified and payment will not be made. The survivor may seek reconsideration under § 130.40.

(3) If the Secretary has determined that the original petition meets the requirements of the Act, and the survivor meets the survivor requirements of the Act, the survivor will receive payment as described in § 130.3.

(f) In those cases in which the Secretary has not yet made the determination whether the original petition meets the requirements of the Act, the Secretary will review the amended petition according to the order number assigned to the original petition, and then determine whether the petition is complete and whether to pay the petition as described in paragraph (e) of this section.

Subpart D—Procedures for Filing and Paying Complete Petitions

§ 130.30 Who may file a petition for payment or an amendment to a petition?

The following individuals may file a petition for payment under the Act:

(a) All eligible individuals, as described in subpart B of this part, including living persons with HIV and survivors of persons with HIV; and

(b) Personal representatives of eligible individuals:

(1) Where the eligible individual does not have the legal capacity to receive payment under the Act, as described in § 130.35(e); or

(2) Where the eligible individual does have the legal capacity to receive payment under the Act and signs the sworn statement included at the end of the petition.

§ 130.31 How and when is a petition for payment filed?

(a) In order to receive payment under the Act, all eligible individuals, as described in subpart B of this part, must file a complete petition with the Secretary. A complete petition is one

that contains all of the required documentation described in Subpart C of this part.

(b) A copy of the petition form, which must be filed by all eligible individuals, including individuals with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, the child with HIV, and the survivors of persons with HIV, is set forth at Appendix C to this part. Appendix C includes the petition form, the instructions for filing the petition form, and a documentation checklist.

(c) Where there are multiple surviving children or surviving parents, payments on the petition will be made to each survivor separately. The survivors shall:

(1) File one petition form jointly, which will contain the required documentation for all survivors, and which will be signed by at least one survivor; or

(2) File separate petition forms, which together will contain all of the required documentation for all survivors, and which will be signed by each survivor.

(d) Petitions may be *obtained* from the Ricky Ray Program Office, Bureau of Health Professions, HRSA, Room 8A–54, 5600 Fishers Lane, Rockville, Maryland 20857.

(e) All petitions must be *submitted* to the Ricky Ray Program Office, Bureau of Health Professions, HRSA, Room 8A–54, 5600 Fishers Lane, Rockville, Maryland 20857.

(f) The date on which the Secretary will begin accepting petitions is July 31, 2000.

(1) In order to be eligible for review, petitions may be postmarked on or after this date. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Petitions that are postmarked by a private meter will not be accepted.

(2) Petitions that are postmarked, or accompanied by a receipt from a commercial carrier or U.S. Postal Service, prior to this date *will be returned* to the petitioner. Petitions that are delivered by hand at any time *will be returned* to the petitioner.

(g) *Deadlines.* The *deadline for filing a petition is November 13, 2001.* To meet this deadline, the petition must be postmarked, or accompanied by a receipt from a commercial carrier or U.S. Postal Service, by such date. Any new petition filed after such date will be returned to the petitioner as ineligible for payment, even if the petitioner filed a timely Notice of Intent as provided in the procedure described in the **Federal Register** of March 24, 1999 (64 FR 14251).

(1) If a petitioner submits a petition to the Secretary by November 13, 2001, and the Secretary has determined, in accordance with § 130.34, that the petition does not meet the requirements of the Act, the petitioner may submit a new petition for payment, which includes additional documentation that was not included in the original petition. The deadline for filing this new petition is November 13, 2001.

(2) If a petitioner submits a petition to the Secretary by November 13, 2001, and the Secretary has not yet made the determination whether the petition meets the requirements of the Act, the petitioner may supplement the original petition with additional documentation at any time until the date of the Secretary's determination.

(3) If a petitioner files an amendment to a petition, as described in § 130.23, the deadline for filing this amendment is the date of the Secretary's determination of eligibility or the date of payment, whichever is later.

(h) *Petitioners who filed claims under the Factor Concentrate Settlement.* Petitioners who filed claims under the class settlement in the case of *Susan Walker* v. *Bayer Corporation, et al.,* 96–C–5024 (N.D. Ill.) (*i.e.*, the Factor Concentrate Settlement) must file a complete petition with the Secretary, together with all required documentation, as described in subpart C of this part.

(1) If the petitioner submitted a claim in the Factor Concentrate Settlement which included all of the documents required to establish eligibility under the Act, he or she may submit original or duplicate copies of those documents to the Secretary.

(2) If the petitioner submitted a claim in the Factor Concentrate Settlement which included some, but not all, of the documents required to establish eligibility under the Act, he or she may submit original or duplicate documents as described in paragraph (h)(1) of this section, together with the additional documents required under the Act.

(3) If the petition is filed by someone other than an individual who filed a claim in the Factor Concentrate Settlement (*e.g.*, survivors of the person with HIV, personal representatives), he or she may submit original or duplicate documents as described in paragraph (h)(1) or (h)(2) of this section in order to satisfy that portion of the petition relating to the person with HIV.

§ 130.32 How and when will the Secretary determine the order of receipt of petitions?

(a) The order that the petition was received by the Secretary will be determined by the postmark date or the date indicated by a commercial carrier or the U.S. Postal Service, in accordance with § 130.31(f).

(b) If the Secretary receives more than one petition which is either postmarked or dated by a commercial carrier or the U.S. Postal Service on the same date, the Department will conduct a random selection of each day's submissions to determine the order within each group of petitions.

(c) A number will be assigned to each petition indicating the order in which it is selected.

§ 130.33 How will the Secretary determine whether a petition is complete?

(a) If the Secretary determines that a petition does not include all of the documentation described in subpart C of this part (*i.e.*, it is incomplete), the petitioner will be given the opportunity to complete the petition prior to a final determination.

(b) The petitioner will be notified that the Secretary has determined that the petition is incomplete and, for purposes of retaining the assigned order number described in § 130.32, will be given 60 calendar days from the date of the notice to submit the missing information. If the petitioner submits the missing information within 60 calendar days, and the Secretary determines that the petition meets the requirements of the Act, the petitioner will be paid according to the assigned order number.

(c) If the petitioner is unable to complete the petition, the petitioner may submit written documentation to the Secretary, within 60 calendar days, which shows good cause why the required medical or legal documentation is unavailable. If the Secretary determines that the petitioner has provided an adequate showing of good cause and is otherwise eligible for payment under the Act, the petitioner will be paid according to the assigned order number.

(d) The Secretary will process the petition according to § 130.34 if:

(1) The petition does not include the required documentation, as described in subpart C, even after the opportunity is given to complete it;

(2) The 60-day deadline to complete the petition is not met; or

(3) An adequate showing of good cause why the required medical or legal documentation is unavailable is not provided.

§ 130.34 How will the Secretary determine whether to pay a petition?

(a) Subject to available resources, the Secretary will review each petition filed under the Act and make one of the following determinations:

(1) If the Secretary concludes that the petition does not meet the requirements of the Act, the petitioner will be so notified and payment will not be made. These petitioners may seek reconsideration under § 130.40.

(2) If the Secretary concludes that the petition does meet the requirements of the Act, the petitioner will receive payment as described in § 130.3.

(b) Petitions will be reviewed based upon the assigned number indicating the order of receipt, as described in § 130.32.

§ 130.35 How and when will the Secretary pay a petition?

(a) To the extent practicable, determinations on complete petitions will be made not later than 120 calendar days after the date that the Secretary determines that the petition is complete.

(b) Payments on petitions will be made as soon as practicable after a determination that a complete petition meets the requirements of the Act.

(c) For each eligible individual, as described in subpart B of this part, the Secretary will make only one payment on a petition.

(d) Where there are multiple surviving children or surviving parents, survivors who have submitted all required documentation and are otherwise eligible for payment under the Act, will be paid their share(s) of the payment, as described in § 130.11(b)(2) and (3). If any surviving children or surviving parents who are otherwise eligible for payment have not submitted the required documentation, their share(s) of the payment will remain in the Fund until such time as they complete their petitions by submitting such documentation. If they have not submitted the required documentation by the time that the Fund terminates, their share(s) will revert back to the Treasury.

(e) Payments on petitions will be made to eligible individuals, as described in subpart B, unless the eligible individual is legally incompetent to receive payment. A personal representative may receive payment for a legally incompetent individual by submitting the following written documentation to the Secretary:

(1) Proof showing that the eligible individual does not have the legal capacity to receive payment under the Act, such as a birth certificate showing that the eligible individual is a minor, or other evidence showing that the eligible individual is legally incompetent; and

(2) Proof showing that the personal representative has the authority to receive payment for the eligible individual, such as proof of legal guardianship.

Subpart E—Reconsideration Procedures

§ 130.40 Reconsideration of denial of petitions.

(a) *Right of reconsideration.* Every individual who has filed a petition and has been denied payment may seek reconsideration. To seek such reconsideration, the petitioner must put a request for reconsideration in writing and send it to the Deputy Associate Administrator for Health Professions, Health Resources and Services Administration, Room 8A–54, 5600 Fishers Lane, Rockville, Maryland 20857. The request for reconsideration must be received by the Deputy Associate Administrator for Health Professions within 60 calendar days of the date the Department denied the petition for payment.

(b) *Request for reconsideration.* The request for reconsideration must state the reasons why the petitioner is seeking reconsideration. However, the request for reconsideration may not include any additional documentation that was not included in the completed petition.

(c) *Review process.* When the Deputy Associate Administrator for Health Professions receives a request for reconsideration, he will convene a panel of three individuals, who are independent of the Ricky Ray Program Office, to review the initial determination and make a recommendation regarding payment. The Deputy Associate Administrator for Health Professions will review the panel's recommendation and then determine whether the petitioner is eligible for payment under the Act. The Deputy Associate Administrator for Health Professions' determination will constitute the Department's final action on the request for reconsideration. If the determination is that the petitioner is eligible for payment, the petitioner will receive payment as described in § 130.3. If the determination is that the petitioner is not eligible for payment, the Deputy Associate Administrator for Health Professions will inform the petitioner in writing of the reasons for this determination.

Subpart F—Attorney Fees

§ 130.50 Limitation on agent and attorney fees.

As provided by section 107 of the Act:

(a) Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the petition of an individual under this Act, more than 5 percent of a payment made under this Act (*i.e.,* $5,000) on the petition.

(b) Any such representative who violates this section is subject to a fine of not more than $50,000.

BILLING CODE 4160– 15–P

APPENDIX A

Definition of HIV infection or HIV for purposes of §130.2(i)(1):

(1) Except as provided in section (2) below, a diagnosis of HIV infection under 130.2(i)(1) may be made on the basis of a diagnosis of one or more of the following opportunistic diseases:

- Candidiasis of bronchi, trachea, or lungs
- Candidiasis, esophageal
- Cervical cancer, invasive
- Chronic lymphoid interstitial pneumonitis (in a child under 13 years of age)
- Coccidioidomycosis, disseminated or extrapulmonary
- Cryptococcosis, extrapulmonary
- Cryptosporidiosis, chronic intestinal (greater than 1 month's duration)
- Cytomegalovirus disease (other than liver, spleen, or nodes)
- Cytomegalovirus retinitis (with loss of vision)
- Encephalopathy, HIV-related
- Herpes simplex: chronic ulcer(s) (greater than 1 month's duration); or bronchitis, pneumonitis, or esophagitis
- Histoplasmosis, disseminated or extrapulmonary
- Isosporiasis, chronic intestinal (greater than 1 month's duration)
- Kaposi's sarcoma
- Lymphoma, Burkitt's (or equivalent term)
- Lymphoma, immunoblastic (or equivalent term)
- Lymphoma, non-Hodgkin's
- Lymphoma, primary, or brain
- Mycobacterium avium complex or M. kansasii, disseminated or extrapulmonary
- Mycobacterium tuberculosis, any site (pulmonary or extrapulmonary)
- Mycobacterium, other species or unidentified species, disseminated or extrapulmonary
- Pneumocystis carinii pneumonia
- Pneumonia, recurrent
- Progressive multifocal leukoencephalopathy
- Salmonella septicemia, recurrent
- Toxoplasmosis of brain
- Wasting syndrome due to HIV

(2) The opportunistic diseases listed in section (1) above may be used to diagnose an HIV infection, unless: the opportunistic diseases are diagnosed based on a known immunodeficiency disease other than HIV infection, including, but not limited to: (i) Primary immunodeficiency diseases - severe combined immunodeficiency, DiGeorge syndrome, Wiskott-Aldrich syndrome, ataxia-telangiectasia, graft versus host disease, neutropenia, neutrophil function abnormality, agammaglobulinemia, or hypogammaglobulinemia with raised IgM; and (ii) Secondary immunodeficiency associated with immunosuppressive therapy, lymphoreticular malignancy (if less than 3 months after the diagnosis of the aforementioned opportunistic disease), or starvation.

These excerpts were taken from:

Current Trends Update: Acquired Immunodeficiency Syndrome (AIDS) - United States, MMWR 32(52); 688-91, January 6, 1984.

Current Trends Revision of the Case Definition of Acquired Immunodeficiency Syndrome for National Reporting - United States, MMWR 34(25); 373-75, June 28, 1985.

1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, MMWR 41(RR-17), December 18, 1992.

For further information, please consult these documents.

Appendix B to Part 130—Confidential Physician or Nurse Practitioner Affidavit

OMB No. 0915-0244
Expiration date: 02-14-2001

RICKY RAY HEMOPHILIA RELIEF FUND
CONFIDENTIAL PHYSICIAN OR NURSE PRACTITIONER AFFIDAVIT

The U.S. Congress enacted the Ricky Ray Hemophilia Relief Fund Act in 1998 to make compassionate payments of $100,000 to certain individuals with blood-clotting disorders, such as hemophilia, who were treated with antihemophilic factor between July 1, 1982, and December 31, 1987, and who contracted HIV(referred to in Section A below). Certain spouses, former spouses and children (referred to in Section B below) who contracted HIV from these individuals may also be eligible for compassionate payments. Specified survivors of these individuals may also receive payments.

This affidavit regarding medical documentation is to be completed and signed by a physician or nurse practitioner in lieu of medical records or test results. Although you may be asked to provide additional information, complete only those portions of this affidavit that you can answer based on your personal knowledge or a review of medical records.

PRIVACY ACT STATEMENT

Section 103 of Public Law 105-369 and the Debt Collection Improvement Act of 1996 authorize collection of this information. It will be used to determine your eligibility to receive payments. This information will be disclosed to the Department of Health and Human Services and its consultants; and Federal, State or local law enforcement agencies if the Government becomes aware of a possible violation of civil or criminal law. Furnishing the information on this form, including the Social Security Number, is voluntary, but failure to do so may delay or prevent the receipt of a payment. The information collected will be maintained confidentially pursuant to the Privacy Act.

CHECK APPLICABLE BOXES AND PROVIDE INFORMATION AS REQUESTED.

I am a physician or a nurse practitioner. I have been requested by an individual to complete this affidavit and to provide information that I understand will be kept strictly confidential and be used solely to determine eligibility for a compassionate payment under the Ricky Ray Hemophilia Relief Fund Program.

SECTION A. INFORMATION ON INDIVIDUAL WITH BLOOD CLOTTING DISORDER AND HIV

He or she is a person with blood-clotting disorder who has/had HIV and was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987.

Name of Individual: _____

Note: the information requested in the following three statements is required for all individuals described in Section A.

[ ] He/she has/had the following blood-clotting disorder:

[ ] He/she received an antihemophilic factor between July 1, 1982, and December 31, 1987.

[ ] He/she was diagnosed as having HIV.

SECTION B. INFORMATION ON ELIGIBLE INDIVIDUAL WITH HIV IF DIFFERENT FROM SECTION A

This section pertains to other individuals who may be eligible for payment under the Program because of their familial relationship to the person described in Section A.

Name of Individual: _____

[ ] He/she was diagnosed as having HIV. **(Note: this information is required for all individuals in Section B).**

(Section B continued, next page)

RICKY RAY HEMOPHILIA RELIEF FUND – AFFIDAVIT

[ ] There is reasonable certainty that this individual contracted HIV from the individual identified in Section A. "Reasonable certainty" is defined as having no knowledge based on medical records or other documents that the individual contracted HIV from a source other than the individual identified in Section A. **(Note: This information is required only for an individual filing a petition as the former spouse of the individual described in Section A).**

[ ] This individual acquired HIV through perinatal transmission (transmission of HIV infection from mother to child that occurs during pregnancy, delivery, or breast feeding) from _____ _____. **(Note: This information is required only for an individual filing a petition because he/she acquired HIV through perinatal transmission from the individual in Section A or that individual's current or former spouse).**

SECTION C. SIGNATURE AND SWORN STATEMENT OF PHYSICIAN OR NURSE PRACTITIONER

I swear or affirm under penalty of perjury that the answers I have given to the medical questions listed above in this affidavit are true and correct to the best of my knowledge, information, and belief. (18 U.S.C. § 1621)

Signature: _____ Date: _____

Name (typed or printed legibly): _____

License Number and State Where Licensed: _____

Full Address (number and street): _____

City, State, and Zip Code: _____

Phone: _____

Refer to the definitions for several medical terms in the Rule, 42 CFR Part 130: antihemophilic factor §130.2(b), blood-clotting disorder §130.2(c), hemophilia §130.2(h), HIV infection or HIV §130.2(i), perinatal transmission §130.2(m).

PUBLIC BURDEN STATEMENT

An agency may not conduct or sponsor, and any person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for this project is 0915-0244. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Appendix C to Part 130—Petition Form, Petition Instructions, and Documentation Checklist

OMB No. 0915-0244
Expiration date: 02-14-2001

RICKY RAY HEMOPHILIA RELIEF FUND
PETITION

This petition is to be used by all parties who may be eligible for payment under the Ricky Ray Hemophilia Relief Fund Act. Refer to the Ricky Ray Documentation Checklist for the supporting documentation that you must provide with the petition. **The petition and its documentation are subject to audit by the U.S. Department of Health and Human Services' Office of Inspector General.**

PRIVACY ACT STATEMENT

Section 103 of Public Law 105-369 and the Debt Collection Improvement Act of 1996 authorize collection of this information. It will be used to determine your eligibility to receive payments. This information will be disclosed to the Department of Health and Human Services and its consultants; and Federal, State or local law enforcement agencies if the Government becomes aware of a possible violation of civil or criminal law. Furnishing the information on this form, including the Social Security Number, is voluntary, but failure to do so may delay or prevent the receipt of a payment. The information collected will be maintained confidentially pursuant to the Privacy Act.

SECTION A. INDIVIDUAL WITH BLOOD-CLOTTING DISORDER AND HIV

This section is mandatory for all petitioners

Check the instructions for Section A.

Name: _____

Social Security Number: _____ Date of Birth: _____

If no longer living, provide date of death: _____

Complete address information if individual is living

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____

SECTION B. ELIGIBLE PERSON WITH HIV (OTHER THAN INDIVIDUAL IDENTIFIED IN SECTION A)

This section is required for the lawful spouse, former lawful spouse, child and their survivors

Check the instructions for Section B.

Name: _____

Social Security Number: _____ Date of Birth: _____

If no longer living, provide date of death: _____

Complete address information if individual is living

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____

RELATIONSHIP TO INDIVIDUAL IN SECTION A *(check one)*:

[ ] Lawful spouse (husband or wife) with HIV
[ ] Former lawful spouse (husband or wife) with HIV
[ ] Child with HIV (if person in Section A is the mother)
[ ] Child with HIV of the lawful wife with HIV
[ ] Child with HIV of the former lawful wife with HIV

SECTION C. SURVIVOR OF ELIGIBLE PERSON WITH HIV
This section is required of all survivors

Check the instructions for Section C.

Name: _____

Social Security Number: _____ Date of Birth: _____

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____

SURVIVORSHIP *(check one)*:

[ ] I am filing the petition as a survivor of the individual in Section A –OR –

[ ] I am filing the petition as a survivor of the person in Section B

NATURE OF THE SURVIVOR'S RELATIONSHIP TO THE INDIVIDUAL IN SECTION A OR THE PERSON IN SECTION B *(check one)*:

[ ] Lawful husband or wife at the time of the person's death, and I attest, to the best of my knowledge, that the person with HIV and I were married according to the laws of the place where the person with HIV and I resided at the time of his/her death

[ ] Child or stepchild and there is no surviving spouse

[ ] Parent and there is no surviving spouse or surviving children

SURVIVING CHILDREN AND PARENTS MUST CHECK THE APPROPRIATE BOX *(check one)*:

[ ] To the best of my knowledge, there are no other survivors who are eligible for payment under the Act (i.e., for child survivors, there is no eligible surviving spouse and no other surviving children; for parent survivors, there are no eligible surviving spouses, surviving children, or other surviving parent);

[ ] There are other survivors who are eligible for payment under the Act. I am providing all of their full names and their relationship to the person we survived.
If this box is checked, list survivors:

Name: _____ Name: _____
Relationship: _____ Relationship: _____

Name: _____ Name: _____
Relationship: _____ Relationship: _____

(If you need more space, add another page listing all of the eligible survivors as described above.)

AMENDMENT TO A PREVIOUSLY SUBMITTED PETITION

Use only if the following applies to you. If so, check the box and provide the name requested.

- **If you are a survivor of an individual who has already submitted a petition, but who died before receiving a compassionate payment, please check the box below and fill in the name of that deceased person.**
- **If another survivor filed a petition or an amendment to a previously submitted petition, but then died before receiving a payment, check the box below and fill in the name of that deceased person.**
- **If the original petition was filed by multiple surviving children or parents and any of those survivors has died, check the box below and fill in the name of the survivor who filed the previous petition.**

[ ] **I am amending the petition previously submitted by** _____.

SECTION D. PERSONAL REPRESENTATIVE

Complete this section if you are the attorney or other representative for the eligible individual. If this section is completed, all communications related to this petition will go to the personal representative.

Check instructions for Section D.

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____ Filing for: _____

Nature of relationship to eligible individual (e.g., attorney, guardian, other): _____

Does the eligible individual have the legal capacity to receive payments?

[ ] Yes – OR –

[ ] No. (e.g., a minor or an individual who is otherwise incompetent).

If no, please explain: _____

Signature of Personal Representative: _____

SECTION E. SIGNATURE OF PETITIONER

This section is required of all petitioners

Check the instructions for Section E.

Reminder: Attach all necessary documentation. See Documentation Checklist.

I swear or affirm under penalty of perjury that the information in this petition and all submitted documentation is true and correct to the best of my knowledge, information, and belief (18 USC §1621).

Name (printed clearly or typed): _____

Signature: _____ Date: _____

Submit this petition and the required medical and legal documentation to: Ricky Ray Program Office
Bureau of Health Professions
5600 Fishers Lane, Room 8A-54
Rockville, MD 20857

PUBLIC BURDEN STATEMENT

An agency may not conduct or sponsor, and any person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for this project is 0915-0244. Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

RICKY RAY HEMOPHILIA RELIEF FUND
PETITION INSTRUCTIONS

The U.S. Congress enacted the Ricky Ray Hemophilia Relief Fund Act in 1998 (the Act) to make compassionate payments of $100,000 to certain individuals with blood-clotting disorders, such as hemophilia, who were treated with antihemophilic factor between July 1, 1982, and December 31, 1987, and contracted HIV. Such individuals must have been treated with the antihemophilic factor in any State of the United States of America, the District of Columbia, U.S. territories, commonwealths and possessions, or at any diplomatic area or military installation of the United States. Husbands and wives who contracted HIV from those individuals; children who acquired HIV from their mothers during pregnancy, delivery, or breast feeding; and certain surviving family members may also be eligible for payments.

A. Complete the relevant sections of the petition. ***All petitioners must complete Section A***, which requests information regarding the individual with the blood-clotting disorder and HIV. *All information you supply will be kept strictly confidential in accordance with the Privacy Act, and will be used solely to determine your eligibility to receive payments under the Ricky Ray Hemophilia Relief Fund Act.* For more information, consult the Notification of New System of Records, 64 Fed. Reg. 69,274 (Dec. 10, 1999).

B. Consult the Documentation Checklist for the category that best describes you. Then provide the required medical and legal documentation listed with your category to support your petition. This documentation must be submitted before your petition may be approved for payment.

C. Send your completed petition package to:

The Ricky Ray Program Office
Bureau of Health Professions
5600 Fishers Lane, Room 8A-54
Rockville, MD 20857

All petitions must be postmarked or accompanied by a receipt from a commercial carrier or the U.S. Postal Service no sooner than July 31, 2000 and no later than November 13, 2001. Petitions postmarked before July 31, 2000 or after November 13, 2001 will be returned unopened.

GENERAL INSTRUCTIONS FOR ALL PETITIONERS

1. A separate petition must be submitted for each HIV-infected person who is eligible for payment (the individual with a blood-clotting disorder, the lawful spouse, the former lawful spouse or the child).

2. If you qualify for multiple payments (e.g., you are an eligible, HIV-infected person and you are a survivor of another HIV-infected person; you are a survivor of two HIV-infected persons), you must submit a separate petition for each claim.

(General Instructions continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

3. Multiple surviving children or surviving parents may submit one joint petition for the one, shared payment (e.g., the surviving children when there is no surviving spouse, or the surviving parents when there is no surviving spouse or surviving children). Survivors may also submit separate petitions.

4. Keep a copy of all forms and documentation for your own records.

CHANGES IN INFORMATION PROVIDED

Should there be a change in the information you provided with your Petition, you are required to notify the Ricky Ray Program Office at the address above. Please note that if you fail to provide us with this information, we may not be able to contact you directly with information on the next steps in processing your petition.

FILLING OUT THE PETITION

SECTION A – INSTRUCTIONS

This section is required for all petitioners

This section describes the individual with a blood-clotting disorder, who was treated with antihemophilic factor, and who has HIV. Enter the requested information.

- **Name**: The full name of the individual with a blood-clotting disorder and HIV.
- **Social Security Number**: That individual's 9-digit Social Security Number.
- **Date of Birth**: That individual's date of birth (month, day, and year).
- **If the individual is no longer living, provide the date of death:** That individual's date of death, if applicable (month, day, and year).
- **If the individual with a blood-clotting disorder and HIV is living**:
  - **Address:** That individual's current home address.
  - **City:** That individual's current city of residence.
  - **State**: That individual's current state of residence.
  - **Zip:** The 5 or 9 digit zip code of that individual's current residence.
  - **Daytime phone**: That individual's daytime telephone number, including the area code.

  If the individual with a blood-clotting disorder and HIV lives outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international dialing code for the country.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

SECTION B – INSTRUCTIONS

Complete this section if you are the lawful spouse with HIV of the individual with a blood-clotting disorder and HIV, a former lawful spouse with HIV, a child who acquired HIV through perinatal transmission, or their survivor(s)

This section describes a lawful spouse with HIV, a former lawful spouse with HIV, or a child who acquired HIV perinatally. Enter the requested information.

- **Name:** The full name of the lawful spouse with HIV, the former lawful spouse with HIV, or the child who acquired HIV through perinatal transmission.
- **Social Security Number**: That person's 9-digit Social Security Number.
- **Date of Birth**: That person's date of birth (month, day, and year).
- **If the individual is no longer living, provide the date of death**. That person's date of death, if applicable (month, day, and year).
- **If the person is living**:
  - **Address:** That person's current home address.
  - **City:** That's person's current city of residence.
  - **State**: That person's current state of residence.
  - **Zip:** 5 or 9 digit zip code of that person's current residence.
  - **Daytime phone**: The daytime telephone number, including the area code.

  If the lawful spouse with HIV, the former lawful spouse with HIV, or the child who acquired HIV perinatally lives outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international dialing code for the country.
- **Relationship to individual in Section A (Check one):** Check the appropriate box indicating whether the person identified in Section B is the lawful spouse (husband or wife) with HIV; the former lawful spouse (husband or wife) with HIV, or the child with HIV. If the person identified in Section B is the child with HIV, check the third box if the individual identified in Section A is the child's birth mother; check the fourth box if the child's birth mother is the lawful spouse of the individual identified in Section A; check the fifth box if the child's birth mother was the former lawful spouse of the individual identified in Section A. Note that a child with HIV who checked the fifth box may be eligible for payment even if the individual identified in Section A is not the child's father.

SECTION C – INSTRUCTIONS

Complete this section if you are filing a petition as a survivor

This section describes a surviving spouse, child, or parent of a deceased person with HIV. The lawful spouse can always file a petition. The surviving child or children can file a petition if there is no surviving spouse. The surviving parent or parents can file a petition if there is no surviving spouse or are no surviving children. Enter the requested information.

(Section C continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

- **Name:** The survivor's full name.
- **Social Security Number**: The survivor's 9-digit Social Security Number.
- **Date of Birth**: The survivor's date of birth (month, day, and year).
- **Address:** The survivor's current home address.
- **City:** The survivor's current city of residence.
- **State**: The survivor's current state of residence.
- **Zip:** 5 or 9 digit zip code of the survivor's current residence.
- **Daytime phone**: The survivor's daytime telephone number, including the area code.

If the survivor filing the petition lives outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international code for the country.

- **Survivorship (check one)**: Check the first box if you are a survivor of the individual with HIV and a blood-clotting disorder. Check the second box if you are a survivor of a person with HIV who is not the individual with a blood-clotting disorder (e.g., the lawful spouse, the former lawful spouse or the child). If you are a survivor of both, you may be eligible for two payments. In that case, file two separate petitions; check the first box in one petition and the second box in the other.
- **Nature of the survivor's relationship to the individual in Section A or the person in Section B (check one):** Check the appropriate box to indicate whether you were the lawful husband or wife at the time of the death of the person with HIV; the child or stepchild, where there is no surviving spouse; or the parent, where there is no surviving spouse or surviving children.
- **Surviving children or parents (check one):** Check the first box if you are the only survivor of the person with HIV who is eligible for payment under the Act. Check the second box if there are other eligible survivors. If you checked the second box, provide further information for each of the other eligible survivors:

  – **Name**: The name of the survivor(s) other than yourself; and

  – **Relationship**: The relationship to the person with HIV who died. (e.g., child, parent).

  Four areas are provided on the form. If you need more space, use additional paper and list all eligible survivors.

AMENDMENT TO A PREVIOUSLY SUBMITTED PETITION – INSTRUCTIONS

Complete this section only if you are a survivor amending a petition

Under three specific circumstances described below, survivors of persons with HIV must file an amendment to a previously submitted petition in order to retain the original assigned order number and to receive payment under the Act. Survivors must use the petition form to amend a petition. If you meet any of the three circumstances, check the box and fill in the full name of the petitioner whose petition you are amending.

- If you are a survivor of a person who has already submitted a petition, but who died before receiving a compassionate payment, check the box and fill in the name of that deceased individual.

(Amendment continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

- If another survivor filed a petition or an amendment to a previously submitted petition, but then died before receiving a payment, check the box and fill in the name of that deceased person.
- If the original petition was filed by multiple surviving children or parents and any of those survivors has died, check the box and fill in the name of the survivor who filed the previous petition.

SECTION D – INSTRUCTIONS

Complete this section if you are a personal representative of any eligible individual

This section describes an attorney or other representative for the eligible individual, if any. If this section is completed, all communications related to the petition will go directly to the personal representative. Enter the requested information.

- **Name:** The personal representative's full name.
- **Address:** The personal representative's current home or office address.
- **City:** The personal representative's current city of office or residence.
- **State**: The personal representative's current state of office or residence.
- **Zip:** 5 or 9 digit zip code of the personal representative's current office or residence.
- **Daytime phone**: The daytime telephone number of the personal representative, including the area code.
- **Filing for:** The name of the eligible individual on whose behalf you are filing a petition.
- **Nature of relationship to eligible individual**. Fill in the blank indicating attorney, guardian or other (be specific).
- **Does the eligible individual have the legal capacity to receive payments?** Check the "Yes" box if the person you are representing has the legal capacity. Check the "No" box if the person you are representing does not have the legal capacity to receive payments (e.g., you represent a minor or an individual who is otherwise incompetent). In the space provided, please explain.

If the personal representative lives or works outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international dialing code for the country.

- **Signature of Personal Representative:** The personal representative's original signature in ink.

SECTION E – INSTRUCTIONS

All petitioners or their representatives must complete this section

All eligible individuals must sign the petition, unless he/she does not have the legal capacity to receive payments under the Act. In that case, a personal representative must sign for the individual (even if the personal representative also signed in Section D above). If multiple surviving children or surviving parents are filing jointly, at least one of these survivors must sign the petition. Enter the requested information.

- **Name (printed clearly or typed):** The name of the person signing the petition, presented legibly.

(Section E continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

- **Signature:** An original signature in ink.
- **Date:** Date petition was signed (month, day, and year).

USE OF SOCIAL SECURITY NUMBERS

Pursuant to the Debt Collection Improvement Act of 1996, and in furtherance of the Ricky Ray Hemophilia Relief Fund Act of 1998, the Petition asks petitioners to provide social security account numbers. This information will be used by the Department of Health and Human Services to verify the identity of individuals filing petitions and to determine their eligibility for payment. This information will also be used by the Department of the Treasury to transmit payment data, by electronic means, to the financial institutions of individuals deemed eligible for a compassionate payment. Furnishing this information on the Petition is voluntary, but failure to do so may delay or prevent the receipt of a compassionate payment.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

RICKY RAY HEMOPHILIA RELIEF FUND
PETITION DOCUMENTATION CHECKLIST

To determine the documentation you need to complete your petition, please check those options below that apply to you, and provide the documentation as described. Also, all petitions must be filled out completely and signed under penalty of perjury.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	1. PERSONS WITH HIV	
☐	**The individual with a blood-clotting disorder and HIV.** An HIV infected individual who has a blood-clotting disorder, such as hemophilia, who was treated with antihemophilic factor at any time during the period from July 1, 1982, to December 31, 1987, in any state of the United States of America, the District of Columbia, U.S. territories, commonwealths, and possessions, or at any diplomatic area or military installation of the United States.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has an HIV infection. This medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The lawful spouse with HIV.** An HIV infected person who is the lawful spouse of an individual with a blood-clotting disorder and HIV, according to the laws of the place where the lawful spouse resides on the date this petition is filed.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the lawful spouse with HIV has an HIV infection.** The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. This affidavit is contained in Appendix B. **Legal documentation**: A marriage certificate or other proof of a lawful marriage that shows that the lawful spouse with HIV and the individual with a blood-clotting disorder and HIV are married.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The former lawful spouse with HIV.** An HIV infected person who is the former lawful spouse of the individual with a blood-clotting disorder and HIV and (1) was the lawful spouse of the individual with a blood-clotting disorder and HIV at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, and December 31, 1987), and (2) is no longer married	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the former lawful spouse with HIV:** (1) has an HIV infection; and (2) with reasonable certainty contracted HIV from the individual with a blood-clotting disorder and HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** (1) A marriage certificate or other proof of a lawful marriage, which shows that the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV were married at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, and December 31, 1987); and (2) A divorce certificate or other proof of termination of the marriage.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The child with HIV** who acquired an HIV infection through perinatal transmission from a mother who is the individual with a blood-clotting disorder and HIV.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the child with HIV:** (1) has an HIV infection; and (2) acquired an HIV infection through perinatal transmission from a birth mother who is the individual with a blood-clotting disorder and HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** A birth certificate or other proof showing that the child with HIV is the child of a mother, who is the individual with a blood-clotting disorder and HIV.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The child with HIV** who acquired an HIV infection through perinatal transmission from a mother who is the lawful spouse of an individual with a blood-clotting disorder and HIV.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the child with HIV:** (1) has an HIV infection; (2) acquired an HIV infection through perinatal transmission from a birth mother who is the lawful spouse with HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** a) A birth certificate or other proof showing that the child with HIV is the child of the mother with HIV; and b) A marriage certificate or other proof showing that the father with the blood-clotting disorder and HIV and the mother with HIV were lawfully married.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The child with HIV** who acquired an HIV infection through perinatal transmission from a mother who is the former lawful spouse of an individual with a blood-clotting disorder and HIV.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical Documentation showing that the child with HIV**: (1) has an HIV infection; and (2) acquired an HIV infection through perinatal transmission from a birth mother who is/was the former lawful spouse with HIV. **Medical documentation showing that the mother with HIV**: with reasonable certainty contracted HIV from the individual with a blood-clotting disorder and HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** a) A birth certificate or other proof showing that the child with HIV is the child of the mother with HIV; and b) A marriage certificate or other proof showing that the man with the blood-clotting disorder and HIV and the mother with HIV were lawfully married.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	2. SURVIVORS OF PERSONS WITH HIV	
☐	**Surviving spouse of a person with HIV.**	**All medical and legal documentation** required for the person with HIV (i.e., the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, or the child with HIV), as described in Section 1 above. **Legal documentation**: (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) a marriage certificate or other proof of lawful marriage, which shows that you were the spouse of the person with HIV.
☐	**Surviving child or children of a person with HIV.**	**All medical and legal documentation** required for the person with HIV (i.e., the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, or the child with HIV), as described in Section 1 above. **Legal documentation:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) a birth certificate, adoption certificate, documentation showing that you are the stepchild of the person with HIV (i.e., a certificate of marriage between your parent and the person with HIV), or other documentation showing that you are the child of the person with HIV.
☐	**Surviving parent or parents of a person with HIV.**	**All medical and legal documentation** required for the person with HIV (i.e., the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, or the child with HIV), as described in Section 1 above. **Legal documentation:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) for each surviving parent, a birth certificate, adoption certificate, or other documentation which shows that you are the parent of the person with HIV.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
3. SURVIVORS FILING AN AMENDMENT TO A PRIOR PETITION		
☐	**Survivor or survivors of a person with HIV where the person with HIV filed a petition, but then died before receiving payment.**	**Legal documentation for spouse survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) a marriage certificate or other proof of lawful marriage, which shows that you were the spouse of the person with HIV. **Legal documentation for child survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) for each surviving child, a birth certificate, adoption certificate, documentation that shows that you are the stepchild of the person with HIV (i.e., a certificate of marriage between your parent and the person with HIV), or other documentation which shows that you are the child of the person with HIV. **Legal documentation for parent survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) for each surviving parent, a birth certificate, adoption certificate, or other documentation which shows that you are the parent of the person with HIV.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	SURVIVORS FILING AN AMENDMENT TO A PRIOR PETITION *(Continued)*	
☐	**The next eligible survivor or survivors of a person with HIV where another survivor filed a petition or an amendment to a petition, but then died before receiving payment.**	**Legal documentation for spouse survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) a marriage certificate or other proof of lawful marriage, which shows that you were the spouse of the person with HIV; and (3) a death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death. **Legal documentation for child survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) for each surviving child, a birth certificate, adoption certificate, documentation that shows that you are the stepchild of the child with HIV (i.e., a certificate of marriage between your parent and the person with HIV), or other documentation which shows that you are the child of the person with HIV; and (3) a death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death. **Legal documentation for parent survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) for each surviving parent, a birth certificate, adoption certificate, or other documentation which shows that you are the parent(s) of the person with HIV; and (3) a death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death.
☐	**Survivor or survivors of a person with HIV where multiple surviving children or surviving parents filed a petition, but one of the survivors died before receiving payment.**	**Legal documentation:** A death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	4. PERSONAL REPRESENTATIVES	
☐	**Personal Representatives:** Personal representatives may file a petition for an individual who is eligible to receive payment under the Act: (1) where the eligible individual does not have the legal capacity to receive payment under the Act, as described in §130.35(e); or (2) where the eligible individual does have the capacity to receive payment under the Act, but only if the sworn statement included at the end of the petition is signed by the eligible individual.	**In all cases, the personal representative must submit all medical and legal documentation required for the eligible individual.** In those cases in which the eligible individual does not have the legal capacity to receive payment under the Act, a personal representative may receive payment for a legally incompetent individual by submitting the following written documentation: (1) proof showing the eligible individual does not have the legal capacity to receive payment under the Act (e.g., a birth certificate showing that the eligible individual is a minor or other evidence showing that the eligible individual is legally incompetent); and (2) proof showing that you have the authority to receive payment for the eligible individual (e.g., proof of legal guardianship).

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

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Federal Register

Wednesday,
May 31, 2000

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 1, 5, 8, et al.

Federal Acquisition Regulation; Definitions for "Contract Action" and "Contracting Action"; Proposed Rule

DEPARTMENT OF DEFENSE
GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 5, 8, 17, 19, 32, and 52

[FAR Case 2000–402]

RIN 9000–AI76

Federal Acquisition Regulation; Definitions for ''Contract Action'' and ''Contracting Action''

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to provide for consistent use of the term ''contract action.'' The proposed revisions are intended to reorganize, simplify, and clarify the FAR. The Councils do not intend to make any substantive change to the FAR by this proposal. Comments should address any potential unintended substantive changes to the FAR resulting from the proposed revisions. This case is one of a series of cases that implement the White House memorandum, Plain Language in Government Writing, dated June 1, 1999.

DATES: Interested parties should submit comments on or before July 31, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to General Services Administration, FAR Secretariat (MVR), Attn: Ms. Laurie Duarte, 1800 F Street, NW, Room 4035, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2000–402@gsa.gov.

Please submit comments only and cite FAR case 2000–402 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405; (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 2000–402.

SUPPLEMENTARY INFORMATION:

A. Background

The rule amends the Federal Acquisition Regulation (FAR) to address perceived inconsistencies in the use of the terms ''contract action'' and ''contracting action.'' The rule changes the term ''contracting action'' to ''contract action'' throughout the FAR. In the current FAR, the terms are used interchangeably, with ''contract action'' used most often. Also, the rule deletes the existing definitions of ''contracting action'' in FAR part 5 (defined but not used in part 5) and ''contract action'' in part 32 and moves the content to the policy section of each part, because the definitions really serve to narrow the scope of each part.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because, while we are making changes in accordance with plain language guidelines, we are not substantively changing procedures for award and administration of contracts. Therefore, an Initial Regulatory Flexibility Analysis is not required. We invite comments from small businesses and other interested parties. We will consider comments from small entities concerning the affected FAR parts in accordance with 5 U.S.C. 610. Small entities must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000–402), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1, 5, 8, 17, 19, 32, and 52

Government procurement.

Dated: May 24, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose to amend 48 CFR parts 1, 5, 8, 17, 19, 32, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 5, 8, 17, 19, 32, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Revise section 1.403 to read as follows:

1.403 Individual deviations.

Individual deviations affect only one contract action, and, unless section 1.405(e) is applicable, may be authorized by the agency head. The contracting officer must document the justification and agency approval in the contract file.

3. Revise the introductory paragraph of section 1.404 to read as follows:

1.404 Class deviations.

Class deviations affect more than one contract action. When an agency knows that it will require a class deviation on a permanent basis, it should propose a FAR revision. Civilian agencies, other than NASA, must furnish a copy of each approved class deviation to the FAR Secretariat.

* * * * *

4. Revise paragraph (b) of section 1.705 to read as follows:

1.705 Supersession and modification.

* * * * *

(b) The contracting officer need not cancel the solicitation if the D&F, as modified, supports the contract action.

PART 5—PUBLICIZING CONTRACT ACTIONS

5. Revise section 5.000 to read as follows:

5.000 Scope of part.

This part prescribes policies and procedures for publicizing contract opportunities and award information. The policies apply to actions resulting in a contract, including actions for additional supplies or services outside the existing contract scope. The policies do not apply to actions that are within the scope and under the terms of the existing contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

5.001 [Removed and Reserved]

6. Remove and reserve section 5.001.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

7. Revise section 8.102 to read as follows:

8.102 Policy.

When practicable, agencies must use excess personal property as the first

source of supply for agency and cost-reimbursement contractor requirements. Agency personnel must make positive efforts to satisfy agency requirements by obtaining and using excess personal property (including that suitable for adaptation or substitution) before initiating a contract action.

PART 17—SPECIAL CONTRACTING METHODS

17.104 [Amended]

8. Amend the second sentence of paragraph (b) of section 17.104 by removing ''contracting action'' and inserting ''contract''.

9. Revise the introductory text of paragraph (b) of section 17.503 to read as follows:

* * * * *

17.503 Determinations and findings requirements.

* * * * *

(b) If the Economy Act order requires contract action by the servicing agency, the D & F must also include a statement that at least one of the following circumstances applies—

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

10. In section 19.302, revise the first sentence of paragraph (h)(4) to read as follows:

19.302 Protesting a small business representation.

* * * * *

(h) * * *

(4) If a protest is received that challenges the small business status of an offeror not being considered for award, the contracting officer is not required to suspend contract action.

* * *

* * * * *

11. Revise paragraph (c)(2) of 19.505 (and remove the undesignated paragraph following paragraph (c)(2)) to read as follows:

19.505 Rejecting Small Business Administration recommendations.

* * * * *

(c) * * *

(2) The SBA must be allowed 15 working days after making such a written request, within which the Administrator of SBA—

(i) May appeal to the Secretary of the Department concerned; and

(ii) Must notify the contracting officer whether the further appeal has, in fact, been taken. If notification is not received by the contracting officer within the 15-day period, the contracting officer must assume that the SBA request to suspend the contract action has been withdrawn and that an appeal to the Secretary was not taken.

* * * * *

PART 32—CONTRACT FINANCING

12. Revise the introductory text of section 32.000 to read as follows:

32.000 Scope of part.

This part prescribes policies and procedures for contract financing and other payment matters related to actions resulting in a contract, including actions for additional supplies or services outside the existing contract scope. This part does not apply to actions that are within the scope and under the terms of the existing contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes. This part addresses—

* * * * *

32.001 [Amended]

13. Amend section 32.001 by removing the definition of ''Contract action''.

14. Amend section 32.703–2 by revising the first sentence to read as follows:

32.703–2 Contracts conditioned upon availability of funds.

(a) *Fiscal year contracts.* The contracting officer may initiate a contract action properly chargeable to funds of the new fiscal year before these funds are available, provided, that the contract includes the clause at 52.232–18, Availability of Funds (see 32.705–1(a)).

* * * * *

15. Revise paragraph (a) of 32.705–1 to read as follows:

32.705–1 Clauses for contracting in advance of funds.

(a) Insert the clause at 52.232–18, Availability of Funds, in solicitations and contracts if the contract will be chargeable to funds of the new fiscal year and the contract action will be initiated before the funds are available.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

16. Revise the introductory text of 52.232–18 to read as follows:

52.232–18 Availability of funds.

As prescribed in 32.705–1(a), insert the following clause:

* * * * *

[FR Doc. 00–13465 Filed 5–30–00; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Wednesday,
May 31, 2000

Part V

The President

Proclamation 7314—To Modify the Quantitative Limitations Applicable to Imports of Wheat Gluten

Federal Register
Vol. 65, No. 105
Wednesday, May 31, 2000

Presidential Documents

Title 3—

The President

Proclamation 7314 of May 26, 2000

To Modify the Quantitative Limitations Applicable to Imports of Wheat Gluten

By the President of the United States of America

A Proclamation

1. On May 30, 1998, pursuant to section 203 of the Trade Act of 1974, as amended (the ''Trade Act'') (19 U.S.C. 2253), I issued Proclamation 7103, which imposed quantitative limitations on certain wheat gluten imports provided for in subheadings 1109.00.10 and 1109.00.90 of the Harmonized Tariff Schedule of the United States (HTS) for a period of 3 years plus 1 day, with annual increases in such quota limits of 6 percent during the second and the third year. I exempted imports of wheat gluten that is the product of certain countries, including designated beneficiary countries under the Generalized System of Preferences (''GSP countries''), from the application of the quantitative limitations.

2. On December 1, 1999, the United States International Trade Commission (USITC) issued a report, as required under section 204(a)(2) of the Trade Act (19 U.S.C. 2254(a)(2)), on the results of its monitoring of developments with respect to the domestic wheat gluten industry. The USITC report notes that in the 12-month period prior to the imposition of the quota (June 1, 1997–May 31, 1998), 440,000 pounds of wheat gluten entered the United States from Poland. During the first quota year (June 1, 1998–May 31, 1999), imports from Poland grew to 5,004,000 pounds, or more than eleven times the amount of the previous year, accounting for 2.9 percent of total U.S. imports. The USITC report has been provided to me (Investigation Number TA–204–2). More recent data from the United States Customs Service indicate that in the first 10 months of the second quota year (June 1999–March 2000), imports from Poland totaled 8,965,800 pounds, accounting for 6.9 percent of total U.S. imports.

3. Section 204(b)(1)(A) of the Trade Act (19 U.S.C. 2254(b)(1)(A)) authorizes the President, after taking into account the report of the USITC required under section 204(a)(2) of the Trade Act and seeking advice from the Secretary of Commerce and the Secretary of Labor, to reduce, modify, or terminate an action taken under section 203 of the Trade Act when the President determines that changed economic circumstances so warrant.

4. After taking into account the information provided in the USITC's report, and after receiving advice from the Secretary of Commerce and the Secretary of Labor, I have determined, on the basis that increased imports of wheat gluten the product of Poland have impaired the effectiveness of the action I proclaimed in 1998 under section 203 of the Trade Act, that changed economic circumstances warrant a modification in the action. Accordingly, I have decided to include in the action imports of wheat gluten the product of Poland, beginning June 1, 2000.

5. Pursuant to section 203(g) of the Trade Act (19 U.S.C. 2253(g)), I have further determined to provide for the efficient and fair administration of the quantitative limitation on imports of wheat gluten by allocating on a quarterly basis the quantitative limitations applicable during the third year of the action.

6. Pursuant to section 503(b)(2) of the Trade Act (19 U.S.C. 2463(b)(2)), no article shall be eligible for duty-free treatment provided under section 501 of the Trade Act if that article is subject to an action proclaimed under section 203.

7. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 204, 503, and 604 of the Trade Act, do proclaim that:

(1) In order to modify the scope of the quantitative limitations applicable to imports of wheat gluten under HTS heading 1109, and to allocate the quota quantities for the third quota year on a quarterly basis, subchapter III of chapter 99 of the HTS is modified as set forth in the Annex to this proclamation.

(2) Such imported wheat gluten that is the product of Poland shall be included within the scope of the quantitative limitations during the third quota year, as provided in the Annex.

(3) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(4) Effective at the close of June 1, 2002, or such other date that is 1 year from the close of the action taken under section 203 of the Trade Act, as modified by this proclamation, HTS subheadings 9903.11.08 through 9903.11.11 and the superior text thereto shall be deleted from the HTS.

(5) Pursuant to section 503(b)(2) of the Trade Act (19 U.S.C. 2463(b)(2)), duty-free treatment for certain wheat gluten that is the product of beneficiary countries under the Generalized System of Preferences (GSP) (Title V of the Trade Act, as amended (19 U.S.C. 2461–2467)), is suspended.

(6) The modifications to the HTS made by this proclamation and the Annex thereto shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. EDT June 1, 2000, and shall continue in effect through the close of June 1, 2001, unless such actions are earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of May, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.

William J. Clinton

Billing code 3195–01–P

ANNEX

Section A

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:00 a.m. EDT June 1, 2000, subheading 1109.00.10 and subheading 1109.00.90 of the Harmonized Tariff Schedule of the United States are each modified by deleting the symbol ''A'' in the rates of duty 1-special subcolumn.

Section B

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:00 a.m. EDT June 1, 2000, subheading 9903.11.07 is deleted and the following new subheadings and superior text thereto are inserted in lieu thereof, with the superior text at the same level of indentation as the article description of subheading 9903.11.06:

	''Wheat gluten, whether or not dried, except products of Canada, of Mexico, of Israel, of beneficiary countries under the Caribbean Basin Economic Recovery Act (as enumerated in general note 7 to this schedule) or the Andean Trade Preference Act (as enumerated in general note 11 to this schedule), or of countries (except Poland) enumerated in general note 4(a) to this schedule as that note existed on June 1, 1998 (provided for in subheadings 1109.00.10 and 1109.00.90), if entered during the period from June 1, 2000, through June 1, 2001, inclusive:	
9903.11.08	If entered during the period from June 1, 2000, through August 31, 2000, in the respective aggregate quantity of goods the product of a foreign country specified below, after which no wheat gluten the product of such country may be entered during the remainder of such period:	
	Australia	7,953,500 kg
	European Community	6,885,750 kg
	Other countries	1,318,250 kg
9903.11.09	If entered during the period from September 1, 2000, through through November 30, 2000, in the respective aggregate quantity of goods the product of a foreign country specified below, after which no wheat gluten the product of such country may be entered during the remainder of such period:	
	Australia	7,953,500 kg
	European Community	6,885,750 kg
	Other countries	1,318,250 kg
9903.11.10	If entered during the period from December 1, 2000, through February 28, 2001, in the respective aggregate quantity of goods the product of a foreign country specified below, after which no wheat gluten the product of such country may be entered during the remainder of such period:	
	Australia	7,953,500 kg
	European Community	6,885,750 kg
	Other countries	1,318,250 kg

9903.11.11	: If entered during the period from March 1, 2001, through June 1, 2001, in the respective aggregate quantity of goods the product of a foreign country specified below, after which no wheat gluten the product of such country may be entered during the remainder of such period:	:
	: Australia	: 7,953,500 kg
	: European Community	: 6,885,750 kg
	: Other countries	: 1,318,250 kg''

[FR Doc. 00–13789
Filed 5–30–00; 8:45 am]
Billing code 3190–01–P

Federal Register

Wednesday,
May 31, 2000

Part VI

Department of Transportation

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 390, 394, 395, and 398
Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations; Correction; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 390, 394, 395, and 398

RIN 2126–AA23

Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of May 2, 2000, regarding Hours of Service of Drivers and Driver Rest and Sleep for Safe Operations. This correction removes a statement included by error that the proposed rule would *not* have a significant economic impact on a substantial number of small entities. As we stated in the proposed rule, the FMCSA does not know with certainty the full economic impact of the proposal and therefore withdraws its negative certification.

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, (202) 366–1790.

Correction

In proposed rule FR Doc. 00–10703, beginning on 25540 in the issue of May 2, 2000, make the following correction in the Supplementary Information section. On page 25596 in column three, remove the second full paragraph that reads:

''Therefore, the FMCSA, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has considered the economic impacts of these requirements on small entities and certifies that this rule would not have a significant economic impact on a substantial number of small entities.''

Authority: 49 U.S.C. 504, 14122, 31133, 31136, and 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; and 49 CFR 1.73.

Issued on: May 26, 2000.

Julie Anna Cirillo,

Acting Assistant Administrator.

[FR Doc. 00–13790 Filed 5–30–00; 9:12 am]

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Federal Register

Wednesday,
May 31, 2000

Part VII

The President

Proclamation 7315—Prayer for Peace, Memorial Day, 2000

Executive Order 13158—Marine Protected Areas

Federal Register
Vol. 65, No. 105
Wednesday, May 31, 2000

Presidential Documents

Title 3—

The President

Proclamation 7315 of May 26, 2000

Prayer for Peace, Memorial Day, 2000

By the President of the United States of America

A Proclamation

For many Americans, Memorial Day has come to signify the beginning of summer, the opening of the neighborhood pool, and a time for picnics and barbecues. In the midst of these festivities, however, we can too often overlook the holiday's true meaning. Memorial Day was first observed in 1868 in remembrance of those who died in the Civil War; since then our Nation has set this day aside as a solemn occasion on which to pay tribute to all the men and women who have died in service to our country.

Throughout our Nation's history, brave Americans have donned our country's uniform to defend our freedom and uphold our values, often far from home and in the face of grave danger. From the battles of the Revolutionary War through the epic struggles of World Wars I and II to today's peacekeeping missions in a world with sophisticated weapons and terrorist threats, the men and women of our Armed Forces have served with skill and courage. While the challenges they face have changed with each passing year, their devotion to duty and to country has remained steadfast.

For more than a million Americans, that devotion cost them their lives but secured for us priceless freedom, peace, and security. While we should remember these patriots every day for the profound contribution they have made to our Nation, we should honor them with special gratitude on Memorial Day.

This year, to reaffirm the true meaning of Memorial Day, we begin a new tradition by observing a ''National Moment of Remembrance.'' I ask all Americans to unite on Memorial Day in acknowledging the service of America's fallen heroes. Let us reflect on the profound debt we owe to those brave men and women who gave their lives for our Nation, and let us teach current and future generations that our freedom, peace, and prosperity were achieved only through the sacrifice of those who came before them.

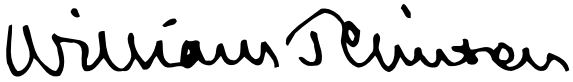
In recognition of those courageous Americans, the Congress, by joint resolution approved on May 11, 1950 (64 Stat. 158), has requested the President to issue a proclamation calling upon the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the American people might unite in prayer. In support of the new tradition of a National Moment of Remembrance, the Congress has passed H.Con.Res. 302 calling on the people of the United States to observe a National Moment of Remembrance on Memorial Day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Memorial Day, May 29, 2000, as a day of prayer for permanent peace, and I designate 3:00 p.m. local time on that day as the time to join in prayer and to observe the National Moment of Remembrance. I urge the press, radio, television, and all other media to participate in this observance.

I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial

Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control, and I request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of May, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 00–13829
Filed 5–30–00; 12:14 pm]
Billing code 3195–01–P

Presidential Documents

Executive Order 13158 of May 26, 2000

Marine Protected Areas

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*), National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee), National Park Service Organic Act (16 U.S.C. 1 *et seq.*), National Historic Preservation Act (16 U.S.C. 470 *et seq.*), Wilderness Act (16 U.S.C. 1131 *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act (16 U.S.C. 1362 *et seq.*), Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*), National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*), Outer Continental Shelf Lands Act (42 U.S.C. 1331 *et seq.*), and other pertinent statutes, it is ordered as follows:

Section 1. *Purpose.* This Executive Order will help protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the Nation's system of marine protected areas (MPAs). An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations. To this end, the purpose of this order is to, consistent with domestic and international law: (a) strengthen the management, protection, and conservation of existing marine protected areas and establish new or expanded MPAs; (b) develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources; and (c) avoid causing harm to MPAs through federally conducted, approved, or funded activities.

Sec. 2. *Definitions.* For the purposes of this order: (a) ''Marine protected area'' means any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.

(b) ''Marine environment'' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law.

(c) The term ''United States'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

Sec. 3. *MPA Establishment, Protection, and Management.* Each Federal agency whose authorities provide for the establishment or management of MPAs shall take appropriate actions to enhance or expand protection of existing MPAs and establish or recommend, as appropriate, new MPAs. Agencies implementing this section shall consult with the agencies identified in subsection 4(a) of this order, consistent with existing requirements.

Sec. 4. *National System of MPAs.* (a) To the extent permitted by law and subject to the availability of appropriations, the Department of Commerce and the Department of the Interior, in consultation with the Department

of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent Federal agencies shall develop a national system of MPAs. They shall coordinate and share information, tools, and strategies, and provide guidance to enable and encourage the use of the following in the exercise of each agency's respective authorities to further enhance and expand protection of existing MPAs and to establish or recommend new MPAs, as appropriate:

(1) science-based identification and prioritization of natural and cultural resources for additional protection;

(2) integrated assessments of ecological linkages among MPAs, including ecological reserves in which consumptive uses of resources are prohibited, to provide synergistic benefits;

(3) a biological assessment of the minimum area where consumptive uses would be prohibited that is necessary to preserve representative habitats in different geographic areas of the marine environment;

(4) an assessment of threats and gaps in levels of protection currently afforded to natural and cultural resources, as appropriate;

(5) practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs;

(6) identification of emerging threats and user conflicts affecting MPAs and appropriate, practical, and equitable management solutions, including effective enforcement strategies, to eliminate or reduce such threats and conflicts;

(7) assessment of the economic effects of the preferred management solutions; and

(8) identification of opportunities to improve linkages with, and technical assistance to, international marine protected area programs.

(b) In carrying out the requirements of section 4 of this order, the Department of Commerce and the Department of the Interior shall consult with those States that contain portions of the marine environment, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, tribes, Regional Fishery Management Councils, and other entities, as appropriate, to promote coordination of Federal, State, territorial, and tribal actions to establish and manage MPAs.

(c) In carrying out the requirements of this section, the Department of Commerce and the Department of the Interior shall seek the expert advice and recommendations of non-Federal scientists, resource managers, and other interested persons and organizations through a Marine Protected Area Federal Advisory Committee. The Committee shall be established by the Department of Commerce.

(d) The Secretary of Commerce and the Secretary of the Interior shall establish and jointly manage a website for information on MPAs and Federal agency reports required by this order. They shall also publish and maintain a list of MPAs that meet the definition of MPA for the purposes of this order.

(e) The Department of Commerce's National Oceanic and Atmospheric Administration shall establish a Marine Protected Area Center to carry out, in cooperation with the Department of the Interior, the requirements of subsection 4(a) of this order, coordinate the website established pursuant to subsection 4(d) of this order, and partner with governmental and nongovernmental entities to conduct necessary research, analysis, and exploration. The goal of the MPA Center shall be, in cooperation with the Department of the Interior, to develop a framework for a national system of MPAs, and to provide Federal, State, territorial, tribal, and local governments with the information, technologies, and strategies to support the system. This

national system framework and the work of the MPA Center is intended to support, not interfere with, agencies' independent exercise of their own existing authorities.

(f) To better protect beaches, coasts, and the marine environment from pollution, the Environmental Protection Agency (EPA), relying upon existing Clean Water Act authorities, shall expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment. Such regulations may include the identification of areas that warrant additional pollution protections and the enhancement of marine water quality standards. The EPA shall consult with the Federal agencies identified in subsection 4(a) of this order, States, territories, tribes, and the public in the development of such new regulations.

Sec. 5. *Agency Responsibilities.* Each Federal agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each Federal agency, in taking such actions, shall avoid harm to the natural and cultural resources that are protected by an MPA. In implementing this section, each Federal agency shall refer to the MPAs identified under subsection 4(d) of this order.

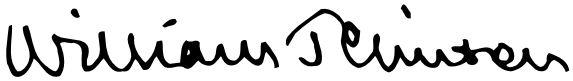
Sec. 6. *Accountability.* Each Federal agency that is required to take actions under this order shall prepare and make public annually a concise description of actions taken by it in the previous year to implement the order, including a description of written comments by any person or organization stating that the agency has not complied with this order and a response to such comments by the agency.

Sec. 7. *International Law.* Federal agencies taking actions pursuant to this Executive Order must act in accordance with international law and with Presidential Proclamation 5928 of December 27, 1988, on the Territorial Sea of the United States of America, Presidential Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America, and Presidential Proclamation 7219 of September 2, 1999, on the Contiguous Zone of the United States.

Sec. 8. *General.* (a) Nothing in this order shall be construed as altering existing authorities regarding the establishment of Federal MPAs in areas of the marine environment subject to the jurisdiction and control of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Indian tribes.

(b) This order does not diminish, affect, or abrogate Indian treaty rights or United States trust responsibilities to Indian tribes.

(c) This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.



THE WHITE HOUSE,

May 26, 2000.

[FR Doc. 00–13830

Filed 5–30–00; 12:14 pm]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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ENERGY DEPARTMENT

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Energy conservation:

State Energy Program; Special Projects funding; published 5-1-00

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Air pollution control:

Operating permits programs; interim approval expiration dates; extension; published 5-22-00

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Federal home loan bank system:

Boards of directors and senior management; powers and responsibilities; published 5-1-00

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Spiny dogfish; comments due by 6-5-00; published 5-4-00

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Defense Commissary Agency; comments due by 6-9-00; published 4-10-00

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Incumbent local exchange carriers; depreciation requirements review; 1998 biennial regulatory review; comments due by 6-9-00; published 4-10-00

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Federal home loan bank system:

Advances, eligible collateral, and new business activities; comments due by 6-7-00; published 5-8-00

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S.J. Res. 44/P.L. 106–205

Supporting the Day of Honor 2000 to honor and recognize the service of minority veterans in the United States Armed Forces during World War II. (May 26, 2000; 114 Stat. 312)

H.R. 154/P.L. 106–206

To allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on Federal land, and for other purposes. (May 26, 2000; 114 Stat. 314)

H.R. 371/P.L. 106–207

Hmong Veterans' Naturalization Act of 2000 (May 26, 2000; 114 Stat. 316)

H.R. 834/P.L. 106–208

National Historic Preservation Act Amendments of 2000 (May 26, 2000; 114 Stat. 318)

H.R. 1377/P.L. 106–209

To designate the facility of the United States Postal Service located at 9308 South Chicago Avenue, Chicago, Illinois, as the ''John J. Buchanan Post Office Building''. (May 26, 2000; 114 Stat. 320)

H.R. 1832/P.L. 106–210

Muhammad Ali Boxing Reform Act (May 26, 2000; 114 Stat. 321)

H.R. 3629/P.L. 106–211

To amend the Higher Education Act of 1965 to improve the program for American Indian Tribal Colleges and Universities under part A of title III. (May 26, 2000; 114 Stat. 330)

H.R. 3707/P.L. 106–212

American Institute in Taiwan Facilities Enhancement Act (May 26, 2000; 114 Stat. 332)

S. 1836/P.L. 106–213

To extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama. (May 26, 2000; 114 Stat. 334)

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