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Contents

Federal Register

Vol. 65, No. 178

Wednesday, September 13, 2000

Agricultural Marketing Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55216–55217

Agriculture Department
See Agricultural Marketing Service
See Forest Service
See Grain Inspection, Packers and Stockyards Administration
See Rural Housing Service

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Ingersoll-Dresser Pump Co. et al., 55271–55282
National cooperative research notifications:
Cable Television Laboratories, Inc., 55282
Digital Imaging Group, Inc., 55282
Gas Utilization Research Forum, 55282–55283
IMS Global Learning Consortium, Inc., 55283
Inter Co. Collaboration for AIDS Drug Development, 55283–55284
Interoperability Consortium, Inc., 55284
Petroleum Environmental Research Forum, 55284

Blackstone River Valley National Heritage Corridor Commission
NOTICES
Meetings, 55220

Centers for Disease Control and Prevention
NOTICES
Vessel sanitation program:
Rodent infestation inspections and deratting and deratting exemption certificates issuance—
United States ports; list modifications, 55253

Children and Families Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55253–55254
Grants and cooperative agreements; availability, etc.:
Early Head Start—
Select areas, 55254–55261
Meetings:
Child support enforcement programs; Federal direct funding; Tribal consultations, 55261

Coast Guard
PROPOSED RULES
Great Lakes pilotage regulations:
Rates update, 55206–55212

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Copyright Office, Library of Congress
NOTICES
Copyright Arbitration Royalty Panel:
Digital performance right in sound recordings and ephemeral recordings; intent to participate in rate adjustment proceeding, 55302–55303

Customs Service
NOTICES
Automation program test:
Reconciliation prototype, 55326–55327
Customs services fees at user fee airports, 55327

Defense Department
NOTICES
Meetings:
Ballistic Missile Defense Advisory Committee, 55225–55226
Historical Records Declassification Advisory Panel, 55226
Science Board task forces, 55226
Women in Services Advisory Committee, 55226–55227

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55227–55228

Employment and Training Administration
NOTICES
Adjustment assistance:
Arnold Palmer Golf Co., 55285
Kountry Kreations, 55285
Reliable Exploration, Inc., 55285–55286
Smith & Nephew, Inc., 55286
UFE, Inc., 55286
W.P. Industries, 55286
Agency information collection activities:
Proposed collection; comment request, 55286–55288
Grants and cooperative agreements; availability, etc.:
Individual Training Account Approaches; implementation through ITA experiment, 55288–55302

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Nuclear Engineering Education Research Program, 55228
Meetings:
International Energy Agency Industry Advisory Board, 55228–55229

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 55201–55203, 55193–55196
Wisconsin, 55196–55201
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
Paper and other web coatings, 55331–55359

Air quality implementation plans; approval and promulgation; various States:
California, 55206
Water supply:
National primary drinking water regulations—
Public water systems; unregulated contaminant monitoring regulation; clarifications and List 2 contaminants analytical methods, 55361–55398
NOTICES
Pesticide, food, and feed additive petitions:
BASF Agro Research, 55236–55240
Wacker Silicones Corp., 55240–55242

Export Administration Bureau
RULES
Export licensing:
Commerce control list—
Crime control items, 55177–55180
NOTICES
Meetings:
President's Export Council, 55220

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 55242

Federal Aviation Administration
RULES
Airworthiness directives:
Bell, 55175–55177
NOTICES
Meetings:
Aviation Weather Technology Transfer Board, 55315–55316
Passenger facility charges; applications, etc.
Duluth International Airport, MN, 55316

Federal Communications Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55242
Common carrier services:
Cellular Telecommunications Industry Association petition to suspend Communications Assistance for Law Enforcement Act compliance date; comment request, 55242–55243
Wireless telecommunications services—
Personal communications services; C and F block broadband spectrum; licenses auction postponed, 55243–55250

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 55250

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Edison Sualt Electric Co. et al., 55235–55236
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 55229
Colorado Interstate Gas Co., 55229–55230
Crossroads Pipeline Co., 55230
Dauphin Island Gathering Partners, 55230–55231
Eastern Shore Natural Gas Co., 55231
East Tennessee Natural Gas Co., 55231
El Paso Natural Gas Co., 55231–55232
Florida Gas Transmission Co., 55232
Iroquois Gas Transmission System, L.P., 55232
Panhandle Eastern Pipe Line Co., 55232–55233
PG&E Gas Transmission, Northwest Corp., 55233
Questar Pipeline Co., 55233
Rochester Gas & Electric Corp., 55233–55234
Southern Natural Gas Co., 55234
Texas Eastern Transmission Corp., 55234
Venice Gathering System, L.L.C., 55234–55235

Federal Highway Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Transportation Equity Act for 21st Century—
Transportation and Community and Systems Preservation Pilot Program, 55316–55325

Federal Housing Enterprise Oversight Office
RULES
Freedom of Information Act; implementation, 55169–55175

Federal Maritime Commission
NOTICES
Agreements filed, etc., 55250

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 55304

Federal Reserve System
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55250–55251
Banks and bank holding companies:
Change in bank control, 55251
Formations, acquisitions, and mergers, 55251–55252
Permissible nonbanking activities, 55252

Financial Management Service
See Fiscal Service

Fiscal Service
RULES
Bonds secured by government obligations; acceptance in lieu of bonds with securities, 55428–55430
Federal taxes payment and Treasury Tax and Loan Program, 55427–55429
Financial management services:
Collateral acceptability and valuation, 55425–55427
Organization, functions, and authority delegations:
Government Depositaries and Financial Agents, 55426–55428
Treasury certificates of indebtedness, notes, and bonds; State and local government series:
Securities; electronic submission of subscriptions, account information, and redemption, 55399–55424

Fish and Wildlife Service
RULES
Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):
Yukon River; emergency closures and adjustments, 55190–55192
NOTICES
Endangered and threatened species:
Recovery plans—
Red-cockaded woodpecker, 55269

Food and Drug Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 55262–55264
Food additive petitions:
Electric Power Research Institute, 55264
Human drugs:
New drug applications—
Lilly Research Laboratories et al.; approval withdrawn, 55264–55265
Reports and guidance documents; availability, etc:
Mammography Quality Standards Act—
Final regulations documents; compliance guidance, 55265–55266

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Florida, 55221

Forest Service
RULES
Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):
Yukon River; emergency closures and adjustments, 55190–55192

Grain Inspection, Packers and Stockyards Administration
NOTICES
Stockyards; posting and deposting:
Solomon's Horse Auction, MS, et al., 55217

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55252–55253

Housing and Urban Development Department
See Federal Housing Enterprise Oversight Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55266–55267
Privacy Act:
Systems of records, 55267–55268

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55327–55329

International Trade Administration
NOTICES
Antidumping:
Stainless steel sheet and strip in coils from—
Japan, 55221–55222
Applications, hearings, determinations, etc.:
Lehigh University, 55222
University of—
Illinois at Urbana-Champaign, 55223

International Trade Commission
NOTICES
Import investigations:
Gray portland cement and clinker from—
Various countries, 55269–55270

Judicial Conference of the United States
NOTICES
Meetings:
Judicial Conference Advisory Committee on—
Appellate, Bankruptcy, Civil, and Criminal Procedure Rules, 55270–55271
Civil Procedure Rules, 55270
Criminal Procedure Rules, 55270
Practice and Procedure Rules, 55270

Justice Department
See Antitrust Division

Labor Department
See Employment and Training Administration
See Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 55284–55285

Land Management Bureau
NOTICES
Motor vehicle use restrictions:
Wyoming; correction, 55269

Library of Congress
See Copyright Office, Library of Congress

Minerals Management Service
RULES
Royalty management:
Solids minerals and geothermal leases; late payment or underpayment of monies due; interest rate, 55187–55190

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Archives and Records Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55304–55305

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
School bus safety; small business impacts, 55212–55214
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 55325
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 55325–55326

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
South Atlantic snapper-grouper, 55203–55205
PROPOSED RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish, 55214–55215

NOTICES
Permits:
Exempted fishing, 55223–55224
Marine mammals, 55224

National Science Foundation
NOTICES
Meetings:
Integrative Activities Special Emphasis Panel, 55305
Materials Research Special Emphasis Panel, 55305
Mathematical Sciences Special Emphasis Panel, 55305
Physics Special Emphasis Panel, 55305
Undergraduate Education Special Emphasis Panel, 55305–55306

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 55308
Applications, hearings, determinations, etc.:
FirstEnergy Nuclear Operating Co., 55306–55307
Florida Power Corp.; correction, 55307
PSEG Nuclear, LLC, 55307–55308

Office of Federal Housing Enterprise Oversight
See Federal Housing Enterprise Oversight Office

Patent and Trademark Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 55224–55225

Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
Reporting and recordkeeping requirements, 55302

Personnel Management Office
NOTICES
Health benefits, Federal employees:
Medically underserved areas (2001 CY), 55308–55309
Meetings:
Expanding Training Opportunities, Presidential Advisory Committee, 55309

Public Debt Bureau
See Fiscal Service

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration

Rural Housing Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Section 538 Guaranteed Rural Rental Housing Program, 55217–55220

Securities and Exchange Commission
RULES
Freedom of Information Act, Privacy Act, and confidential treatment Rule 83; implementation, 55180–55186
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 55309–55310
Investment Company Act of 1940:
Exemption applications—
Pruco Life Insurance Co. et al., 55310–55314
Self-regulatory organizations; proposed rule changes:
Options Clearing Corp., 55314–55315
Applications, hearings, determinations, etc.:
Nationwide Separate Account Trust et al.; correction, 55310

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration

Treasury Department
See Customs Service
See Fiscal Service
See Internal Revenue Service

Veterans Affairs Department
RULES
Vocational rehabilitation and education:
Veterans education—
Montgomery GI Bill—Active Duty; rates payable increase, 55192–55193

Separate Parts In This Issue

Part II
Environmental Protection Agency, 55331–55359

Part III
Environmental Protection Agency, 55361–55398

Part IV
Department of Treasury, Fiscal Service, 55399–55424

Part V
Department of Treasury, Fiscal Service, 55425–55430

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

CFR PARTS AFFECTED IN THIS ISSUE

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

12 CFR
1710.....55169

14 CFR
39.....55175

15 CFR
738.....55177
742.....55177
746.....55177
774.....55177

17 CFR
200.....55180

30 CFR
218.....55187

31 CFR
202.....55427
203.....55428
225.....55429
344.....55400
380.....55426

36 CFR
242.....55190

38 CFR
21.....55192

40 CFR
52 (3 documents) 55193, 55196, 55201

Proposed Rules:
52.....55206
63.....55332
141.....55362

46 CFR

Proposed Rules:
401.....55206

49 CFR

Proposed Rules:
571.....55212

50 CFR
100.....55190
622.....55203

Proposed Rules:
660.....55214

Rules and Regulations

Federal Register
Vol. 65, No. 178
Wednesday, September 13, 2000

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

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1710

RIN 2550–AA09

Releasing Information; Electronic Freedom of Information Amendment

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is publishing a final regulation that reflects the changes to the Freedom of Information Act (FOIA) made by the Electronic Freedom of Information Act Amendments Act of 1996 (1996 Act) and revises the method of computing fees. The final regulation provides for: electronic FOIA requests; access to records published or released under FOIA in electronic format; expedited processing of FOIA requests upon a showing of compelling need; publication of responses to FOIA requests that are likely to become repeat requests; aggregation of clearly related requests by a single requester or group of requesters acting in concert; informing the requester of the volume of requested material withheld and the extent of deletions both in publicly available records and records released in response to a FOIA request; and a method for computing fees that is based upon the classification of the employee performing the work as executive, professional, or clerical.

DATES: The final regulation is effective October 13, 2000.

FOR FURTHER INFORMATION CONTACT: Dorothy J. Acosta, Deputy General Counsel, 1700 G Street NW, Fourth Floor, Washington, DC 20552, telephone (202) 414–3829 (not a toll-free number). The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION: On May 25, 2000 the Office of Federal Housing Enterprise Oversight (OFHEO) published a proposed regulation, implementing certain provisions of the Electronic Freedom of Information Act Amendments of 1996, and revising the fee schedule, 65 FR 33790. The comment period closed July 24, 2000. No comments were received. Accordingly, the proposed regulation is published as a final regulation without change.

Background

The 1996 Act amendments that are reflected in the final regulation are: (1) The requirement to make requested documents available in the form or format specified by the requester, provided the document is readily reproducible in that form or format; (2) the requirement to make publicly available copies of records released in response to FOIA requests that are likely to become the subject of subsequent requests for substantially the same records; (3) the requirement for electronic access to records required to be made public by 5 U.S.C. 552 (a)(2) that were created after November 1, 1996; (4) the requirement to provide expedited processing of FOIA requests upon a showing of compelling need by the requester and in such other cases as the agency may determine; (5) the requirement to indicate the extent of any deletion made in released records and publicly available records; (6) the requirement to inform the requester of the estimated volume of material withheld; and (7) the provision for aggregating clearly related requests as a single request when such a request would constitute an ''unusual circumstance'' justifying an extension of the response time. Although not required by the 1996 Act, this final regulation would allow requests to be made electronically.

The final regulation also revises the way fees are determined for personnel costs involved in processing a request. Previously, the hourly rate OFHEO charged for actual time spent searching, reviewing, and duplicating was determined by the salary of the particular employee performing the work plus 16% of that amount to reflect the cost of benefits. The final regulation provides for fees to be based on one of three hourly rates for personnel costs associated with responding to a request, depending on whether the employee performing the work is classified as executive, professional, or clerical. An average of the actual compensation (salary and benefits) of all employees of OFHEO in a particular classification determines the actual hourly fee for that classification. These fees will be adjusted periodically to reflect significant changes in average compensation. The current fee schedule will be available on OFHEO's web site (*http://www.ofheo.gov/docs/*) and by mail.

Section-by-Section Analysis

Subpart A—General Definitions

The definition of ''record'' in § 1710.2(j) is amended by inserting the phrase ''regardless of form or format.''

Subpart B—Documents and Information Generally

OFHEO's web site (*http://www.ofheo.gov*) is added to the list of routine distribution procedures referred to in § 1710.7(c).

Subpart C—Availability of Records of OFHEO

The final regulation amends § 1710.11 by relocating the provisions that relate to records required to be made publicly available pursuant to 5 U.S.C. 552(a)(2) to § 1710.12.

Section 1710.11(a) is amended to incorporate the substance of § 1710.11(c), which addresses copying costs, and to state that records will be made available in the form or format requested provided they are readily reproducible in that form or format with reasonable effort. ''Readily reproducible'' is defined to mean, with respect to electronic format, that the requested record or records can be downloaded or transferred intact to a computer disk, or other electronic medium using equipment currently in use by OFHEO.

Section 1710.11(b), which addresses records required to be made publicly available under 5 U.S.C. 552(a)(2), is redesignated as § 1710.12(a) and amended to: (1) Incorporate the substance of § 1710.11(c) addressing copying costs; (2) state that all publicly available documents are available by

mail; (3) state that records created after November 1, 1996, including current indexes to all publicly available records regardless of when created, will be available on OFHEO's web site; and (4) add to the list of records publicly available, copies of records that have been released under the FOIA that OFHEO believes are likely to become the subject of subsequent requests for substantially the same records.

Section 1710.11(c), which relates to copying charges, is deleted and its substance incorporated in §§ 1710.11(a) and 1710.12(a).

Section 1710.11(d), which sets forth FOIA exemptions, is redesignated as § 1710.11(b).

Section 1710.11(e) is redesignated as § 1710.1(c).

Section 1710.11(f) is redesignated as § 1710.11(d) and amended to require that the amount of any information deleted from a record released under FOIA be indicated on the released portion of the record (at the place the deletion is made, if technically feasible).

Section 1710.11(g), which relates to permissible deletions in publicly available records, is redesignated as § 1710.12(b) and amended to state that the extent of any deletions necessary to protect personal privacy will be indicated on the records that are publicly available under redesignated § 1710.12(a), at the place where the deletion is made if technically feasible, unless including the indication would harm an interest protected by the exemption on which the deletion is based.

Section 1710.11(h) is redesignated as § 1710.11(e).

Section 1710.12 is amended by revising the heading of § 1710.12 to read ''Publicly Available Records''; redesignating § 1710.11(b) as § 1710.12(a); and deleting the existing provisions of § 1710.12(a) and replacing them with the provisions of § 1710.11(b), amended as described above.

Section 1710.12(b) previously contained the Director's determination that, because of the lack of requests to date for records required to be indexed, such indexes do not need to be published quarterly. It stated, however, that the indexes would be provided by mail upon request. Because OFHEO proposes to publish current indexes on its web site, this finding is unnecessary and is deleted in the final regulation. The statement that current indexes are available by mail is relocated to § 1710.12(a). Section 1710(b) is amended by replacing the existing provisions with the requirement that OFHEO explain any deletions made to protect personal privacy and indicate where in the record the deletion is made (if technically feasible), unless including that indication would harm an interest protected by the exemption pursuant to which the deletion is made.

Section 1710.13 is amended to permit requests to be made by facsimile or electronic mail and to require that the request include the submitter's name, address and telephone number.

Section 1710.14(c) is amended to state that OFHEO is not required to create a record to respond to a request, replacing a statement that OFHEO will not create a record.

Section 1710.15, which prescribes the form and content of FOIA responses, is amended by adding a requirement that a notice of denial of a FOIA request (in whole or in part) include an estimate of the volume of requested material withheld, unless providing it would harm an interest protected by the exemption on which the denial is based.

Section 1710.16 sets forth the process for appeal of denials. Paragraph (a) is amended to clarify that the appeal procedures also apply to denials of requests for expedited processing. Paragraph (b) is amended to permit appeals to be submitted electronically or by facsimile. Paragraph (g), which sets forth the right to judicial review, states that a requester will be deemed to have exhausted his or her administrative remedies if an administrative appeal has been denied or has not been acted on within 20 days of receipt. This paragraph is amended to state that if OFHEO provides the requester an opportunity to limit the scope of the request or arrange an alternate time for processing the request, the requester's refusal to do either will be considered a factor in determining whether ''exceptional circumstances'' exist. A showing of exceptional circumstances and due diligence on the part of the agency allows a court in which judicial review is sought to grant a stay to allow the agency additional time to complete its review of the records.

Section 1710.17 of the existing rule describes the time limits within which OFHEO will respond to initial requests and appeals of denials of requests. Paragraph (b) is amended to state that appeals of denials of expedited processing will be acted on as expeditiously as practicable. Paragraph (c) is amended by providing that if OFHEO extends the time limit stated in that paragraph and is unable to process the request by the date specified in the notice, OFHEO will offer the requester an opportunity to limit the scope of the request or arrange an alternate time frame for processing the request or a modified request. A new paragraph (d) is added that provides for aggregating multiple requests involving clearly related matters made by a single requester, or group of requesters acting in concert, when such requests would, if considered as a single request, constitute an ''unusual circumstance'' justifying an extension of the response time. A new paragraph (e) is added that provides for expedited processing upon a showing of compelling need by the requester and in such other cases as OFHEO may determine. A request for expedited processing must be accompanied by a statement, certified to be true and correct by the requester, that demonstrates compelling need. To show compelling need, the requester's statement must demonstrate that failure to obtain the requested records could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or, in the case of a requester whose main professional occupation or activity is the dissemination of information, that there is urgency to inform the public of the government activity involved in the request beyond the public's right to know of government activity generally. The requester must be notified within 10 working days of the disposition of the request, and any appeal of the denial must be acted on expeditiously.

Subpart D—Fees for Provision of Information

Subpart D sets forth the fees that will be assessed for services rendered in responding to and processing requests for records under the FOIA. The definition of ''direct costs'' in § 1710.21(b) is amended to include the costs of any automated searches and the cost of securing any contract services that may be necessary to respond to a FOIA request. To reflect the revised fee schedule set forth in the amended section 1710.22(b), a reference to that section is substituted for the reference to the actual salary of the person performing the work as a basis for the fees charged.

Section 1710.21(f) is amended by adding a requirement that the copy of the requested record be provided in the form or format requested, provided it is readily reproducible in that form or format with reasonable effort.

Section 1710.22 is revised to reflect a new method for computing fees and to make minor technical changes to better accommodate the changes made in response to the 1996 Act. Instead of basing the fee on the actual salary rate of the employee performing the work plus 16% for benefits, OFHEO is charging one of three hourly fees

determined by whether the employee performing the work is classified as executive, professional, or clerical. The fee for each category is determined by the average of the actual salaries and benefits of the employees in that category and will be adjusted periodically to reflect significant changes in average compensation of the class. The ''executive'' category refers to the senior management of the agency (*i.e.* Director, Deputy Director, Associate Directors, and Deputy Associate Directors). The ''clerical'' category includes employees performing primarily secretarial, clerical or ministerial tasks. The ''professional'' category includes all other employees. A current fee schedule will be available on OFHEO's web site or by mail. Conforming changes are made in paragraph (b)(1)(ii) of this section, § 1710.23(g), and § 1710.38(a) of this part.

Technical changes to § 1710.22 include substituting ''computer equipment'' for ''central processing unit'' and changing the heading in § 1710.22(b)(2) from ''Duplication'' to ''Reproduction'' to clarify that the paragraph applies both to duplicating a record in the same format and to reproducing a record in a different format, and by changing the word ''reproduction'' to ''photocopied'' in the first sentence to clarify that the per page charge applies only to photocopies of records. Conforming changes are made in § 1710.23.

Throughout the regulation, minor, nonsubstantive syntactical changes are made in the revised sections and citations to sections of the Freedom of Information Act are replaced with citations to the sections of the regulation containing the relevant statutory provisions. Citations to 5 U.S.C. 552 are replaced with ''the Freedom of Information Act.''

Regulatory Impact

Executive Order 13132, Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of Government. OFHEO has determined that this rule has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

Executive Order 12866, Regulatory Planning and Review

OMB has determined that rulemakings that amend FOIA regulations to implement the requirements of the Electronic Freedom of Information Act Amendments of 1996 are not ''significant'' regulations for the purposes of Executive Order 12866.

Executive Order 12988, Civil Justice Reform

Executive Order 12988 sets forth guidelines to promote the just and efficient resolution of civil claims and to reduce the risk of litigation to the Federal Government. This final rule meets the applicable standards of sections 3(a) and (b) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. Consequently, the rule does not warrant the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

OFHEO has considered the impact of the regulation under the Regulatory Flexibility Act. The General Counsel has certified that this final rule will not have significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, requires that regulations involving the collection of information receive clearance from OMB. This rule contains no such collection of information requiring OMB approval under the Paperwork Reduction Act. Consequently, no information has been submitted to OMB for review under the Paperwork Reduction Act.

List of Subjects in 12 CFR Part 1710

Administrative practice and procedure, Confidential business information, Electronic products, Freedom of information.

Accordingly, for reasons set forth in the preamble, OFHEO amends 12 CFR part 1710 as follows:

PART 1710—RELEASING INFORMATION

1. The authority citation for part 1710 continues to read as follows:

Authority: 5 U.S.C. 301, 552; 12 U.S.C. 4513, 4522, 4639; E.O. 12600; 3 CFR, 1987 Comp., p. 235.

Subpart A—General Definitions

§ 1710.2 [Amended]

2. Amend § 1710.2(j) by adding '', regardless of form or format,'' after ''document''.

Subpart B—Documents and Information Generally

§ 1710.7 [Amended]

3. Amend the first sentence of § 1710.7(c) by adding ''or material offered on OFHEO's web site (*http://www.ofheo.gov*),'' after the comma following the parenthetical.

Subpart C—Availability of Records of OFHEO

4. Revise § 1710.11 to read as follows:

§ 1710.11 Official records of OFHEO.

(a) OFHEO shall, upon a written request for records that reasonably describes the information or records and is made in accordance with the provisions of this subpart, make the records available as promptly as practicable to any person for inspection and/or copying, except as provided in paragraph (b) of this section. OFHEO may charge a fee determined in accordance with subpart D of this part. OFHEO will make the record available in the form or format requested if the record is readily reproducible in that form or format with reasonable effort. ''Readily reproducible'' means, with respect to electronic format, that the requested record or records can be downloaded or transferred intact to a computer disk, tape, or other electronic medium using equipment currently in use by OFHEO.

(b) *Records not available.* Except as otherwise provided in this part, or as may be specifically authorized by the Director, the following information and

records, or portions thereof, are not available to requesters:

(1) Any record, or portion thereof, that is—

(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and

(ii) Is in fact properly classified pursuant to such Executive order.

(2) Any record, or portion thereof, related solely to the internal personnel rules and practices of OFHEO.

(3) Any record, or portion thereof that is specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Any matter that is a trade secret or that constitutes commercial or financial information obtained from a person and that is privileged or confidential.

(5) Any matter contained in inter-agency or intra-agency memoranda or letters that would not be available by law to a private party in litigation with OFHEO.

(6) Any information contained in personnel and medical files and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Any records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution or an Enterprise regulated and examined by OFHEO that furnished information on a confidential basis, and, in the case of a record of information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Any matter that is contained in or related to examination, operating, or condition reports that are prepared by, on behalf of, or for the use of OFHEO.

(9) Any geological and geophysical information and data, including maps, concerning wells.

(c) Even if an exemption described in paragraph (b) of this section may be reasonably applicable to a requested record, or portion thereof, OFHEO may elect under the circumstances of any particular request not to apply the exemption to such requested record, or portion thereof. The fact that the exemption is not applied by OFHEO to any requested record, or portion thereof, has no precedential significance as to the application or nonapplication of the exemption to any other requested record, or portion thereof, no matter when the request is received.

(d) Any reasonably segregable portion of a record shall be provided to any person properly requesting such record after deletion of the portions which are exempt under this subpart. The amount of the information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in paragraph (b) of this section pursuant to which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where the deletion is made.

(e) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

5. Revise § 1710.12 to read as follows:

§ 1710.12 Publicly available records.

(a) The records described in this paragraph are available for public inspection and copying, for a fee determined in accordance with subpart D of this part, at OFHEO's offices located at 1700 G Street, NW., Fourth Floor, Washington, DC 20552. Records created on or after November 1, 1996, and current indexes to all records described in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section, including those created before November 1, 1996, are available electronically at *http://www.ofheo.gov/docs/*. The publicly available records include—

(1) Any final opinions issued by OFHEO, as well as orders made in adjudication of cases as set forth in § 1710.9 of subpart B of this part;

(2) Any statements of policy and interpretation that have been adopted by OFHEO and have not been published in the **Federal Register**;

(3) Any OFHEO administrative staff manuals and instructions to staff that affect a member of the public, and that are not exempt from disclosure under the Freedom of Information Act;

(4) Copies of all records released pursuant to this subpart that OFHEO determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(5) Current indexes to the records described in this paragraph.

(b) To the extent necessary to prevent an invasion of personal privacy, the Director may delete identifying details from a record described in paragraph (a) of this section. In each case of such deletion, the justification will be clearly explained in writing and the extent of such deletion indicated (at the place in the record where the deletion is made if technically feasible), unless including that indication would harm an interest protected by the exemption in § 1710.11(b) pursuant to which the deletion is made.

6. Revise § 1710.13(a) to read as follows:

§ 1710.13 Requests for records.

(a) *Addressing requests.* Requests for records in the possession of OFHEO shall be made in writing but may be submitted by regular mail, electronic mail, or facsimile. If the request is sent by regular mail, the request shall be addressed to FOIA Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Fourth Floor, Washington, DC 20552, with both the envelope and the letter marked ''FOIA Request.'' Electronic mail requests shall be addressed to *foia—office@ofheo.gov,* with ''FOIA Request'' in the subject line. Requests submitted by fax shall be sent to FOIA Officer at (202) 414–8917 and shall be clearly marked ''FOIA Request.'' All requests shall include the requester's name, address, and telephone number. An improperly addressed request will be deemed not to have been received for purposes of the 20-day time period set forth in § 1710.17(a) of this subpart until it is received, or would have been received with the exercise of due diligence, by the FOIA Officer. Records requested in conformance with this subpart that are not exempt records may be obtained in person, by regular mail, or by electronic

mail, as specified in the request, provided the records are readily reproducible in the requested form or format with reasonable effort. Records to be obtained in person will be available for inspection or copying during business hours on a regular business day in the office of OFHEO.

* * * * *

§ 1710.14 [Amended]

7. Amend § 1710.14(c) by removing ''will not'' and adding ''is not required to'' in its place in the last sentence.

8. Amend § 1710.15(b) by redesignating paragraphs (b)(2) and (b)(3) as (b)(3) and (b)(4) respectively, and adding a new paragraph (b)(2) to read as follows:

§ 1710.15 Form and content of responses.

* * * * *

(b) * * *

(2) An estimate of the volume of any requested matter that is withheld, unless providing the estimate would harm an interest protected by the exemption in § 1710.11(b) pursuant to which the denial was made;

* * * * *

9. Amend § 1710.16 by revising paragraphs (a), (b), and (d) to read as follows:

§ 1710.16 Appeals of denials.

(a) *Right of appeal.* If a request, including a request for expedited processing, has been denied in whole or in part, the requester may appeal the denial to: FOIA Appeals Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW, Fourth Floor, Washington DC 20552. Electronic appeals shall be submitted to *foia__appeals__office@ofheo.gov* with ''FOIA Appeal'' in the subject line.

(b) *Letter of appeal.* The appeal must be in writing and submitted within 30 days of receipt of the denial letter. The appeal shall be submitted in the manner described in § 1710.13, except that it shall be clearly marked ''FOIA Appeal'' instead of ''FOIA Request.'' An appeal shall include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons, or arguments advanced in support of disclosure of the requested record. An improperly addressed appeal shall be deemed not to have been received for the purposes of the 20-day time period set forth in § 1710.17(b) until it is received, or would have been received with the exercise of due diligence, by the Appeals Officer.

* * * * *

(d) *Judicial review.* If the denial of the request for records is upheld in whole or in part, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted his or her administrative remedies, giving rise to a right of judicial review under 5 U.S.C. 552(a)(4). However, a requester's refusal of OFHEO's offer of an opportunity to limit the scope of the request or arrange an alternate time frame for processing the request shall be considered as a factor in determining whether ''exceptional circumstances'' exist, which permits a court in which a requester has sought judicial review, to grant a stay to allow OFHEO to complete its review of the records.

10. Revise § 1710.17 to read as follows:

§ 1710.17 Time limits.

(a) *Initial request.* Following receipt of a request for records, the FOIA Officer will determine whether to comply with the request and will notify the requester in writing of his or her determination within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the request.

(b) *Appeal.* A written determination on an appeal submitted in accordance with § 1710.16 of this subpart will be issued within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the appeal. However, determination of an appeal of a denial of expedited processing will be issued as expeditiously as practicable. When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(c) *Extension of time limits.* The time limits specified in either paragraph (a) or (b) of this section may be extended in unusual circumstances after written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. If the date specified for the extension is more than 10 days after the initial time allowed for response, OFHEO will provide the requester an opportunity to limit the scope of the request or arrange for an alternate time frame for processing the request. As used in this paragraph, *unusual circumstances* means that there is a need to—

(1) Search for and collect the requested records from facilities that are separate from the office processing the request;

(2) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) Consult with another agency having a substantial interest in the determination of the request, or consult with various offices within OFHEO that have a substantial interest in the records requested.

(d) *Related requests.* OFHEO may aggregate multiple requests involving clearly related matters made by a single requester, or a group of requesters acting in concert, if OFHEO reasonably believes that such requests actually constitute a single request that would qualify as an ''unusual circumstance.''

(e) *Expedited processing.* (1) Upon a demonstration of compelling need by the requester, OFHEO will grant a request for expedited processing of a FOIA request. If a request for expedited processing is granted, OFHEO will give the request priority and process it as soon as practicable.

(2) To show a compelling need for expedited processing, the requester shall provide a statement demonstrating that:

(i) The failure to obtain the requested records could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) The requester's main professional occupation or activity is information dissemination and there is a particular urgency to inform the public of government activity involved in the request beyond the public's right to know about government activity generally.

(3) The requester's statement of compelling need must be certified to be true and correct to the best of his or her knowledge and belief and must explain in detail the basis for requesting expedited processing. The formality of the certification required to obtain expedited treatment may be waived by OFHEO in its discretion.

(4) A requester seeking expedited processing will be notified within ten (10) working days of the receipt of the request whether expedited processing has been granted. If the request for expedited processing is denied, OFHEO will act on any appeal expeditiously.

§ 1710.18 [Amended]

11. Amend § 1710.18 as follows:

a. In paragraph (b)(1), remove ''Exemption 4 of the FOIA, 5 U.S.C.

552(b)(4)'' and add in its place ''§ 1710.11(b)(4)''.

b. In paragraph (c), remove ''Exemption 4 of the FOIA, 5 U.S.C.552(b)(4)'' and add in its place ''§ 1710.11(b)(4)''.

c. In paragraph (d)(2), remove ''5 U.S.C. 552(b)(4)'' and add in its place ''§ 1710.11(b)(4)''.

d. In paragraph (e)(1), remove ''5 U.S.C. 552(b)(4)'' and add in its place ''§ 1710.11(b)(4)''.

e. In paragraph (i)(3), remove ''5 U.S.C. 552'' and add in its place ''the Freedom of Information Act''.

Subpart D—Fees for Provision of Information

12. Amend § 1710.21 by revising paragraphs (b) and (f) to read as follows:

§ 1710.21 Fees.

* * * * *

(b) *Direct costs* means the expenditures actually incurred by OFHEO in searching for and reproducing records to respond to a request for information. In the case of a commercial use request, the term also means those expenditures OFHEO actually incurs in reviewing records to respond to the request. The direct costs shall include the cost of the time of the employee performing the work, determined in accordance with § 1710.22(b)(1)(i), the cost of any computer searches, determined in accordance with § 1710.22(b)(1)(ii), and the cost of operating duplication equipment. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored. Direct costs also include the costs incurred by OFHEO for any contract services that may be needed to respond to a request.

* * * * *

(f) *Reproduce* and *reproduction* means the process of making a copy of a record necessary to respond to a request for information. Such copies take the form of paper copy, microfilm, audio-visual materials, or machine-readable documentation, *e.g.,* magnetic tape or disk. The copy provided shall be in the form or format requested, provided the record is readily reproducible in that form or format with reasonable effort, and shall be in a form reasonably usable by the requesters.

* * * * *

13. Revise § 1710.22 to read as follows:

§ 1710.22 Fees to be charged—general.

(a) Generally, the fees charged for requests for records pursuant to the Freedom of Information Act will cover the full allowable direct costs of searching for, reproducing, and reviewing records that are responsive to a request for information. Fees will be assessed according to the schedule contained in paragraph (b) of this section and the category of requesters described in § 1710.23 of this subpart for services rendered by OFHEO staff in responding to, and processing requests for, records under this part. Fees assessed shall be paid by check or money order payable to the Office of Federal Housing Enterprise Oversight.

(b) *Types of charges.* The types of charges that may be assessed in connection with the production of records in response to a FOIA request are as follows:

(1) *Searches.* (i) *Manual searches for records.* OFHEO will charge for actual search time, billed in 15-minute segments, at a rate determined by whether the employee performing the work is classified as clerical, professional, or executive. The hourly fee for each classification is based on the average of the actual compensation (salary and benefits) of employees in the classification and is adjusted periodically to reflect significant changes in the average compensation of the class. The ''executive'' classification includes the senior management of OFHEO, *i.e.* Director, Deputy Director, Associate Directors and Deputy Associate Directors. The ''clerical'' classification includes employees performing primarily secretarial, clerical, or ministerial tasks. The ''professional'' classification includes all positions not classified as ''executive'' or ''clerical.'' A current fee schedule is available on electronically at *http://www.ofheo.gov/docs/* or by regular mail.

(ii) *Computer searches for records.* Requesters will be charged at the actual direct costs of conducting a search using existing programming. These direct costs will include the cost of operating the computer equipment for that portion of operating time that is directly attributable to searching for records and the cost of the time of the employee performing the work, determined as described in paragraph (b)(1)(i) of this section. A charge will also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the prevailing levels of costs to OFHEO for the type and amount of such supplies of materials that are used. Nothing in this paragraph shall be construed to entitle any person or entity, as of right, to any services in connection with computerized records, other than services to which such person or entity may be entitled under the provisions of this subpart.

(iii) *Unproductive searches.* OFHEO may charge search fees even if no records are found that are responsive to the request or if the records found are exempt from disclosure.

(2) *Reproduction.* Records will be photocopied at a rate of $.15 per page. For copies prepared by computer, such as tapes or printouts, the requester will be charged the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction, the actual direct costs of reproducing the record(s) will be charged.

(3) *Review.* Only requesters who are seeking records for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for initial review, *i.e.,* the review undertaken the first time OFHEO analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a review are properly assessable.

(4) *Other services and materials.* Where OFHEO elects, as a matter of administrative discretion, to comply with a request for a special service or materials, such as certifying that records are true copies or sending records by special methods, the actual direct costs of providing the service or materials will be charged.

14. Amend § 1710.23 by revising paragraph (g) to read as follows:

§ 1710.23 Fees to be charged—categories of requesters.

* * * * *

(g) For purposes of paragraph (e) of this section, the term ''search time'' has as its basis, manual search. To apply this term to searches made by computer, OFHEO will determine the hourly cost of operating the computer equipment and the operator's time determined as described in paragraph (b)(1)(i) of § 1710.22. When the cost of the search (including the operator's time and the cost of operating the computer equipment to process a request) equals the equivalent dollar amount of two hours of the time of the person performing the work, *i.e.,* the operator, OFHEO will begin assessing charges for the computer.

Subpart E—Testimony and Production of Documents in Legal Proceedings in Which OFHEO Is Not a Named Party

15. Amend § 1710.38 by revising paragraph (a) to read as follows:

§ 1710.38 Fees.

* * * * *

(a) *Searches for documents.* OFHEO will charge for the actual search time of the employee performing the work, billed in 15-minute segments, as described in § 1710.22(b)(1)(i).

* * * * *

Dated: September 7, 2000.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 00–23461 Filed 9–12–00; 8:45 am]

BILLING CODE 4220–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–29–AD; Amendment 39–11894; AD 2000–18–09]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 412, 412EP, and 412CF Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 412, 412EP, and 412CF helicopters. This AD requires inspecting the upper left-hand cap angle (cap angle) and adjacent structure for a crack and, before further flight, replacing any cracked cap angle and repairing any crack in the adjacent structure. This AD is prompted by a report of a fatigue crack in a tailboom attachment cap angle. The actions specified in this AD are intended to prevent failure of a cap angle, loss of the tailboom, and subsequent loss of control of the helicopter.

DATES: Effective September 28, 2000.

Comments for inclusion in the Rules Docket must be received on or before November 13, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–29–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for BHTI Model 412, 412EP, and 412CF helicopters. This AD requires inspecting and replacing any cracked cap angle, part number (P/N) 212–030–191–001, and repairing any cracked adjacent structure.

This AD is prompted by a report of a fatigue crack in a tailboom attachment cap angle. This condition, if not corrected, could result in loss of the tailboom and subsequent loss of control of the helicopter.

The FAA has reviewed BHTI Alert Service Bulletin No. 412–00–100, and the temporary revision to the Maintenance Manual, BHT–412–MM, both dated March 24, 2000, which specify inspecting the cap angle and adjacent structure for a crack and contacting BHTI if a crack is found.

We have identified an unsafe condition that is likely to exist or develop on other BHTI Model 412, 412EP, and 412CF helicopters of these same type designs. This AD is being issued to prevent failure of a cap angle, loss of the tailboom, and subsequent loss of control of the helicopter. This AD requires, within 25 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS, inspecting the cap angle, P/N 212–030–191–001, for a crack. Before further flight, if a crack is found, this AD requires replacing any cracked cap angle with an airworthy cap angle and repairing any cracked adjacent structure. This AD also requires reporting any crack to the Manager, Rotorcraft Certification Office.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability or structural integrity of the helicopter. Therefore, inspecting the cap angle, P/N 212–030–191–001, for a crack is required within 25 hours TIS and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 149 helicopters will be affected by this AD, that it will take approximately ½ work hour to inspect a cap angle and approximately 15 work hours to replace and repair each part, and that the average labor rate is $60 per work hour. Required parts will cost approximately $279 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $180,141 assuming all cap angles are replaced.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–29–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not

have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–18–09—Bell Helicopter Textron, Inc.: Amendment 39–11894. Docket No. 2000–SW–29–AD.

Applicability: Model 412, 412EP, and 412CF helicopters with upper left-hand cap angle (cap angle), part number (P/N) 212–030–191–001, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a cap angle, loss of the tailboom, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS, inspect the cap angle and adjacent structure for a crack in the area shown in figure 1. Use a 10-power or higher magnifying glass.

Note 2: Bell Helicopter Textron, Inc. Alert Service Bulletin 412–00–100, dated March 24, 2000, pertains to the subject of this AD.

(1) If a crack is found in the cap angle, replace it with an airworthy cap angle before further flight.

(2) Repair any crack found in the adjacent structure before further flight.

BILLING CODE 4910–13–P

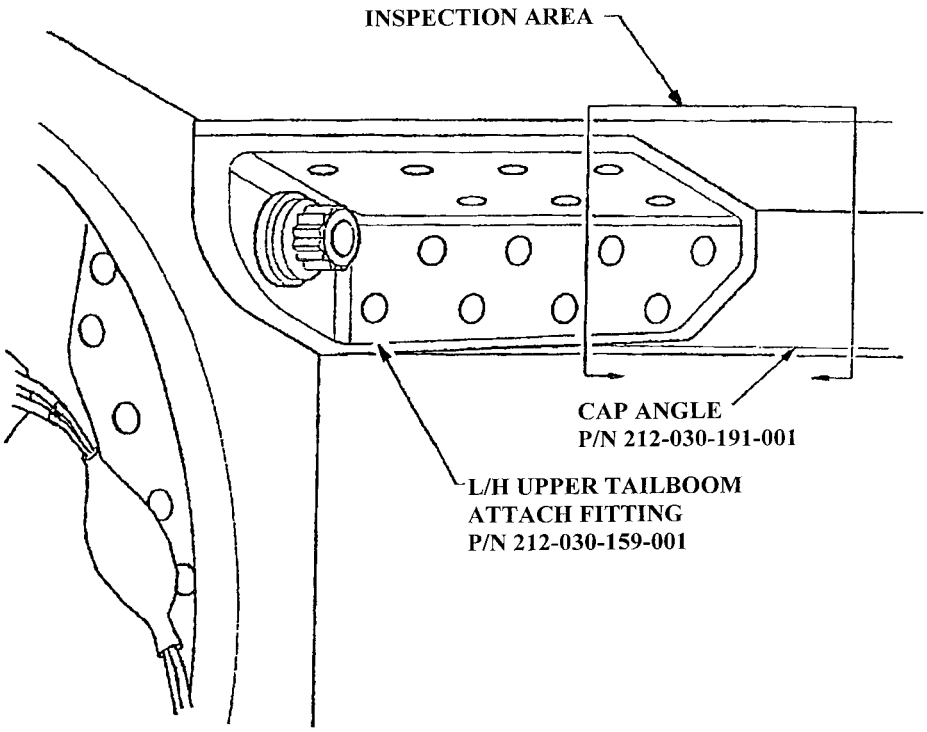

Figure 1 Fuselage Tailboom Attachment Inspection

(3) Report any crack found to the Manager of the Rotorcraft Certification Office within 10 days of the inspection. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

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

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

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

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

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–23208 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 738, 742, 746, and 774

[Docket No. 000822242–0242–01]

RIN 0694–AC31

Crime Control Items: Revisions to the Commerce Control List

AGENCY: Bureau of Export Administration, Commerce

ACTION: Interim rule.

SUMMARY: In support of U.S. foreign policy to promote the observance of human rights throughout the world, the Bureau of Export Administration maintains controls on crime control items. This rule expands controls on restraint devices, such as handcuffs, and on discharge type arms, such as stun guns or shock batons.

DATES: *Effective Date:* This rule is effective September 13, 2000.

Comments: Written comments must be received no later than October 13, 2000.

ADDRESSES: Written comments should be sent to Hillary Hess, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James A. Lewis, Director, Office of Strategic Trade, at (202) 482–0092.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Export Administration maintains the Commerce Control List (CCL), which contains items classified under Export Control Classification Numbers (ECCNs). This rule removes saps and police helmets and shields from ECCN 0A982, placing saps in new ECCN 0A978 and police helmets and shields in new ECCN 0A979. Distinguishing between restraint devices and other police equipment will result in more transparent licensing statistics on items controlled for crime control reasons. This rule also removes fingerprinting powders, dyes, and inks from ECCN 1A984 and places them in new ECCN 1A985, which improves the grouping of these items on the CCL. This rule then expands controls on restraint devices and on discharge type arms controlled under ECCNs 0A982 and 0A985, respectively, requiring a license for all destinations, except Canada, and imposes controls on technology for the development or production of those items under new ECCN 0E982. In addition, this rule modifies the license review policy to include consideration of whether there is civil disorder in the country or region or whether there is evidence that the government of the importing country may have violated internationally recognized human rights. The judicious use of export controls is intended to deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses and avoid contributing to civil disorder in a country or region.

BXA is revising § 742.7 to reflect the changes to crime control items on the CCL, and is making conforming changes to part 746 (Embargoes and Special Controls).

This action is taken consistent with the provisions of the Export Administration Act (EAA) and with the concurrence of the Secretary of State. BXA submitted a foreign policy report to the Congress indicating the expansion and imposition of new foreign policy controls on August 22, 2000.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), August 10, 1999 (64 F.R. 44101) and August 3, 2000 (65 FR 48347).

Saving Clause

Shipments of items removed from eligibility for export or reexport under the designator NLR, as a result of this regulatory action, may continue to be exported or reexported under that designator until October 13, 2000. In addition, this rule revises the numbering and structure of certain entries on the Commerce Control List. For items under such entries and for October 13, 2000, BXA will accept license applications for items described either by the entries in effect immediately before September 13, 2000 or the entries described in this rule.

Rulemaking Requirements

1. This interim rule has been determined to be significant for purposes of Executive Order 12866.

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

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

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

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department

encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close October 13, 2000. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

Copies of the public record concerning these regulations may be requested from: Bureau of Export Administration, Office of Administration, U.S. Department of Commerce, Room 6883, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–0637. This component does not maintain a separate public inspection facility. Requesters should first view BXA's website (which can be reached through *http://www.bxa.doc.gov*). If requesters cannot access BXA's website, please call the number above for assistance.

List of Subjects

15 CFR Parts 738, 742 and 774

Exports, Foreign trade.

15 CFR Part 746

Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 738, 742, 746, and 774 of the Export Administration Regulations (15 CFR parts 730 through 799) are amended as follows:

1. The authority citation for part 738 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

2. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

3. The authority citation for part 746 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 6004; E.O. 12854, 58 FR 36587, 3 CFR 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p.917; E.O. 13088, 63 FR 32109, 3 CFR, 1998 Comp., p. 191; E.O. 13121 of April 30, 1999, 64 FR 24021 (May 5, 1999); Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

4. The authority citation for part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

PART 738—[AMENDED]

§ 738.3 [Amended]

5. Section 738.3 is amended by revising the phrase *''ECCNs 0A988, 0A989, 0A999, 0B986, 0B999, 0D999, 1A999, 1B999, 1C355, 1C995, 1C998, 1C999, 1D999, 2A994, 2A999, 2B999, 2D994, 2E994, 3A999, and 6A999''* in paragraph (a)(2)(ii) to read *''ECCNs 0A982, 0A985, 0A988, 0A989, 0A999, 0B986, 0B999, 0D999, 0E982, 1A999, 1B999, 1C355, 1C995, 1C998, 1C999, 1D999, 2A994, 2A999, 2B999, 2D994, 2E994, 3A999, and 6A999''.*

PART 742—[AMENDED]

6. Section 742.7 is revised to read as follows:

§ 742.7 Crime control.

(a) *License requirements.* In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export and reexport crime control and detection equipment, related technology and software as follows:

(1) Crime control and detection instruments and equipment and related technology and software identified in the appropriate ECCNs on the CCL under CC Column 1 in the Country Chart column of the ''License Requirements'' section. A license is required to countries listed in CC Column 1 (Supplement No. 1 to part 738 of the EAR). Items affected by this requirement are identified on the CCL under the following ECCNs: 0A978, 0A979, 0A984, 0A987, 0E984, 1A984, 1A985, 3A980, 3A981, 3D980, 3E980, 4A003 (for fingerprint computers only), 4A980, 4D001 (for fingerprint computers only), 4D980, 4E001 (for fingerprint computers only), 4E980, 6A002 (for police-model infrared viewers only), 6E001 (for police-model infrared viewers only), 6E002 (for police-model infrared viewers only), and 9A980.

(2) Shotguns with a barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 2 in the Country Chart column of the ''License Requirements'' section regardless of end-user to countries listed in CC Column 2 (Supplement No. 1 part 738 of the EAR).

(3) Shotguns with barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 3 in the Country Chart column of the ''License Requirements'' section only if for sale or resale to police or law enforcement entities in countries listed in CC Column 3 (Supplement No. 1 part 738 of the EAR).

(4) Certain crime control items require a license to all destinations, except Canada. These items are identified under ECCNs 0A982, 0A985, and 0E982. Controls for these items appear in each ECCN; a column specific to these controls does not appear in the Country Chart (Supplement No. 1 to part 738 of the EAR).

(5) See § 742.11 of the EAR for further information on items controlled under ECCN 0A983, which require a license to all destinations, including Canada.

(b) *Licensing policy.* Applications for items controlled under this section will generally be considered favorably on a case-by-case basis unless there is civil disorder in the country or region or unless there is evidence that the government of the importing country

may have violated internationally recognized human rights. The judicious use of export controls is intended to deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses and avoid contributing to civil disorder in a country or region.

(c) *Contract sanctity.* Contract sanctity date: August 22, 2000. Contract sanctity applies only to items controlled under ECCNs 0A982, 0A985 and 0E982 destined for countries not listed in CC Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR).

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining controls on crime control and detection items, at this time these controls are maintained only by the United States.

PART 746—[AMENDED]

7. Section 746.8 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 746.8 Rwanda.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(ii) Items described by any ECCN ending in ''018'', and items described by ECCNs 0A978; 0A979; 0A982; 0A984; 0A986; 0A988; 0B986; 0E982; 1A005; 5A980; 6A002.a.1, a.2, a.3, and .c; 6A003.b.3 and b.4; 6E001; 6E002; and 9A991.a.

* * * * *

8. Section 746.9 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 746.9 Serbia, Kosovo, and Montenegro.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(ii) Items described by ECCNs ending in ''018''; and 0A978, 0A979, 0A982, 0A983, 0A984, 0A985, 0A986, 0A988, 0A989, 0B986, 0E982, 0E984, 1A005, 1A984, 1A985, 2A993, 3A980, 3A981, 3D980, 3E980, 4A980, 4D980, 4E980, 5A980, 6A002, 6A003.b.3 and b.4, 6E001, 6E002, 9A980, and 9A991.a.

* * * * *

PART 774—[AMENDED]

9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities & Equipment and Miscellaneous, new ECCNs 0A978, 0A979, and 0E982 are added, and ECCNs 0A982 and 0A985 are revised to read as follows:

0A978 Saps.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry.	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0A979 Police helmets and shields; and parts, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry.	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

0A982 Restraint devices, including thumbcuffs, leg irons, shackles, and handcuffs; straight jackets, plastic handcuffs; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC
Control(s)
CC applies to entire entry. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

0A985 Discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN
Control(s)
CC applies to entire entry. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

0E982 ''Technology'' exclusively for the ''development'' or ''production'' of equipment controlled by 0A982 or 0A985.

License Requirements

Reason for Control: CC
Control(s)
CC applies to ''technology'' for items controlled by 0A982 or 0A985. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

10. In Supplement No. 1 to part 774 (the Commerce Control List), Category

1—Materials, Chemicals, ''microorganisms,'' and Toxins, ECCN 1A984 is revised and a new ECCN 1A985 is added to read as follows:

1A984 Chemical agents, including tear gas formulation containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloroacetophenone (CN), except in individual containers with a net weight of 20 grams or less; smoke bombs; non-irritant smoke flares, canisters, grenades and charges; and other pyrotechnic articles having dual military and commercial use.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry.	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1A985 Fingerprinting powders, dyes, and inks.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry.	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

Dated: September 7, 2000.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 00–23481 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 34–43239; FOIA–191; PA–30; File No. S7–14–99]

RIN 3235–AH71

Amendments to the Commission's Freedom of Information and Privacy Act Rules and Confidential Treatment Rule 83

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its procedures for requesting confidential treatment of records submitted to the Commission when no other procedures are applicable. It is also amending its procedures for requesting information under the Freedom of Information Act and for requesting, amending, or correcting records about individuals under the Privacy Act of 1974. These amendments, which conform the procedures to current statutory and case law and administrative practice and correct clerical errors, reflect staff and public comments on proposed amendments that were announced on April 14, 1999.

EFFECTIVE DATE: October 13, 2000.

FOR FURTHER INFORMATION CONTACT: Betty A. Lopez, Privacy Act Officer, (202) 942–4320, Office of Filings and Information Services, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413.

SUPPLEMENTARY INFORMATION: Today, the Commission is adopting amendments that update Rule 80 (17 CFR 200.80] under the Freedom of Information Act (5 U.S.C. 552) (FOIA), Rule 83 (17 CFR 200.83) under the FOIA, and Rules 303, 306, 308, 310, and 312 (17 CFR 200.303, 306, 308, 310, and 312) under the Privacy Act of 1974 (5 U.S.C. 552a) (Privacy Act).

I. Background

On April 14, 1999, the Commission proposed to amend Rule 83, which sets forth the procedures for requesting confidential treatment of records submitted to the Commission when no other procedures apply.[1] It also proposed to amend Rule 80, which sets forth the procedures for requesting Commission records under the FOIA.[2] Moreover, it proposed to amend some of its Privacy Act rules, which set forth the procedures for requesting, amending, or correcting Commission records about individuals.[3] The amendments would make substantive and procedural changes to conform the rules to current statutory and case law and Commission practice. Other changes would correct clerical errors.

The Commission received eight comment letters.[4] Commenters generally supported the proposals, but opposed the five-year expiration period for confidential treatment requests as being unduly burdensome. Two suggested changing the period to 10 years.[5] The Commission is adopting the proposed amendments with certain modifications of the proposed Rule 83 amendments that address some concerns of commenters.

II. Discussion

A. Confidential Treatment Rule 83

1. Scope of the Rule

The Commission has several rules laying down procedures for requesting confidential treatment of records submitted to it.[6] The present amendments affect only Rule 83, which sets forth procedures for requesting confidential treatment of records submitted to the Commission where no other statute or Commission rule provides procedures for requesting confidential treatment for particular categories of information or where the Commission has not specified that an alternative procedure be used in connection with a particular study, report, investigation, or other matter.[7] The scope of Rule 83 is expressly stated in the current version of the rule[8] and that scope remains unchanged.

2. Identifying Number and Code

The current version of Rule 83 generally requires all records which

[1] Securities Exchange Act Release No. 41288 (April 14, 1999), 64 FR 19732 (April 22, 1999).

[2] *Id.*

[3] *Id.*

[4] *See* letters to Jonathan K. Katz from Lehman Brothers; Morgan, Lewis & Bockius LLP (''MLB''); Securities Industry Association (''SIA''); Merrill Lynch; A.G. Edwards & Sons, Inc. (''Edwards''); New York Stock Exchange (''NYSE''); and The Chicago Board Options Exchange (''CBOE''); and letter to the Office of the Secretary from Dan Jamieson.

[5] *See* Lehman Brothers and MLB letters.

[6] *See*, for example, 17 CFR 230.406 for records submitted under the Securities Act of 1933 (''Securities Act''), 15 U.S.C. 77a *et seq.*, and 17 CFR 240.24b-2 for records submitted under the Securities Exchange Act of 1934 (''Exchange Act''), 15 U.S.C. 78a *et seq.*

[7] *See* 17 CFR 200.83(b), which further states that it shall not apply to any record which is contained in or is part of a personnel, medical or similar file relating to a Commission member or employee which would normally be exempt from disclosure under 5 U.S.C. 552(b)(6).

[8] 17 CFR 200.83(b).

contain information for which a request for confidential treatment is made or the appropriate segregable portion thereof to be ''marked by the person submitting the records with a prominent stamp, typed legend, or other suitable form of notice on each page or segregable portion of each page, stating 'Confidential Treatment Requested by (name)'.'' [9] It further provides that, if such marking is impractical under the circumstances, a cover sheet prominently marked ''Confidential Treatment Requested by (name)'' should be securely attached to each group of records submitted for which confidential treatment is requested and that each of the records submitted in this manner should be individually marked with an identifying number and code so that they are separately identifiable.[10] The revised rule, as proposed, requires a person who submits a record to the Commission for which he or she seeks confidential treatment to mark each page or segregable portion of each page with the words ''Confidential Treatment Requested by (name)'' and an identifying number and code, without regard to the manner in which the records were submitted. The adopted amendment would state, as an example, that a Bates-stamped identifying number or code may be used for this purpose.

3. Voluntarily Submitted Records

A proposed amendment of Rule 83 would have added that a person, who submits a record to the Commission voluntarily and requests its confidential treatment, must mark each page ''Voluntarily Submitted'' and explain the circumstances under which the record was voluntarily submitted. Several commenters objected to these additional requirements as being unduly burdensome.[11] They said that voluntary submissions could include hundreds or thousands of pages and the Commission frequently asks for voluntary submission of records. They pointed out that only a small fraction of voluntarily submitted records are ever requested under the FOIA. Upon reconsideration, the Commission has decided not to require that the submitter both mark the record ''Voluntarily Submitted'' *and* explain the circumstances under which the record was voluntarily submitted. Rather, although not specified by the rule, an explanation of the circumstances of voluntary submission should continue to be part of a substantiation that the confidential treatment requester furnishes after receiving notice of a FOIA request for the records.

4. Five-year Expiration Date

Currently, Rule 83 does not provide an expiration date for confidential treatment requests. A proposed amendment would have stated that a confidential treatment request would expire five years after its receipt by the Commission's FOIA Office unless the person requesting confidentiality renews the request before it expires. Several commenters [12] noted the difficulty and expense of tracking the contents and expiration date of confidential treatment requests, in light of the frequency with which the Commission asks for voluntary submission of records. Two commenters [13] suggested a 10-year expiration period as in a similar rule of the U.S. Department of Justice.[14] The Commission accepts this suggestion. Accordingly, the adopted amendment sets 10 years as the expiration date of confidential treatment requests under Rule 83. The Commission does not plan to notify the confidential treatment requester when the 10 years is about to expire. Moreover, providing an expiration date for such requests does not affect the duration of a grant of confidentiality or the Commission's right to review a grant in light of subsequent events.

5. Substantiation to Remain Nonpublic

A proposed amendment would have stated that a confidential treatment request and a substantiation for it shall be confidential, but if an action is filed in a Federal court by the FOIA or confidential treatment requester, both may become part of the court record. After further consideration, the Commission has decided that both the confidential treatment request and substantiation shall be *nonpublic* but, if an action is filed in a Federal court under the FOIA, the confidential treatment request or substantiation, or both, may become part of the court record.

B. Rule 80 and Privacy Act Rules

The Commission received no unfavorable comments on its proposed amendments to Rule 80 or the rules under the Privacy Act.

III. Effects On Competition

Section 23(a)(2) of the Exchange Act [15] requires the Commission, in adopting rules under the Exchange Act, to consider their anticompetitive effect, if any, and to balance any impact they may have against the regulatory benefits furthering the purposes of the Exchange Act. The Commission believes that the amendments will have a neutral effect on competition since they would merely conform the rules to current law, clarify procedures for submitting records, and assure voluntary submitters of confidential commercial or financial records that their records will be protected consistent with statutory and case law.

IV. Statutory Basis Of Rule Amendments

The Commission is adopting the amendments under the authority of the FOIA, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; the Administrative Procedure Act, 5 U.S.C. 553; section 19 of the Securities Act, 15 U.S.C. 77s; sections 23 and 24 of the Exchange Act, 15 U.S.C. 78w, 78x; section 20 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79t; section 319 of the Trust Indenture Act of 1939, 15 U.S.C. 77sss; section 38 of the Investment Company Act of 1940, 15 U.S.C. 80a–37; and section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b–11.

V. Final Regulatory Flexibility Analysis

The Commission has prepared this final regulatory flexibility analysis in accordance with 5 U.S.C. 603.

A. Reasons for Action

To update its regulations, the Commission is amending its rules to conform them to present Commission organization and practice and current statutory and case law.

B. Objectives and Legal Basis

These amendments will implement recent amendments to the FOIA, conform Commission rules to current case law and administrative practice, enhance public access to non-privileged, non-confidential Commission records, and protect personal privacy. The amendments are authorized by 5 U.S.C. 552, 5 U.S.C. 552a, and Executive Order 12,600.

[9] 17 CFR 200.83(c)(2).

[10] *Id.*

[11] *See* Lehman Brothers, MLB, SIA, Merrill Lynch, and Edwards letters.

[12] *See* Lehman Brothers, MLB, SIA, Merrill Lynch, Edwards, NYSE, and CBOE letters.

[13] *See* Lehman Brothers and MLB letters.

[14] In 28 CFR 16.8(c), the Department of Justice states:

Designation of business information. A submitter of business information will use good-faith efforts to 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 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.

[15] 15: 15 U.S.C. 78w(a)(2).

C. Small Entities Affected

The amendments will affect all small entities that request Commission records under the FOIA or confidential treatment for records they submit to the Commission under Rule 83. While it cannot reasonably estimate the number of small entities that could be affected, the Commission believes that any burden that the amendments might place on small entities will be negligible.

D. Compliance Requirements

The amendments will not impose any additional reporting, recordkeeping, or other compliance requirements.

E. Duplicative, Overlapping, or Conflicting Rules

The Commission believes that there are no duplicative, overlapping, or conflicting federal rules.

F. Significant Alternatives

There are no significant alternatives to the amendments that would accomplish the stated objectives of applicable statutes and executive order.

VI. Cost-Benefit Analysis

The Commission is sensitive to the costs imposed by its rules and regulations, such as its rules under the Freedom of Information Act and the Privacy Act. Most of the rule amendments adopted today merely conform FOIA and Privacy Act regulations to current law and practice (for example, by specifying what types of information we will post on our web site under the Electronic Freedom of Information Act Amendments of 1996).

A number of the rule amendments, however, will impose some costs on persons subject to them. One amendment requires persons seeking confidential treatment for records submitted to the Commission to mark each page with the phrase ''Confidential Treatment Requested by [name]'' and an identifying number or code. In general, however, the cost of marking each page should be small. Moreover, the cost will be justified by significant benefits from the resulting ease and accuracy of determining which records requested under the FOIA are subject to confidential treatment requests and by whom. Such positive identification will avoid potentially costly, inadvertent mistakes when the records are separated from the confidential treatment request covering them.

Another amendment states that a confidential treatment request will expire 10 years from the date of its receipt by the FOIA Office, unless the request is renewed before its expiration date. In effect, this amendment requires a confidential treatment requester, who wants to renew the request, to ask for such renewal before the initial request expires. The need to protect most commercial or financial records submitted to the Commission generally diminishes over time. Therefore, the Commission anticipates that only a few confidential treatment requesters will renew their requests after 10 years. The Commission believes that the cost of renewing a request will be minimal and will be justified by the assurance that the requester will be notified and given an opportunity to substantiate the confidential treatment request before the records are released under the FOIA.

Finally, an amendment expressly lists review fees among the FOIA fees. Although inadvertently omitted in the introductory text of 17 CFR 200.80(e) and the first sentence of 17 CFR 200.80(e)(1) and (3), the Commission has authorized review fees since 1987. See 17 CFR 200.80(e)(9)(ii), 17 CFR 200.80(e)(10)(ii), and 17 CFR 200.80f. Therefore, this amendment will not impose any additional cost.

List of Subjects in 17 CFR Part 200

Administrative practice and procedures, Confidential business information, Freedom of information, and Privacy.

VII. Text of Amendments

For the reasons set out in the preamble, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart D—Information and Requests

1. The authority citation for Part 200, Subpart D is revised to read as follows:

Authority: 5 U.S.C. 552, as amended, 15 U.S.C. 77f(d), 77s, 77ggg(a), 78m(F)(3), 78w, 79t, 79v(a), 77sss, 80a–37, 80a–44(a), 80a–44(b), 80b–10(a), 80b-11.

§ 200.80 also issued under 5 U.S.C. 552b; 15 U.S.C. 78d–1, 78d–2; 78a *et seq.*; 11 U.S.C. 901, 1109(a).

§ 200.80a also issued under 5 U.S.C. 552b.

§§ 200.80b and 200.80c also issued under 11 U.S.C. 901, 1109(a).

§ 200.82 also issued under 15 U.S.C. 78n.

§ 200.83 also issued under Exec. Order 12,600, 3 CFR, 1987 Comp., p. 235.

2. Amend § 200.80 by:

a. adding ''Northeast and Midwest'' before the phrase ''Regional Offices'' in the introductory text of paragraph (a)(2);

b. removing the word ''and'' at the end of paragraph (a)(2)(iv);

c. removing the period at the end of paragraph (a)(2)(v) and adding in its place ''; and''; and

d. adding paragraph (a)(2)(vi) and republishing the paragraph heading for (a)(2) to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(2) *Records available for public inspection and copying; documents published and indexed.* * * *

(vi) Copies and a general index of all records which have been released to any person under the Freedom of Information Act and which, because of the nature of their subject matter, the Commission determines have become or are likely to become the subject matter of subsequent requests for substantially the same records.

* * * * *

3. Amend § 200.80 by:

a. Redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(4) and (a)(5);

b. Correcting ''secton'' to read ''section'' in the first sentence of newly redesignated paragraph (a)(4); and

c. Adding new paragraph (a)(3) to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(3) Records created on or after November 1, 1996, which are required to be available for public inspection and copying under paragraph (a)(2) of this section, shall be made available on the Internet.

* * * * *

4. Amend § 200.80, paragraph (b)(4)(ii) by:

a. Correcting ''pursant'' to read ''pursuant'';

b. Revising the phrase ''15c3–1(c)(7)(G)'' to read ''15c3–1d(c)(6)(i)'';

c. Revising the phrase ''17 CFR 240.15c–1(c)(7)(vii)'' to read ''17 CFR 240.15c3–1d(c)(6)(i)'';

d. Revising the phrase ''Rules 17a–9, 17a–10, 17a–12 and 17a–16'' to read ''Rules 17a–10 and 17a–12''; and

e. Revising the phrase ''17 CFR 240.17a–9, 240.17a–10, 240.17a–12, and 240.17a–16'' to read ''17 CFR 240.17a–10 and 240.17a–12''.

5. Amend § 200.80 by:

a. Removing paragraph (b)(7)(ii);

b. Redesignating the introductory text of paragraph (b)(7)(i) as paragraph (b)(7) and paragraphs (b)(7)(i)(A) through (F) as paragraphs (b)(7)(i) through (b)(7)(vi);

c. Revising the word ''State'' to read ''state'' in newly redesignated paragraph (b)(7)(iv); and

d. Adding a comma after the word ''examination'' in paragraph (b)(8).

6. Amend § 200.80(c)(1) as follows:

a. In paragraph (c)(1) introductory text, first sentence, remove the numbers ''(202–272–3100)'' and revise the phrase ''New York and Chicago regional offices'' to read ''Northeast and Midwest Regional Offices''; and, in the second sentence, revise the phrase ''8½×14'' to read ''8½×11'' and the phrase ''New York and Chicago offices'' to read ''Northeast and Midwest Regional Offices'';

b. In paragraph (c)(1)(i), second sentence, revise the phrase ''regional offices in New York or Chicago'' to read ''Northeast and Midwest Regional Offices''; and

c. In paragraph (c)(1)(iii), first sentence, revise the phrase ''New York and Chicago regional offices'' to read ''Northeast and Midwest Regional Offices''; and, in the second sentence, revise the term ''suite'' to read ''Suite'' each time it appears in the list of Commission offices and, for the Southeast Regional Office, revise the phrase ''8:30 a.m. to 5 p.m.'' to read ''9 a.m. to 5:30 p.m.''

7. Amend § 200.80(c)(2) as follows:

a. In the first sentence, by revising the phrase ''or by telephone'' to read ''or in writing'';

b. In the second sentence, by removing the phrase ''and telephone numbers''; and

c. In the third sentence, by removing the phrase '', or to a particular regional office''.

8. Amend § 200.80(d)(1) as follows:

a. In the first sentence, by adding the word ''the'' after the phrase ''by mail directed to'';

b. In the second sentence, by adding the word ''the'' after the phrase ''not available in'';

c. In the third sentence, by revising the phrase ''Securities and Exchange Commission, Washington, DC 20549'' to read ''SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413''; and

d. At the end of paragraph (d)(1), by adding a sentence to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * * (1) * * * The request may also be made by facsimile (703–914–1149) or by Internet (foia/pa@sec.gov).

* * * * *

9. Revise § 200.80(d)(5) to read as follows:

§ 200.80 Commission records and information.

(d) * * *

(5) *Initial determination; multi-track processing, and denials.—(i) Time within which to respond.* When a request complies with the procedures in this section for requesting records under the Freedom of Information Act, a response shall be sent within 20 business days from the date the Office of Freedom of Information and Privacy Act Operations receives the request, except as described in paragraphs (d)(5)(ii) and (d)(5)(iii) of this section. If that Office has identified the requested records, the response shall state that the records are being withheld, in whole or in part, under a specific exemption or are being released.

(ii) *Voluminous records.* The amount of separate and distinct records which are demanded in a single request or the amount of time or work (or both) involved may be such that the review of the records cannot be completed within 20 business days, as prescribed in paragraph (d)(5)(i) of this section. In such a case, the Office of Freedom of Information and Privacy Act Operations shall inform the requester of the approximate volume of the records and give him or her the option of limiting the scope of the request to qualify for 20-day processing or placing the request in the Commission's first-in, first-out (FIFO) system for reviewing voluminous records. In the latter case, the Office will inform the requester of the approximate time when the review will start. The FIFO system allows the Commission to serve all those requesting voluminous records on a first-come, first-served basis, such that all releasable records sought will be released at one time, unless the requester specifically requests that releasable records be released piecemeal as they are processed.

(iii) *Expedited processing.* The Office of Freedom of Information and Privacy Act Operations shall grant a request for expedited processing if the requester demonstrates a compelling need for the records. ''Compelling need'' means that a failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to an individual's life or physical safety or, if the requester is primarily engaged in disseminating information, an urgency to inform the public of actual or alleged Federal government activity. A compelling need shall be demonstrated by a statement, certified to be true and correct to the best of the requester's knowledge and belief. The Office of Freedom of Information and Privacy Act Operations shall notify the requester of the decision to grant or deny the request for expedited treatment within ten business days of the date of the request. A request for records that has been granted expedited processing shall be processed as soon as practicable.

(iv) *Notice of denial.* Any notification of denial of any request for records shall state the name and title or position of the person responsible for the denial of the request, the reason for the decision, and the right of the requester to appeal to the General Counsel. The decision shall estimate the volume of records that are being withheld in their entirety, unless giving such an estimate would harm an interest protected by the applicable exemption. The amount of information redacted shall be indicated on the released portion of the record and, if technically feasible, at the place where the redaction is made.

(v) *Form of releasable records.* Releasable records shall be made available in any form or format requested if they are readily reproducible in that form or format.

* * * * *

10. Revise the introductory text of § 200.80(d)(6) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(6) *Administrative review.* Any person who has received no response to a request within the period prescribed in paragraph (d)(5) of this section or within an extended period permitted under paragraph (d)(7) of this section, or whose request has been denied under paragraph (d)(5) of this section, may appeal the adverse decision or failure to respond to the General Counsel.

* * * * *

11. Revise § 200.80(d)(6)(ii) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(6) * * *

(ii) The appeal must be mailed to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413 or delivered to Room 1418 at that address, and a copy of it must be mailed to the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549 or delivered to Room 1012–B at that address.

* * * * *

12. Amend § 200.80, paragraph (d)(7), introductory text, first sentence, by revising the word ''reasons'' to read ''unusual circumstances''; and second sentence, by revising the phrase ''working days'' to read ''business days,

except as provided in paragraph (d)(8) of this section''.

13. Revise § 200.80(d)(8), introductory text, to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(8) *Inability to meet time limits.* If a request for records cannot be processed within the time prescribed under paragraph (d)(7) of this section, the Commission shall so notify and give the requester an opportunity to modify the request so that it may be processed within that time or to arrange an alternative time for processing the request or a modified request.

* * * * *

14. Amend § 200.80(d)(9) by:

a. Removing the heading ''*Oral requests; misdirected written requests'';*

b. Removing paragraph (d)(9)(i); and

c. Redesignating paragraph (d)(9)(ii) as paragraph (d)(9).

15. Amend § 200.80(e), introductory text, first sentence, by adding after the word ''locating'' the word '', reviewing,''.

16. Amend § 200.80(e)(1), first sentence, by adding the words ''and reviewing'' immediately after the words ''searching for''.

17. Amend § 200.80(e)(3), first sentence, by adding the word '', reviewing'' immediately after the word ''locating''; and third sentence, by revising the figure ''$25'' to read ''$28'' and the word ''advised'' to read ''informed''.

18. Amend § 200.80 by revising paragraph (e)(4) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(e) * * *

(4) *Waiver or reduction of fees.*

(i) The Office of Freedom of Information and Privacy Act Operations may waive or reduce search, review, and duplication fees if:

(A) Disclosure of the requested records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and

(B) Disclosure is not primarily in the commercial interest of the requester.

(ii) The Office of Freedom of Information and Privacy Act Operations will determine whether disclosure is likely to contribute significantly to public understanding of the operations or activities of the government based upon four factors:

(A) Whether the subject of the requested records concerns the operations and activities of the Federal government;

(B) Whether the requested records are meaningfully informative on those operations or activities so that their disclosure would likely contribute to increased public understanding of specific operations or activities of the government;

(C) Whether disclosure will contribute to the understanding of the public at large, rather than the understanding of the requester or a narrow segment of interested persons; and

(D) Whether disclosure would contribute significantly to public understanding of the governmental operations or activities.

(iii) The Office of Freedom of Information and Privacy Act Operations will determine whether disclosure of the requested records is not primarily in the commercial interest of the requester based upon two factors:

(A) Whether disclosure would further any commercial interests of the requester; and

(B) Whether the public interest in disclosure is greater than the requester's commercial interest.

(iv) If only a portion of the requested records satisfies both the requirements for a waiver or reduction of fees, a waiver or reduction of fees will be granted for only that portion.

(v) A request for a waiver or reduction of fees may be a part of a request for records. Such requests should address all the factors identified in paragraphs (e)(4)(ii) and (e)(4)(iii) of this section.

(vi) Denials of requests for a waiver or reduction of fees may be appealed to the General Counsel in accordance with the procedure set forth in paragraph (d)(6) of this section.

* * * * *

19. Amend § 200.80, paragraph(e)(7)(i), first sentence, by revising the phrase ''New York, or Chicago'' to read ''Northeast, or Midwest'' and by removing the word ''Branch''; and paragraph (e)(7)(ii), last sentence, by removing ''or calling this facility at 202–272–3100''.

20. Amend § 200.80, paragraph (e)(8)(iii), second sentence, by adding ''U.S.'' before ''Government Printing Office''.

21. Amend § 200.83, by revising paragraphs (c)(2) through paragraphs (c)(6) and adding paragraphs (c)(7) and (c)(8) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(c) *Written request for confidential treatment to be submitted with information.* (1) * * *

(2) A person who submits a record to the Commission for which he or she seeks confidential treatment must clearly mark each page or segregable portion of each page with the words ''Confidential Treatment Requested by [name]'' and an identifying number and code, such as a Bates-stamped number. In his or her written confidential treatment request, the person must refer to the record by identifying number and code.

(3) In addition to giving a copy of any written request for confidential treatment to the Commission employee receiving the record in question, the person requesting confidential treatment must send a copy of the request (but not the record) by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413. The legend ''FOIA Confidential Treatment Request'' must clearly and prominently appear on the top of the first page of the written request, and the written request must contain the name, address, and telephone number of the person requesting confidential treatment. The person requesting confidential treatment is responsible for informing the Office of Freedom of Information and Privacy Act Operations promptly of any changes in address, telephone number, or representation.

(4) In some circumstances, such as when a person is testifying in the course of a Commission investigation or providing a record requested in the course of a Commission examination or inspection, it may be impracticable to submit a written request for confidential treatment at the time the record is first given to the Commission. In no circumstances can the need to comply with the requirements of this section justify or excuse any delay in submitting any record to the Commission. The person testifying or otherwise submitting the record must inform the Commission employee receiving it, at the time the record is submitted or as soon thereafter as possible, that he or she is requesting confidential treatment. The person must then submit a written confidential treatment request within 30 days from the date of the testimony or the submission of the record. Any confidential treatment request submitted under this paragraph must also comply with paragraph (c)(3) of this section.

(5) Where confidential treatment is requested by the submitter on behalf of another person, the request must

identify that person and provide the telephone number and address of that person or the person's responsible representative if the submitter would be unable to provide prompt substantiation of the request at the appropriate time.

(6) No determination on a request for confidential treatment will be made until the Office of Freedom of Information and Privacy Act Operations receives a request for disclosure of the record.

(7) A confidential treatment request will expire ten years from the date the Office of Freedom of Information and Privacy Act Operations receives it, unless that Office receives a renewal request before the confidential treatment request expires. The renewal request must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, and must clearly identify the record for which confidential treatment is sought. A renewal request will likewise expire ten years from the date that Office receives it, unless that Office receives another timely renewal request which complies with the requirements of this paragraph.

(8) A confidential treatment request shall be nonpublic. If an action is filed in a Federal court, however, by either the Freedom of Information requester (under 5 U.S.C. 552(a)(4) and § 200.80(d)(6)) or by the confidential treatment requester (under paragraph (e)(5) of this section), the confidential treatment request may become part of the court record.

* * * * *

22. Amend § 200.83, paragraph (d)(1), by revising the phrase ''telegram or express'' to read ''facsimile or certified'' and by adding a sentence to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(d) *Substantiation of request for confidential treatment.*

(1) * * * Failure to submit a written substantiation within ten calendar days from the time of notification, or any extension thereof, may be deemed a waiver of the confidential treatment request and the confidential treatment requester's right to appeal an initial decision denying confidential treatment to the Commission's General Counsel as permitted by paragraph (e) of this section.

* * * * *

23. Revise § 200.83(e)(1) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) In a preliminary decision, which shall be sent by mail or facsimile, or both, the Office of Freedom of Information and Privacy Act Operations will inform the confidential treatment requester whether it intends to grant confidentiality in whole or in part and give the requester ten calendar days from the date of the preliminary decision to submit supplemental arguments if the requester disagrees with the preliminary decision. A final decision, which shall also be sent by mail or facsimile, or both, no sooner than ten calendar days from the date of the preliminary decision, shall inform the Freedom of Information Act requester and the confidential treatment requester of his or her right to appeal an adverse decision to the Commission's General Counsel within ten calendar days from the date of the final decision. Records, which the Freedom of Information and Privacy Act Officer determines to be releasable, may be released to the Freedom of Information Act requester ten calendar days after the date of the final decision. However, if within those ten calendar days, the Freedom of Information and Privacy Act Officer receives an appeal from the confidential treatment requester, he or she shall inform the Freedom of Information Act requester that an appeal is pending and that the records will not be released until the appeal is resolved.

* * * * *

24. Amend § 200.83, paragraph(e)(2), by revising the second sentence and adding a sentence after the second sentence to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) * * *

(2) * * * The appeal must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149). A copy of the appeal must be mailed to the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. * * *

* * * * *

25. Amend § 200.83, paragraph(e)(3), third sentence by removing the clause ''in accordance with the provisions of § 201.28 of this chapter''.

26. Amend § 200.83, paragraph(e)(4), first sentence, by revising the phrase ''telegram or express'' to read ''facsimile or certified''.

27. Amend § 200.83, paragraph (e)(5), last sentence, by revising the phrase ''telegram or express'' to read ''facsimile or certified''.

28. Amend § 200.83 by:

a. Redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j);

b. Revising the phrase ''(c)(4)'' in newly redesignated paragraph (h)(1) to read ''(c)(5)'';

c. Revising the phrase ''(g)(1)'' in the first sentence of newly redesignated paragraph (h)(2) to read ''(h)(1)'';

d. Removing the commas after ''extended'' and ''Officer'' in newly redesignated paragraph (i); and

e. Adding new paragraphs (g) and (k) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(g) *Confidential treatment request and substantiation as nonpublic.* Any confidential treatment request and substantiation of it shall be nonpublic. If an action is filed in a Federal court, however, by either the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(d)(6)) or by the confidential treatment requester (under paragraph(e)(5) of this section), both request and substantiation may become part of the public court record.

* * * * *

(k) In their discretion, the Commission, the Commission's General Counsel, and the Freedom of Information Act Officer may use alternative procedures for considering requests for confidential treatment.

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

29. The authority citation for Part 200, Subpart H continues to read in part as follows:

Authority: 5 U.S.C. 552a(f), unless otherwise noted.

* * * * *

30. Amend § 200.303, paragraph (a), introductory text, by revising the clause ''by the individual in person during normal business hours at the Commission's Public Reference Room which is located at 450 Fifth Street, NW., Room 1024, Washington, DC, or by mail addressed to the Privacy Act

Officer, Securities and Exchange Commission, Washington, DC 20549'' to read ''by mail to the Privacy Act Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149)''.

31. Amend § 200.303, paragraph(a)(2) as follows:

a. In the second sentence, by revising the phrase ''Commission's Public Reference Room located at 450 Fifth Street, NW., Room 1024, Washington, DC,'' to read ''Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413,'';

b. In the list of Commission offices, by revising ''suite'' to read ''Suite'' each time it appears; for the Southeast Regional Office, revising the phrase ''8:30 a.m. to 5 p.m.'' to read ''9:00 a.m. to 5:30 p.m.''; and for the Central Regional Office, revising the acronym ''C.S.T.'' to read ''M.S.T.''; and

c. In the last sentence of the concluding paragraph, adding immediately after ''New Year's Day,'' the phrase ''Martin Luther King, Jr.'s Birthday,''.

32. Amend § 200.303(a)(3), first sentence, by revising the phrase ''For the purpose of verifying his identity, an'' to read ''An''.

33. Revise § 200.303(a)(4) to read as follows:

§ 200.303. Times, places, and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.

(a) * * *

(4) *Method for verifying identity by mail.* Where an individual cannot appear at one of the Commission's Offices to verify his or her identity, he or she must submit, along with the request for information or access, a statement attesting to his or her identity. Where access is being sought, the statement shall include a representation that the requested records pertain to the individual and a statement that the individual is aware that knowingly and willfully requesting or obtaining records pertaining to an individual from the Commission under false pretenses is a criminal offense. This statement shall be a sworn statement, or in lieu of a sworn statement, an individual may submit an unsworn statement to the same effect if it is signed by him or her as true under penalty of perjury, dated, and in substantially the following form:

(i) If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.''

Executed on (date)_____

(Signature)

(ii) If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.''

Executed on (date)_____

(Signature)

34. Amend § 200.303, paragraph (b)(2), first sentence, by revising the phrase ''Commission's Public Reference Room in Washington DC'' to read ''Office of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413''.

35. Revise § 200.306(a), introductory text, to read as follows:

§ 200.306 Requests for amendment or correction of records.

(a) *Place to make requests.* A written request by an individual to amend or correct records pertaining to him or her may be hand delivered during normal business hours to the SEC, Operations Center, Room 1418, 6432 General Green Way, Alexandria, VA 22312–2414, or be sent by mail to the Office of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149).

* * * * *

36. Amend § 200.308, paragraph (a), introductory text, by revising the phrase ''Commission's staff'' to read ''Office of Information and Privacy Act Operations'' and revising the phrase ''by applying for an order of the General Counsel determining and directing that access to the record be granted or that the record be amended or corrected in accordance with his request'' to read ''to the General Counsel''.

37. Amend § 200.308, paragraph (a)(1), by revising the word ''application'' to read ''appeal''.

38. Revise § 200.308(a)(2) to read as follows:

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) * * *

(2) The appeal shall be delivered or sent by mail to the Office of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149).

* * * * *

39. Amend § 200.308, paragraph (a)(9)(ii) by adding the phrase ''or her'' immediately after the word ''His''.

40. Amend § 200.308, paragraph (b)(1), first sentence, by revising the phrase ''to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street NW., Room 1024, Washington, DC 20549, or mailed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549,'' to read ''or sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149),''.

41. Amend § 200.310, paragraph (a), first sentence, by revising the phrase ''made in person during normal business hours at the Public Reference Room at 450 Fifth Street, NW., Room 1024, Washington, DC, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, DC 20549'' to read ''sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149).''; and by removing the last sentence.

42. Amend § 200.310, paragraph (b), by revising the phrase ''the Director of the Office of Consumer Affairs and Information Services'' to read ''the Privacy Act Officer'' and adding the phrase ''or she'' immediately after the word ''he''.

43. Amend § 200.312 by removing paragraphs (a)(1) through (a)(8) and adding paragraphs (a)(1) through (a)(6) to read as follows:

§ 200.312 Specific exemptions.

* * * * *

(a) * * *

(1) Enforcement Files;

(2) Office of General Counsel Working Files;

(3) Office of the Chief Accountant Working Files;

(4) Name-Relationship Index System;

(5) Rule 102(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission; and

(6) Agency Correspondence Tracking System.

* * * * *

By the Commission.

September 1, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23341 Filed 9–12–00; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 218

RIN 1010–AC76

Interest Rate Applicable to Late Payment or Underpayment of Monies Due on Solid Minerals and Geothermal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is revoking its rulemaking published on March 29, 1994, regarding interest rates used to assess interest on late payment or underpayment of monies due on solid minerals and geothermal leases. A decision of the United States Court of Appeals for the District of Columbia Circuit invalidated the amendments promulgated in 1994. This rule reinstates the pre-1994 rule.

EFFECTIVE DATE: This rule is effective September 13, 2000.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; telephone (303) 231–3432; FAX (303) 231–3385; e-mail David.Guzy@mms.gov.

SUPPLEMENTARY INFORMATION: The principal authors of this final rule are Janet Lin and Geoffrey Heath of the Office of the Solicitor, Department of the Interior.

I. Background

1982 Rule. On May 25, 1982, MMS promulgated a rule (47 FR 22524) that imposed interest charges for late payment and underpayment of royalties under Federal and Indian coal and geothermal leases (the 1982 rule). The 1982 rule specified that MMS would charge an interest rate at the Treasury Current Value of Funds Rate (CVF rate) for late payment and underpayment of royalties both for coal[1] and for geothermal resources.[2] The Treasury Department published the CVF rate on a quarterly basis. As a matter of practice, MMS applied the new CVF rate for each quarter to existing indebtedness (hereinafter, this method is referred to as ''shifting rates'').

On April 28, 1986, MMS promulgated a rule (51 FR 15763) changing a subpart heading so that the provisions under it, including the late payment and underpayment rate provisions, applied to all solid minerals instead of only coal.

1994 Rule. On March 29, 1994, MMS promulgated a rule (59 FR 14559) (the 1994 rule) that revised the interest rate for late payment and underpayment of royalties for solid minerals[3] and for geothermal resources[4] from the CVF rate to the higher Internal Revenue Service underpayment rate prescribed at 26 U.S.C. 6621(a)(2) (IRS rate). The IRS rate is a ''prime plus three percent'' rate that shifts quarterly with changes in the prime rate. Under the associated provisions at 26 U.S.C. 6622, the rate is a daily compounded rate. The MMS rule imposing the higher rate became effective on April 1, 1994.

In promulgating the 1994 rule, MMS sought to more appropriately compensate the lessor for the lost time value of underpaid royalties and to make interest rates for solid minerals and geothermal resources consistent with those imposed on oil and gas under the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), section 111(a).[5] FOGRMA provides MMS with express statutory authority to assess interest at the IRS rate on underpaid oil and gas royalties. Since no such statutory provision exists for solid minerals or geothermal resources, the 1994 rule 19 relied on the Secretary's rulemaking authority under the Mineral Leasing Act of 1920 (MLA),[6] the Mineral Leasing Act for Acquired Lands,[7] the Indian mineral leasing laws,[8] and the Geothermal Steam Act of 1970.[9]

The 1994 rule amended 30 CFR 218.202(c) and (d) and 30 CFR 218.302(c) and (d) with identical provisions that read as follows:

> (c) The interest charge on late payments shall be at the underpayment rate established by section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2).
>
> (d) Interest will be charged only on the amount of the payment not received by the designated due date. Interest will be charged only for the number of days the payment is late.

The Amax Decision. Amax Land Company (Amax) is a Federal coal lessee. The MMS assessed late payment interest on Amax for failure to timely pay royalties for the period January 1989 to July 1993. The MMS applied the IRS rate under the 1994 rule to Amax's late payment for those periods in which the indebtedness continued after the effective date of that rule. Amax administratively appealed the interest assessment. The MMS Director and the Assistant Secretary for Land and Minerals Management denied the appeal. Amax then sought judicial review in the United States District Court for the District of Columbia challenging the legality of the 1994 rule. The District Court held that MMS's application of the IRS rate to solid minerals was not a permissible exercise of MMS's rulemaking authority at 30 U.S.C. 189. *Amax Land Company* v. *Quarterman,* 1998 WL 306582, 6 (D.D.C. 1998).

The Government appealed. The Court of Appeals for the District of Columbia Circuit reversed the District Court's decision in part and affirmed it in part. *Amax Land Company* v. *Quarterman,* 181 F. 3d 1356 (D.C. Cir. 1999) (*Amax* decision). The D.C. Circuit concluded that MMS's adoption of the IRS interest rate under the MLA's rulemaking authority was reasonable only if MMS could show that the particular regulations were ''necessary and proper'' under 30 U.S.C. 189.[10] The D.C. Circuit remanded the question of whether MMS action was ''necessary and proper'' in this case to the District Court.[11]

The D.C. Circuit agreed with the District Court's conclusion that the Debt Collection Act (DCA) [12] and the Federal Claims Collection Standards [13] prevent MMS from using shifting or compounding interest rates in situations in which the DCA applies.[14] However, the D.C. Circuit further held that these DCA prohibitions do not apply to contracts executed before October 25, 1982.[15] Therefore, for leases issued before October 25, 1982, the DCA does not bar shifting or compound rates.

Under the *Amax* decision, MMS would first have to show that use of the higher rate is ''necessary and proper'' under the MLA[16] before it could assess interest at the IRS rate on underpayments under any solid mineral leases. However, under the D.C. Circuit's opinion, even if MMS makes

[1] 30 CFR 211.67(c), later redesignated as 30 CFR 218.202(c).

[2] 30 CFR 270.91(c), later redesignated as 30 CFR 218.302(c).

[3] 30 CFR 218.202(c) and (d).

[4] 30 CFR 218.302(c) and (d).

[5] 30 U.S.C. 1721(a).

[6] 30 U.S.C. 189.

[7] 30 U.S.C. 359.

[8] 30 U.S.C.396 and 396(d).

[9] 30 U.S.C. 1023.

[10] 181 F. 3d at 1366.

[11] *Id.* at 1367.

[12] 31 U.S.C. 3717(c)(2).

[13] 4 CFR 102.13.

[14] *Id.* at 1367.

[15] 31 U.S.C. 3717(g)(2); *Id.* at 1369.

[16] 30 U.S.C. 189.

the necessary showing to impose the IRS rate, it could only use an IRS rate that neither shifts nor compounds for leases issued after October 25, 1982. For pre-October 25, 1982, leases, MMS could impose a shifting and compounding IRS rate unless the lessee shows that use of shifting or compound rates is not ''necessary and proper'' in the particular case.[17] This holding created an issue of fact that would have to be adjudicated in every case, which effectively nullified the uniform applicability of the rule even as to pre-October 25, 1982, leases, and made its provisions at best contingent.

Although Amax challenged the interest provision only with regard to coal leases, the *Amax* decision affects the validity of the same provision as it applies to other solid mineral leases and of an identical provision that applies to leases of geothermal resources.

The practical effect of the *Amax* decision is that MMS is left to defend an interest rate provision that is very different from the rule it promulgated in 1994. As explained above, MMS promulgated the 1994 rule to make interest rates for late payment and underpayment consistent with those imposed under FOGRMA, among other reasons.[18] The preamble to the 1994 rule summarized the effect of the rule as moving from a simple interest rate under the old rule (CVF rate) to a compounding rate under the new rule (IRS rate).[19] Instead of making rates for solid minerals and geothermal resources consistent with fluid minerals, the *Amax* decision would result in a patchwork of possible rates. Under the *Amax* decision, MMS simply cannot assess interest for solid minerals and geothermal resources under the IRS rate prescribed in the 1994 rule. Instead, MMS would have to assess different interest rates in each case, depending on the type of lease at issue and the outcome of the further proceedings that the Court identified were lacking during the rulemaking process. For these reasons, the *Amax* decision has the substantive effect of invalidating the 1994 rule as promulgated.

II. Reinstatement of the 1982 Rule

In the event that a court finds a regulatory change invalid, the prior regulations are reinstated. The D.C. Circuit, in *Bowen* v. *Georgetown Univ. Hosp.*, 821 F. 2d 750 (D.C. Cir. 1987), *aff'd*, 488 U.S. 204 (1988), stated that ''[t]his circuit has previously held that the effect of invalidating an agency rule is to 'reinstat[e] the rules previously in force.''' In that case, the D.C. Circuit held that when the District Court vacated a rule, it reinstated the prior regulations. The D.C. Circuit came to a similar conclusion when it vacated a regulation in *Action on Smoking & Health* v. *CAB*, 713 F.2d 795, 797 (D.C. Cir. 1983).[20]

As discussed above, the *Amax* decision effectively invalidates the 1994 rule. It follows that the 1982 rule is reinstated for the periods beginning April 1, 1994. By this notice in the **Federal Register**, the text of the rule as it read before the 1994 amendment is reinstated.

Although the *Amax* decision did not address the 1982 rule, the D.C. Circuit held that the DCA and 4 CFR 102.13(c) prohibit MMS from assessing interest on the basis of shifting interest rates for leases issued after October 25, 1982.[21] The 1982 rule does not specify whether a shifting rate applies. In past practice, before the 1994 rule was adopted, MMS applied a shifting CVF interest rate under the 1982 rule to all solid minerals and geothermal royalty underpayments, regardless of when the lease was issued. Consistent with the D.C. Circuit's ruling, MMS will now apply the restored pre-1994 rule language to use a constant CVF interest rate for all post-October 25, 1982, leases in accordance with the *Amax* decision, but will continue to calculate interest on the basis of shifting CVF interest rates for pre-October 25, 1982, leases. Since the text of the 1982 rule that is reinstated does not specify whether the CVF rate shifts, the earlier rule language is reinstated without change, and constant rates will be used for underpayments for post-October 25, 1982, leases, as a matter of interpretation compelled by the *Amax* decision. In other words, for underpayments for leases issued after October 25, 1982, the CVF rate in effect at the time the underpayment occurs will remain the rate at which interest continues to accrue until the unpaid royalties are paid.

The Department of the Interior finds good cause to issue this final rule without notice and opportunity for public comment under 5 U.S.C. 553(b)(3)(B). This final rule is a direct result of a judicial decision invalidating the 1994 rule, and public comment therefore is unnecessary. For the same reasons, a 30-day period is not required between publication of a final rule and its effective date under 5 U.S.C. 553(d).

III. Procedural Matters

1. Summary Cost and Benefit Data

This rule reinstates the lower interest rates contained in the 1982 rule beginning April 1, 1994. Consequently, this rule imposes the following costs or benefits to the four affected groups: industry, the Federal Government, State and local governments, and Indian tribes and allottees.

A. Industry

We estimate that the solid minerals and geothermal industries will pay approximately 40 percent less late-payment interest on Federal leases under the reinstated 1982 interest rates. Under the 1994 rates, MMS would have billed solid mineral and geothermal payors approximately $2 million per year in late payment interest. Under the reinstated 1982 rates, billed interest will decrease to approximately $1.2 million, for a $800,000 net benefit to industry.

B. Federal Government

The Federal Government will collect approximately $800,000 less late-payment interest annually (see discussion in section A. Industry). Approximately 50 percent or $400,000 would have been retained by the U.S. Treasury.

C. State and Local Governments

The Federal Government will collect approximately $800,000 less late-payment interest annually (see discussion in section A. Industry). Approximately 50 percent or $400,000 would have been paid to States. Those States are primarily the largest solid mineral producing States of Wyoming, Colorado, Utah, Montana, and New Mexico.

D. Indian Tribes

Most solid mineral revenues are paid directly to the Indian recipients, so MMS does not know the exact receipt dates. Consequently, MMS must estimate the revenue loss to Indian tribes and allottees by extrapolation from Federal payments. Indian solid mineral revenues are 15 percent of Federal solid mineral revenues so we estimate that the revenue loss to Indian tribes and allottees will be 15 percent of $800,000 or $120,000 annually.

The cost and benefit information in this Item 1 of Procedural Matters is used as the basis for the departmental certifications in Items 2–10.

[17] 181 F. 3d at 1369.

[18] 60 FR 14557.

[19] 60 FR 14558.

[20] *See also Mason General Hospital* v. *Secretary of the Department of Health and Human Services*, 809 F.2d 1220 (6th Cir. 1987); *Abington Memorial Hospital* v. *Heckler*, 750 F.2d 242, 244 (3d Cir. 1985); *Menorah Medical Center* v. *Heckler*, 768 F.2d 297 (8th Cir. 1985); *Cumberland Medical Center* v. *Secretary of Health and Human Services*, 781 F.2d 536, 538 (6th Cir. 1986).

[21] 181 F.3d at 1367.

2. Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant adverse effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Your comments are important. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this rule, call 1–888–734–3247.

4. Small Business Regulatory Enforcement Act (SBREFA)

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

a. Does not have an annual effect on the economy of $100 million or more.

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.

5. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

6. Takings (E.O. 12630)

In accordance with Executive Order 12630, this proposed rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

7. Federalism (E.O. 13132)

In accordance with Executive Order 13132, this proposed rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between the Federal and State governments or impose costs on States or localities.

8. Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

9. Paperwork Reduction Act of 1995

This proposed rule does not contain an information collection, as defined by the Paperwork Reduction Act, and the submission of Office of Management and Budget Form 83–I is not required.

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

List of Subjects in 30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—Mineral resources, Reporting and recordkeeping requirements.

Dated: September 5, 2000.

Sylvia V. Baca,

Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 218 is amended as follows:

PART 218—COLLECTION OF ROYALTIES, RENTALS, BONUSES AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

1. The authority citation for part 218 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 3716; 3720A, 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

Subpart E—Solid Minerals—General

2. In § 218.202, paragraphs (c) and (d) are revised and republished to read as follows:

§ 218.202 Late payment or underpayment charges.

* * * * *

(c) Late payment charges are calculated on the basis of a percentage assessment rate. In the absence of a specific lease, permit, license or contract provision prescribing a different rate, this percentage assessment rate is prescribed by the Department of the Treasury as the ''Treasury Current Value of Funds Rate.''

(d) This rate is available in the Treasury Fiscal Requirements Manual Bulletins that are published prior to the first day of each calendar quarter for application to overdue payments or underpayments in the new calendar quarter. The rate is also published in the Notices section of the **Federal Register** and indexed under ''Fiscal Service/Notices/Funds Rate; Treasury Current Value.''

* * * * *

Subpart F—Geothermal Resources

3. In § 218.302, paragraphs (c) and (d) are revised and republished to read as follows:

§ 218.302 Late payment or underpayment charges.

* * * * *

(c) Late payment charges are calculated on the basis of a percentage assessment rate. In the absence of a specific lease, permit, license or contract provision prescribing a different rate, this percentage assessment rate is prescribed by the Department of the Treasury as the ''Treasury Current Value of Funds Rate.''

(d) This rate is available in the Treasury Fiscal Requirements Manual Bulletins that are published prior to the first day of each calendar quarter for application to overdue payments or

underpayments in the new calendar quarter. The rate is also published in the Notices section of the **Federal Register** and indexed under ''Fiscal Service/ Notices/Funds Rate; Treasury Current Value.''

* * * * *

[FR Doc. 00–23402 Filed 9–12–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Emergency Closures—Yukon River Closures and Adjustments

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Emergency closures and adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's emergency closures to protect fall chum salmon escapement in the Yukon River drainage and adjustments to allow the taking of coho salmon. These closures and adjustments provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on January 8, 1999. Those regulations redefined the area subject to the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act of 1980, and also established regulations for seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2000 regulatory year.

DATES: The first Yukon River drainage restrictions were effective August 11, 2000, through October 10, 2000. The second Yukon River drainage restrictions (total closure) superceded the first restrictions and are effective August 23, 2000, through October 22, 2000. The third Yukon River adjustment (allowing the taking of salmon in the lower Yukon River with rod and reel and beach seine) is effective August 27, 2000, through October 26, 2000. The fourth Yukon River adjustment (allowing the taking of coho salmon in the upper Yukon River with live chute-equipped fishwheels) is effective September 2, 2000, through November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. Consistent with Subparts A, B, and C of these regulations, as revised January 8, 1999 (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

Subpart D regulations for the 2000 fishing seasons and harvest limits, and methods and means were published on January 8, 1999 (64 FR 1276).

These emergency closures and adjustments are necessary because of extremely weak returns of fall-run chum salmon in the Yukon River drainage. These emergency actions are authorized and in accordance with 50 CFR 100.19(c) and 36 CFR 242.19(c).

Yukon River Drainage—First Restriction

As of August 1, 2000, the fall chum salmon run status was less than half the average and projections continued to drop with each passing day. The expectation for the 2000 fall chum salmon return was projected to be well below 600,000, the number required by the ADF&G Yukon River Drainage Fall Chum Salmon Management Plan to meet escapement and subsistence needs. Based on the Yukon River Drainage Fall Chum Salmon Management Plan, this projection was at the level that recommends subsistence fishing closures. Federal and State Managers and many subsistence users in the region had strong concerns that not enough fall chum salmon would reach their spawning grounds or meet minimum escapement needs. There was also strong concern that the Yukon River fall chum salmon run will be too low to support unrestricted subsistence fishing.

The Alaska Department of Fish and Game issued Emergency Orders closing sport and personal use fishing for chum salmon in the Yukon drainage and restricting subsistence fishing to certain times each week in the various fishing districts along the river. The commercial fishery for fall chum salmon in the Yukon River was never opened.

On August 11, 2000, the Federal Subsistence Board instituted the following adjustments for the Yukon River drainage:

During any commercial salmon fishing season closure of greater than five days in duration, you may take salmon only during the following periods in the following districts:

(A) In Districts 1, 2, and 3, salmon may be taken from 3:00 p.m. until 9:00 p.m. each Saturday;

(B) In District 4, salmon may be taken from 6:00 p.m. Friday until 6:00 p.m. Saturday;

(C) In Subdistrict 5C, salmon may be taken from 8:00 p.m. Saturday until 8:00 a.m. Sunday and from 8:00 p.m. Thursday until 8:00 a.m. Friday;

(D) In District 5D, salmon may be taken from 6:00 p.m. Saturday until 6:00 p.m. Sunday;

(E) In District 6, salmon may be taken from 6:00 p.m. Monday until 6:00 a.m. Wednesday.

During any commercial salmon fishing season closure of greater than five days in duration, you may take fish other than salmon only with gillnets with a stretched mesh size of 4 inches or less or with other legal gear except fishwheels.

These adjustments brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

Yukon River Drainage—Second Restriction (Total Closure)

As of August 22, there was strong indication from in-season salmon escapement projects that the Yukon River fall chum salmon run would be too low to support subsistence fishing. The expectation for the 2000 fall chum salmon return was well below 600,000, the number required by the Yukon River Drainage Fall Chum Salmon Management Plan to meet escapement and subsistence needs. The fall chum salmon run was less than half the average and below the 350,000 fall chum salmon minimum needed for escapement. The assessment from the majority of escapement monitoring projects in the lower and upper Yukon River was projecting continued weakness in the fall chum salmon return. These run projections were at levels that recommend subsistence fishing closures. Federal and State Managers and many subsistence users in the Yukon River region had strong concerns that not enough fall chum salmon will reach their spawning grounds or meet minimum escapement needs. This subsistence fishery closure was needed to ensure fall chum salmon stock health.

This Board action on August 22, 2000, superceded the first Yukon River drainage restrictions and closed Federal subsistence salmon fishing in all Yukon River drainage fishing districts. In all Yukon River drainage districts, fishing for whitefish, suckers and other non-salmon species during closed salmon fishing periods continues to be allowed seven days per week with gillnets of 4 inches or less stretch mesh and other legal gear except fishwheels.

This closure brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

Yukon River Drainage—Third Adjustment (Opening Lower River)

As of August 26, 2000, coho salmon returns to the Yukon River were well above average. At that time, above average coho salmon escapement estimates were reported by established monitoring projects throughout the river. In an effort to provide additional subsistence fishing opportunity on Federal lands in the lower Yukon River (Districts 1, 2, and that portion of District 3 within the Yukon Delta National Wildlife Refuge), the Board allowed the use of rod and reel and beach seine gear to fish for salmon. Coho salmon could be retained for subsistence purposes in the lower Yukon River area using the specified gear types; however, due to serious conservation concerns, fishermen were encouraged to release all chinook and chum salmon.

This Board action effective August 27, 2000, opened Federal subsistence fishing with beach seines or rod and reel for salmon in Yukon River fishing Districts 1 and 2 and that portion of District 3 within the Yukon Delta National Wildlife Refuge boundary.

In all Yukon River drainage districts, fishing for whitefish, suckers and other non-salmon species during closed salmon fishing periods continues to be allowed seven days per week with gillnets of 4 inches or less stretch mesh and other legal gear, except fishwheels.

This adjustment brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

Yukon River Drainage—Fourth Adjustment (Opening Upper River)

Although the extremely poor return of fall chum salmon to the Yukon River drainage prompted the earlier fishing closures and restrictions, coho salmon were experiencing an above-average return. The Board's fourth adjustment provided subsistence fishing opportunity for coho salmon, while minimizing the harvest of fall chum salmon. Federal and state biologists and local subsistence users continued to monitor the Yukon River chinook and chum salmon returns. The Board may alter the subsistence fishing schedules with further actions as additional inseason information becomes available.

The Federal Subsistence Board on August 30, 2000, opened the upper Yukon River fishing Districts 4, 5, and 6 for subsistence coho salmon fishing using fish wheels equipped with live chutes, consistent with Alaska Department of Fish & Game emergency regulations. In Districts 4 and 5–A, the open coho salmon subsistence period using fish wheels with live chutes will be from 8:00 a.m. to 8:00 p.m. each day. (The Board has not yet established the open periods for the remaining districts.) The live chute fish wheel must be manned at all times during operation. Nonsalmon species may be retained; however, all chinook and chum salmon must be released back into the river alive. Subsistence fishing for nonsalmon species can continue daily throughout the Yukon River drainage with gillnets of 4 inches or less (stretch mesh) and other legal gear, except fishwheels.

This adjustment brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

The Board finds that additional public notice and comment requirements under the Administrative Procedures Act (APA) for these emergency closures and adjustments are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d) to waive additional public notice and comment procedures prior to implementation of these actions.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Final Environmental Impact Statement (FEIS) was published on February 28, 1992, and a Record of Decision (ROD) signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999, (64 FR 1276.)

Compliance with Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other

purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

These emergency closures and adjustments do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

These emergency closures and adjustments are not subject to OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments determined that these emergency closures and adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

These emergency closures and adjustments will impose no significant costs on small entities.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these emergency closures and adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that these emergency closures and adjustments will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that these emergency closures and adjustments meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

In accordance with Executive Order 13132, these emergency closures and adjustments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over wildlife resources on Federal lands.

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

Drafting Information

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska; Curt Wilson, Alaska State Office, Bureau of Land Management; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: September 6, 2000.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Kenneth E. Thompson,

Subsistence Program Leader, USDA-Forest Service.

[FR Doc. 00–23487 Filed 9–12–00; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AJ89

Increase in Rates Payable Under the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; technical correction.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to veterans under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In a document published in the **Federal Register** on July 20, 2000 (65 FR 44979), we intended to amend the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 2000 (October 1, 1999, through September 30, 2000) to show a 1.6% increase in these rates in accordance with the statutory formula. Some of the published rates were incorrect. Accordingly, this document makes corrections to these rates.

DATES: *Effective Date:* This final rule is effective September 13, 2000.

Applicability Date: However, the changes in rates are applied retroactively to conform to statutory requirements.

For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, (202) 273–7187.

SUPPLEMENTARY INFORMATION: The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied retroactively from October 1, 1999, in accordance with the applicable statutory provisions.

Changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential

effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 5, 2000.

Thomas O. Gessel,

Director, Office of Regulations Management.

For the reasons set out in the preamble, 38 CFR part 21, subpart K, is amended as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

§ 21.7136 [Amended]

2. Section 21.7136 is amended by:

A. In the chart in paragraph (b)(2), removing ''$187.50'' and adding, in its place, ''187.60''.

B. In the chart in paragraph (c)(1), removing ''$216.00'' both places it appears and adding, in both place, ''$218.00''; and by removing ''$108.00'' and adding, in its place, ''109.00''.

§ 21.7137 [Amended]

3. Section 21.7137 paragraph (a)(1), is amended in the chart by:

A. Removing ''$543.00'' and adding, in its place, ''$543.50''.

B. Removing ''$593.00'' and adding, in its place, ''$593.50''.

C. Removing ''$395.00'' and adding, in its place, ''$395.50''.

[FR Doc. 00–23338 Filed 9–12–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 217–0258; FRL–6865–9]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the San Joaquin Valley Air Pollution Control District's portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on April 17, 2000 and concerns volatile organic compound (VOC) emissions from adhesives. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates this emission source and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on October 13, 2000.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revision at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg, Fresno, CA 93726.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On April 17, 2000 (65 FR 20421), EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4653	Adhesives	03/19/98	09/29/98

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

1. Rule 4653 establishes VOC limits for adhesives used for three specific applications and for solvents used in surface preparation which do not meet Reasonably Available Control Technology (RACT) levels of control. The three VOC limits that exceed RACT are for the application of adhesives on porous substrates and the application of contact adhesives labeled exclusively for bonding of single-ply roofing materials and immersible products.

2. Under section 4.1.1, certain exempt operations which may potentially use noncompliant materials are only required to maintain monthly records. Any use of noncompliant materials, however, necessitates that daily records be kept to demonstrate compliance with the rule.

3. Section 4.1.9 exempts contact adhesives subject to 16 CFR part 1302 although compliant formulations of these products that perform adequately already exist in the market place. Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Matt Stewart, DAP Inc.; letter May 16, 2000 and received by facsimile on May 17, 2000.

2. H. Allen Irish, National Paint and Coatings Association (NPCA); letter dated May 16, 2000 and received by facsimile on May 17, 2000.

3. Mark Collatz, The Adhesive and Sealant Council, Inc., (ASC); letter dated May 15, 2000. The comments and our responses are summarized below.

Comment: All three commenters offered similar arguments for allowing the exemption in section 4.1.9 of Rule 4653 for contact adhesives subject to 16 CFR part 1302. They stated that retail consumers have had limited success using compliant products because of their inattention to application techniques and inability to control application conditions. For example, retail consumers fail to adequately prepare substrates, control humidity, and apply sufficient pressure. The commenters also argued that EPA did not have a legal basis for disapproving the section 4.1.9 exemption because, among other reasons, control of the exempted activity is not needed to fulfill CAA RACT requirements.

Response: EPA concurs that this exemption does not interfere with RACT requirements because it is unlikely that sources subject to the exemption would be major sources subject to RACT requirements. Therefore, we are not finalizing our disapproval of this exemption and are removing this rule deficiency as a condition of our limited disapproval.

Comment: NPCA also commented that our disapproval of VOC limits contained in Rule 4653 for specialty contact adhesives which are labeled exclusively for the bonding of single-ply roof material or immersible products is arbitrary and not supported by technical analysis. NPCA claims that the limits in Rule 4653 for these uses are consistent with RACT.

Response: EPA is relying on the technical and economic assessments done by California agencies in developing the California Air Resources Board's ''Determination of Reasonably Available Control Technology (RACT) and Best Available Retrofit Control Technology (BARCT) for Adhesives and Sealants (December 1998)'' to help establish presumptive RACT limits. Under Rule 4653, the 400 g/L limit allowed for these sources through January 2001 and the 250 g/L limit allowed thereafter clearly exceed these RACT levels. While deviations from presumptive RACT levels are possible, it is the state's and not EPA's obligation to justify that any deviations still fulfill CAA RACT requirements. In the technical support document associated with our April 17, 2000 proposed disapproval, we described one format for a possible state demonstration. We maintain that the limits for specialty contact adhesives labeled exclusively for bonding single-ply roof material or immersible products fail to meet RACT and that these limits should be revised to correct this rule deficiency. This rule deficiency remains a condition of our limited disapproval.

III. EPA Action

The submitted comments relating to the section 4.1.9 exemption change our assessment of that provision as a rule deficiency and is no longer one of our grounds for a limited disapproval of Rule 4653. Other submitted comments, however, do not affect our decisions regarding the deficiencies described as items 1 and 2 under the above section entitled ''Proposed Action.'' Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves a subsequent SIP revision that corrects the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve a subsequent SIP revision that corrects the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the SJVUAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not

issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 22, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(266)(i)(B)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(266) * * *

(i) * * *

(B) * * *

(*2*) Rule 4653, adopted on March 19, 1998.

* * * * *

[FR Doc. 00–23376 Filed 9–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI91–01–7322; FRL–6845–7]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: We are approving a site-specific revision to the Wisconsin sulfur dioxide (SO_2) State Implementation Plan (SIP) for Murphy Oil located in Superior, Wisconsin. The Wisconsin Department of Natural Resources (WDNR) submitted this SIP revision on February 26, 1999 in response to a request for an alternate SO_2 emission limitation by Murphy Oil. This final approval is based on the proposal published on August 16, 1999 at 64 FR 44451. As stated in the proposal, there will not be a second comment period on this action. The rationale for the approval and other information are provided in this notice.

EFFECTIVE DATE: This action is effective on October 13, 2000.

ADDRESSES: Copies of the SIP revision, public comments, and other materials relating to this action are available for inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please contact Christos Panos at (312) 353–8328, before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch, Air and Radiation Division (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

A. What action is EPA taking today?
B. Why was this SIP revision submitted?
C. What is the background for this rulemaking?
D. Why can EPA approve this request?
E. What comments were submitted to EPA?

A. What Action Is EPA Taking Today?

We are approving WDNR's February 26, 1999 request for a site-specific revision to the Wisconsin SO_2 SIP. Specifically, we are approving: (A) the SO_2 emission limits contained in Wisconsin Air Pollution Control Operation Permit No. 95-SDD–120-OP, issued by the WDNR to Murphy Oil, USA on February 17, 1999; and (B) a modeled attainment demonstration assessing the impact of the alternate SO_2 limits for Murphy Oil, located in Superior (Douglas County), Wisconsin. Today's approval is based on the proposal published on August 16, 1999 at 64 FR 44451. As stated in the proposal, there will not be a second comment period on this action.

B. Why Was This SIP Revision Submitted?

Murphy Oil owns and operates a petroleum refinery in Superior, Wisconsin. The categorical statewide emission limit that we had approved on May 21, 1993 for any process heater firing residual fuel oil at petroleum refineries is 0.8 pounds of SO_2 per million British Thermal Units (lbs/MMBTU). Residual fuel oil is defined as an industrial fuel oil of grade No. 4, 5 or 6, as determined by the American Society for Testing and Materials. Also included in our May 21, 1993 final approval of Wisconsin's statewide SO_2 rules was NR 417.07(5), which established the state's procedures for sources to obtain alternate emission limitations. However, in both our January 2, 1992 proposed rulemaking and our May 21, 1993 final action, we noted that Wisconsin had to submit all relaxed state limits for approval as site-specific SIP revisions pursuant to section 110 of the Clean Air Act (CAA). We also stated that any previous SIP limitations would remain in effect and enforceable until we approved the proposed relaxed limitations into the SO_2 SIP.

Both our alternative emission limit requirements and WDNR's NR 417.05(5) require, among other things, that before an alternate emission limit can be approved, it must be demonstrated that the proposed alternate limit will not delay attainment or prevent maintenance of the applicable National Ambient Air Quality Standards (NAAQS). Additionally, the federal requirement limits the demonstration to no more than 75 percent of the NAAQS. Murphy Oil has requested an alternate emission limit of 3.0 lbs/MMBTU for any combustion unit when combusting #6 fuel oil. The WDNR air quality modeling evaluates this alternate limit in comparison to the SO_2 NAAQS. Additional information is available in our June 7, 1999 Technical Support Document (TSD).

C. What Is the Background for This Rulemaking?

On April 26, 1984 we notified the Governor of Wisconsin that the Wisconsin SO_2 SIP was inadequate to ensure the protection of the primary and secondary SO_2 NAAQS. The state responded to the notice of SIP deficiency with a statewide SO_2 emission limitations rule (NR 417.07). On January 2, 1992 at 57 FR 25, we proposed to approve the majority of Wisconsin's statewide SO_2 rules. A final approval of the majority of NR 417.07 was published on May 21, 1993 at 58 FR 29538. (We took no action on NR 417.07(2)(e) and NR 417.07(2)(f).)

As allowed under NR 417.07(5), Murphy Oil initially submitted a request for an alternate SO_2 emission limit in 1985 and proposed the first alternate SO_2 emission limitations in 1986. The WDNR concluded in an August 1988 memorandum that Murphy Oil's request for an alternate SO_2 emission limit was approvable. However, the state did not proceed at that time to propose an operating permit incorporating the alternate emission limit or to request public input on the proposed alternate emission limit, as required by the state rule.

On February 26, 1999 the state submitted a site-specific SIP revision for Murphy Oil and requested that we approve the alternate SO_2 emission limits for Murphy Oil into the Wisconsin SO_2 SIP. We concluded in our June 7, 1999 TSD that the modeled attainment demonstration using the alternate SO_2 limits was fully approvable. Given this, and because the source had followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, which we had approved on May 21, 1993, we proceeded to approve the SIP submittal as a Direct Final **Federal Register** document.

EPA published a direct final action approving the alternate SO_2 emission limits for Murphy Oil on August 16,

1999 at 64 FR 44415, which stated that if we received adverse comments by September 15, 1999, we would publish a timely notice of withdrawal in the **Federal Register**. Because we received adverse comments, we withdrew the direct final approval of the site-specific revision to the Wisconsin SO_2 SIP for Murphy Oil on September 29, 1999 at 64 FR 52438.

D. Why Can EPA Approve This Request?

We are approving the current SIP submittal because the source has followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, which we approved on May 21, 1993 at 58 FR 29538. This SIP revision was submitted by WDNR in response to a January 1, 1985 request for an alternate SO_2 emission limitation by Murphy Oil. Although all the comments submitted in response to our August 16, 1999 Direct Final **Federal Register** notice (64 FR 44415) requested that we disapprove the SIP revision, the commenters submitted no new information that would warrant a disapproval under the requirements of the CAA. As detailed in the June 7, 1999 TSD, the modeled attainment demonstration using the alternate SO_2 limit is fully approvable since it is consistent with EPA's nationally applicable modeling procedures. Further, the source has followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, as we approved on May 21, 1993.

E. What Comments Were Submitted to EPA?

We received 12 timely comment letters opposing our approval of the site-specific SIP revision for Murphy Oil. (We also received three letters postmarked after the September 15, 1999 close of the comment period). Because of the similarity of the comments received, rather than responding to the letters individually, the comments were summarized and categorized under the issues raised. We evaluated all the comments with respect to our proposed approval and prepared a ''Response to Comments'' document dated April 20, 2000 which summarizes the comments received and includes our evaluation and detailed response.

The summarized comments and their responses are divided into the following six points that commenters raised as to why we should deny the state's request to approve alternate SO_2 emission limits for Murphy Oil into the SIP: (1) Health effects; (2) Existing Clean Air Act violations; (3) Public denied opportunity for meaningful comment; (4) Cost calculations should not be considered; (5) Data and modeling appear inadequate; and, (6) Approved premature due to legislation.

1. Health Effects

Comment: Several commenters expressed concerns about health hazards associated with SO_2 emissions and complained about strong odors coming from Murphy Oil's facility.

Response: The EPA has established ''primary'' NAAQS to protect public health, and ''secondary'' NAAQS to protect environmental and property damage for each of six ''criteria pollutants'' as indicators of air quality: Ozone, carbon monoxide, nitrogen dioxide, SO_2, particulate matter and lead. The SIP revision for Murphy Oil demonstrates protection of human health and the environment through modeling, which shows that the emissions from Murphy Oil will not lead to any exceedances of the SO_2 NAAQS in the area. The CAA would not allow Murphy Oil, or any other facility, to emit any pollutant at a level which could cause an exceedance of the NAAQS.

Comment: SO_2 is the principal precursor to acid rain.

Response: To address the problem of acid rain, more accurately known as acid deposition, Congress established the National Acid Precipitation Assessment Program in 1980 to study the causes and impacts of acid deposition. This research revealed acid deposition's broad environmental and health effects and also documented that the pollution causing acid deposition can travel hundreds of miles, crossing state and national boundaries. The research also identified electric power generation as responsible for two-thirds of SO_2 emissions and one-third of NO_X emissions. As a result, Congress created the Acid Rain Program under Title IV (Acid Deposition Control) of the 1990 CAA Amendments. Areas that will benefit from emission reductions of the Acid Rain Program are: surface water, visibility, forests, human health, and materials and structures. The state's SIP revision, however, is not expected to address the Title IV requirements. EPA and the state are addressing the acid rain requirements in separate actions.

Comment: High-sulfur fuel is known to contain mercury.

Response: Title III of the CAA offers a comprehensive plan for achieving significant reductions in emissions of Hazardous Air Pollutants (HAPs) from major sources. Mercury and mercury compounds are HAPs under the CAA. The EPA established National Emission Standards for Hazardous Air Pollutants (NESHAPs) for mercury emissions based on risk under the pre-1990 CAA. Under the CAA Amendments of 1990 EPA regulates HAP emissions by source categories using maximum achievable control technology (MACT) standards for each ''major source'' in any listed source category. Major sources are defined as those sources that release 10 tons per year of any HAP, or 25 tons per year in total HAP emissions. Murphy Oil is not considered a major source of mercury emissions. EPA did not review the Murphy Oil SIP revision for compliance with Title III requirements, because separate programs implemented under Title III will address the mercury issue.

2. Existing Clean Air Act Violations

Comment: Although Murphy Oil is in violation of CAA requirements, EPA proposes to approve a dramatic relaxation of SO_2 emission limits. Approval must be denied until resolution of any and all enforcement actions proposed by EPA and WDNR.

Response: The state's procedures for sources to obtain alternate emission limitations are identified in Wisconsin's statewide SO_2 rules. When we approved these rules, we noted that all relaxed state limits still needed to be submitted to us as site-specific SIP revisions pursuant to section 110 of the CAA. We also stated that all previous SIP limits would remain enforceable until the relaxed limits would be approved into the SIP. The steps taken to grant approval of the alternate SO_2 emission limits are in full compliance with the procedures we approved into the state SIP and are entirely separable from any enforcement action currently being taken against Murphy Oil. Again, as previously stated, the new limits for Murphy Oil are in compliance with CAA requirements and will not cause a violation of the standards set to protect public health.

Comment: Current SIP provisions prohibit granting Murphy Oil a permit at the proposed alternate limits unless the facility is in compliance with all other CAA requirements. Because the Sulfur Recovery Unit is in violation of NSPS and PSD requirements, the alternate limits are simply unavailable at this time.

Response: The compliance requirements for sources seeking Title V permits are identified in 40 CFR 70.6(c). This SIP revision, however, is an action separate from the regulating entity's determination of a source's compliance status for the purpose of issuing a Title V permit. The permit issued by the state for this SIP revision is not a Title V

operating permit. Using a state operating permit as the vehicle to revise SIP limits is fairly common and is allowable under current SIP provisions.

3. Public Denied Opportunity for Meaningful Comment

Comment: The public was not given the opportunity to provide meaningful comments because critical decisions were made long before a public notice and comment period was held. The relaxed limits resulted from agreements between Murphy Oil and WDNR long before the October 1998 public hearing and the public was not a party to these negotiations. The process that was followed in this case was contrary to the CAA's requirement that the public be involved in the SIP approval and revision process.

Response: We reviewed the SIP revision request upon its February 26, 1999 submittal and on April 20, 1999 determined it to be complete based on the completeness requirements contained in Title 40 of the Code of Federal Regulations (CFR), part 51, appendix V. Regarding public comment and notice, appendix V states that all SIP submittals must show: (a) evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice; (b) certification that public hearings(s) were held in accordance with the information provided in the public notice and the state's laws and constitution, if applicable; and (c), compilation of public comments and the state's response thereto.

The state published a notice on September 18, 1998 stating that a public hearing to receive comments on the air pollution control operating permit for Murphy Oil, which included a request for alternate SO_2 emission limits, was to be held Wednesday, October 21, 1998, in Superior, WI. The WDNR stated in the hearing notice that they had made a preliminary determination that Murphy Oil's request for alternate SO_2 emission limits met the criteria for approval set forth in the Wisconsin Administrative Code. The WDNR further stated that this preliminary determination did not constitute approval of the permit and that they were soliciting written comments from the public to be considered prior to making a final decision regarding this proposal.

The state also submitted as technical support for the Murphy Oil SIP revision (1) a certification, dated February 18, 1999, that a public hearing was held on October 21, 1998 in Superior, Wisconsin and that written comments were received until October 21, 1998; and (2) a February 4, 1999 compilation of public comments and the state's response, entitled ''Summary of Comments and Responses for Permit #95–SDD–120–OP'', from Steve Dunn, WDNR, to Lloyd Egan, WDNR.

4. Cost Calculations Should Not Be Considered

Comment: The cost analysis submitted by Murphy Oil is flawed because it fails to realistically calculate Murphy Oil's ability to comply with the current emission limits. Further, WDNR's policy is arbitrary and unwise. Nowhere in the SIP revision process did WDNR question whether Murphy Oil could afford to change its operations to come into compliance with the State SO_2 limit.

Response: In order to approve an alternate emission limit, NR 417.07(5)(e) requires that a source demonstrate that there is a ''substantial'' difference between the costs required for meeting the categorical emission limits and the cost required for the source's compliance with the alternate emission limits. Murphy Oil has met this requirement of NR 417.07(5), which we had previously approved in the SIP, as outlined in the state's submittal. Further, NR 417.07(5) does not require that a request for an alternate emission limit show that a source can or cannot afford to come into compliance with the categorical emission limit.

Comment: Wisconsin's acceptance of the cost of fuel switching, the basis on which the refinery has maintained its need for the use of high-sulfur fuel, has no foundation in publicly reviewed policy. During 1998, an operating period in which the refinery claimed prohibitive high costs for fuel switching, the company increased its use of high-sulfur crude by 25 percent for reasons of financial gain and market position.

Response: As mentioned above, cost is a key component of NR 417.07(5) and therefore must be considered when evaluating the source's request for the alternate emission limits. We have reviewed the analysis submitted by the state and have determined that the costs of operating at the statewide limits are prohibitive. Murphy Oil has requested an alternate emission limit that meets the applicable federal and state requirements and we have an obligation to approve requests that meet these requirements.

5. Data and Modeling Appear Inadequate

Comment: There is no reason to believe that EPA could not have used real, current data instead of only modeling. Also, data gathered from two inspections of the facility in June of 1998 do not appear to have entered into either WDNR's modeling or EPA's decision process. These federal inspection data should, at a minimum, be studied and compared with Wisconsin modeling on which the modification was based.

Response: The Superior, Douglas County area is currently in attainment of the SO_2 NAAQS. The WDNR last monitored for SO_2 in the area in the early 1990's and measured no exceedances of the SO_2 NAAQS at that monitor. The WDNR has not proposed to establish an SO_2 monitoring station in the area because it does not believe it is necessary at this time.

Further, EPA has established guidance for conducting air quality modeling. The guidance, referred to as ''The Guideline on Air Quality Models,'' is codified in 40 CFR part 51, appendix W. It provides a common basis for estimating the air quality concentrations used in assessing control strategies and developing emission limits. It is used primarily for modeling conducted on criteria pollutants, where predicted concentrations are compared with the appropriate NAAQS. The data gathered during the two inspections in 1998 focused on emissions from only one SO_2 emission source at the facility, whereas the modeling analysis is more comprehensive and accounts for the total emissions from all the SO_2 sources at Murphy Oil. The WDNR modeling analysis for Murphy Oil followed the recommended approaches as outlined in the guidance for establishing emission limits.

Comment: EPA should require further proof that the modeling as submitted by Murphy Oil is accurate. In this case, EPA proposes to accept modeling that is based on old and possibly inaccurate data. Further, it is unclear where and when background measurements were taken.

Response: WDNR completed an air quality review demonstrating modeled attainment of the SO_2 NAAQS using the alternate emission limit for Murphy Oil on September 3, 1998. The model used in this analysis was the Industrial Source Complex Short Term 3 (ISCST3) model. The ''Guideline on Air Quality Models'' recommends ISCST3 for use in assessing pollutant concentrations from sources with multiple emission points. This is a nationally approved model and is used routinely to set limits adequate to protect public health. The five years (1982–1986) of meteorological data used in the Murphy Oil analysis was collected from the National Weather Service office located in Duluth,

Minnesota, and at the nearest upper air station, located in St. Cloud, Minnesota.

In addition to emissions from Murphy Oil, WDNR also included in the modeling emissions from three nearby sources, the University of Wisconsin-Superior, CLM, and Superior Fiber. The analysis also adds a background value to the modeled concentrations to represent the contribution of SO_2 emissions from nearby sources that were not included in the ISCST3 runs. The background concentrations came from a regional SO_2 monitor located at 2001 E. 11th Street in Superior, Wisconsin. The total concentration (*i.e.,* Murphy Oil modeled concentration plus nearby source modeled concentration plus background concentration) represents a value that can be compared to the SO_2 NAAQS.

Modeling results were given for two separate operating options incorporating the proposed alternative limit, one with lower SO_2 emission limits and another with higher SO_2 emission limits. The modeling results for both options, combined with background concentrations, show that the NAAQS for SO_2 will be attained at the 75 percent level required by the SIP.

Comment: The test of comparing the total quantity of SO_2 emitted by the facility with 75 percent of the NAAQS fails to maintain the exceptionally clean air that is otherwise ambient in the region. Several commenters felt that they are being penalized for living in a cleaner area.

Response: Both EPA's alternative emission limit requirements and WDNR's NR 417.05(5) require, among other things, that before an alternate emission limit can be approved, there must be a demonstration that the proposed alternate limit will not delay attainment or prevent maintenance of the applicable NAAQS. Additionally, the federal requirement limits the demonstration to no more than 75 percent of the NAAQS. The NAAQS for SO_2 consist of a 3-hour level of 1300 micrograms per cubic meter ($\mu g/m^3$), a 24-hour level of 365 $\mu g/m^3$ and an annual arithmetic mean of 80 $\mu g/m^3$. As mentioned above, the state submitted modeling results incorporating the proposed alternative limit for two separate operating options. Modeling results from the option with the higher SO_2 emission limits, combined with background concentrations, show a 3-hour concentration of 642.0 $\mu g/m^3$ (49.4 percent of NAAQS), a 24-hour concentration of 211.4 $\mu g/m^3$ (57.9 percent of NAAQS) and an annual concentration of 24.1 $\mu g/m^3$ (30.1 percent of NAAQS). Therefore, the modeling results for both options show that the NAAQS for SO_2 will be maintained at well below the required 75 percent level ensuring clean air in the area.

6. Approval Is Premature

Comment: The proposed revision is currently being challenged at the state level. Action by EPA would be premature before the state proceedings are final.

Response: After following proper procedures, the WDNR submitted a site-specific SIP revision requesting that we approve alternate SO_2 emission limits for Murphy Oil into the Wisconsin SO_2 SIP. The CAA then requires EPA to act on that submittal by approving or disapproving the state's request based on its own merits within a specific time frame. EPA is merely following the requirements of the CAA. Actions proposed at the state level proceed independently of any EPA action.

Comment: EPA stated in its proposed approval that it views this as a noncontroversial revision and anticipates no adverse comment. This is an unfortunate demonstration about how out-of-touch EPA appears to be with the community that will be most affected by this decision.

Response: We viewed the approval as a noncontroversial revision and anticipated no adverse comment for two reasons. First, the modeled attainment demonstration using the alternate SO_2 limits is fully approvable and shows attainment and maintenance of the SO_2 NAAQS. Second, the source followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, which we approved into the SIP on May 21, 1993, at 58 FR 29538.

EPA Action

In this rulemaking action, EPA approves the SO_2 emission limits in Wisconsin Air Pollution Control Operation Permit No. 95–SDD–120–OP, issued by the WDNR to Murphy Oil USA on February 17, 1999, and the modeled attainment demonstration using the alternate SO_2 limits for Murphy Oil in Superior (Douglas County), Wisconsin. This final approval is based on the proposal published on August 16, 1999 at 64 FR 44451. As stated in the parallel proposal, we will not institute a second comment period on this action.

Nothing in this action should be construed as permitting or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: July 20, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.2570 is amended by adding paragraph (c)(99) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(99) On February 26, 1999, the State of Wisconsin submitted a site-specific revision to the sulfur dioxide (SO_2) SIP for Murphy Oil USA located in Superior (Douglas County), Wisconsin. This SIP revision was submitted in response to a January 1, 1985, request for an alternate SO_2 emission limitation by Murphy Oil, in accordance with the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, as was approved by EPA in paragraph (c)(63) of this section.

(i) Incorporation by reference.

(A) Air Pollution Control Operation Permit No. 95–SDD–120–OP, issued by the Wisconsin Department of Natural Resources (WDNR) to Murphy Oil USA on February 17, 1999.

(ii) Additional material.

(A) Analysis and Preliminary Determination for the Proposed Operation Permit for the Operation of Process Heaters and Processes Emitting Sulfur Dioxide for Murphy Oil, performed by the WDNR on September 18, 1998. This document contains a source description, analysis of the alternate emission limitation request, and an air quality review, which includes the results of an air quality modeling analysis demonstrating modeled attainment of the SO_2 NAAQS using the alternate emission limit for Murphy Oil.

* * * * *

[FR Doc. 00–23375 Filed 9–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 238–0246a; FRL–6851–8]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) and the Bay Area Air Quality Management District (BAAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from graphic arts printing and coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on November 13, 2000 without further notice, unless EPA receives adverse comments by October 13, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

South Coast Air Quality Management District, 21865 E. Copley Dr. Diamond Bar, CA 91765–4182

Bay Area Air Quality Managment District, 939 Ellis Street, San Francisco, CA 94109–7799.

FOR FURTHER INFORMATION CONTACT: Max Fantillo, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1183.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal
A. What rules did the State submit?
B. Are there other versions of these rules?
C. What is the purpose of the rule revisions?
II. EPA's Evaluation and Action.
A. How is EPA evaluating the rules?
B. Do the rules meet the evaluation criteria?
C. EPA recommendations to further improve the rules.
D. Public comment and final action.
III. Background information.
Why were these rules submitted?
IV. Administrative Requirements

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1130	Graphic Arts	10/08/99	01/21/00
BAAQMD	8.20	Graphic Arts Printing and Coating Operations	03/03/99	03/28/00

On March 1, 2000 and April 12, 2000, these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are previous versions of Rules 1130 and 8.20 in the SIP. We approved into the SIP a version of Rule 1130 on May 4, 1999 and Rule 8.20 on December 27, 1997. The SCAQMD adopted revisions to the SIP-approved version on October 8, 1999 and the BAAQMD adopted revisions to the SIP-approved version on March 3, 1999. CARB submitted these rule revisions to us on January 21, 2000 (Rule 1130) and on March 28, 2000 (Rule 8.20).

C. What Is the Purpose of the Rule Revisions?

Rule 1130 controls emissions of volatile organic compounds (VOC) from graphic arts operations located within the Los Angeles-South Coast Air Basin. The changes in the SCAQMD's submitted Rule 1130, Graphic Arts, from the approved SIP rule include:

- Lowered VOC emission limits for certain categories;
- Increased the requirements for overall add-on control equipment efficiencies;
- Established retention factors for lithographic ink oils for coldset and heatset printing inks;
- Limited the proof press exemption to the use of fountain solutions;
- Deleted exemption threshold of 8 pounds of VOC per day for small emitters and added exemption for posted stamp cancellation ink (a very small category) not to exceed 60 pounds per calendar month; and
- Added definitions and revised some language in the rule to improve clarity.

Rule 8.20 controls emissions of volatile organic compounds (VOC) from graphic arts printing and coating operation located within the San Francisco Bay Area Air Basin. The changes in the BAAQMD's submitted Rule 8.20, Graphic Arts Printing and Coating Operation, from the approved SIP rule include:

- Exemption of Acetone as VOC in cleaning products (60 FR 31633 dated June 16, 1995);
- Lowering the small facility and laboratory and experimental operations exemption threshold limits;
- Addition of VOC limits for cleaning products;
- Addition of new provisions to improve enforceability and clarity; and
- Deletion of extraneous provisions.

The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD and the BAAQMD regulate ozone nonattainment areas (see 40 CFR part 81), so Rules 1130 and 8.20 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 *Federal Register* document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. Model Volatile Organic Compound Rules for Reasonably Available Control Technology, Office of Air Quality Planning and Standards, U.S. EPA, June 1992.

4. Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts-Rotogravure and Flexography, EPA–450/2–78–033, December 1978.

5. Recordkeeping Guidance Document for Surface Coating Operations and the Graphic Art Industry, EPA 340/1–88–003, July 1989.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Has No Recommendations To Further Improve the Rules

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by October 13, 2000, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on November 13, 2000. This will incorporate these rules into the federally enforceable SIP.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC Rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT Rules by this date.

IV. Administrative Requirements

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

unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air

Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 20, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(277)(i)(C)(*2*) and (c)(278) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(277) * * *

(i) * * *

(C) * * *

(*2*) Rule 8.20, amended on March 3, 1999.

* * * * *

(278) New and amended regulations for the following APCDs were submitted on January 21, 2000, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rule 1130 amended on October 8, 1999.

[FR Doc. 00–23372 Filed 9–12–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 00211038–0232–02; I.D. 101499D]

RIN 0648-AM93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Resubmission of Disapproved Measure in Amendment 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement a previously disapproved measure that was originally contained in Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This final rule establishes a commercial trip limit for greater amberjack. The intended effect is to prevent overfishing and conserve and manage greater amberjack.

DATES: This final rule is effective October 13, 2000.

ADDRESSES: Comments on ambiguity or unnecessary complexity arising from the language used in this rule should be directed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Eldridge, telephone: 727–570–5305; fax: 727–570–5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council), approved by NMFS, and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act

(Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On October 26, 1999, NMFS announced the availability of, and requested comments on, a resubmission of a measure to establish a 1,000–lb (454–kg) trip limit for greater amberjack (64 FR 57623). This measure was previously disapproved when it was submitted as part of the original submission by the Council of FMP Amendment 9. NMFS approved the resubmitted trip limit measure on January 26, 2000. On May 18, 2000, NMFS published a proposed rule to implement the approved measure and requested comments on the rule (65 FR 31507). The background and rationale for the resubmitted measure are contained in the preamble to the proposed rule and are not repeated here.

Comments and Responses

NMFS received three comments in response to the notice of availability for the resubmitted trip limit measure (64 FR 57623, October 26, 1999). No comments were received on the proposed rule. A summary of the comments received and NMFS' responses follow.

Comment 1: Two commenters supported the 1,000–lb (454–kg) commercial trip limit for greater amberjack as being necessary for the conservation and management of the species.

Response: NMFS agrees.

Comment 2: One commenter recommended that the trip limit be specified in number of fish rather than in pounds of fish because it is easier to count than to weigh fish at sea. Also, the commenter stated that greater amberjack were increasing in number and interfered with his fishing for yellowtail snapper.

Response: Although it is easier to count fish at sea than to weigh them, under the provisions of the Magnuson-Stevens Act, NMFS can only approve or disapprove a measure as it is proposed by the Council. NMFS approved the trip limit as proposed by the Council, after completing Secretarial review. This review considered all the available information. The current status of the greater amberjack stock relative to the FMP's current overfishing definition for this species is unknown. Current data show declines in average size and landings of greater amberjack. Accordingly, in FMP Amendment 9, the Council proposed precautionary measures to ensure that greater amberjack did not approach an overfished condition. Many fishermen north of Florida are reporting reduced abundance of greater amberjack. NMFS agrees with the Council that it is necessary to implement the 1000-lb (454-kg) commercial trip limit, given all of the available information.

Comment 3: One commenter from north Florida opposed the commercial trip limit for greater amberjack. He stated that the commercial annual quota was not reached last year and that the trip limit would cause him economic hardship because the fishing grounds are 50 to 60 miles (80 to 96 km) offshore. He stated that the April spawning closure and the annual quota were sufficient to protect the greater amberjack resource.

Response: As noted here, the status of the greater amberjack stock relative to the FMP's current overfishing definition is unknown. However, considerable information as well as accounts from fishermen, particularly those north of Florida, indicate the resource may be declining. The Council and NMFS believe that it is better to take a precautionary management approach rather than risk overfishing the resource, given the uncertainty regarding the status of the stock. Thus, the Council proposed, and NMFS approved, the conservation measures for greater amberjack, including the commercial trip limit.

NMFS agrees that some fishing revenues could be lost due to the trip limit. During the 1996–97 fishing year, a total of 553 commercial fishing craft landed greater amberjack and took 3,685 trips on which landings of greater amberjack were reported. Of the 553 fishing craft that could be impacted, 73 reported a total of 290 trips that resulted in landings over 1,000 lb (454–kg) of greater amberjack. This represents 8 percent of all greater amberjack trips. For those 73 entities reporting at least one trip on which 1,000 lb (454–kg) of greater amberjack were reported, greater amberjack represented about 30 percent of their annual gross revenue. It is expected that these vessels will lose some revenue if they do not change their fishing behavior. However, it is known from empirical observations in other fisheries where a trip limit was implemented that fishing behavior indeed changes. A NMFS economic analysis, based on landings data for this fishery, indicated that fishermen could make additional trips and recover most of the lost revenue. The analysis further indicated that the overall outcome of the trip limit would be a loss of about 3 percent of net operating revenue per vessel. The potential loss could be reduced to the extent that the affected vessels could target other species. The trip limit is not expected to result in any of the affected small entities being forced to cease operations. In approving and implementing the trip limit measure, NMFS decided that the long-term conservation benefits of the commercial trip limit exceeded the small revenue loss associated with the measure given the available information.

Change From the Proposed Rule

In § 622.44(c)(5), regarding commercial trip limits for greater amberjack, the provision that no more than one trip may be made per day has been removed. That additional restriction was not consistent with the Council's intent that the commercial trip limit restrict the amount of greater amberjack that may be possessed on board or landed, purchased, or sold from a vessel on any given day. Section 622.44(c)(5), as worded in this final rule, in combination with the existing regulatory language in § 622.44 introductory text, achieves the Council's intent.

Classification

The Administrator, Southeast Region, NMFS, determined that this resubmission of the greater amberjack trip limit is necessary for the conservation and management of greater amberjack and that the trip limit is consistent with the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be significant for purposes of Executive Order 12866.

The Council prepared a final supplemental environmental impact statement for FMP Amendment 9, which assessed the expected environmental impacts of the greater amberjack trip limit. A notice of its availability was published on October 9, 1998 (63 FR 54476).

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be sent to NMFS Southeast Regional Office (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 6, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.44, paragraph (c)(5) is added to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(5) Greater amberjack. Until the fishing year quota specified in § 622.42(e)(3) is reached, 1,000 lb (454 kg). See § 622.43(a)(5)(i) for the limitations regarding greater amberjack after the fishing year quota is reached.

* * * * *

[FR Doc. 00–23535 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 65, No. 178
Wednesday, September 13, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 238–0246b; FRL–6851–9]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) and Bay Area Air Quality Management District (BAAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from graphic arts printing and coating operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by October 13, 2000.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

South Coast Air Quality Management District, 21865 E. Copley Dr. Diamond Bar, CA 91765–4182

Bay Area Air Quality Management District, 939 Ellis Street San Francisco, CA 94109–7799.

FOR FURTHER INFORMATION CONTACT: Max Fantillo, Rulemaking Office (Air–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1183.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: SCAQMD 1130 and BAAQMD 8.20. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: July 20, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 00–23373 Filed 9–12–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[USCG–1999–6098]

RIN 2115–AF91

Great Lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking and notice of public meeting.

SUMMARY: The Coast Guard amends the Notice of Proposed Rulemaking (NPRM) published on April 14, 2000. We are proposing changes in the rates currently charged for pilotage on the Great Lakes by increasing pilotage rates in Area 1 by 4%; decreasing rates in Area 2 by 3%; decreasing rates in Area 4 by 2%; decreasing rates in Area 5 by 6%; leaving rates unchanged in Area 6; increasing rates in Area 7 by 9%; decreasing rates in Area 8 by 4%; and decreasing mutual rates by 1%. The average change in rates for District 1 was an increase of 2%, for District 2 an average decrease of 4%, and rates remained unchanged in District 3. This equates to an average decrease of 1% across all Districts.

In response to comments received on the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (65 FR 20110) on April 14, 2000 and changes made to the NPRM, the Coast Guard is publishing a Supplemental Notice of Proposed Rulemaking (SNPRM) allowing all interested parties an additional 60 days to comment.

The pilotage rate adjustments proposed in this SNPRM are different from the rates proposed in the NPRM, because adjustments have been made based on comments received in response to the NPRM. These adjustments are discussed in the section of this SNPRM entitled ''Discussion of Comments and Changes.''

DATES: Comments and related material must reach the Docket Management Facility on or before November 13, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–1999–6098), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this SNPRM. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also

find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this SNPRM, call Mr. Tom Lawler, Chief Economist, Office of Great Lakes Pilotage, Commandant (G–MW–1), U.S. Coast Guard, at 202–267–1241, or by facsimile 202–267–4700. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–1999–6098), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this SNPRM in view of them.

Public Meeting

We plan to hold a public meeting to allow for additional comments on the SNPRM for Great Lakes Pilotage Rates. The scope of the meeting is limited only to matters addressed in the SNPRM.

Date: The public meeting will be held Thursday, October 12, 2000, at 10:30 am and will continue until all business is complete.

Address: The public meeting will be held in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC.

At that time, public comments regarding this rulemaking will be heard. In addition, the annual Public Meeting on Great Lakes Pilotage is scheduled for January 2001, where we will discuss the Ratemaking Methodology and the 1999 Rate Review.

Information on Services for Individuals with Disabilities

For information on facilities or services for people with disabilities, or to request special assistance at the meeting Contact Tom Lawler, Chief Economist, Great Lakes Pilotage (G-MW–1), U.S. Coast Guard, at 202–267–1241, or by facsimile 202–267–4700 as soon as possible.

Regulatory History

On May 9, 1996, the Department of Transportation published a final rule in the **Federal Register** (61 FR 21081). The rule explained the methodology used to set the rates for pilots working in the Great Lakes.

On April 14,2000, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** (65 FR 20110). The NPRM announced the results of the 1999 Rate Review and requested comments.

The Coast Guard is required by 46 CFR 404.1 (b) to conduct an annual review of rates for pilotage in the Great Lakes. This SNPRM discusses the results of the 1999 Rate Review.

Discussion of Comments and Changes

In response to the requests for comments on the 1999 Rate Review, a total of eight written comment letters were received. Four of the comment letters were from the District Pilots' Associations, one from the District 2 Pilots' Association accounting firm, one from the American Pilot Association, one from the Grand Lodge International Ship Masters' Association, and one from the Atlantic Coast District Council of the International Longshoremen's Association. All of the commenters addressed issues that pertained to the 1999 Rate Review, while some went beyond the scope of the solicitation regarding the methodology used to determine pilotage rates. The discussion of comments contained herein addresses only issues raised in the 1999 Rate Review.

Four commenters, the District 1 and 2 Pilots' Associations, the American Pilots' Association, and the Grand Lodge International Ship Masters' Association, requested a Public Meeting to discuss the Ratemaking Methodology. The Ratemaking Methodology and the 1999 Rate Review are agenda items for the annual Public Meeting on Great Lakes Pilotage scheduled for January 2001. The October Public Meeting will only discuss the proposed changes to the current rates charged for pilotage on the Great Lakes.

Five commenters, each of the three District Pilots' Associations, District 2's accounting firm, and the Grand Lodge International Ship Masters' Association, disagreed with the Coast Guard's decision to disallow legal expenses not directly related to the provision of pilotage services. In September 1999, the Director requested each of the District Pilots' Associations to justify their legal expenses, in that they directly pertained to and were necessary for the provision of pilotage services. District 1 provided justification for $1,244. Districts 2 and 3 did not provide any justification. Furthermore, a review of reports filed with the office of the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995 reveals that in 1997, the District 1 and District 3 Pilots' Associations paid $40,000 and $80,000 respectively in lobbying fees. Lobbying fees are specifically excluded as a recognized expense in accordance with 46 CFR § 404.5. Additionally, it has been determined that $16,510 of professional fees reported by District 3 were not related to legal expenses and have been reinstated in District 3's expense base.

Three commenters, the District 2 Pilots' Association, their accounting firm, and the Atlantic Coast District of the International Longshoremen's Association, disagreed on the disallowance of pilot training expenses in District 2. In summary, they stated that because these expenses were recognized in the past, they should not be disallowed. They claimed that until a pilot is registered, he is, in fact, being trained and during this time, the Pilot Association compensates temporarily registered pilots. The approval of these expenses in the 1998 Rate Review was an oversight on the part of the Coast Guard and they should not have been approved. This is due to the fact that these expenses were not for instructional courses or material, which would have been approved, but actually represented compensation or salary paid directly to temporarily registered pilots in District 2. Compensation for temporarily registered pilots is fully accounted for in the Ratemaking Methodology, as explained in Appendix A to 46 CFR Part 404. Utilizing this methodology to determine pilotage rates in District 2: the total projected number of pilots required in District 2, both fully registered and temporarily registered, is multiplied by the individual target pilot compensation for that particular year. This results in the total target pilot compensation required for District 2. Total target pilot compensation is then added to a projection of total operating expenses

based on projected bridge hours to provide a projection of total expenses for the District (Total Target Pilot Compensation + Projected Operating Expenses). This total is then compared to revenue projections based on projected bridge hours for the District to determine if the pilotage rates should be increased or decreased. Accounting for temporarily registered pilot compensation as a training expense inflates the District's expense base in that total pilot compensation is accounted for separately and then combined with operating expenses. This is evident in the fact that in 1998, pilots in District 2 exceeded their compensation targets by 16%.

Seven commenters, the three pilotage Districts or their respective representatives, the accounting firm for District 2, the American Pilots' Association, the Atlantic Coast District of the International Longshoremen's Association, and the Grand Lodge International Ship Masters' Association, all disagreed with the use of 1997 expense data and 1998 revenues to determine a pilotage rate for 1999. The lobbying firm representing District 1 further questioned the procedure because of its belief that 1998 expense data had been available to the Coast Guard for well over a year.

The preliminary fieldwork for the Director's 1998 audit of the Great Lakes Pilotage Districts was completed in mid October 1999. The preliminary draft of the final report was delivered to the Coast Guard mid December 1999. The 1999 Rate Review was finalized in August of 1999 and routed for review and clearance within the Coast Guard in mid September 1999. The 1999 Rate Review followed the methodology prescribed in Appendix A to 46 CFR Part 404. 1997 expenses for each of the pilotage Districts were projected forward to 1999 based on the actual change in traffic from 1997 to 1998 and the projected change in bridge hours or traffic for 1999, based on economic surveys. Economic surveys from industry and the St. Lawrence Seaway Development Corporation indicated that 1999 would experience an overall 5% reduction in bridge hours and traffic from 1998 levels. In 1998, the actual bridge hour data and revenues for 1998 in each of the pilotage areas became available to the Coast Guard in May 1999, through the submission of unqualified audited 1998 financial data by each of the District's Pilot associations, as required by 46 CFR § 403.300. A review of the financial data indicated that on average, revenues and bridge hours throughout the Great Lakes increased 30% in 1998 over 1997 levels. The actual 1998 observed increase for each District was then combined with the projected 5% decrease in traffic for 1999 to establish an overall change in traffic from 1997 to 1999. For example, in 1998, District 1 experienced an average 36% increase in bridge hours over 1997. Considering the projected 5% reduction in 1999 from 1998 levels, this resulted in an overall projected increase of 31% in 1999 over 1997 levels (36% − 5% = 31%) for District 1. For the 1999 rulemaking, each District's approved 1997 expenses were adjusted for inflation (Approved Expenses x (1+Inflation Factor)) multiplied by the aggregate percentage change of traffic projected for each District over 1997 levels. We then factored in the percentage of Association expenses that change in relation to a change in traffic (pilotage hours). Analysis indicates that 57% of Association expenses are affected by a change in pilotage hours. For example, in District 1, pilotage hours for 1999 are projected to increase 31% over 1997 levels, which is multiplied by 57% (.31 × .57 = .18) to project that District 1's operating expenses should increase 18% in response to the projected increase in pilotage hours for 1999 from 1997 levels. Therefore, the following formula was utilized to project 1999 expenses ((Approved 1997 expenses × (1+Inflation Factor) × (1+(.31 x 57)). In the case of District 1, in order to incorporate approved transportation and training costs into the rate, an additional $86,000 was added to District 1's expense base for the 1999 ratemaking.

Two Commenters, the District 2 Pilots' Association and their accounting firm, requested an explanation of why and how their pilot boat expenses were reduced for the 1999 Rate Review. 46 CFR Part § 404.5 establishes the guidelines for the Director of Great Lakes Pilotage in determining whether expenses will be recognized in the ratemaking process. It specifies that each expense item be evaluated to determine whether it is necessary for the provision of pilotage service and if so, whether it is reasonable, that is, is it comparable or similar to the expenses paid by others in the maritime industry for the same service or item. Pilot boat expenses in District 2 average $176 per trip, whereas in District 1, they average $110 and in District 3 they average $83 per trip. District 3 contracts all pilot boat services while Districts 1 and 2 utilize affiliated companies owned totally or partially by registered pilots, to provide pilot boat services. These affiliated companies reported a net income of $4,520 in District 1 and $70,506 in District 2, in 1997. In District 2 Erie Leasing's net income of $70,506 represents a 19% return on total equipment and property less land of $372,270. To bring pilot boat expenses in line with Districts 1 and 3, the Director is reducing District 2's expense base by $45,602. This deduction is intended to offset Erie Leasing's net income of $70,506 from operations. This, in effect, reduces Erie Leasing's net income to $24,904, which represents a 6.69% return on Erie Leasing's property and equipment. When this offset is applied against the 1997 pilot boat expenses, it reduces the pilot boat cost in District 2 to $154 per trip.

Two commenters, the District 1 Pilots' Association and District 2's accounting firm, disagreed with the results of the computation that determined the number of pilots required for their respective Districts. In District 1 they disagreed with the number of pilots required in Area 2, Lake Ontario. 46 CFR Part 404 clearly establishes the methodology in determining the number of pilots required for each area: ''The basis for the number of pilots needed in each area of undesignated water is established by dividing the projected bridge hours by 1800. In 1998, District 1 Lake Pilots recorded a total of 6,335 bridge hours on the undesignated waters of Lake Ontario. The 1999 Rate Review projected a 5% decrease resulting in a projection of 6,018 bridge hours for 1999. The number of pilots required is then determined by dividing 6,018 by 1800; the result is 3.34, which for the purposes of the 1999 Rate Review, was rounded up to 4 pilots. District 2's accounting firm disagreed with the standard of 1800 hours used to determine the number of pilots in undesignated waters, and included delay, detention and pilot travel hours together with bridge hours to calculate the number of pilots required in District 2. Again 46 CFR Part 404 established *1800 bridge hours* (detention, delay, and travel hours are not included) as the work standard used to determine the number of pilots required on undesignated waters.

One commenter, the District 2 Pilots' Association, questioned the deduction of $3,328 in ''combined expenses.'' As explained in note 3 of the 1997 Director's audit, of $3,328 incurred legal expenses, one half, $1,664, was deducted because expenses relating to lobbying are not allowed for ratemaking purposes, 46 CFR, Part 404, § 404.5.

Two commenters, the District 2 Pilots' Association and District's 2 accounting firm, disagreed with the deduction of daily subsistence amounts that did not conform to IRS guidelines. 46 CFR

§ 404.5 establishes IRS guidelines (IRS publication 17 ''Your Federal Income Tax'') as one of the tests used to determine the reasonableness of an expense. A copy of IRS publication 17 can be obtained by contacting the IRS at 1–800–829–1040, or by visiting their Web Site at *www.IRS.gov or www.IRS.ustreas.gov.*

One commenter, District 2, requested a copy of the 1997 audit. A copy of the 1997 Director's Audit was mailed to District 2 in June 1999. A copy of the Director's audit is also included as part of the docket supporting this rulemaking (USCG–1999–6098).

One commenter, District 2's accounting firm, disagreed with the independent auditor's reduction from the expense base of $947 for business promotion, $400 in contributions, and $1,988 as uniforms expense. These deductions are justified because these expenses are not directly related to the provision of pilotage (46 CFR § 404.5).

One commenter, District 2's accounting firm, disagreed with the independent auditor's reduction of $4,800 a year in total rental expenses for a six bedroom house, rented to the Pilots' Association by Erie Leasing, an affiliated company. The house is used as temporary accommodations in Port Colborn. The auditor's adjustment is based on the fact that similar accommodations in the area rent an average $400 a month less than the Association pays on a monthly basis.

One commenter, the District 2 Pilots' Association, disagreed with the independent auditor's reduction of a portion of the expenses related to Association dues paid to the American Pilots' Association. This deduction is justified because the reduction consists of dues associated with lobbying. Expenses related to lobbying are not recognized for ratemaking purposes (46 CFR § 404.5).

One commenter, the representative for the District 1 Pilots' Association, disagreed with the proposed amount of $45,000 budgeted for car service and recommended $56,000. The recommendation is valid and District 1's expense base is adjusted accordingly to reflect an expected car service expense of $56,000.

One commenter, the representative for the District 1 Pilots' Association, disagreed with the projected 2.8% decrease in operating expenses for the 1999 navigational season in Area 2, considering the 23% increase in bridge hours experienced from 1997 to 1998. This 2.8% decrease is consistent with the data, because the number of pilots authorized in Area 2 in 1997 was in excess of what was required to operate efficiently in the area. In both 1997 and 1998, five pilots were authorized in Area 2. In 1997 and 1998, the actual bridge hours worked in Area 2 were 4,580 and 6,335 hours respectively. The methodology for determining the number of pilots required, as explained in 46 CFR Part 404, results in a requirement of 2.6 or 3 pilots in 1997, and 3.5 or 4 pilots in 1998. Based on bridge hour projections for 1999, the 1999 Rate Review calculated that four pilots are required in Area 2. This equates to a reduction of approximately $103,644 in pilot compensation, thus a reduction in expenses or total revenue required for Area 2.

Two commenters, the District 2 Pilots' Association accounting firm and the District 3 Pilots' Association, disagreed with the use of the 2.1% inflation factor used in the calculations for the 1999 Rate Review, as the figure failed to account for inflation experienced during the 1999 navigational season. Upon further review, the Coast Guard agrees with the commenter and has adjusted the expense base of each of the Pilotage Districts to reflect the change in the Consumer Price Index from the close of the 1997 season to December 1999. This equates to a 3.1% inflation factor.

Two commenters, the District 2 and District 3 Pilots' Associations, disagreed with the Coast Guard's calculation of Investment Base for Return on Investment purposes, stating that it should take into account all assets employed in support of pilotage operations. One commenter stated the rate of return should be annualized, since the rates were last adjusted in 1997. In calculating the rate of return the Coast Guard only considers property and equipment, because cash assets held on deposit earn interest. Inclusion of cash assets would encourage Pilot Associations to unnecessarily inflate their Investment Base and provide an additional source of return not available to other private businesses. Analysis of pilot associations' Investment Base indicated that since the concept of Return on Investment was introduced into the ratemaking methodology, Districts 2 and 3 greatly increased their Investment Base. In District 2, the Investment Base rose from $265,488 in 1995 to $413,998 in 1996, of which only $116,041 was property and equipment. In District 3, the Investment Base soared from $119,823 in 1995 to $994,896 in 1996, and only $25,583 was property and equipment. The Coast Guard factored Return on Investment (ROI) into each of its Rate Reviews since the rates were last set in 1997. The 1998 Review considered the appropriate ROI and calculated that rates should be lowered an average of 3%. The 1999 Rate Review utilized a 6.69% ROI to determine rates. However, in view of the fact that the 1999 rates will apply for a portion of the 2000 navigational season, the ROI for the 1999 Rate Review has been adjusted to reflect the 1999 average return on high grade corporate bonds of 7.04%. The expense base for each District will be adjusted accordingly for the purposes of this SNPRM.

One commenter, the District 2 accounting firm, commented on the fact that the Coast Guard did not reply to their comments on the 1998 Rate Review. Responses to all comments received on the 1998 Rate Review were drafted. They were not published because the Coast Guard determined that the 1997 rates fell within an acceptable range and decided not to change the rates, even though the 1998 Rate Review called for an average reduction in rates of 3%.

Summary of Proposed Changes

The changes discussed above are summarized in Tables A, B, and C below.

TABLE A.—DISTRICT 1

Methodology	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Step 1, Projection of operating expenses	$296,527	$252,597	$549,123
Step 2, Projection of target pilot compensation	1,088,262	414,576	1,502,838
Step 3, Projection of revenue	1,333,991	687,207	2,021,198
Step 4, Calculation of investment base	0	0	0
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%
Step 6, Adjustment determination	1,384,789	667,173	2,051,961

TABLE A.—DISTRICT 1—Continued

Methodology	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Step 7, Adjustment of pilotage rates	1.04	.97	1.02

TABLE B.—DISTRICT 2

Methodology	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron Michigan	Total District 2
Step 1, Projection of operating expenses	$612,603	$521,847	$1,134,451
Step 2, Projection of target pilot compensation	518,220	1,243,728	1,761,948
Step 3, Projection of revenue	1,156,057	1,886,198	3,042,255
Step 4, Calculation of investment base	45,397	71,006	116,403
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%
Step 6, Adjustment determination	1,134,019	1,770,574	2,904,593
Step 7, Adjustment of pilotage rates	.98	.94	.96

TABLE C.—DISTRICT 3

Methodology	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District 3
Step 1, Projection of operating expenses	$663,265	$131,402	$456,777	$1,251,445
Step 2, Projection of target pilot compensation	1,140,084	621,864	829,152	2,591,100
Step 3, Projection of revenue	1,797,967	688,583	1,338,912	3,825,462
Step 4, Calculation of investment base	11,997	4,595	8,934	25,526
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%	7.04%
Step 6, Adjustment determination	1,808,194	753,589	1,286,558	3,816,392
Step 7, Adjustment of pilotage rate	1.00	1.09	.96	1.00

As summarized in tables A, B, and C above, the Coast Guard proposes changes to the pilotage rates found in 46 CFR §§ 404.405–410 by increasing pilotage rates in Area 1 by 4%, decreasing rates in Area 2 by 3%, decreasing rates in Area 4 by 2%, decreasing rates in Area 5 by 6%, leaving rates unchanged in Area 6, increasing rates in Area 7 by 9%, decreasing rates in Area 8 by 4% and decreasing mutual rates by 1%.

Regulatory Evaluation

This SNPRM is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this SNPRM to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would make minimal adjustments to the pilotage rates for the Great Lakes 2000 shipping season. The Coast Guard used the ratemaking methodology found in 46 CFR part 404, Appendix A, to identify adjustments necessary to achieve target pilot compensation, by establishing these new rates for pilotage. This ratemaking methodology is designed to annually review pilotage rates in order to avoid large fluctuations in pilot compensation, thus avoiding large changes in pilotage rates. This SNPRM provides a step-by-step economic guide to show how the pilotage rates would be changed. The results of this rulemaking are in keeping with the Coast Guard's desire for a safe, reliable and efficient pilotage system.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this SNPRM would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the Great Lakes region, small entities potentially impacted by this proposed rulemaking include shippers, Great Lakes ports, carriers, and shipping agents. The proposed decreases in Great Lakes pilotage rates are not expected to significantly impact small businesses because this rulemaking actually reduces the financial burden on small entities and on the general public.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this SNPRM would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement

Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this SNPRM so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Tom Lawler, Chief Economist, Great Lakes Pilotage (G–MW–1), U.S. Coast Guard, at 202–267–1241, or by facsimile 202–267–4700.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This SNPRM would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this SNPRM under the principles and criteria in Executive Order 13132 (64 FR 43255; August 10, 1999) and has determined that this SNPRM does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although this SNPRM would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This SNPRM would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This SNPRM meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this SNPRM under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this SNPRM and concluded that under figure 2–1, paragraph 34(a), of Commandant Instruction M16475.1C; this rule is categorically excluded from further environmental documentation. The SNPRM is procedural in nature because it deals exclusively with adjusting pilotage rates for the Great Lakes. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes amending 46 CFR Part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46 (mmm), 46 CFR 401.105 also issued the authority of 44 U.S.C. 3507.

2. In § 401.405, revise tables (a) and (b) to read as follows:

§ 401.405 Basic rates and charges on the St. Lawrence River and Lake Ontario.

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
1. Basic Pilotage	$8 per Kilometer or $14 per mile [1]
2. Each Lock Transited.	178 [1]
3. Harbor Movage	584 [1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $381 and the maximum basic rate for a through trip is $1709.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
1. Six Hour Period	$285
2. Docking/Undocking	272

3. In § 401.407, revise tables (a) and (b) to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
1. Six Hour Period	$316	$316
2. Docking/Undocking	243	243
3. Any Point on the Niagara River below the Black Rock Lock	N/A	620

(b) Area 5 (Designated Waters):

Any point on/in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot boat	St. Clair River
1. Toledo or any port on Lake Erie west of Southeast Shoal	$929	$548	$1205	$929	N/A
2. Port Huron Change Point	[1] 1617	[1] 1873	1215	945	672
3. St. Clair River	[1] 1617	N/A	1215	1215	548
4. Detroit or Windsor or the Detroit River	929	1205	548	N/A	1215
5. Detroit Pilot Boat	672	929	N/A	N/A	1215

[1] When pilots are not changed at the Detroit Pilot Boat.

4. In § 401.410, revise tables (b) and (c) to read as follows:

§ 401.410 Basic rates and charges on Lake Huron, Michigan and Superior and the St. Mary's River.

* * * * *

(b) Area 7 (Designated Waters):

Area	Detour	Gros cap	Any harbor
1. Gros Cap	$1436	N/A	N/A
2. Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	1436	541	N/A
3. Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	1204	541	N/A
4. Sault Ste. Marie, Michigan	1204	541	N/A
5. Harbor Movage	N/A	N/A	541

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
1. Six Hour Period	$251
2. Docking/Undocking	239

§ 401.420 [Amended]

5. In § 401.420—

a. In paragraph (a), remove the number ''$51'' and add, in its place, the number ''$50''; and remove the number ''$807'' and add, in its place, the number ''$799''.

b. In paragraph (b), remove the number ''$51'' and add, in its place, the number ''$50''; and remove the number ''$807'' and add, in its place, the number ''$799''.

c. In paragraph (c)(1), remove the number ''$305'' and add, in its place, the number ''$302''; in paragraph (c)(3), remove the number ''$51'' and add, in its place, the number ''$50'' and also in paragraph (c)(3), remove the number ''$807'', and add, in its place, the number ''$799''.

§ 401.428 [Amended]

6. In § 401.428, remove the number ''$312'' and add, in its place, the number ''$309''.

Dated: September 6, 2000.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–23498 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–00–7794]

Federal Motor Vehicle Safety Standards (FMVSS); Small Business Impacts of School Bus Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice of regulatory review; request for comments.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) seeks comments on the economic impact of its regulations on small entities. As required by Section 610 of the Regulatory Flexibility Act, we are attempting to identify rules that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand. The focus of this notice is rules that specifically relate to school bus safety.

DATES: Comments must be received on or before September 29, 2000.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. You may call Docket Management at: (202) 366–9324. You may visit the Docket from 10:00 am to 5:00 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nita Kavalauskas, Office of Regulatory Analysis and Evaluation, Office of Plans and Policy, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366–2584. Facsimile (fax): (202) 366–2559.

SUPPLEMENTARY INFORMATION:

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of final rules that have a significant economic impact on a substantial number of small business entities. The purpose of the reviews is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on November 22, 1999, listing in Appendix D (64 FR

64684) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT's 10-year review plan for all of its existing regulations.

The National Highway Traffic Safety Administration (NHTSA, (''we'') has divided its rules into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and a Review Year. For purposes of these reviews, a year will coincide with the fall-to-fall publication schedule of the Semiannual Regulatory Agenda. Thus, Year 1 (1998) began in fall of 1998 and ends in the fall of 1999; Year 2 (1999) begins in the fall of 1999 and ends in the fall of 2000; and so on.

During the Analysis Year, we will request public comment on and analyze each of the rules in a given year's group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall's Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. At the end of the Review Year, we will publish the results of our review.

The following table shows the 10-year analysis and review schedule:

NHTSA SECTION 610 REVIEW PLAN

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 501 through 526 and 571.213	1998	1999
2	49 CFR parts 571.131, 217, 220, 221, and 222	1999	2000
3	49 CFR parts 591 through 594	2000	2001
4	49 CFR parts 571.101 through 571.110 and 571.135	2001	2002
5	49 CFR parts 529 through 579, except part 571	2002	2003
6	49 CFR parts 571.111 through 571.129 and parts 580 through 590	2003	2004
7	49 CFR parts 571.201 through 571.212	2004	2005
8	49 CFR parts 571.214 through 571.219, except 217	2005	2006
9	49 CFR parts 571.223 through 571.304, part 500 and new parts and subparts under 49 CFR	2006	2007
10	23 CFR parts 1200's and 1300's and new parts and subparts under 23 CFR	2007	2008

C. Regulations Under Analysis

During Year 2 (1999), the Analysis Year, we will conduct a preliminary assessment of the following sections of 49 CFR Part 571.

Section	Title
571.131	School bus pedestrian safety devices.
571.217	Bus emergency exits and window retention and release.
571.220	School bus rollover protection.
571.221	School bus body joint strength.
571.222	School bus passenger seating and crash protection.

We are seeking comments on whether any requirements in Parts 571.131, 571.217, and 571.220 through 571.222 have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. Business entities are generally defined as small businesses by Standard Industrial Classification (SIC) code, for the purposes of receiving Small Business Administration (SBA) assistance. Size standards established by SBA in 13 CFR 121.201 are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small. If your business or organization is a small entity and if any of the requirements in Parts 571.131, 571.217, and 571.220 through 571.222 have a significant economic impact on your business or organization, please submit a comment to explain how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you believe the economic impact is significant.

If the agency determines that there is a significant economic impact on a substantial number of small entities, it will ask for comment in a subsequent notice during the Review Year on how these impacts could be reduced without reducing safety.

II. Plain Language

A. Background and Purpose

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings,

paragraphing) make the rule easier to understand?

• Would more (but shorter) sections be better?

• Could we improve clarity by adding tables, lists, or diagrams?

• What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain language reviews over a ten-year period on a schedule consistent with the section 610 review schedule. We will review Parts 571.131, 571.217, and 571.220 through 571.222 to determine if these regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as for putting information in tables, that may make the regulations easier to use.

Comments

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Docket Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing your comments electronically.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments that Docket Management receives after that date.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

(2) On that page, click on ''search.''

(3) On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

William H. Walsh,

Associate Administrator for Plans and Policy.

[FR Doc. 00–23520 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No.; 000830248-0248-01; I.D. 080400A]

RIN 0648-AN38

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Advance Notice of Proposed Rulemaking to Establish a Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; notice of control date for the Pacific Coast groundfish fishery; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) as authorized by the American Fisheries Act (AFA) is considering management measures to recommend to the Secretary of Commerce (Secretary) to protect the Pacific Coast groundfish fisheries from adverse impacts caused by the AFA. This document announces a control date of June 29, 2000; any limited entry permit on that date owned by an owner of a vessel eligible for benefits under the AFA (AFA-qualified) and registered for use with an AFA-qualified vessel that does not meet minimum participation requirements that may be established in the future may be subject to restrictions on being registered to participate in the Pacific Coast groundfish fisheries. Additionally, participation by AFA-qualified catcher/processors and motherships not previously active in the at-sea whiting fishery may be restricted. The intended effect of this action is to discourage speculative entry or increased effort in the Pacific Coast groundfish fisheries by entities eligible for AFA benefits and to provide notice of potential permit restrictions or revocation to purchasers or lessees of limited entry permits owned by AFA-qualified vessel owners and registered for use with AFA-qualified vessels.

DATES: Comments may be submitted in writing by October 13, 2000.

ADDRESSES: Comments may be mailed to Jim Lone, Chairman, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland OR 97201.

FOR FURTHER INFORMATION CONTACT: The Pacific Fishery Management Council at 503-326-6352; or Bill Robinson at 206-526-6140; or Svein Fougner at 562-980-4000.

SUPPLEMENTARY INFORMATION: The Pacific Council which was established under section 302(a)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852 (a)(1)(F) is considering conservation and management measures to recommend to the Secretary to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by the AFA (Pub.L. 105-277, Div. C, Title II, October 21, 1998, 112 Stat. 2681-616; 16 U.S.C. 1851 note; 46 U.S.C. 101 note, 12102, 31322; 46 App. 1274 note), or by any fishery cooperatives in the Alaska pollock fishery, as required by section 211(c)(3)(A) of the AFA. Section 211(b)(5) of the AFA prohibits catcher/processors and motherships eligible under the AFA from harvesting or processing fish in any U.S. fishery outside Alaska, except the Pacific whiting fishery, unless harvesting or processing by those catcher/processors and motherships is specifically authorized under a fishery management plan. The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982 (47 FR 43964, October 5 1982), and has been amended 11 times. Implementing regulations for the FMP and its amendments are codified at 50 CFR Part 660, subpart G.

Under the AFA, only certain vessels are eligible to participate in the Bering Sea pollock fishery. This eligibility provides greater operational flexibility in when and how these vessels participate in the pollock fishery. Because these AFA-qualified vessels are better able to arrange their schedules, they could potentially increase participation in other fisheries, including Pacific Coast groundfish fisheries. The concern is that AFA-qualified vessels will use benefits gained by the AFA to move into Pacific Coast groundfish fisheries, increase effort, and cause negative impacts on current participants. To prevent any negative impact or ''adverse impact'', the AFA provides the Council the opportunity to recommend management measures to the Secretary to protect fisheries under its jurisdiction and participants in those fisheries.

To harvest fish in the limited entry groundfish fisheries, vessels only need to purchase a Federal limited entry permit. Currently, no Federal permit is required to participate as a mothership. Because new permit holders and motherships currently have access rights that are equal to those who have open access fishery currently have access rights that are equal to those who have historically participated in the fishery, speculative entry may be encouraged. Additional effort could exacerbate existing management problems and erode the effectiveness of future measures recommended by the Council. As a result, the Council is considering measures that would restrict the use of AFA-qualified vessels and their limited entry trawl permits in segments of the fishery in which the vessel had not been previously active, as determined by minimum participation requirements.

At its September 1999 meeting, the Council adopted September 16, 1999, as a control date to be used in placing restrictions on participation in the Pacific Coast groundfish fisheries by AFA-qualified catcher vessels in the mothership and shore-based sectors of the Pacific whiting fishery, and to all other non-whiting groundfish fisheries in which catch is landed shoreside (64 FR 66158, November 24, 1999), At the April 2000 meeting, the Council reviewed alternatives for providing protection to Pacific Coast groundfish fisheries and its participants from AFA-qualified vessels and processors that failed to meet minimum participation requirements in the Pacific Coast groundfish fisheries. In addition, the Council considered whether to restrict, suspend, or void permits registered to AFA-qualified vessels if the vessels did not meet the participation requirements.

At its June 2000 meeting, the Council gave further consideration to management measures aimed at protecting Pacific Coast groundfish fishery participants from impacts caused by the AFA. The Council voted to establish a control date of June 29, 2000. Any limited entry permit on that date owned by an owner of a vessel eligible for benefits under the AFA (AFA-qualified) and registered for use with an AFA-qualified vessel that does not meet minimum participation requirements that may be established in the future, may be subject to restrictions on being registered to participate in the Pacific Coast groundfish fisheries, similarly to restrictions imposed on the vessel.

The Council is also considering restricting future participation in the whiting fishery by AFA-qualified motherships and catcher/processors that do not have a history in the fishery. For motherships, the criterion being considered is a certain level of participation in the regular whiting season in either 1998 or 1999. For catcher/processors, the criterion being considered is whether the catcher/processor was licensed to harvest groundfish in 1997, 1998, or 1999 through September 16, 1999. No new AFA-qualified motherships or catcher processors have entered the groundfish fishery since September of 1999.

This document notifies the public that the Council is considering measures to protect the Pacific Coast groundfish fisheries from adverse impacts caused by the APA. The intended effect of this document is to discourage speculative entry or increased effort in the Pacific Coast groundfish fisheries by entities eligible for AFA benefits or revocation to purchasers or lessees of limited entry permits owned by AFA-qualified vessel owners and registered for use with AFA-qualified vessels on June 29, 2000.

Implementation of any management measures for the fishery will require amendment of the regulations implementing the FMP, and may require amending the FMP. Any action will require Council development of a regulatory proposal with public input and a supporting analysis, NMFS approval, and publication of implementing regulations in the **Federal Register.** 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.*; Pub. L. 105-277, Div. C, Title II, October 21, 1988.

Dated: September 7, 2000.

William T. Hogarth,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 00–23536 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 65, No. 178
Wednesday, September 13, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV00–901–3NC]

Notice of Intent to Request OMB Approval for New Information Collection, Marketing Order Committee/Board Interview

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed information collection submitted for public comment and notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval of a new information collection under fruit, vegetable, and specialty crop marketing orders and agreements (orders and agreements). This information is to be used to conduct interviews of managers and committee and board members for order and agreement programs. Participants' information would be voluntarily supplied by those willing to respond. An interview would consist of about 15 questions regarding committee and board member participation and about concerns about serving on an order or agreement committee or board.

DATES: Comments on this notice must be received by November 13, 2000, to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Caroline Thorpe, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Telephone: (202) 720–8139, Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov.

Small businesses may request information on this notice by contacting Jay Guerber, Regulatory Fairness Representative, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, D.C. 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Marketing Order Committee/Board Interview.

OMB Number: 0581–NEW.

Expiration Date of Approval: Three years from date of approval.

Type of Request: Approval for Interview Questions.

Abstract: Order and agreement programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops, in specified production areas, to work together to solve marketing problems that cannot be solved individually. Order and agreement regulations help ensure adequate supplies of high quality products for consumers and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), industries enter into order and agreement programs. The Secretary of Agriculture is authorized to oversee order operations and issue regulations recommended by a committee or board of representatives from each regulated commodity industry. Orders and agreements regulate the handling of certain commodities and are administered locally by industry committees and boards. Currently, there are 37 orders and agreements in effect.

The information collection requirements in this request are essential to carry out the intent of the Act, under 7 U.S.C. 608(c) 7. The purpose would be to provide training to current and prospective members of committees and boards, improve diversity on the committees and boards of the orders and agreements, and to more effectively administer the order and agreement programs.

The Department of Agriculture (USDA) is encouraging eligible women, minorities, and people with disabilities to participate on USDA's order and agreement committees and boards. In order to encourage a more comprehensive participation on order and agreement programs, AMS would like to better understand the factors that encourage or discourage committee or board participation.

Under the orders and agreements, producers and handlers are nominated by their respective peers. These nominees then serve as representatives on their respective committees or boards and must file background questionnaires and acceptance letters or statements with the Secretary.

This information collection is to be used to conduct interviews of managers and committee and board members for order and agreement programs. Participants' information would be voluntarily supplied by those willing to respond. An interview would consist of about 15 questions regarding committee and board member participation and about concerns about serving on an order or agreement committee or board. The interview questions covered under this information collection will require the minimum information necessary to effectively carry out the intent.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarter's staff. Authorized representatives of the USDA are the primary users of the information and AMS authorized committee and board employees are the secondary users of the information.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: All selected members and managers of fruit, vegetable, and specialty crop order and agreement committees and boards.

Estimated Number of Respondents: 50.

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 50 hours.

Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference this docket number and the appropriate order or agreement, and be mailed to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Avenue, SW., Washington, DC, room 2525–South Building.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 8, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–23505 Filed 9–12–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Proposed Posting of Stockyards

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

MS–174	Solomon's Horse Auction; Belmont, Mississippi
OK–212	Perkins Livestock Commission Co., LLC; Perkins, Oklahoma

Pursuant to the authority under section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Office of Policy/Litigation Support, Grain Inspection, Packers and Stockyards Administration, Room 3418–South Building, U.S. Department of Agriculture, Washington, DC 20250, by September 28, 2000.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Office of Policy/Litigation Support during normal business hours.

Done at Washington, DC this 31st day of August 2000.

Michael J. Caughlin, Jr.,

Director, Office of Policy/Litigation Support, Packers and Stockyards Programs.

[FR Doc. 00–23406 Filed 9–12–00; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funding and Requests for Proposals for Guaranteed Loans Under the Section 538 Guaranteed Rural Rental Housing Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice of Fund Availability (NOFA or Notice) announces the timeframe and submission requirements and deadlines to submit proposals in the form of ''NOFA responses'' for the section 538 Guaranteed Rural Rental Housing Program (GRRHP). Eligible lenders, as defined in paragraph VII(D) of this NOFA are invited to submit NOFA proposals for the development of affordable rental housing to serve rural America. Only responses submitted by eligible lenders, on the lender's letterhead, and signed by both the applicant and the lender will be reviewed.

This document describes the overall application process, including the selection and identification of any priorities for selection of proposed applications, and the process by which the Rural Housing Service (RHS or Agency) will score and rank the proposals. Information will also be included concerning the submission requirements. Lenders may submit their application concurrently with their NOFA response.

DATES: The deadline for receipt of NOFA responses is 4:00 PM, Eastern Daylight Savings Time on September 20, 2000. Lenders intending to mail a NOFA response must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX), Cash on Delivery (COD), and postage due NOFA responses or applications will not be accepted. NOFA responses will not be accepted after the deadlines previously mentioned, unless that date and time is extended by another Notice published in the **Federal Register**.

ADDRESSES: Responses for participation in the program must be identified as ''Section 538 Guaranteed Rural Rental Housing Program'' on the envelope and be submitted to: Director, Multi-Family Housing Processing Division, Rural Housing Service, U.S. Department of Agriculture, Room 1263 (STOP 0781), 1400 Independence Ave. SW, Washington, DC 20250–0781.

FOR FURTHER INFORMATION CONTACT: Joyce Allen, Deputy Director, Guaranteed Loans, Multi-Family Housing Processing Division, U.S. Department of Agriculture, South Agriculture Building, Room 1271, STOP 0781, 1400 Independence Ave. SW., Washington, DC 20250–0781. E-mail: jallen@rdmail.rural.usda.gov. Telephone: (202) 690–4499. This number is not toll-free. Hearing or speech impaired persons may access that number by calling the Federal Information Relay Service toll-free at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The GRRHP is operated under 7 CFR part 3565. The Guaranteed Rural Rental Housing Program Origination and Servicing Handbook (HB–1–3565) is available to provide lenders and the general public with the ''how to'' administrative guidance needed to administer the program. HB–1–3565, which contains a copy of 7 CFR part 3565 in Appendix 1, may be found on the Rural Development Regulation web site internet address of ''http://rdinit.usda.gov/regs''or copies may be obtained from the Rural Housing Service Multi-Family Housing Processing Division at 202–720–1604. This is not a toll-free number. Hearing- or speech-impaired persons may access that number by calling the Federal Information Relay Service toll-free at (800) 877–8339.

Discussion of Notice

I. Purpose and Program Summary

On March 28, 1996, President Clinton signed the ''Housing Opportunity Program Extension Act of 1996,'' Public Law 104–120, authorizing the section 538 Guaranteed Rural Rental Housing Program (GRRHP). The program is designed to increase the supply of

affordable multifamily housing through partnerships between Rural Housing Service (RHS) and major lending sources, as well as state and local housing finance agencies and bond issuers. Qualified lenders will be authorized to originate, underwrite, and close loans for multifamily housing projects requiring new construction or acquisition with rehabilitation of at least $15,000 per unit, when the acquisition results in the creation of new affordable housing units. RHS may guarantee such loans upon presentation and review of appropriate certifications, project information and satisfactory completion of the appropriate level of environmental review by RHS. Lenders will be responsible for the full range of loan management, servicing, and property disposition activities associated with these projects. The lender will be expected to provide servicing or contract for servicing of each loan it underwrites. In turn, RHS will guarantee the lender's loan up to 90 percent of total development cost and commits to pay up to a maximum of 90 percent of the outstanding principal and interest balance of such loan in the case of default of the loan and filing of a claim. In no event will the Agency pay more than 90 percent of the original principal amount. This means that the Agency will have a risk exposure under the GRRHP of approximately 80 percent of the total development cost. Any losses would be split on a pro-rata basis between the lender and the Agency from the first dollar lost.

II. Allocation

This NOFA announces the availability of approximately $10.44 million in Non-Interest Credit section 538 program dollars for FY 2000. There are no Interest Credit funds remaining for FY 2000. Responses requesting interest credit assistance will not be considered in this NOFA. The Fiscal Year (FY) 2000 budget authority provided approximately $100 million in program dollars. Approximately $89.56 million dollars in NOFA awards have been awarded to date and all interest credit funds have been expended. FY 2000 funds will be held in the National Office. There are no set-asides or demonstration purposes for the GRRHP for FY 2000.

III. Application Process

Lenders should respond to section 538 NOFA's only when they have completed a preliminary underwriting analysis and are willing to make the proposed loan subject only to the issuance of a guarantee by the Agency. Unfortunately, the Agency has found that in some instances, this has not been the case. In an effort to reduce the number of unacceptable NOFA responses and judiciously commit program dollars to projects that demonstrate a readiness to proceed, the Agency will strictly adhere to the submission requirements.

In the interest of time, lenders have the option of submitting a combined NOFA response and application. However, the Agency will not give preference to a submission containing both a NOFA response and an application. Lenders who submit complete applications are encouraged, but not required, to include a checklist and to have their applications indexed and tabbed to facilitate the review process.

Upon notice of selection, lenders with the top ranked NOFA responses will be requested to submit the required application fee of $2,500.00 and full application if not already submitted. When the conditions of the conditional commitment are met, the lender will submit the required information with a separate guarantee fee of 1% of the total guarantee amount.

IV. Submission Requirements

NOFA submission requirements are subject to change and it is important to note that all responses must be submitted in accordance with the terms of this NOFA which are different from the last published NOFA.

Incomplete submissions will not be considered, and the lender will be notified of the reason the response was incomplete. The required information is listed as follows:

A. The Project

(1) A brief description of the proposed location of the project, including town, county, state, and congressional district.

(2) A description of the property and improvements, including lot size, number of units and bids, building type, type of construction, etc., including preliminary drawings, if available.

(3) The proposed development schedule.

(4) Total project development cost.

(5) The proposed rent structure and area median income—(HUD published area median incomes can be found online at http://www.huduser.org).

(6) Evidence of site control by the proposed borrower or a purchase option.

(7) Description of any environmental issues that may affect the project.

(8) Amount of loan to be guaranteed.

B. The Proposed Financing

(1) Proposed loan amount and the proposed borrower's equity.

(2) Estimated development budget (total and cost per unit), and the proposed sources and uses of funds. This information should include all proposed financing sources—the amount, type, rates and terms of loans, tax credits, or grant funds. Letters of application and commitment letters should be included, if available.

(3) Estimated loan-to-value ratio for guaranteed loan.

(4) Proposed Agency guarantee percentage for guaranteed loan (under no condition can the percentage exceed 90 percent of the loan amount).

(5) Collateral—all security, in addition to the real property, proposed to secure the loan.

C. The Proposed Borrower

(1) The name of the borrower and the type of ownership entity—list the general partners if a limited partnership, officers if a corporation or members of an LLC.

(2) Borrower's contact name, mailing address, phone and fax numbers, and e-mail address.

(3) Statement of borrower's housing development experience.

D. Lender Eligibility and Approval Status

Evidence that the lender is either an approved lender for the purposes of the GRRHP or that the lender is eligible to apply for approved lender status as defined in paragraph VII(D) of this NOFA. The application for lender approval must be made at the same time as the first loan application.

E. Competitive Criteria

Information that shows how the proposal is responsive to the selection criteria specified in the NOFA. (See paragraph V of this NOFA).

F. Lender Certification

A commitment letter or certification by the lender that will make a loan to the borrower for the proposed project, under specified terms and conditions subject only to the issuance of a guarantee by the Agency. The lender certification must be on the lender's letterhead, and be signed by both the lender and the applicant, and be submitted by the lender to the Agency.

V. Competitive Criteria

In order to expedite the review of the applications, RHS suggests using the following sample NOFA response checklist to ensure that you have addressed all the submission requirements and competitive criteria of this NOFA.

BILLING CODE 3410–XV–U

loans?	VII(D) of this NOFA.
Lender Certification	Attach relevant information.
EZ/EC	Yes or No Is the project in EZ/EC community?
Colonia Or Tribal Lands	Yes or No Is the project in a Colonia or on an Indian Reservation?
Population	Must be within the 20,000 population limit set for the program.
Is A Guarantee For Construction Advances Being Requested?	Yes or No (The Agency will guarantee construction advances, only as part of a combination construction and permanent loan).
Loan Term	Fixed rate, up to a 40 year term, must be fully amortizing, i.e., balloon mortgages are not eligible.
Basis Points Over 30 Year Treasury	Insert relevant number.

BILLING CODE 3410–XV–C

VI. Selection Criteria

NOFA proposals will be reviewed as received. Priorities will be assigned to eligible proposals on the basis of the following criteria as contained in 7 CFR 3565.5(b), and points will be assigned as follows:

(A) Projects located in rural communities with the smallest population will receive priority. All proposals will be ranked in order of their population. The proposals will be given a point score starting with the project located in the area with the lowest population receiving 20 points, the next 19 points and so forth, until up to 20 projects have received points.

(B) The most needy communities as determined by the median income from the most recently available census data. The proposals will be given a point score starting with the community having the lowest median income receiving 20 points, the next 19 points and so forth until up to 20 proposals have received points.

(C) Partnering and leveraging in order to develop the maximum number of housing units and promote partnerships with state and local communities, including other partners with similar housing goals. Leveraging points will be awarded as follows:

Loan to value ratio (percentage %)	Points
More than 75	10
70–75	15
Less than 70	20

(D) Loans with interest rates less than the maximum allowable 250 basis points over the 30 Year Treasury Rate will be awarded points as follows (fractional basis points will be rounded to the nearest whole basis point):

Interest rate	Points
More than 200 basis points	0
200 to 151 basis points, inclusive	5
150 to 100 basis points, inclusive	10
99 to 50 basis points, inclusive	15
Less than 50 basis points	20

(E) Preference will be given to proposals having a higher percentage of 3–5 bedroom units to total units. The proposals will be ranked in order of this percentage with the proposal with the highest percent receiving 20 points, the next 19 points and so forth until up to 20 projects have received points.

(F) Proposals to be developed in a colonia, on tribal land, in an Empowerment Zone or Enterprise Community, or in a place identified in the State consolidated plan or State needs assessment as a high need community for multifamily housing (20 points).

(G) Projects will be ranked by the length of the amortization period, with the longest receiving priority as follows:

Amortization (Yrs.)	Points
40	20
At least 35	15
At least 30	10
At least 20	5
Less than 20	0

VII. Additional Information

A. Maximum Interest Rate

The maximum allowable interest rate on a loan submitted for a guarantee is 250 basis points over the 30-year Treasury Bond Yield as published in the Wall Street Journal as of the business day prior to the business day the rate is set.

B. Surcharges for Guarantee of Construction Advances

There is no surcharge for guarantee of construction advances for FY 2000.

C. Program Fees for FY 2000

(1) There is an initial guarantee fee for 1% of the total guarantee amount which will be due when the loan guarantee is issued. For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

(2) There is an annual renewal fee of 0.5% of the guaranteed outstanding principal balance charged each year or portion of the year that the guarantee is in effect. This fee will be collected prospectively on January 1, of the calendar year.

(3) There is no fee for site assessment and market analysis for preliminary feasibility in FY 2000.

(4) There is a non-refundable application fee of $2,500 when the application is submitted following proposal selection under the NOFA.

(5) There is a flat fee of $500 when a lender requests RHS to extend the term of a guarantee commitment.

(6) There is a flat fee of $500 when a lender requests RHS to reopen a guarantee commitment after the period of the commitment lapses.

(7) There is a flat fee of $1,250 when a lender requests RHS to approve the transfer of property and assumption of the loan to an eligible applicant.

D. Eligible Lenders for Section 538 Approval

The application for lender approval must be made at the same time as the

first loan application. The first loan application means: (1) The first application for a loan guarantee for a new loan; or (2) The first application before ownership of any GRRHP loan is transferred to that lender. A lender must be approved before a loan guarantee is issued or a guaranteed loan is acquired.

An eligible lender must be a licensed business entity or Housing Finance Authority (HFA) in good standing in the state or states where it conducts business; be approved by the Agency; and meet at least one of the criteria contained below. Lenders who are not eligible may participate in the program if they maintain a correspondent relationship with a lender who is eligible. An eligible lender must:

(a) Meet the qualifications of, and be approved by, the Secretary of Housing and Urban Development to make multifamily housing loans that are to be insured under the National Housing Act;

(b) Meet the qualifications and be approved by Fannie Mae or Freddie Mac to make multifamily housing loans that are to be sold to such corporations;

(c) Be a state or local HFA, or a member of the Federal Home Loan Bank system, with a demonstrated ability to underwrite, originate, process, close, service, manage, and dispose of multifamily housing loans in a prudent manner;

(d) Be a lender who meets the requirements for Agency approval contained in 7 CFR part 3565 subpart B and has a demonstrated ability to underwrite, originate, process, close, service, manage, and dispose of multifamily housing loans in a prudent manner; or

(e) Be a lender who meets the following requirements in addition to the other requirements of 7 CFR part 3565 subpart B and of subpart I:

(1) Have qualified staff to perform multifamily housing servicing and asset management;

(2) Have facilities and systems that support servicing and asset management functions; and

(3) Have documented procedures for carrying out servicing and asset management responsibilities.

Dated: September 7, 2000.

James C. Kearney,

Administrator, Rural Housing Service.

[FR Doc. 00–23504 Filed 9–12–00; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF THE INTERIOR

Office of the Secretary

John H. Chafee Blackstone River Valley National Heritage Corridor Commission; Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, September 28, 2000.

The Commission was established pursuant to Public Law 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7 p.m. at the Slatersville Congregational Church for the following reasons:

1. Approval of Minutes
2. Chairman's Report
3. Executive Director's Report
4. Environmental Subcommitte Report
5. Public Input

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Michael Creasey, Executive Director, John H. Chafee, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762–0250.

Further information concerning this meeting may be obtained from Michael Creasey, Executive Director of the Commission at the aforementioned address.

Michael Creasey,

Executive Director BRVNHCC.

[FR Doc. 00–23414 Filed 9–12–00; 8:45 am]

BILLING CODE 4310–RK–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Export Administration; Notice of Partially Closed Meeting

The President's Export Council Subcommittee on Export Administration (PECSEA) will meet on October 3, 2000, 9 a.m., at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The PECSEA provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

Public Session

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Update on Administration export control initiatives.

4. Task Force reports.

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the PECSEA. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSEA members, the PECSEA suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

A Notice of Determination to close meetings, or portions of meetings, of the PECSEA to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 25, 1999, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information, contact Ms. Lee Ann Carpenter on (202) 482–2583.

Dated: September 7, 2000.

Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 00–23480 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

(Docket 53–2000)

Proposed Foreign-Trade Zone—Seminole County, Florida Area; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Sanford Airport Authority, to establish a general-purpose foreign-trade zone at sites in the Seminole County, Florida area, within the Sanford Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 5, 2000. The applicant is authorized to make the proposal under Section 288.36., Florida Statutes Annotated (1997).

The proposed zone would consist of sites covering 2,436 acres in the Seminole County area: *Site 1* (1,800 acres)—Orlando Sanford Airport/Airport Commerce Park, One Red Cleveland Boulevard at the east end of Lake Mary Boulevard, Sanford; *Site 2* (53 acres)—Technology Park, Lake Emma Drive and San Pond Road, Lake Mary; *Site 3* (126 acres)—Port of Sanford, on the St. Johns River, Kastner Place and Orange Boulevard, Sanford; *Site 4* (33 acres)—Northstar Business Park, 100 Central Park Drive, Sanford; *Site 5* (247 acres)—Silver Lake Industrial Park, 1700–2100 Lake Mary Boulevard, Sanford; *Site 6* (25 acres)—Sanford Commerce Park, 100 Commerce Way, Sanford; *Site 7* (138 acres)—Sanford Central Park, Upsala Road and Coastline Road, Sanford; and, *Site 8* (14 acres)—Oviedo Business Park, Aulin Avenue and Kane Street, Oviedo. *Site 1* is owned by the City of Sanford and Site 3 is owned by the Seminole County Port Authority and The Briar Corporation. The remainder of the sites involve privately-owned industrial parks.

The application indicates a need for additional foreign-trade zone services in the Seminole County area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as architectural hardware, computer software, electronics, interior fire suppression sprinkler systems and specialized glass products. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on October 11, 2000, at 9 a.m., Orlando Sanford Airport, Board Room, One Red Cleveland Boulevard, Sanford, Florida 32773.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 13, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 27, 2000).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Orlando Sanford Airport, Marketing & Properties Department, One Red Cleveland Blvd., Suite 200, Sanford, FL 32773.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce 14th and Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: September 6, 2000.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 00–23543 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A 588 845]

Stainless Steel Sheet and Strip in Coils From Japan: Notice of Initiation and Preliminary Results of Changed Circumstance Antidumping Duty Review, and Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstance antidumping duty review, and intent to revoke order in part.

EFFECTIVE DATE: September 13, 2000.

SUMMARY: On August 1, 2000, the Department of Commerce (''Department'') received a request on behalf of General Chemical Corporation, and its subsidiary, Printing Developments, Inc., (''PDI'') for a changed circumstance antidumping duty (''AD'') review and an intent to revoke in part the AD order with respect to specific stainless steel and strip from Japan. The Department received a letter on August 16, 2000, from Allegheny Ludlum, AK Steel (formerly Armco, Inc.), Washington Steel Division of Bethlehem Steel Corporation (formerly Lukens, Inc.), the United Steelworkers of America, AFL–CIO/CLC, the Butler Armco Independent Union and the Zanesville Armco Independent Organization, Inc. (''petitioners'') indicting that they do not oppose PDI's request for revocation in part of the order pursuant to a changed circumstance review with respect to the subject merchandise defined in the Scope of the Review section below. Based on this expression of no interest we are initiating a changed circumstance review and preliminary determine that the AD order should be revoked in part with respect to that product.

Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or James C. Doyle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–6412 and (202) 482–0159, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 1999).

Background

On July 27, 1999, the Department published the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order on stainless steel sheet and strip from Japan (64 FR 40565).

On August 1, 2000, PDI requested revocation in part of the antidumping order pursuant to section 751(b)(1) of the Act and § 351.216(b) of the Department's regulations with respect to specific stainless steel sheet and strip in coils from Japan, as described below. PDI further requested that revocation be effective for all unliquidated entries on or after the date of publication of the Department's January 4, 1999 preliminary less than fair value

(''LTFV'') determination (64 FR 108). On August 29, 2000, petitioners indicated that they do not oppose this request for revocation in part, as noted above.

Scope of the Review

The product covered by this exclusion request is certain stainless steel lithographic sheet. This sheet is made of 304-grade stainless steel and must satisfy each of the following specifications. The sheet must: (1) Have an ultimate tensile strength of minimum 75 KSI; (2) a yield strength of minimum 30 KSI; (3) a minimum elongation of 40 percent; (4) a coil weight of 4,000–6,000 lbs.; (5) a width tolerance of −0/+0.0625 inch and (6) a gauge tolerance of +/−0.001 inch. With regard to flatness; (7) the wave height and wave length dimensions must correspond to both edge wave and center buckle conditions; (8) the maximum wave height shall not exceed 0.75 percent of the wave length or 3 mm (0.118 inch), whichever is less, and (9) the wave length shall not be less than 100 mm (3.937 inch). With regard to the surface, (10) the surface roughness must be RMS (RA) 4–8; (11) the surface must be degreased and no oil will be applied during the slitting operation; (12) the surface finish shall be free from all visual cosmetic surface variations or stains in spot or streak form that affect the performance of the material; (13) no annealing border is acceptable; (14) the surface finish shall be free from all defects in raised or depression nature (*e.g.* scratches, gouges, pimples, dimples, etc.) exceeding 15 microns in size and with regard to dimensions; (15) the thickness will be .0145+/−.001 and the widths will be either 38″, 38.25″, or 43.5″ and the thickness for 39″ material will be 0118 +/−.001 inches.

Initiation and Preliminary Results of Changed Circumstance AD Review, and Intent To Revoke Order in Part

At the request of PDI, and in accordance with sections 751(d)(1) and 751(b)(1) of the Act and section 351.216 of the Department's regulations, the Department is initiating a changed circumstance review of stainless steel sheet and strip from Japan to determine whether partial revocation of the antidumping order is warranted with respect to the stainless steel sheet and strip subject to this request. Section 782(h)(2) of the Act and § 351.222(g)(l)(1) of the Department's regulations provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In addition, in the event the Department determines that expedited action is warranted, section 351.221(c)(3)(ii) of the regulations permits the Department to combine the notices of initiation and preliminary results.

In accordance with section 751(b) of the Act, and § § 351.222(g)(l)(1) and 351.221(c)(3) of the Department's regulations, we are initiating this changed circumstance review and have determined that expedited action is warranted. Our decision to expedite this review stems from the domestic industry's lack of interest in applying the antidumping order to the specific stainless steel sheet and strip covered by this request. Additionally, in accordance with § 351.216(c) we find that the petitioners' affirmative statement of no interest constitutes good cause for the conduct of this review.

Based on the expression of no interest by petitioners and absent any objection by any other domestic interested parties, we have preliminarily determined that substantially all of the domestic producers of the like product have no interest in continued application of the AD order to the stainless steel sheet and strip subject to this request. Therefore, we are notifying the public of our intent to revoke, in part, the AD order as it relates to imports of the merchandise described above from Japan.

Public Comment

Interested parties may submit case briefs and/or written comments no later than 14 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 21 days after the date of publication. The Department will issue the final results of this changed circumstance review, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which this review was initiated, or written 45 days if all parties agree to our preliminary determinations. *See* § 351.216(e) of the Department's regulations.

If final revocation occurs, we will instruct the U.S. Customs Service to end the suspension of liquidation for the merchandise covered by the revocation effective on or after January 4, 1999, the date of publication of the Department's preliminary LTFV determination (64 FR 108) and to release any cash deposit or bond. *See* § 351.222(g)(4) of the Department's regulations. The current requirement for a cash deposit of estimated AD duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstance review.

This initiation of review and notice are in accordance with sections 751(b) of the Act (19 U.S.C. 1675(b)) and 19 C.F.R. 351.216, 351.221, and 351.222.

Dated: September 15, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–23540 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Lehigh University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 00–017. *Applicant:* Lehigh University, Bethlehem, PA 18015. Instrument: Raman Fiber Laser. *Manufacturer:* Optocom Innovation, France. *Intended Use:* See notice at 65 FR 47404, August 2, 2000.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) Pump power of 2.0 W, (2) a wavelength of 1500 μm and (3) FWHM of 1.5 @ 2.0 nm. A domestic manufacturer of similar equipment advised August 31, 2000 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 00–23541 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois at Urbana-Champaign; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 00–019. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* E-beam Evaporator and Flux Controller, Model EGN4. *Manufacturer:* Oxford Applied Research, United Kingdom. *Intended Use:* See notice at 65 FR 47405, August 2, 2000.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides simultaneous loading of four different types of charges so that multi-layer thin film deposition is possible without breaking vacuum. A university research laboratory advised August 31, 2000 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 00–23542 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032800C]

Fisheries of the Exclusive Economic Zone off Alaska; Groundfish of the Gulf of Alaska; Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of an exempted fishing permit.

SUMMARY: NMFS announces the issuance of an exempted fishing permit (EFP) 00-01 to Groundfish Forum, Inc., and the At-sea Processors Association (applicants). The EFP authorizes the applicants to conduct an experiment in the Gulf of Alaska (GOA) and the Bering Sea that will test the effectiveness of a halibut excluder device for Pacific cod trawls in reducing halibut bycatch rates without significantly lowering catch rates of cod. This EFP is necessary to provide information not otherwise available through research or commercial fishing operations. The intended effect of this action is to promote the purposes and policies of the Magnuson-Stevens Fishery Conservation and Management Act.

ADDRESSES: Copies of the EFP and the Environmental Assessment (EA) prepared for the EFP are available from Lori J. Gravel, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Nina Mollett, 907-586-7462.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area authorize the issuance of EFPs to fish for groundfish in a manner that would otherwise be prohibited under existing regulations. The procedures for issuing EFPs are set out at 50 CFR 679.6.

On April 11, 2000, NMFS announced in the **Federal Register** the receipt of an application for an EFP from the applicants (65 FR 19363). The applicants requested authorization to test the effectiveness of a halibut excluder device intended to reduce halibut bycatch rates in the Pacific cod trawl fishery, without lowering the catch of Pacific cod. The purpose of this research is to assist industry in developing gear modifications that will reduce the bycatch of halibut in the cod fisheries off Alaska. This EFP will provide information not otherwise available through research or commercial fishing operations because it is not economically feasible for vessels to participate in an experiment of this extent and rigor during the commercial fisheries.

The Administrator, Alaska Region, NMFS (Regional Administrator), has approved the EFP application and has issued EFP 00-01 to the applicants. The experiment will take place in two parts. Part A will be conducted by a head-and-gut catcher/processor vessel in the GOA in September 2000. The rationale for the timing is that few options exist for open access fishing in the fall, and participating vessels would have a low opportunity cost. Part B will be conducted by a pollock/cod fillet catcher/processor vessel in the Bering Sea in March 2001, during or following the winter cod fishery.

Vessels wishing to participate in the experiment have submitted or will submit applications that include fishing plans describing the vessel's observer sampling facilities, the general area to be fished, number of tows expected per day, the proposed coordination of observer sampling and deck crew duties during the experiment, and the number of observers (from one to three, subject to NMFS approval).

The vessel for Part A was chosen by a NMFS panel headed up by a NMFS gear expert working with the applicants on this experiment. The vessel for Part B will be a member of the pollock fishery cooperative associated with the At-sea Processors Association (the Pollock Conservation Cooperative). Selection of the vessel will be made by the cooperative, subject to approval by NMFS of the fishing plan and number of observers.

Each part of the experiment will consist of 30 tows. At a rate of 4-5 tows per day, each of the two parts will take 7-10 days to complete. Groundfish and prohibited species catch amounts authorized under the EFP will not be deducted from total allowable catch or prohibited species catch allowances specified for the 2000-2001 groundfish fisheries. This will not cause a conservation problem because estimated total removals under the EFP are within acceptable levels biologically and will not cause the fishery to exceed overfishing levels already considered in the EA for the 2000 specifications.

The EFP authorizes taking up to 396 metric tons (mt) of groundfish in the GOA and 594 mt of groundfish in the Bering Sea, principally cod. Vessels selected for participation will retain all cod and pollock and may retain other groundfish species in accordance with the maximum retainable incidental catch amounts at 50 CFR 679.20(e) and (f), using only cod as the basis species.

The authorized halibut bycatch for this experiment is 47 mt in the GOA and 12 mt in the Bering Sea. Based on the assumed 2000 halibut mortality rates for the GOA cod fishery (63 percent) and the Bering Sea cod fishery (66 percent)(65 FR 8298, February 18, 2000; and 65 FR 8282, February 18, 2000, respectively), these amounts are

equivalent to 30 mt of halibut mortality in the GOA and 8 mt of halibut mortality in the Bering Sea. Halibut catch will be measured through a census conducted while deck sorting halibut under the direction of NMFS-certified observers. The applicants expect that this process will enable halibut mortality from the experiment to be lower than the estimated rates for the Pacific cod trawl fisheries.

Bering Sea crab bycatch will not exceed 2,500 *C. bairdi* crab, 600 *C.opilio* crab or 75 red king crab. In the GOA, the bycatch of *C. bairdi*will be limited to 200 crab. Trace amounts of red king crab bycatch may occur in the GOA. Although such small amounts of crab do not warrant a specified bycatch allowance, the EFP could be amended to establish one if bycatch is higher than anticipated.

The researchers will use a recapture bag, as opposed to doing blocks of similar tows to measure the effects of using an excluder device. The latter method was used by Groundfish Forum, Inc., in a similar experiment conducted in 1998 to develop a halibut excluder device for the deepwater flatfish fisheries. The recapture bag is considered a more powerful design than paired tows for assessing the efficacy of an excluder, but increases the amount of labor and dedicated staff needed to collect the required data from each tow and to get halibut overboard with minimal mortality.

The prototype device was developed during a research trip conducted in July 2000 by a NMFS gear specialist. The researchers' goal is to develop a device with the following characteristics:

1. It will release a large percentage of the halibut that come into the trawl;
2. It will avoid significant reductions in target catch;
3. It will function with limited failures or breakages;
4. It will be resistant to clogging and debris jams;
5. It will be durable and easily stored on deck;
6. It will be constructed from affordable materials that are readily available.

The Regional Administrator may terminate the experiment if prohibited species bycatch exceeds the high-end projections of the permit applicants. The experiment may not be conducted in Steller sea lion critical habitat (as defined at 50 CFR 226.202) in the Bering Sea and in the GOA west of 144° W. long.

Failure of the permittees to comply with the terms and conditions of the EFP and all applicable provisions of 50 CFR parts 600 and 679, the Magnuson-Stevens Act, or any regulations promulgated thereunder, or any other applicable laws, may be grounds for revocation, suspension or modification of this permit as well as civil or criminal sanctions imposed under those laws.

Classification

NMFS prepared an EA for this EFP. The Assistant Administrator for Fisheries, NOAA, concluded that no significant impact on the human environment will occur as a result of fishing under this EFP. A copy of the EA is available from NMFS (see **ADDRESSES**). The Regional Administrator determined that fishing activities conducted pursuant to this EFP will not affect endangered and threatened species or critical habitat under the Endangered Species Act, and that a consultation is not required under the essential fish habitat provisions of the Magnuson-Stevens Act.

This notice is exempt from review under Executive Order 12866. It also is exempt under the Regulatory Flexibility Act (RFA) because prior notice and opportunity for public comment are not required. Therefore, the analytical requirements of the RFA are inapplicable.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 8, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–23533 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081700C]

Marine Mammals; File No. 779-1339-02

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL 33149 (Principal Investigator: Dr. Keith D. Mullin) has been issued an amendment to scientific research Permit No. 779-1339.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713-2289);

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432 (813/570-5312); and

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, (978/281-9250).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Simona Roberts, 301/713-2289.

SUPPLEMENTARY INFORMATION: On July 11, 2000, notice was published in the **Federal Register** (65 FR 42676) that an amendment of Permit No. 779-1339, issued July 8, 1997 (62 FR 38069), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit 779-1339 authorized the Holder to: (1) harass cetaceans for the purpose of estimating abundance, collecting behavioral data, photography and biopsy sampling, and (2) collect and import biopsy tissue samples taken with a projectile dart from cetaceans. The amendment increased the number of animals that could be biopsy sampled annually.

Issuance of this amendment, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 7, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–23534 Filed 9–12–00; 8:45 am]

BILLING CODE 3510–22–S

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board (TTAB) Actions (formerly Petition to Cancel a Trademark Registration)

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its

continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 13, 2000.

ADDRESSES: Direct all written comments to Thao P. Nguyen, Acting Records Officer, Office of Data Management, Data Administration Division, (703) 308–7397, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ellen J. Seeherman, United States Patent and Trademark Office (USPTO), Washington, DC 20231, by telephone at (703)308–9300 (ext 206).

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by Section 13 of the Trademark Act, 15 U.S.C. 1063, and Section 14 of the Trademark Act, 15 U.S.C. 1064. The Act provides for the Federal registration of trademarks and service marks. Any individual or entity that adopts a trademark or service mark to identify its goods or services may apply to federally register its mark. Section 14 of the Trademark Act allows individuals and entities to file a petition to cancel a registration of a mark. Section 13 of the Trademark Act allows individuals and entities who believe that they would be damaged by the registration of a mark to file an opposition to the registration of a mark.

The United States Patent and Trademark Office (USPTO) administers the Trademark Act according to 37 CFR Part 2, which contains the rules that implement the Trademark Act. 37 CFR Sections 2.111 and 2.112 govern the filing of a Petition to Cancel. 37 CFR Sections 2.101, 2.102 and 2.104 govern the filing of an opposition to the registration of a trademark. Petitions to cancel a trademark registration and oppositions are filed with the Trademark Trial and Appeal Board (TTAB).

II. Method of Collection

By mail, facsimile, or hand carry when the applicant or agent files a petition to cancel a trademark registration or an opposition to the registration of a trademark with the United States Patent and Trademark Office (USPTO).

III. Data

OMB Number: 0651–0040.
Form Number(s): N/A.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; business or other non-profit; not-for-profit institutions; farms; the Federal Government; and state, local or tribal government.

Estimated Number of Respondents: 61,572 responses per year. The USPTO estimates that of this total, 1,709 petitions to cancel a trademark registration, 9,863 notices of opposition, and 50,000 extensions of time to file an opposition will be submitted per year.

Estimated Time Per Response: The USPTO estimates that it will take the public 45 minutes to complete a petition to cancel a trademark registration, 45 minutes to complete a notice of opposition, and 10 minutes to complete an extension of time to file an opposition. This includes time to gather the necessary information, create the documents, and submit the completed request.

Estimated Total Annual Respondent Burden Hours: 17,179 hours per year.

Estimated Total Annual Respondent Cost Burden: $0 (no capitol start-up or maintenance expenditures are required). Using the professional hourly rate of $175 per hour for associate attorneys in private firms, the USPTO estimates $3,006,325 per year for salary costs associated with respondents.

Item	Estimated time for response	Estimated annual burden hours	Estimated annual responses
Petition to Cancel	45 minutes	1,282	1,709
Notice of Opposition	45 minutes	7,397	9,863
Extension of Time to File an Opposition	10 minutes	8,500	50,000
Total		17,179	61,572

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 5, 2000.

Thao P. Nguyen,

Acting Records Officer, USPTO, Office of Data Management, Data Administration Division.

[FR Doc. 00–23413, Filed 9–12–00; 8:45 am]

BILLING CODE: 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Ballistic Missile Defense Advisory Committee

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Ballistic Missile Defense (BMD) Advisory Committee will meet in closed session at the Ritz-Carlton Pentagon City, 1250 South Hayes Street, Arlington, Virginia 22202, on September 25–26, 2000.

The mission of the BMD Advisory Committee is to advise the Secretary of Defense and Deputy Secretary of Defense, through the Under Secretary of Defense (Acquisition, Technology, and Logistics), on all matters relating to BMD acquisition, system development, and technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended by 5 U.S.C., Appendix II, it is hereby determined that this BMD Advisory Committee meeting concerns matters listed in 5 U.S.C., 552b(c)(1), and that

accordingly this meeting will be closed to the public.

Dated: September 7, 2000.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–23426 Filed 9–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Historical Records Declassification Advisory Panel

AGENCY: Historical Advisory Committee, DOD.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of the forthcoming meeting of the Historical Records Declassification Advisory Panel (HRDAP). The purpose of this meeting is to discuss recommendations to the Department of Defense on topical areas of interest that, from a historical perspective, would be of the greatest benefit to the public if declassified. This is the second session held in 2000. The OSD Historical will chair this meeting.

DATES: Tuesday, September 26, 2000.

TIME: The meeting is scheduled 9 a.m. to 3 p.m.

ADDRESSES: The National Archives Building, Room 105, 7th and Pennsylvania Avenue, NW., Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Ross, Room 1D760B, Office of the Deputy Assistant Secretary of Defense (Security and Information Operations), Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), 6000 Defense Pentagon, Washington, DC 20302–6000, telephone (703) 614–5995.

Dated: September 7, 2000.

Linda Bynum,

Alternate OSD Federal Register Liaison, Department of Defense.

[FR Doc. 00–23428 Filed 9–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Improving Fuel Efficiency of Weapons Platforms

ACTION: Notice of meeting.

SUMMARY: The Defense Science Board Task Force on Improving Fuel Efficiency of Weapons Platforms will meet in closed session on September 19–20, 2000, at the Massachusetts Institute of Technology, Amherst E40–55, Cambridge, MA 30332–0801.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, The Task Force will review fuel-efficient technologies, including new or improved fuels, engines, Alternative Fueled Vehicles, and other advanced technologies and assess their operational, logistical, cost, and environmental impacts for a range of practical implementation scenarios.

Persons interested in further information should call Commander Brian D. Hughes, USN, at (703) 695–4157.

Dated: September 7, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–23427 Filed 9–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Fall 2000 Conference Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense, Advisory Committee on Women in the Services.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming semiannual conference of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of Fall 2000 DACOWITS Conference is to assist the Secretary of Defense on matters relating to women in the Services. Conference sessions will be held daily and will be open to the public, unless otherwise noted below.

DATES: October 18–22, 2000.

ADDRESSES: Luxor Las Vegas, 3900 Las Vegas Blvd., South, Las Vegas, NV; telephone: (702) 262–4606.

FOR FURTHER INFORMATION CONTACT: MAJ Susan E. Kolb, ARNG or MSG Verena Sander, USA, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: The following rules will govern the participation by members of the public at the conference:

(1) Members of the public will not be permitted to attend the OSD Reception and Dinner and Conference Field Trip.

(2) The Opening Session, General Session, all subcommittee sessions and the Voting Session will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral presentation of such during the conference.

Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed above no later than October 13, 2000.

(5) Length and number of oral presentations to be made will depend on the number of requests received from members of the public.

(6) Oral presentations by members of the public will be permitted only on Sunday, October 22, 2000, before the full Committee.

(7) Each person desiring to make an oral presentation must provide the DACOWITS office with one (1) copy of the presentation by October 13, 2000 and bring 175 copies of any material that is intended for distribution at the conference.

(8) Persons submitting a written statement for inclusion in the minutes of the conference must submit to the DACOWITS staff one (1) copy of the statement by the close of the conference on Sunday, October 22, 2000.

(9) Other new items from members of the public may be presented in writing to any DACOWTIS member for transmittal to the DACOWITS chair or Military Director, DACOWITS and Military Women Matters, for consideration.

(10) Members of the public will not be permitted to enter oral discussions conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee. After the official participants have asked questions and/or made comments to the scheduled speakers, members of the public will be permitted to ask questions if recognized by the Chair and if time allows.

(11) Non-social agenda events that are not open to the public are for administrative matters unrelated to substantive advice provided to the Department of Defense and do not involve DACOWITS deliberations or decision-making issues before the Committee.

Conference sessions will be conducted according to the following agenda:

Wednesday, October 18, 2000

Conference Registration
Field Trip (DACOWITS Members Only)
Subcommittee Rules and Procedures Meeting (DACOWITS Members Only)
Military Representatives Meeting (Military Representatives Only)
Social (Invited Guests Only)

Thursday, October 19, 2000

Breakfast (DACOWITS Members and Military Representatives Only)
Opening Session and General Session (Open to Public)
OSD Luncheon (Invited Guests Only)
Subcommittee Sessions (Open to Public)

Friday, October 20, 2000

Subcommittee Sessions (Open to Public)
Luncheon (Paid Registered Conference Participants Only)
Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)
OSD Reception and Dinner (Invited Guests Only)

Saturday, October 21, 2000

Subcommittee Sessions (Open to Public)
Tri-committee Review (Open to Public)
Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)
Strategic Planning Meeting (DACOWITS Members Only)

Sunday, October 22, 2000

Voting Session (Open to Public)

Dated: September 7, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–23429 Filed 9–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory 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 November 13, 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, Regulatory 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: September 7, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.
Title: National Assessment of Educational Progress (NAEP) Technology Based Assessment Project, Pretest and Field Test.
Frequency: Pilot and field test.
Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 5,750.
Burden Hours: 1,438.
Abstract: The NAEP Technology Based Assessment Project (TBA) is meant to explore the feasibility and best methods for assessing mathematics and writing on line. It is also intended to explore students' abilities to solve problems in technology-rich environments. It is anticipated that in the future such technology-based assessments will reduce assessment burden by allowing, among other things, for online administration and scoring of assessment instruments. The pilot study uses background questions and items from suitable subject questionnaires, including questions about computer use that are currently cleared for other NAEP studies.

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 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her internet address Kathy_Axt@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. 00–23457 Filed 9–12–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory 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 November 13, 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, Regulatory 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: September 7, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Redesignation of Students Served by Title VII Projects.

Frequency: One-time—will be replaced by new activity.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 642.

Burden Hours: 15,408.

Abstract: This activity will collect data on the time it takes for students served by Title VII local projects to be redesignated as English proficient or transitioned into mainstream programs. We will also collect some descriptive information on projects, and on characteristics of students that may be related to redesignation such as age and prior schooling.

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 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie_Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–23458 Filed 9–12–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[DE–PS07–01ID13965]

Idaho Operations Office; Notice of Availability of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of availability of solicitation number DE–PS07–01ID13965—Nuclear Engineering Education Research (NEER) Program.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, is soliciting applications for awards of financial assistance (*i.e.*, grants) for state-of-the-art research that contributes to any of the following eight areas: reactor physics; reactor engineering; nuclear materials research; radiological engineering; radioactive waste management; applied radiation science; nuclear safety and risk analysis; and innovative technologies for next generation reactors, space nuclear power and propulsion applications and the development of new radiation sources. The issuance date of Solicitation Number DE–PS07–01ID13965 will be September 13, 2000. The solicitation is available in its full text will be available on the Internet at the following URL address: *http://www.id.doe.gov/doeid/PSD/procdiv.html.* The deadline for receipt of applications will be approximately on November 16, 2000.

ADDRESSES: Applications should be submitted to: U.S. Department of Energy, INEEL, ATTN: Marie Warnick, P.O. Box 1625, Mail Stop 3860, Idaho Falls, Idaho 83415–3860.

FOR FURTHER INFORMATION CONTACT: Dallas L. Hoffer, Contract Specialist, *hofferdl@id.doe.gov*.

SUPPLEMENTARY INFORMATION: The solicitation was issued pursuant to 10 CFR 600.6(b). Eligibility for awards under this Nuclear Engineering Education Research (NEER) Program will be restricted to U.S. colleges and universities with nuclear engineering degree programs or options or an operating research reactor. The purpose of this NEER Program is to (1) support basic research in nuclear engineering; (2) assist in developing nuclear engineering students; and (3) contribute to strengthening the academic community's nuclear engineering infrastructure.

The statutory authority for this program is Public Law 95–91.

Issued in Idaho Falls on September 6, 2000.

Michael L. Adams,

Acting Director, Procurement Services Division.

[FR Doc. 00–23499 Filed 9–12–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: Subject to timely enactment of legislation to reinstate the antitrust defense under section 252 of the Energy Policy and Conservation Act, a meeting of the Industry Advisory Board to the International Energy Agency (IEA) will be held on September 20 and 21, 2000, at the headquarters of the IEA in Paris, France in connection with a meeting of the IEA's Standing Group on Emergency Questions.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: Subject to timely enactment of legislation to reinstate the antitrust defense under section 252 of the Energy Policy and Conservation Act (EPCA), the following meeting notice is provided, in accordance with section 252(c)(1)(A)(i) of the EPCA (42 U.S.C. 6272(c)(1)(A)(i)):

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Federation, Paris, France, on September 20 and 21, 2000, beginning at approximately 9 a.m. on September 20. The purpose of this notice is to permit attendance by representatives of U.S.

company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the IEA on September 20, including a preparatory encounter among company representatives on September 20 from approximately 9:00 a.m. to 9:30 a.m.

The Agenda for the preparatory encounter among company representatives is to elicit views regarding items on the SEQ's Agenda. The Agenda for the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following Agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 98th Meeting
3. SEQ Work Program
   —The Year 2001 Work Program of the SEQ
4. Treatment of Petroleum Coke with Respect to International Energy Program (IEP) Stockholding Commitments
   —Report to the SEQ by the Working Group on Petroleum Coke
   —Recommendations by the SEQ Chairman and the Secretariat for an SEQ Decision on Petroleum Coke
5. Policy and Legislative Developments in Member Countries
   —Recent Developments in EPCA
   —Developments in other IEA Countries
   —6. Emergency Response Reviews

Present Cycle

   —Emergency Response Review of the Slovak Republic
   —Schedule of Reviews

Design of New Cycle

   —First Draft of Questionnaire for Next Review Cycle
   —Co-ordination of Emergency Response Review with Comprehensive Country Reviews
7. Current IAB Activities (subject to reinstatement of EPCA's antitrust defense)
8. Report on Meeting of the Working Group on Unavailable Stocks of September 19
9. Emergency Response Procedures
   —Transition from CERM (Coordinated Emergency Response Measures) to IEP Procedures
10. Emergency Reserve Issues
   —Discussion of Compliance Issues at Governing Board Meeting of June 23, 2000 and Follow-up
   —Emergency Reserve and Net Import Situation of IEA Countries on July 1, 2000
   —Status of Stockholding Legislation in IEA Countries and Compliance Record since 1995
   —Emergency Reserve Situation of IEA Candidate Countries
   —Oil Stocks Outside the Organization for Economic Cooperation and Development/IEA
   —The Impact of Mega Mergers on Industry Stocks
11. Emergency Preparedness in Key non-Member Countries

Oral report on latest developments in China, India, Brazil and ASCOPE (ASEAN Council on Petroleum)

12. Emergency Data System and Related Questions
   —Monthly Oil Statistics May 2000
   —Monthly Oil Statistics June 2000
   —Base Period Final Consumption 3Q99—2Q00
   —Quarterly Oil Forecast, 2nd Quarter 2000, including Spare Oil Production Capacity in OPEC Countries
13. IEA Millennium Conference on Emergency Response Strategy
14. Emergency Reference Guide
   —Update of Emergency Contact Points List
15. Other Business
   —Dates of November and March Meetings

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel, representatives of members of the SEQ, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, D.C., September 7, 2000.

Mary Anne Sullivan,

General Counsel.

[FR Doc. 00–23524 Filed 9–12–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–533–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on September 5, 2000, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to become effective as indicated:

To Be Effective on March 27, 2000

Second Revised Sheet No. 638
Third Revised Sheet No. 640
Second Revised Sheet No. 645
Fourth Revised Sheet No. 647
Second Revised Sheet No. 649
Fourth Revised Sheet No. 650
Second Revised Sheet No. 651
First Revised Sheet No. 717

To Be Effective on October 1, 2000

Third Revised Sheet No. 633
Original Sheet No. 635A

Algonquin states that the purpose of this filing is to comply with the requirements of Order Nos. 637, 637–A and 637–B regarding the waiver of the rate ceiling for short-term capacity release transactions and the prospective limitations on the availability of the Right-of-First-Refusal.

Algonquin states that copies of the filing were mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23441 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–513–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

September 7, 2000.

Take notice that on August 31, 2000, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Sixteenth Revised Sheet No. 10, to be effective October 1, 2000.

CIG states that the purpose of this filing is to comply with its FERC Gas Tariff, First Revised Volume No. 1, Article 20.1 of the General Terms and Conditions. CIG states these tariff sheets reflect the requirements of its FERC Gas Tariff, Article 20.1 and relates to gas quality controls associated with volumes which are delivered on CIG's ''Valley Line''.

CIG states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 first Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23449 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–527–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

September 7, 2000.

Take notice that on August 31, 2000, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Eighteenth Revised Sheet No. 11A, with an effective date of October 1, 2000.

CIG states that filing tariff sheets is reflecting an increase in its fuel reimbursement percentage for Lost, Unaccounted-For and Other Fuel Gas from 0.70% to 0.71%, reflecting an increase in the fuel reimbursement percentage for Transportation Fuel Gas from 2.47% to 2.59%, and reflecting an decrease in the fuel reimbursement percentage for Storage Fuel Gas from 1.32% to 1.31% effective October 1, 2000.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies, and that the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 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 also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23452 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Regulatory Commission

[Docket No. RP–503–001]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on August 31, 2000, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, original Volume No. 1 the following revised tariff sheets to be effective March 27, 2000:

Substitute Sixth Revised Sheet No. 6

Crossroads indicated that the purpose of the filing is to correct a typographical error in one of the revised tariff sheets filed by Crossroads on August 21, 2000 to comply with the requirements of Order Nos. 637 and 637–A with respect to the revised rules governing capacity releases.

Any person desiring to be heard or to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to he taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23448 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–530–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on August 31, 2000, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of October 1, 2000:

Third Revised Sheet No. 6
First Revised Sheet No. 7
First Revised Sheet No. 250

DIGP states that the filing is being made pursuant to Section 154.402(c) of the Commission's Regulations pursuant to FERC Order No. 472 in Docket No. RM87–3–000. DIGP states that this is its first ACA charge filing, and that it has revised Sheet Nos. 6, 7 and 250 to reflect the ACA unit charge of $0.0022 per Dekatherm as specified by the Commission.

DIGP states that copies of the filing are being served on its customers and other interested parties.

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).

David P. Boergers,

Secretary.

[FR Doc. 00–23454 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–534–000]

East Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on September 5, 2000, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective as indicated:

To Be Effective on March 27, 2000

First Rev Fourth Revised Sheet No. 9
First Rev First Revised Sheet No. 134
Fourth Revised Sheet No. 140
First Rev Third Revised Sheet No. 141
First Rev Third Revised Sheet No. 143
First Rev First Revised Sheet No. 144
First Rev First Revised Sheet No. 147

To Be Effective on May 1, 2000

First Rev Fifth Revised Sheet No. 9
First Rev Second Revised Sheet No. 134
First Rev Fourth Revised Sheet No. 141
First Rev Fourth Revised Sheet No. 143
First Rev Second Revised Sheet No. 144
First Rev Second Revised Sheet No. 147

To Be Effective on October 1, 2000

Third Revised Sheet No. 115
Original Sheet No. 115A

East Tennessee states that the purpose of this filing is to comply with the requirements of Order No. 637 regarding the waiver of the rate ceiling for short-term capacity release transactions and the prospective limitations on the availability of the Right-of-First-Refusal.

East Tennessee states that copies of the filing were mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 384.214 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 maybe viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23442 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–532–000]

Eastern Shore Natural Gas Company; Notice of Refund Report

September 7, 2000.

Take notice that on September 5, 2000, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing a refund report for the period April 1, 1999 through March 31, 2000 in accordance with Sections 31 and 35 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Eastern Shore states that copies of this filing have been served upon Eastern Shore's customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23440 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–363–020]

El Paso Natural Gas Company; Notice of Report of Rate Refunds and Fuel Adjustments

September 7, 2000.

Take notice that on August 31, 2000, El Paso Natural Gas Company (El Paso) tendered for filing its Report of Rate Refunds and Fuel Adjustments at Docket No. RP95–363–002, *et al.*

El Paso states that the Report of Rate Refunds and Fuel Adjustments reflects that on August 1, 2000, El Paso distributed refunds totaling $3,584,943.81, inclusive of interest, to eligible shippers. The Report also reflects that on August 11, 2000, El Paso made adjustments to shippers' imbalance accounts for fuel charges assessed, as applicable, to reflect revised fuel charges for the period July 1, 1999 through June 30, 2000. The adjustments totaled 247,744 MMBtu owed to shippers.

El Paso states that copies of the document were served upon all affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before September 14, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://

www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23445 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–519–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on August 31, 2000, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective October 1, 2000:

Forty-First Revised Sheet No. 8A
Thirty-Third Revised Sheet No. 8A.01
Thirty-Third Revised Sheet No. 8A.02
Thirty-Seventh Revised Sheet No. 8B
Thirtieth Revised Sheet No. 8B.01

FGT states that the tariff sheets listed above are being filed pursuant to Section 27 of the General Terms and Conditions (GTC) of FGT's Tariff which provides for the recovery by FGT of gas used in the operation of its system and gas lost from the system or otherwise unaccounted for. The fuel reimbursement charges pursuant to Section 27 consist of the Fuel Reimbursement Charge Percentage (FRCP), designed to recover current fuel usage on an in-kind basis, and the Unit Fuel Surcharge (UFS), designed to recover or refund previous under or overcollections on a cash basis. Both the FRCP and the UFS are applicable to Market Area deliveries and are effective for seasonal periods, changing effective each April 1 (for the Summer Period) and each October 1 (for the Winter Period).

FGT states that it is filing herein to establish an FRCP of 3.14% to become effective October 1, 2000 based on the actual company fuel use, lost and unaccounted for volumes and Market Area deliveries for the period from October 1, 1999 through March 31, 2000. The proposed FRCP of 3.14%, to become effective October 1, 2000, is an increase of 0.15% from the currently effective FRCP of 2.99%. FGT is also filing herein to establish a Winter Period UFS of $0.0071 per MMBtu to become effective October 1, 2000, an increase of $0.0052 per MMBtu from the currently effective UFS of $0.0019.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23450 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–529–000]

Iroquois Gas Transmission System, L.P.; Notice of Tariff Filing

September 7, 2000.

Take notice that on September 1, 2000, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets with the proposed effective date of September 1, 2000.

Twenty-Eighth Revised Sheet No. 4
First Revised Sheet No. 84A
Second Revised Sheet No. 88
Third Revised Sheet No. 93A
Fourth Revised Sheet No. 94
Fourth Revised Sheet No. 95
First Revised Sheet No. 95A
Third Revised Sheet No. 96
First Revised Sheet No. 96A
Second Revised Sheet No. 97
Third Revised Sheet No. 102
Third Revised Sheet No. 105
Original Sheet No. 105A
Fourth Revised Sheet No. 106
Second Revised Sheet No. 106A
Third Revised Sheet No. 161
Third Revised Sheet No. 162

Iroquois makes the instant tariff filing to implement the directives of Order Nos. 637 and 637–A regarding the lifting of the rate ceiling for short-term capacity release transactions and certain reporting requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23453 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–525–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on August 31, 2000, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective October 1, 2000.

Panhandle states that this filing is to remove from it's currently effective rates the Carryover Docket No. RP96–260–000 Settlement Volumetric Surcharge applicable to transportation service provided under Rate Schedules IT and EIT. The Carryover Docket No. RP96–260–000 Settlement Volumetric Surcharge, which was established in Docket No. RP99–497–000, was approved by Commission letter order issued September 30, 1999. In accordance with the Commission's letter order issued September 30, 1999, the Carryover Docket No. RP96–260–000 Settlement Volumetric Surcharge will terminate on September 30, 2000.

Accordingly, Panhandle proposes to remove the 1.26¢ per Dt. Carryover Docket No. RP96–260–000 Settlement Volumetric Surcharge applicable to transportation service provided under Rate Schedules IT and EIT.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23451 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–205–004]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

September 7, 2000.

Take notice that on August 30, 2000, PG&E Gas Transmission, Northwest Corporation (PG&E GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, with an effective date of September 1, 2000:

Second Revised Sheet No. 81.01a
Fourth Revised Sheet No. 121
Third Revised Sheet No. 122
Fifth Revised Sheet No. 127
Third Revised Sheet No. 153
Third Revised Sheet No. 168

PG&E GTN states that these sheets were filed with the Commission on March 1, 2000, and accepted and suspended by the Commission for 5 months by order of March 31, 2000 (90 FERC ¶ 61,349 (2000).

PG&E GTN further states that a copy of this filing has been served on the parties to this proceeding as well as PG&E GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www/ferc/fed/us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23446 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–531–000]

Questar Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on August 31, 2000, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with an effective date of October 1, 2000:

First Revised Volume No. 1

Sixteenth Revised Sheet No. 5
Tenth Revised Sheet No. 6

Original Volume No. 3

Twenty-Fifth Revised Sheet No. 8

Questar states that this filing incorporates into its storage and transportation rates the annual charge adjustment (ACA) unit rate of $0.00219 per Dth.

Questar states that this filing were served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23439 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3586–000]

Rochester Gas and Electric Corporation; Notice of Filing

September 7, 2000.

Take notice that on September 1, 2000, Rochester Gas and Electric Corporation (RG&E), tendered for filing an Application in the above-referenced proceeding requesting that the Commission extend the authorization previously granted to RG&E), to makes sales to an affiliate in conjunction with the Retail Access Program and the Retail Access Pilot Program. RG&E also requests expedited treatment of its Application so that the Commission may issue an order by September 14, 2000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 11, 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. 00–23483 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–420–001]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on August 31, 2000, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective March 27, 2000:

1st Sub. Fourth Revised Sheet No. 169
1st Sub. Fourth Revised Sheet No. 177
Sixth Revised Sheet No. 275

Southern states that the purpose of this filing is to comply with the Commission's letter order dated August 21, 2000 in the above-referenced docket. Such letter order generally approved Southern's tariff filing made in compliance with Order No. 637 to remove the price cap provisions applicable to short-term releases under its capacity release provisions of the General Terms and Conditions of its Tariff. Such letter order required Southern to make a compliance filing (i) to reflect properly the term of the price cap waiver; (ii) to revise its tariff to provide that the price cap waiver applies to releases of less than one year; and (iii) to revise its tariff to specify that releases of one year or more at the maximum rate and term are eligible as nonposted, prearranged releases.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23447 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–535–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2000.

Take notice that on September 5, 2000, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheets to become effective as indicated:

To Be Effective on March 27, 2000

First Rev Eighth Revised Sheet No. 463
Second Revised Sheet No. 464A
Fifth Revised Sheet No. 465
Second Revised Sheet No. 466
Fifth Revised Sheet No. 467
Second Revised Sheet No. 468
Fifth Revised Sheet No. 471
First Revised Sheet No. 683

To Be Effective on October 1, 2000

First Revised Sheet No. 456C
Second Revised Sheet No. 461
First Revised Sheet No. 476

Texas Eastern states that the purpose of this filing is to comply with the requirements of Order No. 637 regarding the waiver of the rate ceiling for short-term capacity release transactions and the prospective limitations on the availability of the Right-of-First-Refusal.

Texas Eastern states that copies of the filing were mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.)

David P. Boergers,

Secretary.

[FR Doc. 00–23443 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–536–000]

Venice Gathering System, L.L.C.; Notice of Pro Forma Tariff Filing in Compliance With Order No. 637

September 7, 2000.

Take notice that on September 1, 2000, Venice Gathering system, L.L.C. (VGS), submitted a *pro forma* tariff filing to comply with Order No. 637. VGS was required to make its compliance filing on August 15, 2000, but was granted an extension of the August 15 filing deadline by a Commission letter order issued August 4, 2000. VGS states that it is submitting certain tariff sheets to implement the policies implemented in Order No. 637, including but not limited to the removal of the price cap, scheduling, segmentation of capacity, imbalance management, operational flow orders, tariff penalties, and the contractual right of first refusal.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 2, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23444 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–131–000, et al.]

Edison Sualt Electric Company, et al; Electric Rate and Corporate Regulation Filings

September 5, 2000.

Take notice that the following filings have been made with the Commission:

1. Edison Sault Electric Company

[Docket No. EC00–131–000]

Take notice that on August 28, 2000, Edison Sault Electric Company filed with the Federal Energy Regulatory Commission the Application of Edison Sault Electric Company for Authorization to Transfer Jurisdictional Transmission Assets Pursuant to Section 203 of the Federal Power Act.

Comment date: September 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. City of Vernon, California

[Docket No. EL00–105–000]

Take notice that on August 30, 2000, the City of Vernon, California (Vernon) submitted a Petition for a Declaratory Order determining that Vernon's proffered Transmission Revenue Requirement (TRR) is appropriate under the California Independent System Operator Corporation's FERC Electric Tariff for purposes of Vernon's becoming a participating transmission owner.

Comment date: September 29, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Arkansas Electric Cooperative Corporation Complainant, v. Entergy Services, Inc. Respondent

[Docket No. EL00–106–000]

Take notice that on September 1, 2000, Arkansas Electric Cooperative Corporation (AECC) tendered for filing a Complaint against Entergy Services, Inc., (ESI).

In its Complaint, AECC alleges that ESI's annual informational filing submitted in Docket No. ER00–2415–000 pursuant to a partial settlement in Docket No. ER98–112–000 containing ESI's 2000 rate redetermination update (2000 Update) for its OATT is incomplete. Consequently, pursuant to the terms of the partial settlement in Docket No. ER98–112–000, AECC requests that the Commission not allow ESI's 2000 Update to be considered final and not subject to refund until at least 120 days after ESI submits the data necessary to accurately complete its 2000 Update.

Comment date: September 25, 2000, in accordance with Standard Paragraph E at the end of this notice. Answers to the compliant shall also be filed on or before September 25, 2000.

4. Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Light Company; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Power Authority of the State of New York; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; New York Power Pool

[Docket No. ER97–1523–053]

Take notice that on August 30, 2000, the Members of the Transmission Owners Committee of the Energy Association of New York State, formerly known as the Member Systems of the New York Power Pool (Member Systems), tendered for filing certain revised tariff sheets to their NYISO Open Access Transmission Tariff and NYISO Services Tariff. These tariff sheets are submitted in compliance with the Commission's July 31, 2000 order in this proceeding. Central Hudson Gas & Electric Corp., et al., 92 FERC ¶61,128 (2000).

The Member Systems request that the above-referenced tariff sheets become effective on September 1, 2000.

A copy of this filing was served upon all persons on the Commission's official service list(s) in the captioned proceeding(s), and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Gas & Electric Company

[Docket No. ER00–3555–000]

Take notice that on August 30, 2000, Kansas Gas & Electric Company (KGE), tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. (WR) under Service Schedule M to FPC Rate Schedule No. 93 for the period from June 1, 2000 through May 31, 2001.

KGE requests an effective date of June 1, 2000.

Notice of the filing has been served upon the Kansas Corporation Commission.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp

[Docket No. ER00–3556–000]

Take notice that on August 30, 2000, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Long-term Firm Point-to-Point Transmission Service Agreements with the Idaho Power Company (Idaho) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER00–3557–000]

Take notice that on August 30, 2000, Entergy Services, Inc. (Entergy Services), acting as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered for filing notice of cancellation of the Non-firm Point-To-Point Transmission Service Agreement, dated February 1, 1997, between Entergy Services and Sonat Power Marketing, L.P. (now known as El Paso Merchant Energy L.P.).

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Pennsylvania Electric Company

[Docket No. ER00–3558–000]

Take notice that on August 30, 2000, Pennsylvania Electric Company (Penelec) (doing business as GPU Energy), tendered for filing a Notice of Cancellation of the following service agreements:

1. Pennsylvania Electric Company, FERC Electric Rate Schedule No. 91 (Borough of Butler, New Jersey (Butler))
2. Pennsylvania Electric Company, FERC Electric Rate Schedule No. 92 (Borough of Pemberton, New Jersey (Pemberton))
3. Pennsylvania Electric Company, FERC Electric Rate Schedule No. 93 (Borough of Seaside Heights (Seaside Heights))

4. Pennsylvania Electric Company, FERC Electric Rate Schedule No. 94 (Borough of Madison, New Jersey (Madison))
5. Pennsylvania Electric Company, FERC Electric Rate Schedule No. 95 (Borough of Lavallette, New Jersey (Lavallette))

Penelec requests that cancellation be effective the June 1, 1999.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Energy Company

[Docket No. ER00–3559–000]

Take notice that on August 30, 2000, Consumers Energy Company (Consumers), tendered for filing a revision to the annual charges due Consumers from Northern Indiana Public Service Company (Northern), under the terms of the Barton Lake-Batavia Interconnection Facilities Agreement (designated Consumers Energy Company Electric Rate Schedule FERC No. 44).

The revised charges are provided for in Subsection 1.043 of the Agreement, which provides that the annual charges may be redetermined effective May 1 of each year. As a result of the redetermination, the monthly charges to be paid by Northern were increased from $14,923 to $16,099.

Consumers requests an effective date of May 1, 2000, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Northern, the Michigan Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. WPS Resources Operating Companies

[Docket No. ER00–3560–000]

Take notice that on August 30, 2000, WPS Resources Operating Companies (WPS), tendered for filing executed service agreements with Manitowoc Public Utilities (Manitowoc) and Consolidated Water Power Company (CWP) for ancillary services under WPS's open access transmission tariff, FERC Electric Tariff, Volume No. 1.

Copies of the filing were served upon Manitowoc, CWP, the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER00–3561–000]

Take notice that on August 30, 2000, Arizona Public Service Company (APS), tendered for filing Service Agreements to provide Long-Term Firm Point-to-Point Transmission Service to Panda Gila River, L.P. under APS' Open Access Transmission Tariff.

A copy of this filing has been served Panda Gila River, L.P. and the Arizona Corporation Commission.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Calpine Energy Services, L.P.

[Docket No. ER00–3562–000]

Take notice that on August 30, 2000, Calpine Energy Services, L.P. (CES), tendered for filing under Section 205 of the Federal Power Act, a request for authorization to sell electricity at market-based rates under the market-based tariff that will be transferred to CES by its affiliate, Calpine Power Services Company, as part of an intra-corporate Reorganization.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Midwest Energy, Inc.

[Docket No. ER00–3570–000]

Take Notice that on August 29, 2000, Midwest Energy, Inc. (Midwest), tendered for filing with the Federal Energy Regulatory Commission the Service Agreement for Market-Based Sales Service entered into between Midwest and The British Columbia Power Exchange Corporation.

Midwest states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Comment date: September 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Midwest Energy, Inc.

[Docket No. ER00–3571–000]

Take notice that on August 29, 2000, Midwest Energy, Inc. (Midwest), tendered for filing with the Federal Energy Regulatory Commission the Service Agreement for Market-Based Sales Service entered into between Midwest and Western Area Power Administration.

Midwest states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Comment date: September 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Central Vermont Public Service Corporation

[Docket No. ER00–3554–000]

Take notice that on August 30, 2000, Central Vermont Public Service Corporation tendered for filing executed versions of its Network Integration Service Agreement and Network Operating Agreement with the Village of Ludlow Electric Light Department (Ludlow) and the Village of Hyde Park Water and Light Department (Hyde Park) under FERC Electric Tariff, First Revised Volume No. 7. These agreements were previously accepted by the Commission in unexecuted form in Docket No. ER00–1317–000.

Copies of the filing were served upon Ludlow, Hyde Park and the Vermont Public Service Board.

Comment date: September 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–23438 Filed 9–12–00; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–971; FRL–6742–3]

Notice of Filing a Pesticide Petition To Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition

proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–971, must be received on or before October 13, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–971 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Ann Sibold, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6502; e-mail address: sibold.ann@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–971. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–971 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–971. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 25, 2000.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Agro Research

PP 6F4716

EPA has received a pesticide petition (PP 6F4716) from BASF Agro Research, P.O. Box 400, Princeton, NJ 08543–0400 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1-pyrrole-3-carbonitrile (chlorfenapyr) in or on the raw agricultural commodity (RAC) (fruiting vegetables grown under greenhouse conditions) at (1.5 parts per million (ppm)). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the residues of chlorfenapyr in plants (tomato, citrus, potato, and head lettuce) is adequately understood and the residue of concern consists of the parent molecule.

2. *Analytical method*. The gas chromatography (GC) analytical method, M 2427, which is proposed as the enforcement method for the residue of chlorfenapyr in tomato and pepper, has a limit of quantitation (LOQ) of 0.05 ppm.

3. *Magnitude of residues*. Tomato and pepper field trials have been conducted. The residue data were collected from studies having multiple applications (5) of chlorfenapyr with a maximum seasonal rate of up to 0.60 – 1.0 lb active ingredient/Acre to tomato and pepper. The resulting chlorfenapyr residues in the raw agricultural commodity ranged from <0.05 ppm (the LOQ of the method) to 1.2 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Based on the EPA's toxicity category criteria, the acute toxicity category for chlorfenapyr technical is category II or moderately toxic (signal word WARNING) and the acute toxicity category for the 2SC formulation is category III or slightly toxic (signal word CAUTION). Males appear to be more sensitive to the effects of chlorfenapyr than females. The acute toxicity profile indicates that absorption by the oral route appears to be greater than by the dermal route. The following are the results from the acute toxicity tests conducted on the technical material.

i. *Rat oral*. LD_{50} of 441/1152 milligrams/kilogram body weight (mg/kg bwt) modifying factor (MF) toxicology category II.

ii. *Rabbit dermal*. LD_{50}: >2,000 mg/kg bwt MF toxicology category III.

iii. *Acute inhalation*. LC_{50}: 0.83/>2.7 mg/L MF toxicology category III.

iv. *Eye irritation*. Moderately irritating toxicology category III.

v. *Dermal irritation*. Non-irritating toxicology category IV.

vi. *Dermal sensitization*. Non-sensitizer non-sensitizer.

vii. *Acute neurotoxicity*. No observed adverse effect level (NOAEL) 45 mg/kg bwt.— Not an acute neurotoxicant.

2. *Genotoxicty*. Chlorfenapyr technical (94.5%) was examined in a battery of *in vitro* and *in vivo* tests to assess its genotoxicity and its potential for carcinogenicity. These tests are summarized below.

i. *Microbial/microsome mutagenicity assay*. Non-mutagenic.

ii. *Mammalian cell chinese hampster ovary/hypoxanthine guanine phophoribosyl transferase (CHO/HGPRT) mutagenicity assay*. Non-mutagenic.

iii. *In vivo micronucleus assay*. Non-genotoxic.

iv. *In vitro chromosome aberration assay in CHO*. Non-clastogenic.

v. *In vitro aberration assay in CHLC*. Non-clastogenic.

vi. *Unscheduled DNA synthesis (UDS) assay*. Non-genotoxic.

3. *Reproductive and developmental toxicity*. Chlorfenapyr is neither a reproductive nor developmental toxicant and is not a teratogenic agent in the Sprague Dawley rat or the New Zealand white rabbit. This is demonstrated by the results of the following studies:

i. *Rat oral teratology*. NOAEL for maternal toxicity 25 mg/kg bwt/day and NOAEL for fetal/developmental toxicity at 225 mg/kg bwt/day.

ii. *Rabbit oral teratology*. NOAEL for maternal 5 mg/kg bwt/day and NOAEL for fetal/developmental toxicity 30 mg/kg bwt/day

iii. *Rat 2–generation reproduction*. NOAEL for parental toxicity/growth and offspring development 60 ppm (5 mg/kg bwt/day) and NOAEL for reproductive performance 600 ppm (44 mg/kg bwt/day).

4. *Subchronic toxicity*. The following are the results of the subchronic toxicity test that have been conducted with chlorfenapyr.

i. *28–day rabbit dermal*. NOAEL 100 mg/kg bwt/day

ii. *28–day rat feeding*. NOAEL >600 ppm (<71.6 mg/kg bwt/day).

iii. *28–day mouse feeding*. NOAEL >160 ppm (<32 mg/kg bwt/day).

iv. *13–week rat dietary*. NOAEL 150 ppm (11.7 mg/kg bwt/day).

v. *13–week mouse dietary*. NOAEL 40 ppm (8.2 mg/kg bwt/day).

vi. *13–week dog dietary*. NOAEL 120 ppm (4.2 mg/kg bwt/day).

5. *Chronic toxicity*. Chlorfenapyr is not oncogenic in either Sprague Dawley

rats or CD–1 mice and is not likely to be carcinogenic in humans. The following are the results of the chronic toxicity tests that have been conducted with chlorfenapyr:

i. *1–year neurotoxicity in rats*. NOAEL 60 ppm (2.6/3.4 mg/kg bwt/day MF).

ii. *1–year dog dietary*. NOAEL 120 ppm (4.0/4.5 mg/kg bwt/day MF).

iii. *24–month rat dietary*. NOAEL for chronic effects 60 ppm (2.9/3.6 mg/kg bwt/day MF, and NOAEL for oncogenic effects 600 ppm (31/37 mg/kg bwt/day).

iv. *MF 18–month mouse dietary*. NOAEL for chronic effects 20 ppm (2.8/3.7 mg/kg bwt/day MF, and NOAEL for oncogenic effects 240 ppm (34.5/44.5 mg/kg bwt/day MF).

6. *Animal metabolism*. A metabolism study was conducted in Sprague Dawley rats at approximately 20 and 200 mg/kg bwt using radio labeled chlorfenapyr. Approximately 65% of the administered dose was eliminated during the first 24 hours (62% in feces and 3% in urine) and by 48 hours following dosing, approximately 85% of the dose had been excreted (80% in feces and 5% in urine.) The absorbed chlorfenapyr-related residues were distributed throughout the body and detected in tissues and organs of all treatment groups. The principal route of elimination was via feces, mainly as unchanged parent plus minor *N*-dealkylated, debrominated, and hydroxylated oxidation products. The metabolic pathway of chlorfenapyr in the laying hen and the lactating goat was also similar to that in laboratory rats.

7. *Metabolite toxicology*. The parent molecule is the only moiety of toxicological significance which needs regulation in plant and animal commodities.

8. *Endocrine disruption*. Collective organ weights and histopathological findings from the 2–generation rat reproduction study, as well as from the subchronic and chronic toxicity studies in two or more animal species, demonstrate no apparent estrogenic effects or effects on the endocrine system. There is no information available which suggests that chlorfenapyr would be associated with endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*. There is a reasonable certainty that no harm will result from dietary exposure to chlorfenapyr, because dietary exposure to residues on food will use only a fraction of the reference dose (RfD) (including exposure of sensitive subpopulations), and exposure through drinking water is expected to be insignificant.

i. *Food*. For purposes of assessing the potential dietary exposure, a theoretical maximum residue contribution (TMRC) has been calculated from the tolerance of chlorfenapyr in/on fruiting vegetables at 1.5 ppm. This exposure assessment is based on very conservative assumptions, namely 100% of all fruiting vegetables are treated with chlorfenapyr and that the residues of chlorfenapyr in fruiting vegetables are at the tolerance level. Although there are no other established U.S. permanent tolerances for chlorfenapyr, a petition for a permanent tolerance at 0.5 ppm for imported citrus is pending at the Agency. Therefore, the dietary exposures to residues of chlorfenapyr in or on food will be limited to residues in fruiting vegetables, imported citrus and food and feed items derived from them. The contribution of the fruiting vegetables tolerance alone to the daily consumption uses only <1.0% of the RfD for the overall U.S. population and non-nursing infants (<1–year old) and <5% for children (1 to 6 years old).

ii. *Drinking water*. There is no available information about chlorfenapyr exposures via levels in drinking water. There is no concern for exposure to residues of chlorfenapyr in drinking water because of its extremely low water solubility (120 parts per billion (ppb) at 25 °C). Chlorfenapyr is also immobile in soil and does not leach because it is strongly adsorbed to all common soil types. In addition, the label explicitly prohibits applications near aquatic areas.

2. *Non-dietary exposure*. There is no available information quantifying non-dietary exposure to chlorfenapyr. However, based on the physical and chemical characteristics of the compound, the proposed use pattern and available information concerning its environmental fate, non-dietary exposure is expected to be negligible. The vapor pressure of chlorfenapyr is less than 1×10^{-7} mm of mercury (Hg); therefore, the potential for non-occupational exposure by inhalation is insignificant. Chlorfenapyr is currently not registered for use in residential indoor or outdoor uses.

D. Cumulative Effects

The pyrrole insecticides represent a new class of chemistry with a unique mechanism of action. The parent molecule, AC 303,630 is a pro-insecticide which is converted to the active form, CL 303,268, via rapid metabolism by mixed function oxidases (MFOs). The active form uncouples oxidative phosphorylation in the insect mitochondria by disrupting the proton gradient across the mitochondrial membrane. The production of adenosine triphosphate (ATP) is inhibited resulting in the cessation of all cellular functions. Because of this unique mechanism of action, it is highly unlikely that toxic effects produced by chlorfenapyr would be cumulative with those of any other pesticide chemical.

In mammals, there is a lower titer of MFOs, and chlorfenapyr is metabolized by different pathways (including dehalogenation, oxidation and ring hydroxylation) to other polar metabolites without any significant accumulation of the potent uncoupler, CL 303,268. In the rat, approximately 85% of the administered dose is excreted in the feces within 48 hours, thereby reducing the levels of AC 303,630 and CL 303,268 that are capable of reaching the mitochondria. This differential metabolism of AC 303,630 to CL 303,268 in insects versus to other polar metabolites in mammals is responsible for the selective insect toxicity of the pyrroles.

E. Safety Determination

1. *U.S. population*. The RfD of 0.03 mg/kg bwt/day for the residues of chlorfenapyr in fruiting vegetables is calculated by applying a 100–fold safety factor to the overall NOAEL of 3 mg/kg bwt/day. This NOAEL is based on the results of the chronic feeding studies in the rat and mouse and the 2–generation reproduction study in the rat (see Item 2). Assuming a 10–fold safety factor, pending a developmental neurotoxicity study, the contribution of the fruiting vegetables tolerance alone to the daily consumption uses <5.0% of the reference dose (RfD) for the overall U.S. population and non-nursing infants (<1–year old), and children (1 to 6 years old).

2. *Infants and children*. The contribution of the fruiting vegetables tolerance alone to the daily consumption uses only <1.0% of the reference dose RfD for the overall U.S. population and non-nursing infants (<1–year old) and <5% for children (1 to 6 years old).

F. International Tolerances

Section 408 (b)(4) of the amended FFDCA requires EPA to determine whether a maximum residue level has been established for the pesticide chemical by the Codex Alimentarius Commission.

There is neither a Codex proposal, nor Canadian or Mexican tolerances/limits for residues of chlorfenapyr in/on fruiting vegetables. Therefore, a

compatibility issue is not relevant to the proposed tolerance.

[FR Doc. 00–23245 Filed 9–12–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–973; FRL–6738–2]

Notice of Filing a Pesticide Petition To Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–973, must be received on or before October 13, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–973 in the subject line on the first page of your response.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–973. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–973 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov'', or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–973. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 29, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Wacker Silicones Corporation

PP 5E4430

EPA has received a pesticide petition (PP 5E4430) from Wacker Silicones Corporation, 3301 Sutton Road, Adrian, Michigan 49221–9397 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180.1001(c) to amend the existing exemption from the requirement of a tolerance for dimethylpolysiloxane in or on the raw agricultural commodities when used as an inert ingredient in pesticide formulations which were applied to the growing crop and/or after harvest. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The Agency has established a set of criteria which identifies categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compounds compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit polymer's ability to cause adverse effects. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Dimethylpolysiloxane conforms to the definition of polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low risk polymers.

1. Dimethylpolysiloxane is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in the natural aquatic environment.

2. Dimethylpolysiloxane contains as an integral part of its composition the atomic elements carbon, hydrogen, oxygen and silicon.

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

4. Dimethylpolysiloxane is not reasonably anticipated to substantially degrade, decompose or depolymerize.

5. Dimethylpolysiloxane is not manufactured or imported from monomers and/or other reactants that are not already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. Dimethylpolysiloxane is not a water absorbing polymer with a number average molecular weight greater than or equal to 10,0000 daltons.

7. Dimethylpolysiloxane has a molecular weight ranging from 10,148 daltons to 61,380 daltons. Dimethylpolysiloxane meets the requirements for molecular weight distribution of oligomer contents of less than 5% with molecular weights less than 1,000 and less than 2% with molecular weights less than 500.

A. Aggregate Exposure

1. *Dietary exposure*. Dimethylpolysiloxane is not absorbed through the skin or GI tract generally and is considered incapable of eliciting a toxic response.

i. *Food*. Dimethylpolysiloxane is approved for use as a food additive under 21 CFR Parts 24.246, 175.105, 175.125, 175.300, 175.320, 175.380, 175.390, 176.200, 176.170, 176.180, 176.200, 177.1200, 177.1210, 177.1350, 177.2260, 177.2800, 178.3120, 178.3570, 178.3910, and 181.28.

ii. *Drinking water*. Based upon the aqueous insolubility of dimethylpolysiloxane, there is no reason to expect human exposure to residues in drinking water.

2. *Non-dietary exposure*. Although there may be exposures to the compound though dietary and non-occupational non-dietary routes, the chemical characteristics of the chemical are such that there is a reasonable certainty of no harm from aggregate exposure.

B. Cumulative Effects

There are no data to support cumulative risk from dimethylpolysiloxane since polymers with molecular weights greater than 400 generally are not absorbed through the intact skin and substances with molecular weights greater than 1,000 generally are not absorbed through the gastrointestinal tract (GI). Chemical not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response. Therefore, there is no reasonable expectation of risk due to cumulative exposure.

C. Safety Determination

1. *U.S. population*. Dimethylpolysiloxane causes no safety concerns because it conforms to the

definition of a low risk polymer given in 40 CFR 723.250(b) and as such is considered incapable of eliciting a toxic response. Also, there are no additional pathways of exposure (non-occupational, drinking water, etc.) where there could be additional risk.

2. *Infants and children.* Dimethylpolysiloxane causes no additional concern to infants and children because it conforms to the definition of a low risk polymer given in 40 CFR 723.250(b), and as such, is considered incapable of eliciting a toxic response. Also, there are no additional pathways of exposure (non-occupational, drinking water, etc.) where infants and children would be at additional risk.

D. International Tolerances

There are no CODEX Maximum Residue Limits established for dimethylpolysiloxane in/on any crop commodities at this time.

[FR Doc. 00–23243 Filed 9–12–00; 8:45 a.m.]

BILLING CODE 6560–50–S

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 14, 2000, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4009, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

Approval of Minutes

—August 8, 2000 (Open)

Reports

—FCS Building Association's Quarterly Report

—Corporate Approvals Report

New Business

—Consent Calendar

—FCA's FY 2000–2005 Strategic Plan

Closed Session*

Report

—OSMO Report

Dated: September 8, 2000.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

[FR Doc. 00–23616 Filed 9–11–00; 12:42 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

September 7, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 13, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Wireless Medical Telemetry Service (ET Docket No. 99–255).

Form No.: N/A.

Type of Review: New collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 1 respondent, 2,500 responses.

Estimated Time Per Response: 1–2 hours for small installations; 3–4 hours for large installations.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement, and third party disclosure requirement.

Total Annual Burden: 10,000 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission allocated spectrum and established rules for a ''Wireless Medical Telemetry Service'' that allows potentially life critical equipment to operate in an interference-protected basis. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data such as pulse and respiration rates to a nearby receiver, permitting greater patient mobility and increased comfort.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–23501 Filed 9–12–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[DA 00–2022, CC Docket No. 97–213]

Comment Invited on CTIA Petition To Suspend CALEA Compliance Date

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On August 23, 2000, the Cellular Telecommunications Industry Association (''CTIA'') filed a petition to immediately suspend the September 30, 2001 compliance date for implementation of certain assistance capabilities under the Communications

Assistance for Law Enforcement Act (''CALEA''). CTIA states that in view of the decision by the United States Court of Appeals for the District of Columbia Circuit (''Court''), the Commission should suspend the September 30, 2001 compliance date.

DATES: *Comments Due:* September 15, 2000.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452.

SUPPLEMENTARY INFORMATION: This is a summary of the text of the Public Notice, DA 2022, released September 1, 2000. The document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW. Washington, DC 20036.

Summary of the Public Notice

1. On August 23, 2000, the Cellular Telecommunications Industry Association (''CTIA'') filed a petition to immediately suspend the September 30, 2001 compliance date for implementation of certain assistance capabilities under the Communications Assistance for Law Enforcement Act (''CALEA''). CTIA states that in view of the August 15, 2000 decision by the United States Court of Appeals for the District of Columbia Circuit (''Court'') to vacate and remand portions of the Commission's *Third Report and Order* in Docket 97–213, 65 FR 51710, September 24, 1999, the Commission should suspend the September 30, 2001 compliance date to ensure an orderly and cost-efficient implementation of six ''punch list'' capabilities and a packet-mode communications capability required by the *Third Report and Order,* 65 FR 51710, September 24, 1999. CTIA notes that the Court remanded to the Commission for further consideration only four of the six punch list capabilities. CTIA further notes that the Court generally upheld the Commission's decision with respect to the packet-mode communications capability, but that a report on packet-mode communications requested by the Commission in the *Third Report and Order,* 65 FR 51710, September 24, 1999 is scheduled to be submitted by the Telecommunications Industry Association no later than September 30, 2000. Accordingly, CTIA contends that there is uncertainty within the telecommunications industry as to how to proceed with respect to the September 30, 2001 compliance date.

2. We hereby solicit comment on the CTIA Petition, and establish the comment date as September 15, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. To file formally, parties must file an original and four copies. If parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Parties should send comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

3. 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. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

4. The full text of the CTIA Petition is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, 20036, telephone 202–857–3800, facsimile 202–857–3805, TTY 202–293–8810. You may also view this document by accessing the ECFS at: *https://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch__v2.hts*

5. This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. See 47 CFR 1.1200 and 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance or 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 generally is required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in 47 CFR 1.1206(b).

6. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r); and pursuant to Sections 0.31 and 0.241 of the Commission's Rules, 47 CFR 0.31 and 0.241.

7. For further information on the CTIA Petition, contact Rodney Small, Office of Engineering and Technology, 202–418–2452 <rsmall@fcc.gov>.

Federal Communications Commission.

Julius P. Knapp,

Chief, Policy and Rules Division.

[FR Doc. 00–23500 Filed 9–12–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–00–35–C (Auction No. 35); DA 00–2038]

C and F Block Broadband PCS Spectrum Auction Scheduled for November 29, 2000, Rescheduled for December 12, 2000, Comment Sought on Reserve Prices or Minimum Opening Bids and Other Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document reschedules the next auction (Auction No. 35) of C and F block broadband Personal Communications Service (''PCS'') licenses for December 12, 2000 and seeks comment on upfront payments, reserve prices or minimum opening bids, and other auction procedural issues for this auction.

DATES: Comments are due on or before September 18, 2000, and reply comments are due on or before September 25, 2000.

ADDRESSES: An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, TW–A325, Washington, DC 20054, in accordance with § 1.51(c) of the Commission's rules. *See* 47 CFR 1.51(c). In addition, one copy of each pleading must be delivered to each of the following locations: (i) The Commission's duplicating contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW., Washington, DC 20036; (ii) Office of Media Relations, Public Reference Center, 445 Twelfth Street, SW., Suite

CY–A257, Washington, DC 20554; (iii) Rana Shuler, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, 445 Twelfth Street, SW., Suite 4–A628, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Craig Bomberger, Auctions Analyst, or Audrey Bashkin, Attorney, at (202) 418–0660; or Lisa Stover, Project Manager, at (717) 338–2888.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released September 6, 2000. The complete text of the Public Notice, including Attachment A the revised list of licenses available, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov*.

I. General Information

A. Introduction

1. By the Public Notice, the Wireless Telecommunications Bureau (''Bureau'') reschedules the next auction (Auction No. 35) of C and F block broadband Personal Communications Service (''PCS'') licenses for December 12, 2000, provides a revised list of licenses available in Auction No. 35, and seeks comment on upfront payments, reserve prices or minimum opening bids, and other auction procedural issues for Auction No. 35.

2. The Communications Act of 1934 as amended by the Balanced Budget Act of 1997, Public Law 105–33, requires the Commission to ''ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *.'' Consistent with the provisions of the Balanced Budget Act, and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction.

B. Background of Proceeding

3. In January 2000, the Bureau announced that the next C and F block auction was scheduled to begin on July 26, 2000, and provided a preliminary list of licenses for auction, including 30 MHz and 15 MHz C block licenses, as well as F block licenses (all 10 MHz each), for operation on frequencies for which previous licenses had automatically cancelled or had been returned to the Commission. On March 3, 2000, the Bureau released Auction No. 35 Public Notice, 15 FCC Rcd. 4702, seeking comment on reserve prices, minimum opening bids and other auction procedural issues for the next C and F block auction, Auction No. 35.

4. After release of the C and F Block Broadband PCS Spectrum Auction Scheduled for July 26, 2000, Public Notice, (*January 2000 PN*), 65 FR 8363 (February 18, 2000) a number of parties filed petitions asking that the Commission waive, modify, or eliminate the eligibility requirements for participation in the auction and make other changes to the C and F block rules. In past auctions, the Commission's rules limited eligibility for all C and F block licenses to ''entrepreneurs.'' The Commission sought comment on the issues raised by these petitions in a Further Notice of Proposed Rulemaking (''*Further Notice*''), 65 FR 37092 (June 13, 2000). Also on June 7, 2000, the Bureau announced that Auction No. 35 would begin on November 29, 2000, in order to allow resolution of the issues in the *Further Notice* and implementation of any rule changes prior to the auction.

5. On August 14, 2000, the Commission released the *Part 1 Fifth Report and Order*, 65 FR 52401 (August 29, 2000) in which the Commission, *inter alia*, adopted a ''controlling interest'' standard for attributing to auction applicants the total assets and/or gross revenues of their investors and affiliates in determining entrepreneur and small business eligibility for future C and F block auctions. The Commission also observed that the rule modifications adopted in the various part 1 orders would result in discrepancies and/or redundancies between certain of the new part 1 rules and existing service-specific rules, and the Commission delegated to the Bureau the authority to make conforming edits to the Code of Federal Regulations consistent with the rules adopted in the part 1 proceeding. The part 1 rules that superseded inconsistent service-specific rules will control in Auction No. 35. Accordingly, the ''controlling interest'' standard will be in effect for Auction No. 35, even if conforming edits are not made prior to the auction.

6. On August 29, 2000, the Commission released the *C/F Block Sixth Report and Order*, 65 FR 53624 (September 5, 2000) in which it resolved the issues raised in the *Further Notice*. The Commission decided that it would reconfigure each 30 MHz C block license available in Auction No. 35 and other future broadband PCS auctions into three 10 MHz C block licenses. The Commission also divided Basic Trading Areas (''BTAs'') into two tiers according to the population size, with Tier 1 comprising markets with population at or above 2.5 million, based on 1990 census figures, and Tier 2 comprising the remaining markets. The Commission decided that some licenses would be open to all bidders in ''open'' bidding, while other licenses would be available only to entrepreneurs in ''closed'' bidding. The Commission established open bidding for the following licenses: two of the three reconfigured 10 MHz C block licenses in Tier 1; one of the three reconfigured 10 MHz C block licenses in Tier 2; all 15 MHz C block licenses in Tier 1; all F block licenses; and all C and F block licenses available but unsold in Auction No. 22 or any subsequent auction. The Commission established small and very small business bidding credits of 15 percent and 25 percent, respectively, for licenses won in open bidding and eliminated bidding credits for licenses won in closed bidding. Additionally, the Commission removed from its rules the § 24.710 license cap, which had prohibited an applicant from winning more than 98 of the licenses available in the C and F blocks. Finally, the Commission decided that the Commercial Mobile Radio Services spectrum cap would continue to apply to C and F block licenses, including those won in Auction No. 35.

7. The following table contains the Block/Eligibility Status/Frequency Cross Reference List for Auction No. 35:

C AND F BLOCK ALLOCATIONS

Channel block	Eligibility status		Bankwidth (MHz)	Frequencies
	Tier 1	Tier 2		
C1	[Open]	Closed	15	1902.5–1910, 1982.5–1990
C2	[Open]	Closed*	15	1985–1902.5, 1975–1982.5
C3	Closed*	Closed*	10	1895–1900, 1975–1980
C4	Open	Closed*	10	1900–1905, 1980–1985
C5	Open	Open	10	1905–1910, 1985–1990
F	Open	Open	10	1890–1895, 1970–1975

Notes: Brackets indicate no available licenses of the particular tier/channel block combination in Auction No. 35.
*The entrepreneur eligibility restriction does not apply to licenses that were available but unsold in Auction No. 22. Tier 2 C2 licenses are classified as closed, but all of the C2 licenses available in Auction No. 35 were available but unsold in Auction No. 22 and are therefore open to all bidders. Certain C3, C4, and C5 licenses were also available but unsold in Auction No. 22 (as 30 MHz licenses) and are therefore open to all bidders.

8. In addition to the license reconfiguration, the revised license inventory reflects additional licenses, not included in the *Auction No. 35 Public Notice*, for operation on frequencies as to which previous licenses have cancelled or otherwise have been returned to the Commission, as well as licenses for operation on frequencies that had not previously been licensed.

C. Change of Auction Date

9. In order to provide additional time between the effective date of the new rules and the auction application deadline, Auction No. 35 has been rescheduled for December 12, 2000. Because the *C/F Block Sixth Report and Order* reconfigured the licenses available for auction and changed the eligibility rules for applicants, we seek comment on minimum opening bids, reserve prices, and other procedural issues for Auction No. 35.

The critical dates and deadlines for Auction No. 35 are as follows:

Seminar Date	October 20, 2000.
Short-Form Application (FCC Form 175) Filing Deadline	November 6, 2000.
Upfront Payments Deadline	November 27, 2000.
Mock Auction	December 8, 2000.
Auction Start Date	December 12, 2000.

D. Due Diligence Information

10. *Bidder Alerts:* The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

11. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 35 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than $25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service (''IRS''), Federal Trade Commission (''FTC''), Securities and Exchange Commission (''SEC''), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

12. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 35 may also call the FCC National Call Center at (888) CALL–FCC or (888) 225–5322.

13. *Bidder Responsibility for Due Diligence:* Potential bidders are reminded that private and common carrier fixed microwave services (''FMS'') operating in the 1850–1990 MHz band (and other bands) are being relocated to available frequencies in higher bands or to other media. Bidders should become familiar with the status of FMS operation and relocation, and applicable Commission rules and orders, in order to make reasoned, appropriate decisions about their participation in Auction No. 35 and their bidding strategy.

14. Potential bidders and interested parties should be aware that various proceedings that may relate to the licenses available in Auction No. 35 may be pending or subject to further administrative review before the Commission, including, for example, waiver requests, petitions for reconsideration, and applications for review. In addition, certain judicial proceedings that may relate to the licenses available in Auction No. 35 are pending or may be subject to further review. Resolution of these matters could have an effect on the availability of spectrum included in Auction No. 35 and the auction is subject to such matters. Some of these matters (whether before the Commission or the courts) may not be resolved by the time of the

auction. The Commission will continue to act on matters before it, but it makes no representations as to the resolution of judicial proceedings. Potential bidders are solely responsible for identifying associated risks, and investigating and evaluating the degree to which such matters may affect their ability to bid on or otherwise acquire licenses in Auction No. 35.

15. Additionally, potential bidders may obtain some information about licenses available in Auction No. 35 through the Bureau's licensing databases on the World Wide Web at <*http://www.fcc.gov/wtb/uls*>. Potential bidders should direct questions regarding the search capabilities to the FCC Technical Support hotline at (202) 414–1250 (voice) or (202) 414–1255 (TTY), or via e-mail at *ulscom@fcc.gov*. The hotline is available to assist potential bidders with questions Monday through Friday, from 8 AM to 6 PM Eastern Time. In order to provide better service to the public, *all calls to the hotline are recorded*. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases, nor any third party databases, including, for example, court docketing systems.

16. Further, potential bidders are strongly encouraged to physically inspect any sites located in, or near, the geographic area for which they plan to bid.

17. Finally, potential bidders are strongly encouraged to make periodic, and continuing, inquiries to the Office of the Secretary and other available sources regarding any proceedings that are, or may be, pending with respect to the licenses available in Auction No. 35.

E. Clarification of Payment Issue Relating to Licenses Subject to Pending Proceedings

18. As noted, potential bidders should be aware that certain of the licenses included in Auction No. 35 are or may become the subject of Commission or judicial proceedings initiated by parties claiming to have continuing interests in the licenses, despite their failure to meet payment obligations. The Public Notice clarifies that the Commission will return the payments made by winning bidders of licenses in Auction No. 35 in the event that such bidders are subsequently required to surrender licenses won to prior applicants or license holders as a result of final determinations reached in pending proceedings. The Commission, however, will not pay interest on the returned payments as it lacks legal authority to do so.

19. Including contested licenses in the auction helps to fulfill the Commission's statutory mandate to hasten the development and deployment of new technologies and services and to promote competition for the benefit of the public. Returning payments to winning bidders if licenses won are later determined to be unavailable due to subsequent resolution of other proceedings furthers these vital public interest goals by reducing uncertainty in the licensing process and encouraging auction participants to bid on licenses regardless of whether they are subject to pending proceedings. Retaining payments under the circumstances could have a chilling effect on participation in Auction No. 35 and would therefore undermine our efforts to encourage more efficient use of the spectrum. We note that winning bidders of licenses subject to pending proceedings are still required to meet the normal payment and construction schedules established by the Commission.

II. Auction Structure

A. Simultaneous Multiple Round Auction Design

20. The Commission proposes to conduct the competitive bidding for these licenses by using a single, simultaneous multiple-round auction. As described further, this methodology offers every license for bid at the same time, with successive bidding rounds in which bidders may place bids. We seek comment on this proposal.

B. Upfront Payments and Initial Maximum Eligibility

21. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area, and the value of similar spectrum. As described further, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. The proposed upfront payment formulae take into account information gained from previous auctions of broadband PCS C and F block licenses. Also, as required by the *Part 1 Fifth Report and Order*, the upfront payment amount for ''former defaulters,'' *i.e.*, applicants that have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency, will be fifty percent more than the normal amount required to be paid.

22. We proposed and sought comment on upfront payments in the *Auction No. 35 Public Notice.* In light of the comments we received in response and the rules adopted in the *C/F Block Sixth Report and Order,* we now propose the following formulae for upfront payments:

Tier 1
- (i) 15 MHz licenses—2.5% of most recent net high bid for C block licenses in same BTA
- (ii) 10 MHz licenses—1.6% of most recent net high bid for C block licenses in same BTA

Tier 2
- (i) 15 MHz licenses—1.25% of most recent net high bid for C block licenses in same BTA
- (ii) 10 MHz licenses—1.0% of most recent net high bid for C block licenses in same BTA

A complete list of all licenses, including the related population and upfront payments, is included as Attachment A of the complete Public Notice. We seek comment on this proposal.

23. For Auction No. 35, we further propose that the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments will not be attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility, which cannot be increased during the auction. Thus, in calculating the upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. We seek comment on this proposal.

C. Activity Rules

24. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver, if any remain.

25. We propose to divide the auction into three stages: Stage One, Stage Two, and Stage Three—each characterized by an increased activity requirement. The auction will start in Stage One. We propose that the auction will generally advance to the next stage (*i.e.,* from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction

activity level, as measured by the percentage of bidding units receiving new high bids, is approximately ten percent or below for three consecutive rounds of bidding in each stage. However, we further propose that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We seek comment on these proposals.

26. For Auction No. 35, we propose the following activity requirements:

Stage One: In each round of Stage One, a bidder desiring to maintain its current eligibility is required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

Stage Two: In each round of the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on at least 90 percent of its current bidding eligibility. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the current round activity by ten-ninths (10/9).

Stage Three: In each round of Stage Three, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty-fortyninths (50/49).

We seek comment on these proposals. If commenters believe that these activity rules should be changed, they should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

D. Activity Rule Waivers and Reducing Eligibility

27. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

28. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any bidding period where a bidder's activity level is below the minimum required unless: (1) There are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

29. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

30. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

31. We propose that each bidder in Auction No. 35 be provided with five activity rule waivers that may be used at the bidder's discretion during the course of the auction. We seek comment on this proposal.

E. Information Relating to Auction Delay, Suspension or Cancellation

32. For Auction No. 35, we propose that, by public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. We seek comment on this proposal.

III. Bidding Procedures

A. Round Structure

33. The Commission will use its Automated Auction System to conduct the electronic simultaneous multiple round auction format for Auction No. 35. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The auction format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

34. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. We seek comment on this proposal.

B. Reserve Price or Minimum Opening Bid

35. The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.,* because the Commission has accepted mutually exclusive applications for those licenses), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

36. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either

published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally has the discretion to lower the amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

37. In light of the Balanced Budget Act, the Bureau proposes to establish minimum opening bids for Auction No. 35. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool. A minimum opening bid, rather than a reserve price, will help to regulate the pace of the auction and provides flexibility.

38. Because both the C and F spectrum blocks are being auctioned at the same time, under the same general conditions, the Commission believes that it is appropriate to use a common baseline to establish the minimum opening bid formulae for all of the licenses in the auction. The net high bids from prior C block auctions provide the most comprehensive broadband PCS baseline. We, therefore, propose to base the minimum opening bids for each license available in Auction No. 35, including F block licenses, on the most recent net high bid for the C block license in the same BTA.

39. We proposed and sought comment on minimum opening bids in the Auction No. 35 Public Notice. In light of the comments received in response and the rules adopted in the *C/F Block Sixth Report and Order,* we now propose the following formulae for minimum opening bids:

Tier 1

(i) 15 MHz licenses—5% of most recent net high bid for C block licenses in same BTA

(ii) 10 MHz licenses—3.2% of most recent net high bid for C block licenses in same BTA

Tier 2

(i) 15 MHz licenses—2.5% of most recent net high bid for C block licenses in same BTA

(ii) 10 MHz licenses—1.6% of most recent net high bid for C block licenses in same BTA

40. The specific minimum opening bid for each license available in Auction No. 35 is set forth in Attachment A of the complete Public Notice. We believe these minimum opening bids best meet the objectives of our auction authority in establishing reasonable minimum opening bids. The Commission believes these minimum opening bids will speed the course of the auction and ensure that valuable assets are not sold for nominal prices without unduly interfering with the efficient assignment of licenses. Minimum opening bids are reducible at the discretion of the Bureau. This discretion will allow the Bureau flexibility to adjust the minimum opening bids if circumstances warrant. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.,* before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any bidder requests to reduce the minimum opening bid on specific licenses. We seek comment on these proposals.

41. If commenters believe that these minimum opening bids will result in substantial numbers of unsold licenses, or is not a reasonable amount, or should instead operate as a reserve price, they should explain why this is so and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, we particularly seek comment on such factors as, among other things, the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of C and F block licenses. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

C. Minimum Accepted Bids and Bid Increments

42. Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. For Auction No. 35, we propose to use a smoothing methodology to calculate bid increments, as we have done in several other auctions. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. We seek comment on these proposals.

43. The exponential smoothing formula calculates the bid increment for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology will tailor the bid increment for each license based on activity, rather than setting a global increment for all licenses. For every license that receives a bid, the bid increment for the next round for that license will be established using the exponential smoothing formula.

44. The calculation of the percentage bid increment for each license in a given round is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%).

Equations

$A_i = (C * B_i) + (1 - C) * A_{i-1}$

I_{i+1} = smaller of $((1 + A_i) * N)$ and M

where,

A_i = activity index for the current round (round i)

C = activity weight factor

B_i = number of bids in the current round (round i)

A_{i-1} = activity index from previous round (round $i-1$), A_0 is 0

I_{i+1} = percentage bid increment for the next round (round i+1)

N = minimum percentage increment or bid increment floor

M = maximum percentage increment or bid increment ceiling

Under the exponential smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the new high bid plus the dollar amount associated with the percentage increment (variable I_{i+1} from above times the high bid). This result will be rounded to the nearest thousand if it is over ten thousand or to the nearest hundred if it is under ten thousand. Multiple increment bids are not rounded according to the previously stated rounding rule; they are received,

displayed, and stored by the Automated Auction System as non-rounded dollar amounts resulting from the following formula:

Amount Bid = High Bid + (Bid Multiplier * Bid Increment).

Examples

License 1

C = 0.5, N = 0.1, M = 0.2

Round 1 (2 new bids, high bid = $1,000,000)—

i. Calculation of percentage increment for round 2 using exponential smoothing:

$A_1 = (0.5 * 2) + (0.5 * 0) = 1$

I_2 = The smaller of $((1 + 1) * 0.1) = 0.2$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 2 using the percentage increment (I_2 from above)

0.2 * $1,000,000 = $200,000

iii. Minimum acceptable bid for round 2 = $1,200,000

Round 2 (3 new bids, high bid = $2,000,000)—

i. Calculation of percentage increment for round 3 using exponential smoothing:

$A_2 = (0.5 * 3) + (0.5 * 1) = 2$

I_3 = The smaller of $((1 + 2) * 0.1) = 0.3$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 3 using the percentage increment (I_3 from above)

0.2 * $2,000,000 = $400,000

iii. Minimum acceptable bid for round 3 = $2,400,000

Round 3 (1 new bid, high bid = $2,400,000)—

i. Calculation of percentage increment for round 4 using exponential smoothing:

$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$

I_4 = The smaller of $((1 + 1.5) * 0.1) =$ 0.25 or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 4 using the percentage increment (I_4 from above)

0.2 * $2,400,000 = $480,000

iii. Minimum acceptable bid for round 4 = $2,880,000

D. Information Regarding Bid Withdrawal and Bid Removal

45. For Auction No. 35, we propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments, but will affect a bidder's activity for the round in which it is removed.

46. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. We seek comment on these bid removal and bid withdrawal procedures.

47. In the *Part 1 Third Report and Order,* the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

48. Applying this reasoning, we propose to limit each bidder in Auction No. 35 to withdraw standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. We seek comment on this proposal.

E. Stopping Rule

49. For Auction No. 35, the Bureau proposes to employ a simultaneous stopping rule approach. The Bureau has discretion ''to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time.'' A simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers or withdrawals are received. After the first such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

50. The Bureau seeks comment on a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule.

51. The Bureau proposes to retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

52. Finally, we propose that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposes to exercise this option only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. We seek comment on these proposals.

Federal Communications Commission.

Margaret Wiener,

Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 00–23502 Filed 9–12–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission

DATE & TIME: Tuesday September 19, 2000 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g. Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b) and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday September 21, 2000 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes. Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 00–23624 Filed 9–11–00; 2:04 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201045–002, 003.

Title: Master Contract Agreement among the United States Maritime Alliance Ltd., Carriers Container Council, Inc. and International Longshoremen's Association.

Parties: United States Maritime Alliance Ltd. Carriers Container Council, Inc., International Longshoremen's Association.

Synopsis: The amendments provide for changes in the health plan section of the master contract, for an update of the parties to the agreement, as well as for the extension of the contract through September 30, 2004.

Dated: September 8, 2000.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–23525 Filed 9–12–00; 8:45 am]

BILLING CODE 6730–01–U

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before November 13, 2000.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: 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: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Mary M. West, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research

and Statistics, Board of Governors of the Federal Reserve System, 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, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority To Conduct of the Following Survey

1. *Report title:* 2001 Survey of Consumer Finance.

Agency form number: FR 3059.

OMB control number: 7100–0287.

Frequency: One-time survey.

Reporters: U.S. families.

Annual reporting hours: 5,812.5 hours.

Estimated average hours per response: 75 minutes.

Number of respondents: Pretest, 50 families; main survey, 4,600 families.

Small businesses are not affected.

General description of report: This information collection is voluntary. The Federal Reserve's statutory basis for collecting this information is section 2A of the Federal Reserve Act (12 U.S.C. 225a); the Bank Merger Act (12 U.S.C. 1828(c)); and sections 3 and 4 of the Bank Holding Company Act (12 U.S.C. 1842 and 1843) and 12 U.S.C. 353 and 461. The names and other characteristics that would permit identification of respondents are deemed confidential by the Board and are exempt from disclosure pursuant to exemption 6 in the Freedom of Information Act (5 U.S.C. 552(b)(6)).

Abstract: For many years, the Board has sponsored consumer surveys to obtain information on the financial behavior of households. The 2001 Survey of Consumer Finance (SCF) will be the latest in a triennial series, which began in 1983, that provides comprehensive data for U.S. families on the distribution of assets and debts, along with related information and other data items necessary for analyzing behavior. These are the only surveys conducted in the United States that provide such financial data for a representative sample of households. Data for the SCF are collected by interviewers using a computer program. While some questions may be deleted and others modified, only minimal changes will be made to the questionnaire in order to preserve the time series properties of the data. The entire survey will be conducted between November 2000 and December 2001.

Board of Governors of the Federal Reserve System, September 7, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–23431 Filed 9–12–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 27, 2000.

A. **Federal Reserve Bank of Philadelphia** (Michael E. Collins, Senior Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Arnold G. Danielson,* Rockville, Maryland; David G. Danielson; Bethesda, Maryland; Jonathan D. Holtaway; Vienna, Virginia; Timothy J. McDonald, Bethlehem, Pennsylvania; to acquire voting shares of Midstate Bancorp, Inc., Felton, Delaware, and thereby indirectly acquire voting shares of Felton Bank, Felton, Delaware.

Board of Governors of the Federal Reserve System, September 7, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–23433 Filed 9–12–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 6, 2000.

A. **Federal Reserve Bank of Chicago** (Phillip Jackson, Applications Officer), 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Foster Bankshares, Inc.,* Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Foster Bank, Chicago, Illinois.

B. **Federal Reserve Bank of San Francisco** (Maria Villanueva, Consumer Regulation Group), 101 Market Street, San Francisco, California 94105–1579:

1. *Innovative Bancorp,* Calabasas, California; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Oakland, Oakland, California.

Board of Governors of the Federal Reserve System, September 7, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–23434 Filed 9–12–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*)

(BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Bank of Cyprus, Nicosia, Cyprus; to become a bank holding company by acquiring 91.38 percent of the voting shares of Interbank of New York, New York, New York.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. PCB Bancorp, Inc., Largo, Florida; to acquire 100 percent of the voting shares of Premier Community Bank of Southwest Florida (in organization), Lehigh Acres, Florida.

2. Whitney Holding Corporation, New Orleans, Louisiana; to merge with First Ascension Bancorp, Inc., Gonzales, Louisiana, and thereby indirectly acquire First National Bank of Gonzales, Gonzales, Louisiana.

Board of Governors of the Federal Reserve System, September 8, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–23523 Filed 9–12–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 2000.

A. **Federal Reserve Bank of Atlanta** (Cynthia C. Goodwin, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. *Citco Community Bancshares, Inc.,* Elizabethton, Tennessee; to acquire Twin City Federal Savings Bank, Bristol, Tennessee; and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, September 7, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–23432 Filed 9–12–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collection projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Office on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project 1. National Centers of Excellence in Women's Health Program Quantitative Evaluation Survey—NEW—The Office on Women's Health is proposing a survey of patients receiving services at the 15 National Centers of Excellence in Women's Health clinical care centers. This survey will provide an assessment of the level of patient satisfaction and service utilization at the Centers of Excellence for comparison to other data on women's health service utilization. *Respondents:* Individuals; *Burden Information—Number of Respondents:* 3,000; *Burden per Response:* 20 minutes; *Total Burden:* 1,000 hours.

Proposed Project 2. Office of Research Integrity (ORI) Educational Program: A Needs Assessment—NEW—ORI is proposing a survey of officials of research institutions to collect information on training needs for the promotion of research integrity and the prevention of scientific misconduct. The results of this study will be used to develop a strategic plan for the ORI Educational Program which will be consistent with the recent Secretarial directive requiring ORI to place greater emphasis on education and prevention.

Respondents: Research Institutions; *Burden Information—Number of Respondents:* 500; *Burden per Response:* 10 minutes; *Total Burden:* 84 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue, SW., Washington, DC, 20201. Written comments should be received within 60 days of this notice.

Dated: September 1, 2000.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–23410 Filed 9–12–00; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Proposals To Add to or Modify the List of United States Ports at Which Rodent Infestation Inspections Will Be Conducted and Deratting and Deratting Exemption Certificates Issued

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and request for comments.

SUMMARY: CDC is soliciting proposals to add additional ports to or otherwise modify the list of those at which it will conduct rodent infestation inspection of ships and issue Deratting and Deratting Exemption Certificates. While the United States does not require these certificates for ships to enter its seaports, Article 17 of the International Health Regulations requires that the U.S. provide these services, and 42 CFR 71.46 authorizes their performance by CDC through the Public Health Service (PHS).

DATES: Written comments must be received on or before September 31, 2000.

FOR FURTHER INFORMATION CONTACT: James E. Barrow, Chief, Program Operations Branch, Division of Quarantine, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop E03, Atlanta, Georgia 30333, telephone (404) 639–8107, FAX (404) 639–2599, E-mail jeb1@cdc.gov.

Authority: 42 U.S.C. 264–271, 42 CFR 71.46, IHR Articles 17 and 53.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The purpose of this announcement is to solicit comments on adding to or otherwise modifying the list of United States ports at which CDC will conduct rodent infestation inspections of ships and issue Deratting and Deratting Exemption Certificates. While the United States does not require these certificates for ships to enter its seaports, CDC currently provides rodent infestation inspections and issues Deratting and Deratting Exemption Certificates for ships at 11 major ports upon request. These ports include: Baltimore, MD; Honolulu, HI; Houston, TX; Jacksonville, FL; Los Angeles, CA; Miami, FL; New Orleans, LA; New York, NY; San Francisco, CA; Savannah, GA; and Seattle, WA., Article 17 of the International Health Regulations, published by the World Health Organization, Geneva, requires that each Health Administration provide these services, and Article 82 outlines the criteria for charging fees; 42 CFR 71.46 authorizes the performance of these services by PHS as carried out by CDC. For many years, CDC provided these services at no cost to the owners or agents of ships requesting them. Consistent with the practice of most foreign countries, and to reduce the cost of the inspection program, beginning on October 1, 1997, CDC consolidated its inspection activities to include only the ports listed above (**Federal Register:** April 9, 1998 (63 FR 17427)). Further, beginning on June 6, 1999, CDC imposed user fees for inspections conducted at the above listed ports (**Federal Register:** May 7, 1999 (64 FR 24658)).

Applicability

User fees will continue to be applicable to all rodent infestation inspections conducted by CDC or its vendors.

Proposal for the addition of ports for conducting rodent infestation inspections and issuing Deratting and Deratting Exemption Certificates.

Shipping companies, agents, and all other interested parties are invited to submit proposals for the addition of ports to the list at which rodent infestation inspections will be conducted by CDC or its vendors, and Deratting or Deratting Exemption Certificates issued pursuant to those inspections. Proposals to delete or modify ports on the current list may also be submitted and will be considered. Proposals should be in the following format and should include all supporting information that is to be considered by CDC:

1. Port.

2. Estimated annual number of inspections to be conducted at this port.

3. Estimated annual cost savings to shipping interests attributable to services at this port.

4. Narrative justification and additional supporting information.

Any addition to or modification of the list of ports at which services will be provided will be at the sole discretion of CDC. Information submitted will be considered, along with the availability and suitability of potential vendors at the ports proposed for addition or modification. The user fee charged for services at all ports may be affected by the cost of vendor-provided services at any added or modified ports.

Dated: September 7, 2000.

Thena M. Durham,

Director, Executive Secretariat, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–23466 Filed 9–12–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: National Directory of New Hires.

OMB No. 0970–0166.

Description: Public Law 104–193, the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' requires the Office of Child Support Enforcement (OCSE) to operate a National Directory of New Hires (NDNH) to improve the ability of State child support agencies to locate noncustodial parents and collect child support across State lines. The law requires States to periodically transmit new hire data received from employers to the NDNH, and to transit quarterly wage and unemployment compensation claims data to the NDNH on a quarterly basis. States transmit all data to the NDNH electronically.

Respondents: Employers, State child support agencies, State Employment Security agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per responses	Total burden hours
New Hire: Employers Reporting Manually	5,166,000	3.484	.0417 hours (2.5 minutes)	750,531
New Hire: Employers Reporting Electronically	1,134,000	37.037	.00028 hours (1 second)	11,760
New Hire: States	54	83.333	266.668 hours	1,200,001
Quarterly Wage & Unemployment Compensation.	54	4	.033 hours (2 minutes)	7.13
Multistate Employers' Notification Form	2052	1	.050 hours (3 minutes)	102.6

Estimated Total Annual Burden Hours: 1,962,402.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 6, 2000.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–23409 Filed 9–12–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Notice of Program Announcement No. ACF/ACYF 2001–02]

Fiscal Year 2001 Discretionary Announcement for Select Areas of Early Head Start; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Notice of Fiscal Year 2001 Early Head Start availability of financial assistance for select areas and request for applications.

SUMMARY: The Administration on Children, Youth and Families announces financial assistance to be competitively awarded to local public and local non-profit and for-profit private entities—including Early Head Start and Head Start grantees—to provide child and family development services for low-income families with children under age three and pregnant women. Early Head Start programs provide early, continuous, intensive and comprehensive child development and family support services on a year-round basis to low-income families. The purpose of the Early Head Start program is to enhance children's physical, social, emotional, and intellectual development; to support parents' efforts to fulfill their parental roles; and to help parents move toward self-sufficiency.

The funds available will be competitively awarded to eligible applicants to operate Early Head Start programs in select service areas.

Grants will be competitively awarded to eligible applicants, including current Head Start and Early Head Start grantees, to operate Early Head Start programs in geographic areas currently served by existing Early Head Start research grantees which were first funded in fiscal years 1995 and 1996 and other Early Head Start grantees first funded in fiscal year 1996 (see list below for the geographic areas). In awarding these grants, ACYF is interested in assuring that communities currently served by these existing grantees will have an opportunity to continue receiving services to low-income families with infants and toddlers and pregnant women through Early Head Start. Applicants in each geographic area will compete for funds against other applicants wishing to serve the same geographic area. There are 83 such competitive areas.

DATES: The closing date and time for receipt of applications is 5 p.m. EST on November 13, 2000.

Note: Applications should be submitted to the ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, VA 22209. However, prior to preparing and submitting an application, in order to satisfactorily compete under this announcement, it will be necessary for potential applicants to read the full announcement which is available through the addresses listed below.

ADDRESSES: A copy of the program announcement, necessary application forms, and appendices can be obtained by contacting: Early Head Start, ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300 Arlington, Virginia 22209. The telephone number is 1–800–351–2293, or email to: *ehs@lcgnet.com.*

Copies of the program announcement and necessary application forms can be downloaded from the Head Start web site at: *www.acf.dhhs.gov/programs/hsb*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, VA 22209 or telephone: 1–800–351–2293 or email to: *ehs@lcgnet.com*

SUPPLEMENTARY INFORMATION:

Eligible Applicants: Applicants eligible to apply to become an Early Head Start program are local public and local non-profit and for-profit private entities. Early Head Start and Head Start grantees are eligible to apply.

Project Duration: The competitive awards made through this announcement will be for one-year budget periods and an indefinite project period. Subsequent year budget awards

will be made non-competitively, subject to availability of funds and the continued satisfactory performance of the applicant. Current EHS grantees in good standing, who submit acceptable applications, will be given priority in funding decisions.

Federal Share of Project Costs: In most cases, the Federal share will not be more than 80 percent of the total approved costs of the project.

Matching Requirements: Grantees that operate Early Head Start programs must, in most instances, provide a non-Federal contribution of at least 20 percent of the total approved costs of the project.

Available Funds: See attached list of the service areas for the approximate amount of funds available for each area.

Anticipated Number of Projects to be Funded: It is estimated that there will be at least one award for each of the 83 geographic areas.

Statutory Authority: The Head Start Act, as amended, 42 U.S.C. 9831 *et seq.*

Evaluation Criteria

Competing applications for financial assistance will be reviewed and evaluated on the six criteria which are summarized below. The point values following each criterion indicate the numerical weight each criterion will be accorded in the review process.

Criterion 1. Objectives and Need for Assistance (15 Points)

The extent to which, based on community assessment information, the applicant identifies any relevant physical, economic (*e.g.,* poverty in the community), social, financial, institutional, or other issues which demonstrate a need for the Early Head Start program.

The extent to which the applicant lists relevant program objectives that adequately address the strengths and needs of the community.

The extent to which the applicant describes the population to be served by the project and explains why this population is most in need of the services to be provided by the program.

The extent to which the applicant gives a precise location and rationale for the project site(s) and area(s) to be served by the proposed project.

Criterion 2. Results or Benefits Expected (10 Points)

The extent to which the applicant identifies the results and benefits to be derived from the project and links these to the stated objectives.

The extent to which the applicant describes the kinds of data to be collected and how they will be utilized to measure progress towards the stated results or benefits.

Criterion 3. Approach (25 Points)

The extent to which the applicant demonstrates a thorough knowledge and understanding of the Head Start Program Performance Standards.

The extent to which the applicant explains why the approach chosen is effective in light of the needs, objectives, results and benefits described above.

The extent to which the approach is grounded in recognized standards and/or guidelines for high quality service provision or is defensible from a research or ''best practices'' standpoint.

Criterion 4. Staff and Position Data and Organization Profiles (15 Points)

The extent to which the proposed program director, proposed key project staff, the organization's experience, including experience in providing early, continuous, and comprehensive child and family development services, and the organization's history with the community demonstrate the ability to effectively and efficiently administer a project of this size, complexity and scope.

The extent to which the applicant's management plan demonstrates sufficient management capacity to implement a high quality Early Head Start program.

The extent to which the organization demonstrates an ability to carry out continuous improvement activities.

Criterion 5. Third Party Agreements/Collaboration (15 Points)

The extent to which the applicant presents documentation of efforts (letters of commitment, interagency agreements, etc.) to establish and maintain ongoing collaborative relationships with community partners.

The extent and thoroughness of approaches to combining Early Head Start resources and capabilities with those of other local child care agencies and providers to provide high quality child care services to infants and toddlers which meet the Head Start Program Performance Standards.

Criterion 6. Budget and Budget Justification (20 points)

The extent to which the program's costs are reasonable in view of the planning and activities to be carried out and the anticipated outcomes.

The extent to which the program has succeeded in garnering cash or in-kind resources, in excess of the required Federal match, from local, State, other Federal or private funding sources. The extent to which costs for facilities are reasonable and cost effective.

The extent to which the salaries and fringe benefits reflect the level of compensation appropriate for the responsibilities of staff.

The extent to which assurances are provided that the applicant can and will contribute the non-Federal share of the total project cost.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these jurisdictions need not take action regarding Executive Order 12372.

Applications for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early 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 date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which

may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to the ACF, they should be addressed to: William Wilson, Head Start Bureau, Grants Officer, 330 C Street SW., Room 2220, Washington, DC 20447, Attn: Early Head Start Competition for Select Service Areas.

A list of the Single Points of Contact for each State and Territory can be found on the following web site: *http://www.hhs.gov/progorg/grantsnet/lawsreg/spoc399.htm*

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 6, 2000.

Patricia Montoya,

Commissioner, Administration on Children, Youth and Families.

EARLY HEAD START: CONSOLIDATED SERVICE AREA MATRIX—FISCAL YEAR 2001

State	County	Funding for the following counties	Current service area(s)
Alaska		$797,487	Fairbanks North Star Borough (as defined by Alaska Native Claims Settlement Act (43 U.S.C 1602 (c)).
Arizona	Maricopa	895,843	Chandler, Guadelupe, Mesa, Glendale and Dysart.
Arkansas	Conway	1,295,089	Entire County.
	Franklin		Entire County.
	Johnson		Entire County.
	Logan		Entire County.
	Pope		Entire County.
	Yell		Entire County.
California	El Dorado	884,818	Shingle Springs, El Dorado Hills, Cameron Park, Placerville, Georgetown/Kelsey, Camino Polock Pines, Tahoe Basin.
	Fresno	752,322	*City of Fresno.*
	Los Angeles	1,348,756	*Cities of* Santa Monica, West Los Angeles, Culver City, Inglewood, Lennox, Westchester, Venice, Palms and Mar Vista. Bounded on the: North by Wilshire Blvd to Sepulveda to Olympic, East by Beverly Drive to Pico to Durango to La Cienega to Jefferson to Sepulveda to Centinela to Prairie; South by Imperial Highway to Sepulveda to Lincoln to Admiralty Way to Washington, West by the Pacific Ocean.
	Nevada	1,077,655	N. San Juan, Grass Valley, Nevada City.
	Placer		Kings Beach, Truckee, Rockland, Forresthill, and Lincoln.
	San Mateo	641,039	Half Moon Bay.
Colorado	Denver	1,051,911	Northwest Denver, bordered by Sheridan Blvd. on the West, I70 on the North, I25 on the East, and Almeda Blvd. on the South.
	Denver	1,380,779	Five Points, Cole, East Colfax, Whittier, Clayton, Northeast Park Hill, Cheeseman Park, Montbello and City Park. Bounded to the north by Broadway and 38th Ave., east to Yosemite, south to 11th Ave., west to Quebec; Quebec south to Hampden, Hampden west to Broadway, Broadway north to 35th Ave.
	Fremont	519,300	Entire county.
District of Columbia	N/A	670,958	In Ward One an area enclosed by: Northeast—Spring Road, Northwest—Piney Branch Parkway, East-Michigan Avenue to Florida Avenue, Southeast—S Street, West—Rock Creek. In Ward Two an area enclosed by: Northeast—New Jersey, Florida Avenue and S Street, Northwest—Florida Avenue, East—Florida Avenue and Southwest Freeway, Southeast—Anacostia River, West—Potomac River. In Ward Four an area enclosed by: Northeast—Eastern Avenue, Northwest—Western Avenue, Southeast—Michigan Avenue, Southwest—Rock Creek. In Ward Five an area enclosed by: Northeast—Eastern Avenue, Northwest—South Dakota, Southeast—Anacostia River, Southwest—Florida Avenue, West—Harewood Road.
		844,320	Shepherd Park, Upper Cordoza, Adams Morgan and Mount Pleasant.

EARLY HEAD START: CONSOLIDATED SERVICE AREA MATRIX—FISCAL YEAR 2001—Continued

State	County	Funding for the following counties	Current service area(s)
Florida	Collier	1,611,064	Entire county.
	Desota		Entire county.
	Glades		Entire county.
	Hardee		Entire county.
	Hendry		Entire county.
	Highlands		Entire county.
	Gadsden	648,345	Quincy, Havana, Gretna
	Leon		*City of Tallahassee* (1) Bordered on the north by Apalachee, East by Capital Circle E., South by Paul Russell Rd., and West by S. Monroe St.; (2) Bordered on the North by Tharp St., East by N. Monroe St., South by Tennessee St., and West by Capital Circle W.; (3) Bordered on the North by Tennessee St., East by S. Monroe St., South by Orange Ave., and West by Capital Circle W. (4) Bordered on the North by Orange Ave., East by Woodville Highway, South by Capital Circle S., and West by Capital Circle SW.; (5) Bordered on North by Paul Russell Rd., East by Capital Circle SE, South by Capital Circle S., and West by Woodville.
	Hillsboro	1,227,951	*Cities of Tampa and Plant City.*
Hawaii	Oahu	635,745	Waipahu to Hawaii Kai.
	Oahu	453,443	*Kai (Koolauloa).*
Idaho	Clearwater	799,716	Nez Perce Reservation.
	Lewis		Nez Perce Reservation.
Illinois	Cook	797,309	Cicero, Berwyn, Maywood, and Bellwood.
	Madison	1,140,052	Towns of Alton, Granite City, Pontoon Beach, Venice, Collinsville, and E. Alton.
	Peoria	686,875	*City of Peoria.*
	Sangamon	807,911	Entire county.
Indiana	Clay	334,266	Entire county.
	Owen		Entire county.
	Putnam		Entire county.
	Madison	481,404	Entire county.
Iowa	Hadin	953,382	Ackley, Alden, Buckeye, Eldora, Garden City, Gifford, Hubbard, Iowa Falls, New Providence, Owasa, Radcliffe, Steamboat Rock, Union.
	Marshall		Albion, Clemons, Dunbar, Ferguson, Gilman, Green Mountain, Haverhill, Larnoille, Laural, LeChwid, Liscomb, Marshalltown, Melbourne, Quarry, Rbodes, St. Anthony, State Center.
	Poweshiek		Baxter, Brooklyn, Deep River, Grinnell, Cuernsey, Hartwick, Lynnville, Malcom, Montezuma Searsboro.
	Story		Ames, Cambridge, Collins, Colo, Fernald, Gilbert, Huxley, Iowa Center, McCallsburg, Maxwell, Nevada, Roland, Slater, Story City, Zcaring.
	Tama		Buckingham, Chelsea, Clutier, Dinsdale, Dysart, Elberom Garwin, Gladbrook, Haven, Lincoln, Montour, Tama, Toledo, Traer, Vining.
	Polk	513,482	City of Des Moines metropolitan area.
Kansas	Wyandotte	1,302,101	Wyandotte/Douglas county line to the West, Wyandotte/Johnson county line to the South, Kansas/Missouri state line to North and East.
Kentucky	Christian	1,225,952	Hopkinsville.
	Daviess		Owensburg.
	Ohio		Entire county.
	Clay	1,146,633	Entire county.
	Harlan		Entire county.
	Knox		Entire county.
Maine	Androscoggin	686,948	Livermore Falls and Livermore.
	Franklin		Entire county.
	Southern Oxford	988,204	Grafton, Andover, North Surplus, and Byron.
Maryland	Montgomery	782,515	Rockville South of Route 28, Silver Spring and Tacoma Park.

EARLY HEAD START: CONSOLIDATED SERVICE AREA MATRIX—FISCAL YEAR 2001—Continued

State	County	Funding for the following counties	Current service area(s)
	Prince George's		Hyattsville, Riverdale and Langley Park.
Massachusetts	Middlesex	787,111	Lowell.
Michigan	Antrim	882,730	Entire county.
	Benzie		Entire county.
	Charlevoix		Entire county.
	Emmet		Entire county.
	Grand Traverse		Entire county.
	Kalkaska		Entire county.
	Leelanau		Entire county.
	Roscommon		Entire county.
	Missaukee		Entire county.
	Wexford		Entire county.
	Clare	1,288,685	Entire county.
	Gladwin		Entire county.
	Mecosta		Entire county.
	Midland		Entire county.
	Osceola		Entire county.
	Delta	635,322	Entire county.
	Menominee		Entire county.
	Schoolcraft		Entire county.
	Genesee	852,969	Carman Ainsworth School District and Bendel School District.
	Hillsdale	898,235	North of Ohio State border, South of US–12 and Moscow Rd., East of M–49, and West of US–127; cities and towns of Camden, Hillsdale, Jonesville, Litchfield, North Adams, Pittsford, Reading and Waldren.
	Jackson		North of I–94 to Seymore Rd., South of I–94 to US–12, East of US–127 to Clear Lake Rd., West of US–127 to M–99. The cities and towns of Brooklyn, Cement City, Clarke Lake, Concord, Grass Lake, Horton, Jackson, Michigan Center, Napolean, Parma, Spring Arbor, and Springport.
	Ottawa	232,085	Town of Ferrysburg, Grand Haven Township, Spring Lake Township, Crockery Township, and Robinson Township.
	Wayne	1,204,280	The following neighborhoods are being served within the *City of Detroit:* neighborhoods bounded to the: (1) North by Woodland Street, to the East by Oakland Street, to the South by Warren Avenue and to the West by Byron Street: (2) North by Fullerton Street, to the East by Byron Street, to the South by W. Grand Blvd, and to the West by Holmur Street: (3) North by Puritan Street, to the East by Thomson Street, to the South by Fullerton Street and to the West by Meyers Road; (4) North by 8 Mile Road, to the East by Southfield Fwy, to the South by Puritan Street and to the West by Five Points Street: (5) North by Puritan Street, to the East by Southfield Fwy, to the South by Fullerton Street, and to the West by Telegraph Road.
Minnesota	Hennepin	560,976	American Indian children and families from the communities of North Minneapolis, Phillips, and Northeast Minneapolis.
Missouri	Jackson	793,751	North: Missouri River, St. John Ave., Anderson St., to 9th St.; West: State Line Rd. to Oak St.; South: 112th St. to 95th St.; East: Hillcrest to Blue Ridge Cutoff.
Nebraska	Douglas	784,121	*City of Omaha* North—I–680; South—Harrison Street (Sarpy County Line); East—Iowa State Line; West—72th Street.
	Scotts Bluff	472,303	Entire county.
New Jersey	Camden	832,809	*City of Camden.*
	Essex	783,717	*City of East Orange.*
New York	Allegheny	323,672	Entire county.

EARLY HEAD START: CONSOLIDATED SERVICE AREA MATRIX—FISCAL YEAR 2001—Continued

State	County	Funding for the following counties	Current service area(s)
	Bronx	847,985	Kingsbridge Hgts and Sputen Duyvil Community Bd 8; University Hgts, Bedford Park Community Bd 7; Fordham, Morris Hgts Community Bd 5: Highbridge Community Bd 4.
	Kings		Teenage girls attending Board of Education LYFE program in Brooklyn. Students live throughout the county.
	Manhattan		Teenage girls attending Board of Education LYFE program on the Lower East Side. Students live throughout the county.
	Manhattan	785,433	West 4th, Brooklyn Bridge , Bowery, Canal, Baxter Street and New Street Boundaries.
	Manhattan	696,374	Lower Eastside Manhattan North of Broadway and South of 14th St., Chelsea West of 7th Ave., and South of 34th Street.
	Manhattan	585,884	Washington Heights PS District 5 & 8.
	Queens	896,332	Entire community of Rockaway.
	Rockland	817,268	Monsey, Spring Valley, Kaser.
	Saratoga	998,746	Corrinth School District, Saratoga Springs School District, Ballston Spa School District, Mechanisville School District.
North Dakota	Carson	797,487	Boundaries of Standing Rock Reservation.
	Sioux		Boundaries of Standing Rock Reservation.
Ohio	Cuyahoga	1,123,827	*City of Cleveland*, Glenville, Hough Detroit-Shoreway, Clark-Fulton; *City of East Cleveland.*
	Darke	1,016,161	Entire County.
	Greene		Entire county.
	Miami		Entire County.
	Shelby		Entire county.
Pennsylvania	Allegheny	1,769,081	*(1)* Clairton: *City of Clairton*, West Mifflin Estates, Wilson, Jefferson, Classport, Elizabeth, Dravosburg; (2) Storox: McKees Rocks Borough, Kennedy Township, Esplen, Neville Island, Stowe Township; (3) Hill District: Uptown, Upper Hill, Middle Hill, Lower Hill, South Oakland, and North Oakland.
	Beaver County	682,291	Entire County.
	Lehigh	782,515	Entire County.
	Westmoreland	541,092	Entire County.
Rhode Island	Kent	792,311	Coventry, W. Warwick.
	Providence	97,720	Cranston.
South Carolina	Sumter	767,503	Sumter, Mayesville, Dalzell, Wedgefield, Shaw AFB, Pinewood, Rembert, within the city limits and the eastern section of Sumter County.
South Dakota	Brookings	632,345	Entire County.
	Codington		Entire County.
	Hamlin		Entire County.
	Lake		Entire County.
	Minnehaha		Entire County.
	Moody		Entire County.
	Pennington	795,140	
	Meade		Entire County.
Tennessee	Carroll	962,463	Entire County.
	Fayette		Entire County.
	Lauderdale		Entire County.
	Madison		Entire County.
	Obion		Entire County.
	Tipton		Entire County.

EARLY HEAD START: CONSOLIDATED SERVICE AREA MATRIX—FISCAL YEAR 2001—Continued

State	County	Funding for the following counties	Current service area(s)
Texas	Brooks	1,396,623	Falfurrias: (1) Area bordered by San Saba Street to the South, West Garret Street to the North, North Center Street to the East and North Chester Street to the West. (2) Area bordered by East Lamar on the North, East Forrest Street on the South, North Lincoln on the East and North Williams Street on the West.
	Jim Wells		*(1) City of Alice:* an area bordered by Loma Street on the North, on the East by Texas Blvd., on the South by Hill Street and on the West by Cameron Street; and area bounded by Sain Street on the North, Sea Breeze on the South, Texas Blvd. on the West and Stadium Road on the East; *(2) City of Premont;* and *(3) City of Orange Cove.*
	Kleberg		*City of Kingsville:* (1) an area bordered by Corral road on the South, Armstrong Road on the East, University Blvd. on the West and Avenue F on the North; (2) W. General Cavos on the South, Sixth Street to the West, Fourteen Street to the East and Ailsle Avenue to the North.
	Hays	896,949	*(1) San Marcos:* an area encompassed by the San Marcos CISD (Consolidated Independent School District); (2) Hayes, an area encompassed by the Hays City CISD.
	Travis	1,043,545	*City of Austin:* an area bounded by Lamar on the West, Highway 183 on the East, Highway 290 on the North and William Cannon Drive on the South.
Utah	Box Elder	837,767	*Brigham City,* Fielding, *Garden City* Garland , Thatcher, Tremonton.
	Cache		College Ward, Hyde Park, Hyrum, Logan, Mendon, Millville, Nibley, North Logan, Richmond, River Heights Smithfield , Wellsville.
	Franklin		Fairview, Preston.
Vermont	Caledonia	758,708	Entire county.
	Essex		Entire county.
	Orleans		Entire county.
	Windham	1,267,639	Entire County.
Virginia	Buchanan,	425,640	Entire county.
	Dickenson		Entire county.
	Russel		Entire county.
	Washington		Entire county & *City of Bristol.*
	Fairfax	904,938	Southern Fairfax County from I–495 to Prince William County.
Washington	King	2,438,043	Communities of Kent, Renton, Auburn, Skyway, Tukwila, Southeast King County, and Federal Way.
	Walla Walla		The greater Walla Walla area, *the City of Walla Walla* and the surrounding metropolitan area, including the communities of College Place and the Farm Labor Camp.
	Yakima	695,870	Grandview, Mabton, Sunnyside, Granger, Toppenish, White Swan.
Wisconsin	Barron,	857,201	Entire county.
	Chippewa		Entire county.
	Dunn		Entire county.
	Milwaukee	620,590	*City of Milwaukee:* Bounded by: North: Capital Drive, East: Highway 43, South: Wisconsin Avenue, and West: Sherman.

[FR Doc. 00–23407 Filed 9–12–00; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Native American Program (NAP)

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of open consultations.

SUMMARY: Notice is hereby given for the dates, locations and hotel sites for two of the four Tribal consultations on the Notice of Proposed Rule Making for direct Federal funding of Tribal child support enforcement (CSE) programs and the interim final rule for funding of comprehensive Tribal CSE programs that are currently operating. On August 21, 2000, the **Federal Register** published (65 FR 50785 and 65 FR 50800) a notice of proposed rule making (NPRM) and an interim final rule that will implement direct child support enforcement program funding to Federally recognized Indian tribes and tribal organizations. In the interest of providing Tribes and Tribal organizations and the public adequate time to review and comment on the NPRM, we modified the standard 60-day comment period by extending it to 120-days. The Federal Office of Child Support Enforcement will be sponsoring a total of four consultations with federally recognized Indian Tribes and the public Tribal organizations during the 120-day notice and comment period to receive public comment on the proposed rules. This notification provides specific information for the initial two consultations.

DATES: The initial two consultations will be held October 3–5, 2000 in Minneapolis, Minnesota and October 24–26, 2000 in Anchorage, Alaska. The consultations will begin promptly at 8:00 a.m. and end at 5:00 p.m. on the first two days. The final half-day session will begin promptly at 8:00 am and end at 12 noon.

ADDRESSES: The first consultations, October 3–5, 2000, will be held at the Four Points Hotel, 1330 Industrial Boulevard, Minneapolis, Minnesota 55413. The telephone numbers for reservations are 1 (800) 325–3535 or (612) 331–1900. The second consultation, October 24–26, 2000, will be held at the Holiday Inn-Downtown Anchorage, 239 West 4th Avenue, Anchorage, Alaska 99501. The telephone number for reservations is 1 (907) 279–8671. All interested parties are invited to attend these public consultations. Seating may be limited and will be available on a first-come, first-serve basis. Persons needing special assistance, such as sign language interpretation or other special accommodation, should contact the Deputy Director of the Native American Child Support Enforcement Program, Office of Child Support Enforcement, at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Apodaca, Deputy Director, Native American Child Support Enforcement Program, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–9376; fax (202) 401–5559; e-mail: vapodaca@acf.dhhs.gov). These are not toll-free numbers. The date, locations and times for the remaining two consultations will be announced in advance in the **Federal Register**. However, it is expected there will be only four consultations.

SUPPLEMENTARY INFORMATION: The purpose of these consultations will be to provide an overview of the proposed regulations and the interim final rule to attendees. In addition, public comment will be elicited on the proposed regulation and interim final rule. Federal officials will explain both the proposed rules and interim final rules. Persons who attend the consultations may make oral presentations and/or provide written comments for the record at the consultations, at their option. We encourage persons who make oral presentations at the consultations to submit written comments in support of their presentations.

Agenda

In order to obtain the broadest public participation possible on these proposed rules, the Office of Child Enforcement plans to conduct four public consultations during the 120-day comment period. These consultations are intended to further solicit public comment, Native American and Tribal input on the Native American child support enforcement direct Federal funding proposed rule. The agenda for these consultations consists of two full days where public comments on the proposed rule will be elicited. There will also be a one-half day review of the interim funding application process for those Tribes and Tribal organizations with currently existing comprehensive child support enforcement programs wishing to submit applications for interim funding of their programs.

Public Participation

Members of the public wishing to present oral statements at the consultations should send their requests to Ms. Virginia Apodaca, Deputy Director of the Native American Child Support Enforcement Program, as soon as possible or they may register on site at the beginning of each consultation. Such requests should be made by telephone, fax machine, or mail, as shown above. The Deputy Director of the Native American Program will accommodate all such requests on site by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to five minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for inclusion in the public record without presenting oral statements. Such written statements should be sent to the Native American Child Support Enforcement Program Deputy Director, as shown above, by mail or fax at least five business days before each meeting.

Minutes of all public meetings and other documents will be available for public inspection and copying at the Department of Health and Human Services (DHHS) fourteen days after the conclusion of each consultation. At DHHS, these documents will be available at the Deputy Director, Native American Child Support Enforcement Program, Office of Child Support Enforcement (OCSE), Administration for Children and Families, U.S. Department of Health and Human Services, Aerospace Building, Fourth Floor—East, 370 L'Enfant Promenade, SW, Washington, DC from 9 a.m. to 5 p.m. Questions regarding the availability of documents from DHHS should be directed to Virginia Apodaca, OCSE (telephone (202) 401–9376). This is not a toll-free number. Any written comments on the minutes should be directed to Ms. Virginia Apodaca, Deputy Director of the Native American Child Support Enforcement Program, as shown above.

Dated: September 7, 2000.

David Gray Ross,

Commissioner, Office of Child Support Enforcement.

[FR Doc. 00–23408 Filed 9–12–00; 8:45 am]
BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1283]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reporting and Recordkeeping Requirements and Availability of Sample Electronic Products for Manufacturers and Distributors of Electronic Products

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 (the PRA).

DATES: Submit written comments on the collection of information by October 13, 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.

Reporting and Recordkeeping Requirements and Availability of Sample Electronic Products for Manufacturers and Distributors of Electronic Products; 21 CFR Parts 1002, 1010, 1020, 1030, 1040, and 1050; FDA Forms 2579, 2767, 2877, and 3147 (OMB Control No. 0910–0025)—Extension

Under sections 532 through 542 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360ii through ss), FDA has the responsibility to protect the public from unnecessary exposure from radiation from electronic products. The regulations issued under these authorities are listed in the Code of Federal Regulations, title 21, chapter I, subchapter J. Specifically, subchapter A regulations, 21 CFR 5.10(a)(3), 5.25(b), 5.35(a)(1), and 5.86 through 5.92, delegate administrative authorities to FDA.

Section 532 of the act directs the Secretary of the Department of Health and Human Services (the Secretary) to establish and carry out an electronic product radiation control program, including the development, issuance, and administration of performance standards to control the emission of electronic product radiation from electronic products. The program is designed to protect the public health and safety from electronic radiation, and the act authorizes the Secretary to procure (by negotiation or otherwise) electronic products for research and testing purposes and to sell or otherwise dispose of such products.

Section 534(g) of the act directs the Secretary to review and evaluate industry testing programs on a continuing basis; and section 535(e) and (f) of the act directs the Secretary to immediately notify manufacturers of, and ensure correction of, radiation defects or noncompliances with performance standards.

Section 537(b) of the act contains the authority to establish and maintain records (including testing records), make reports, and provide information to determine whether the manufacturer has acted in compliance.

Parts 1002 through 1010 (21 CFR parts 1002 through 1010) specify reports to be provided by manufacturers and distributors to FDA and records to be maintained in the event of an investigation of a safety concern or a product recall.

FDA conducts laboratory compliance testing of products covered by regulations for product standards in parts 1020, 1030, 1040, and 1050 (21 CFR parts 1020, 1030, 1040, and 1050). FDA details product-specific performance standards that specify information to be supplied with the product or require specific reports. The information collections are either specifically called for in the act or were developed to aid the agency in performing its obligations under the act. The data reported to FDA and the records maintained are used by FDA and the industry to make decisions and take actions that protect the public from radiation hazards presented by electronic products. This information refers to the identification of, location of, operational characteristics of, quality assurance programs for, and problem identification and correction of electronic products. The data provided to users and others are intended to encourage actions to reduce or eliminate radiation exposures.

FDA uses the following forms to aid respondents in the submission of information for this information collection: (1) Form FDA 2767, ''Notice of Availability of Sample Electronic Product,'' (2) Form FDA 2877, ''Declaration for Imported Electronic Products Subject to Radiation Control Standards,'' and (3) Form FDA 3147, ''Application for a Variance From 21 CFR 1040.11(c) for a Laser Light Show, Display, or Device.''

The most likely respondents to this information collection will be electronic product and x-ray manufacturers, importers, and assemblers.

In the **Federal Register** of June 5, 2000 (65 FR 35648), the agency requested comments on the proposed collection of information. The following is a summary of the comments and the agency's responses to them.

One comment asked for elimination of reporting requirements and enforcement of field surveillance. The comment stated that current reporting requirements are excessive and unnecessary and not in line with international trend. It was suggested that a ''Supplier's Declaration of Conformity'' to the emission standards would be sufficient. Manufacturers and importers could provide FDA with information required in the current reporting requirements upon request.

FDA was not persuaded by this comment. Reports and field surveillance are needed to ensure that product complies with Federal performance standards. FDA is in the process of re-engineering the Radiological Health Program and is looking into ways of trying to help alleviate some of the burden. FDA is currently reviewing its reporting requirements and is considering exemption from reporting for certain products and electronic filing for others. The comment will be taken into consideration.

One comment requested that Class I laser products containing Class I lasers should be excluded from the reporting requirements and a declaration be added to the import Form FDA 2877 stating that the products are compliant products. This would eliminate the need for an accession number.

FDA partially agrees with this suggestion and has already exempted manufacturers who have previously submitted reports from reporting new Class I products (those to which access to laser radiation in excess of Class I during operation, maintenance, service, and single failure has been limited). At this time, there is no way to distinguish these types of Class I products from other Class I products through either tariff codes or data base product codes.

FDA is considering different options to help alleviate the problem other than adding a new declaration to the form. During the re-engineering process, FDA will take into account the suggestion.

One comment stated that FDA's import requirements are outdated and most of the information requested for every entry is redundant. FDA can simplify the import clearance process by limiting data fields and cross-referencing data bases. Also, the import Form FDA 2877 does not take into account multiple regulated products that can be included on an entry.

FDA disagrees with the comment that import requirements are outdated and most of the information requested for entries is redundant. Some data elements on the Form FDA 2877 are required by Customs and also assist FDA in limiting the scope of import detentions or import review. For example, some countries may have a problem while other countries do not, or some product types may have a higher surveillance rate due to a non-compliance problem. By obtaining such data FDA can better target those shipments that need to be detained for investigation and thus permit more shipments to proceed unhindered.

FDA agrees that the process can be simplified but cannot cross-reference data between data bases at this time because data bases are very different. Budget allocation and several years' effort will be required to update the data bases.

FDA agrees that the import Form FDA 2877 does not take into account multiple regulated products that are included on an entry. If the information does not fit in the box provided on the form a list may be attached.

One comment stated that the name and address of manufacturing site and country of origin creates confidentiality concerns for the manufacturer of record.

FDA was not persuaded by this comment. While FDA appreciates the unique situation to manufacturers this information is required by Customs and assists FDA in targeting certain areas where there is a need to monitor certain products. FDA will continue to explore methods to reduce informational requirements while maintaining FDA's ability to detain and refuse violative products.

One comment recommended that a new declaration be added to the Form FDA 2877 reflecting the May 14, 1997, notice to industry regarding importation of non-compliant products intended for testing and evaluation during the design and development stage instead of the importer having to use declaration C.

FDA disagrees with this comment. Currently there is a declaration (A6) that takes into account the notice. The notice is intended for certain types of non-compliant products. Declaration C should be used for products that are not listed in that notice.

Three comments proposed electronic filing of radiation reports to minimize the burden of the collection of information and enhance the quality, utility, and clarity of information to be collected.

FDA agrees with this comment and is currently working on this process. FDA must accept electronic submissions by September 2003.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	FDA form No.	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
1002.3		10	1	10	12	120
1002.10 and 1010.3		540	1.6	850	24	20,400
1002.11		1,000	1.5	1,500	0.5	750
1002.12		150	1	150	5	750
1002.13 (annual)		900	1	900	26	23,400
1002.13 (quarterly)		250	2.4	600	0.5	300
1002.20		40	1	40	2	80
1002.50(a) and 1002.51		10	1.5	15	1	15
	2877	600	32	19,200	0.2	3,840
1010.2		1	1	1	5	5
1010.4(b)		1	1	1	120	120
1010.5 and 1010.13		3	1	3	22	66
	2767	145	11.03	1,600	0.09	144
1020.20(c)(4)		1	1	1	1	1
1020.30(d), (d)(1), and (d)(2)	2579	2,345	8.96	21,000	0.30	6,300
1020.30(g)		200	1.33	265	35	9,275
1020.30(h)(1) through (h)(4) and 1020.32(a)(1) and (g)		200	1.33	265	35	9,275
1020.32(g) and 1020.33(c), (d), (g)(4), (j)(1), and (j)(2)		9	1	9	40	360
1020.40(c)(9)(i) and (c)(9)(ii)		8	1	8	40	320
1030.10(c)(4)		41	1.61	66	20	1,320
1030.10(c)(5)(i) through (c)(5)(iv)		41	1.61	66	20	1,320
1030.10(c)(6)(iii) and (c)(6)(iv)		1	1	1	1	1
1040.10(a)(3)(i)		83	1	83	3	249
1040.10(h)(1)(i) through (h)(1)(vi)		805	1	805	8	6,440
1040.10(h)(2)(i) and (h)(2)(ii)		100	1	100	8	800
1040.11(a)(2)		190	1	190	10	1,900
1040.11(c)	3147	53	2.2	115	0.5	58
1040.20(d), (e)(1), and (e)(2)		110	1	110	10	1,100
1040.30(c)(1)		1	1	1	1	1
1040.30(c)(2)		7	1	7	1	7
1050.10(f)(1) through (f)(2)(iii)		10	1	10	56	560
Total						89,278

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	No. of recordkeepers	Annual frequency of record-keeping	Total annual records	Hours per record	Total hours
1002.30 and 1002.31(a)	1,150	1,655.5	1,903,825	198.7	228,505
1002.40 and 1002.41	2,950	49.2	145,140	2.4	7,080
1002.30(g)(2)	22	1	22	0.5	11
1040.10(a)(3)(ii)	83	1	83	1	83
Total					235,679

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates were derived by consultation with FDA and industry personnel and actual data collected from industry over the past 3 years. An evaluation of the type and scope of information requested was also used to derive some time estimates. For example, disclosure information primarily requires time only to update and maintain existing manuals. Initial development of manuals has been performed except for new firms entering the industry. When information is generally provided to users, assemblers, or dealers in the same manual, they have been grouped together in the ''Estimated Annual Reporting Burden'' table.

The following information collection requirements are not subject to review by OMB because they do not constitute a ''collection of information'' under the PRA: Sections 1002.31(c); 1003.10(a), (b), and (c); 1003.11(a)(3) and (b); 1003.20(a) through (h); 1003.21(a) through (d); 1003.22(a) and (b); 1003.30(a) and (b); 1003.31(a) and (b); 1004.2(a) through (i); 1004.3(a) through (i); 1004.4(a) through (h); and 1005.21(a) through (c). These requirements ''apply to the collection of information during the conduct of general investigations or audits'' (5 CFR 1320.4(b)). The following labeling requirements are also not subject to review under the PRA because they are a public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public (5 CFR 1320.3(c)(2)): Sections 1020.10(c)(4), 1030.10(c)(6), 1040.10(g), 1040.30(c)(1), and 1050.10(d)(1).

Dated: September 7, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–23479 Filed 9–12–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00F–1482]

Electric Power Research Institute, Agriculture and Food Technology Alliance; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Electric Power Research Institute, Agriculture and Food Technology Alliance has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ozone in gaseous and aqueous phases as an antimicrobial agent for the treatment, storage, and processing of foods.

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, 202–418–3074.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0A4721) has been filed by the Electric Power Research Institute, Agriculture and Food Technology Alliance, 2747 Hutchinson Ct., Walnut Creek, CA 94598. The petition proposes to amend the food additive regulations in part 173 Secondary Direct Food Additives Permitted in Food for Human Consumption (21 CFR part 173) to provide for the safe use of ozone in gaseous and aqueous phases as an antimicrobial agent for the treatment, storage, and processing of foods.

The agency has determined under 21 CFR 25.32(r) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 23, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–23405 Filed 9–12–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1498]

Lilly Research Laboratories et al.; Withdrawal of Approval of 28 New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 28 new drug applications (NDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Effective September 30, 2000.

FOR FURTHER INFORMATION CONTACT: Olivia A. Pritzlaff, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

Application No.	Drug	Applicant
NDA 4–038	Diethylstilbestrol (DES) Injection.	Lilly Research Laboratories, Lilly Corporate Center, Indianapolis, IN 46285.
NDA 4–039	DES Tablets.	Do.
NDA 4–040	DES Suppository.	Do.
NDA 4–041	DES Tablets.	Do.
NDA 4–056	Stilbetin Tablets (Diethylstilbestrol Tablets USP).	Bristol-Myers Squibb Co., P.O. Box 4000, Princeton, NJ 08543–4000.
NDA 6–327	Isuprel (Isoproterenol Hydrochloride) Inhalation Solution.	Sanofi-Synthelabo, Inc., 90 Park Ave., New York, NY 10016–1389.
NDA 7–371	Mecostrin Injection (Dimethyl Tubocurarine Chloride).	Bristol-Myers Squibb Co.
NDA 8–392	Nydrazid (Isoniazid USP) Tablets, Syrup, Capsules.	Do.
NDA 9–052	Rezipas (Aminosalicylic Acid Resin Powder).	Do.
NDA 9–273	Rauwolfia Serpentina, 50-milligram (mg) and 100-mg Tablets, 35-mg Capsule.	Impax Laboratories, Inc., 30831 Huntwood Ave., Hayward, CA 94544.
NDA 9–627	Reserpine, 0.1-mg, 0.25-mg, 0.5-mg, and 1-mg Tablets.	Do.
NDA 10–010	Stilphostrol (Diethylstilbestrol Diphosphate) Injection and Tablets.	Bayer Corp., 400 Morgan Lane, West Haven, CT 06516–4175.
NDA 10–347	Delalutin (Hydroxyprogesterone Caproate Injection USP).	Bristol-Myers Squibb Co.
NDA 11–359	Ora-testryl (Fluoxymesterone Tablets USP).	Do.
NDA 11–642	Cardioquin (Quinidine Polygalacturonate) 275-mg Tablets.	Purdue Frederick Co., 100 Connecticut Ave., Norwalk, CT 06850–3590.
NDA 11–745	Konakion (Phytonadione) Injection.	Hoffman-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110.
NDA 12–248	Plegine (Phendimetrazine Tartate) Tablets.	Wyeth Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 12–339	Bronkometer (Isoetharine Mesylate Inhalation Aerosol) and Bronkosol (Isoetharine Hydrochloride Inhalation Solution).	Sanofi-Synthelabo, Inc.
NDA 16–911	Delalutin (Hydroxyprogesterone Caproate Injection USP).	Bristol-Myers Squibb Co.
NDA 17–424	Septisol Foam (Hexachlorophene).	Steris Corp., P.O. Box 147, St. Louis, MO 63166–0147.
NDA 18–672	Nitro IV 5 mg/milliliters (mL) Injection and Nitronal Injection.	G. Pohl-Boskamp GmbH & Co., Kieler Strasse 11, D–25551 Hohenlockstedt, Germany.
NDA 18–762	Brethaire (Terbutaline Sulfate) Inhalation Aerosol.	Novartis Pharmaceuticals Corp., 59 Route 10, East Hanover, NJ 07936–1080.
NDA 19–069	Mycelex (Clotrimazole) Vaginal Tablets.	Bayer Corp.
NDA 19–082	Dalgan (Dezocine) Injection, 5, 10, and 15 mg/mL.	AstraZeneca LP, 725 Chesterbrook Blvd., Wayne, PA 19087–5677.
NDA 19–174	Trandate HCT (Labetalol Hydrochloride/ Hydrochlorothiazide) Tablets.	Glaxo Wellcome, Inc., P.O. Box 13398, Research Triangle Park, NC 27709.
NDA 19–287	DIZAC (Diazepam Injectable Emulsion).	Pharmacia & Upjohn, 7000 Portage Rd., Kalamazoo, MI 49001–0199.
NDA 20–559	Tritec (Ranitidine Bismuth Citrate) Tablets.	Glaxo Wellcome, Inc.
NDA 21–048	17β-Estradiol Transdermal System.	R. W. Johnson Pharmaceutical Research Institute, 920 Route 202 South, P.O. Box 300, Raritan, NJ 08869–0602.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective September 30, 2000.

Dated: September 5, 2000.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 00–23477–Filed 9–12–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1497]

Draft Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #4; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #4.'' This draft guidance is neither final nor is it in effect at this time. The final regulations implementing the Mammography Quality Standards Act of 1992 (the MQSA) became effective April 28, 1999. The draft guidance document is intended to help facilities and their personnel meet the MQSA final regulations.

DATES: Submit written comments concerning this draft guidance by December 12, 2000.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #4'' to the Division of Small

Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA 305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Charles A. Finder, Center for Devices and Radiological Health (HFZ 240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The MQSA was passed on October 27, 1992, to establish national quality standards for mammography. After October 1, 1994, the MQSA required all mammography facilities, except facilities of the U.S. Department of Veterans Affairs, to be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA. In the **Federal Register** of October 28, 1997 (62 FR 55976), FDA published the MQSA final regulations. The final regulations became effective April 28, 1999, and replaced the interim regulations (58 FR 67558 and 58 FR 67565, December 21, 1993). Development of this guidance document began in December 1999.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on the final regulations implementing the MQSA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive the draft guidance entitled ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #4'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1159) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #4,'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #4'' will be available at http://www.fda.gov/cdrh/mammography.

IV. Comments

Interested persons may submit to Dockets Management Branch (address above) written comments regarding this draft guidance by December 12, 2000. Two copies of any comments are to be submitted, except that individual may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 29, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–23478 Filed 9–12–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–22]

Notice of Proposed Information Collection: Comment Request; Multifamily Coinsurance Claims Package, Section 223(f)

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 comments on the subject proposal.

DATES: *Comments due date:* November 13, 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 Plaza Building, Room 8100, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Steven A. Trojan, Systems Accountant, Office of Financial Services, 451 7th Street, SW., Washington, DC 20410, telephone (202) 401–2168, extension 2823 (this is not a toll free number) for copies of the proposed forms and other available information.

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 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: (3) Enhance the quality, utility, and clarity of the information be collected; and (4) Minimize the burden of the collection of information on those 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: Multifamily Coinsurance Claims Package, Section 223(f).

OMB Control Number: 2505–0420.

Description of the need for the information and proposed use: Statute 12 U.S.C. 1715z–9 and Title II, Section 244 of the National Housing Act authorizes the Secretary of HUD to insure eligible multifamily mortgages against default. In the event of a default, the mortgagee is entitled to receive benefits under the coinsurance coverage prescribed in the provisions of 24 CFR Sections 255, 251.3, and 251.6. To receive these benefits the mortgagee must prepare and submit to HUD the appropriate forms. In addition, to comply with statutory requirements, the information collected is used by HUD to determine the claim amount due the mortgagee.

Agency form number: HUD–27008, 27009B, 27009D, 27009F.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 12, frequency of responses is one per claim submission, the total annual burden hours requested is 12.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 7, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–23522 Filed 9–12–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4456–N–12]

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notification of the Establishment of a New System of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, the Department of Housing and Urban Development (HUD) is giving notice that it proposes to establish a new system of records entitled Independent Public Accountant Quality Assurance Files which will be used in performing quality assurance reviews on the audited Financial Data Sheets and Automated Financial Submissions submitted to the Real Estate Assessment Center (REAC) either directly, or by the Independent Public Accountants (IPAs) of certain Public Housing Authorities (PHAs) and FHA-insured, direct loan, HUD-held or assisted multifamily property owners.

DATES: *Effective Date:* This proposal shall become effective without further notice on October 13, 2000, unless comments are received on or before that date which would result in a contrary determination.

Comments Due By: October 13, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Comments submitted by facsimile (FAX) will not be accepted. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For Privacy Act information: Jeanette Smith, Departmental Privacy Act Officer, Telephone Number (202) 708–2374. For REAC, Financial Assessment Subsystem Quality Assurance information, Peter Bell, Director, Telephone Number (202) 708–4932, x3135. (These are not toll-free numbers). A telecommunications device for hearing and speech-impaired persons (TTY) is available at 1–800–877-8339 (Federal Information Relay Services). (This is a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is given that HUD proposes to establish a new system of records identified as HUD/REAC–2, Independent Public Accountant Quality Assurance Files. REAC is responsible for evaluating the physical and financial condition of over 3,000 PHAs and over 30,000 Federal Housing Administration (FHA) multifamily insured, direct loan, HUD-held, and Section 8 project-based subsidized properties. To track the performance of these properties, certain PHAs are required to submit a Financial Data Sheet (FDS) and certain multifamily properties are required to submit an Automated Financial Submission (AFS) to REAC, which contains financial, audit, and compliance data. PHAs and multifamily property owners who are required to submit an FDS or AFS are also required to have an independent audit performed by an independent public accountant. The IPA is then required to express an opinion as to the accuracy of the data contained on the FDS or AFS.

REAC performs a Quality Assurance Review (QAR) of the audited financial statements submitted by IPAs. This QAR provides HUD with the assurance that the information contained in the audited financial statements is accurate by independently reviewing the work of the IPAs performing the audits. The QAR process will also assure that the audits performed by these IPAs are being conducted in accordance with the auditing standards of the American Institute of Certified Public Accountants (AICPA) and government auditing standards issued by the General Accounting Office.

Title 5 U.S.C 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new record systems. The new system report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Governmental Affairs and the House Committee on Government Reform pursuant to paragraph 4c of Appendix l to OMB Circular No. A–130, ''Federal Responsibilities for Maintaining Records About Individuals,'' July 25, 1994; 59 FR 37914.

Accordingly, this notice establishes a new system of records and accompanying routine uses to be created during the financial quality assurance review process at HUD's Real Estate Assessment Center.

Authority: 5 U.S.C. 552a:88 Stat. 1896; 342 U.S.C. 3535(d).

Dated: August 23, 2000.

Susan K. Cooch,

Special Assistant, Office of Chief Information Officer.

HUD/REAC–2

SYSTEM NAME:

Independent Public Accountant Quality Assurance Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All independent public accountants who have conducted audits of PHAs or FHA-insured, direct loan, HUD-held or assisted multifamily properties under HUD programs. An independent public accountant is defined as (a) a licensed, certified public accountant or a person working for a licensed certified public accounting firm, or (b) a public

accountant licensed on or before December 31, 1970, or a person working for a public accounting firm licensed on or before December 31, 1970. The system also contains information by individual name of the REAC auditors conducting the QAR, and may contain memorandums of the QAR results sent to HUD program officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the names and ID numbers of REAC auditors, and of IPAs who perform audits of PHAs or FHA-insured, direct loan, HUD-held, or assisted multifamily properties under HUD programs. Records consist of materials generated in connection with quality assurance reviews of the working papers of IPAs including information from the FDS and the AFS submitted to HUD. These materials include QAR checklists, documentation of work performed by REAC auditors in evaluating the work of the IPA, interviews with IPAs, correspondence between REAC auditors and the IPA, and copies of work papers from IPA files and other documents used in evaluating an IPA's work performance to assure compliance with government and AICPA auditing standards. Other records include information regarding the planning, conduct and results of the QAR, trend analyses, internal legal assistance requests, information requests, responses to such requests, reports of findings, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OMB Circular A–133 (the Single Audit Act) requires that PHAs and non-profit organizations receiving federal funds obtain an IPA-performed audit. The AICPA has issued Statements of Position (SOP) 98–3 ''Audits of States, Local Governments, and Not-for-Profit Organizations Receiving Federal Awards'' to address the additional requirements of government auditing standards. Additional guidance is offered in the HUD Consolidated Audit Guide for Audits of HUD Programs, HUD Handbook 2000.04 REV–2.

PURPOSE(S):

REAC performs a quality assurance review of the audited financial statements submitted by IPAs in order to assure that the information contained in the financial statements is accurate and reliable and that the IPA's work was performed in accordance with government and AICPA auditing standards. In the event that records generated during the QAR process indicate a violation or potential violation of law, the relevant records may be disclosed to the appropriate federal, state or local disciplinary forum, or the AICPA, for investigation or enforcement of the applicable laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under subsection (b) of the Privacy Act of 1974, 5 U.S.C. 552a(b), records may also be disclosed routinely to other users under the following circumstances:

1. In the event that records indicate a violation or potential violation of law, whether criminal, civil or regulatory in nature, the relevant records may be disclosed to the appropriate federal, state, or local agency charged with the responsibility for investigating or prosecuting such violation or enforcing or implementing such statute, rule or regulation.

2. Records may be disclosed to a congressional office in response to an inquiry from that congressional office made at the request of the individual who is the subject of the records.

3. Records may be disclosed to HUD contractors, PHAs or management agents of HUD-assisted housing properties, in order to assist such entities in taking action to recover money or property, where such recovery serves to promote the integrity of the programs or operations of HUD.

4. Records may be disclosed during the course of an administrative proceeding where HUD is a party to the litigation and the disclosure is relevant, reasonable and necessary to adjudicate the matter.

5. Records may be disclosed to appropriate state boards of accountancy, or the AICPA, for possible administrative or disciplinary sanctions such as license revocation. These referrals will be made only after the IPA has been notified that HUD is contemplating disclosure of its findings to an appropriate state board of accountancy, or the AICPA, and the IPA has been provided with an opportunity to respond in writing to HUD's findings.

6. Records may be disclosed to the Department of Justice for litigation purposes associated with the representation of HUD before the courts.

7. Records may be disclosed to any source, either private or governmental, to the extent necessary to elicit information relevant to an Office of Inspector General investigation.

8. Records may be disclosed to the auditee to evaluate the contractual relationship between the IPA and the PHA, owner or management agent of a FHA-insured, direct loan, HUD-held or assisted multifamily property.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored electronically in office automation equipment and manually in file jackets.

RETRIEVABILITY:

Records may be retrieved by computer search using the AutoAudit software, and/or by reference to a particular file number, or by name, address, tax identification number or social security number of the IPA.

SAFEGUARDS:

Records are maintained in a secure computer network, and in locked file cabinets or in metal file cabinets in rooms with controlled access.

RETENTION AND DISPOSAL:

The records are retained and disposed of in accordance with the General Records Schedule contained in HUD Handbook 2228.2, appendix 14, item 25.

SYSTEM MANAGER AND ADDRESS:

Peter Bell, Real Estate Assessment Center, 1280 Maryland Avenue, S.W., Suite 800, Washington, D.C. 20024.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act Officer at HUD, 451 7th Street, SW, Room P8001, Washington, DC 20410, in accordance with the procedures in 24 CFR part 16.

RECORD ACCESS PROCEDURES:

The procedures for requesting access to records appear in 24 CFR parts 16 and 2003.

CONTESTING RECORD PROCEDURES:

The procedures for requesting amendment or correction of records appear in 24 CFR part 16.

RECORD SOURCE CATEGORIES:

Information may be collected from a wide variety of sources, including from HUD, program participants, subject individuals, complainants, witnesses and other non-government sources.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 00–23521 Filed 9–12–00; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Technical/Agency Draft Revised Recovery Plan for the Red-Cockaded Woodpecker (*Picoides borealis*) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: We, the Fish and Wildlife Service, announce the availability for public review of the technical/agency draft revised recovery plan for the red-cockaded woodpecker. The red-cockaded woodpecker is a bird species endemic to the southeastern United States. We solicit review and comment from the public on this draft plan.

DATES: We must receive comments on the draft recovery plan on or before November 13, 2000 to receive consideration by us.

ADDRESSES: You may obtain a copy of the draft recovery plan by contacting Ralph Costa, Clemson Field Office, U.S. Fish and Wildlife Service, Clemson University, Clemson, South Carolina 29634 (telephone 864/656–2432). Send written comments and materials regarding the plan to the Field Supervisor at the above address. Comments and materials received are available upon request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Costa at the above address and telephone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. We and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Red-cockaded woodpeckers are endemic to mature pine woodlands of the southeastern United States. Because of habitat loss and alteration, the species suffered severe declines throughout the first three quarters of the twentieth century. We officially listed the red-cockaded woodpecker as an endangered species in 1970 (35 FR 16047). Intensive research has greatly increased our understanding of the ecology of red-cockaded woodpeckers and has provided powerful management tools that have been highly successful in reversing the widespread declines of past decades. With appropriate management, the species can achieve full recovery. This draft revised recovery plan describes in detail the ecology and management of red-cockaded woodpeckers, and outlines a mechanism to recover the species based on new insight into population and species viability. We will use comments and information provided during this review in preparing the final recovery plan.

Public Comments Solicited

We solicit written comments on the recovery plan described. We will consider all comments received by the date specified above prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: September 7, 2000.

Ralph Costa,

Field Supervisor.

[FR Doc. 00–23467 Filed 9–12–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–00–2822–JL]

Emergency Motor Vehicle Closure of BLM-Administered Public Lands, Sweetwater County, Wyoming; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Motor Vehicle Closure of BLM-Administered Public Land Disturbed or Damaged by Wildfire Suppression Activity Within the Wildhorse Basin Wildfire, Black Butte Wildfire, Sage Creek Wildfire, and Sheep Mountain Wildfire areas; BLM Rock Spring Field Office, Wyoming; correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** on August 31, 2000, in FR doc. 00–22288, concerning closure of public lands. The document contained incorrect words.

FOR FURTHER INFORMATION CONTACT: Stan McKee, Field Manager, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901. Telephone: (307) 352–0201.

Correction

In the **Federal Register** of August 31, 2000, in FR doc. 00–22288, on page 53029, in the second column, in the **SUMMARY,** correct lines 2 and 3 to read: ''that, effective immediately, all tracks and land surface disturbance made by fire.''

Dated: September 6, 2000.

Ted A. Murphy,

Assistant Field Manager, Minerals and Lands.

[FR Doc. 00–23468 Filed 9–12–00; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 303–TA–21 (Review) and 731–TA–451, 461, and 519 (Review)]

Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela [1]

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject reviews.

EFFECTIVE DATE: September 7, 2000.

[1] The investigation numbers are as follows: Japan is 731–TA–461 (Review); Mexico is 731–TA–451 (Review); and Venezuela is 303–TA–21 (Review) and 731–TA–519 (Review).

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On March 27, 2000, the Commission established a schedule for the conduct of the subject reviews (65 FR 17901, April 5, 2000). The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B), and is hereby revising its schedule.

The Commission's new schedule for the investigation is as follows: The Commission will make its final release of information on September 22, 2000; and final party comments are due on September 26, 2000.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 8, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–23519 Filed 9–12–00; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Advisory Committee on Rules of Civil Procedure, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: October 16–17, 2000.

TIMES: 8:30 a.m. to 5 p.m.

ADDRESSES: Westin La Paloma Hotel, 3800 East Sunrise Drive, Tucson, AZ.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 5, 2000.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 00–23470 Filed 9–12–00; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Advisory Committee on Rules of Criminal Procedure, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: October 19–20, 2000.

TIMES: 8:30 a.m. to 5 p.m.

ADDRESSES: La Valencia Hotel, 1132 Prospect Street, La Jolla, CA.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 5, 2000.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 00–23471 Filed 9–12–00; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Committee on Rules of Practice and Procedure, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Committee on Rules of Practice and Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: January 4–5, 2001.

TIMES: 8:30 a.m. to 5 p.m.

ADDRESSES: Westin La Paloma Hotel, 3800 East Sunrise Drive, Tucson, AZ.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 5, 2000.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 00–23472 Filed 9–12–00; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committees on Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure

AGENCY: Advisory Committee on Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, Judicial Conference of the United States.

ACTION: Notice of open hearings.

SUMMARY: The Advisory Committees on Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure have proposed the following rules:

Appellate Rules: 1, 4, 5, 15, 21, 24, 25, 26, 26.1, 27, 28, 31, 32, 36, 41, 44, and 45, and new Form 6

Bankruptcy Rules: 1004, 2004, 2014, 2015, 4004, 9014, and 9027, and new rule 1004.1, and Official Form 1

Civil Rules: 54, 58, 81, and new rule 7.1

Criminal Rules: 5, 5.1, 10, 12.2, 26, 30, 32, 35, 41, and 43, and new rule 12.4, and ''Style Revision'' of Rules 1–60

Section 2254 Rules: 2, 3, 6, 8, 9, and 10

Section 2255 Rules: 2, 3, 6, 8, 9, and 10

Public hearings are scheduled to be held on the amendments to:

- Appellate Rules in San Francisco, California, on January 29, 2001;
- Bankruptcy Rules in Washington, DC, on January 26, 2001;
- Civil Rules in San Francisco, California, on January 29, 2001; and
- Criminal Rules in New Orleans, Louisiana, on January 24, 2001; in San Francisco, California, on January 29, 2001; and in Washington, DC, on February 12, 2001.

The Judicial Conference Committee on Rules of Practice and Procedure submits these rules for public comment. All comments and suggestions with respect to them must be placed in the

hands of the Secretary as soon as convenient and, in any event, not later than February 15, 2001. Those wishing to testify should contact the Secretary at the address below in writing at least 30 days before the hearing. All written comments on the proposed rule amendments should be mailed to: Peter G. McCabe, Secretary, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, Thurgood Marshall Federal Judiciary Building, Washington, DC 20544.

Comments on the proposed rule amendments may also be sent electronically via the Internet at <*http://www.uscourts.gov/rules*>. In accordance with established procedures all comments submitted on the proposed amendments are available to public inspection.

The text of the proposed rule amendments and the accompanying Committee Notes can be found at the United States Federal Courts' Home Page at <*http://www.uscourts.gov/rules*> on the Internet.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 5, 2000.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 00–23473 Filed 9–12–00; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Ingersoll-Dresser Pump Co., Et Al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b) through (h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Ingersoll-Dresser Pump Co., Ingersoll-Rand Co., and Flowserve Corp.,* Civil Action No. 00–1818. On July 28, 2000, the United States filed a Complaint alleging that the proposed acquisition by Flowserve of Ingersoll-Dresser Pump Company would violate section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires the defendants to divest certain pump lines and manufacturing and repair facilities. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC in Suite 2000, 325 Seventh Street, NW., and at the Office of the Clerk of the United States District Court for the District of Columbia.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Gail Kursh, Chief, Health Care Task Force, 325 Seventh Street, NW., Room 404, Antitrust Division, Department of Justice, Washington, DC 20530 (telephone: (202) 307–5799).

Constance K. Robinson,

Director of Operation and Merger Enforcement.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to enjoin preliminarily and permanently the proposed acquisition by Flowserve Corporation (''Flowserve'') of Ingersoll-Dresser Pump Company (''IDP''), pursuant to a Purchase Agreement entered into by the defendants and dated February 9, 2000. The United States alleges as follows:

1. Unless it is enjoined, Flowserve's proposed acquisition of IDP will reduce the already small number of firms that compete on bids to sell certain costly, specialized and highly engineered pumps used in oil refineries and electrical generating facilities in the United States, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. Such a reduction in competition is likely to result in higher prices and reduced selection for those pumps.

I. Jurisdiction and Venue

2. This complaint is filed and this action is instituted under Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

3. Each of the defendants is engaged in interstate commerce and in activities substantially affecting interstate commerce. This Court has subject matter jurisdiction over this action, and jurisdiction over the parties, pursuant to Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1331, 1337(a) and 1345.

4. Each of the defendants has consented to personal jurisdiction in the District of Columbia. Venue is proper in this District pursuant to 15 U.S.C. 22, and 28 U.S.C. 1391(c).

II. The Defendants

5. Flowserve is a New York corporation with its principal executive offices in Irving, Texas. Flowserve manufactures and sells a broad array of pumps, valves and seals used in a wide variety of manufacturing and processing industries, and provides parts and service for pumps, in the United States and abroad. Flowserve has total annual sales of over $1 billion and maintains offices and facilities at approximately 25 locations in the United States.

6. Ingersoll-Rand is a New Jersey corporation with its principal executive offices in Woodcliff Lake, New Jersey. Ingersoll-Rand is a general partner in, and controls, IDP.

7. ID is a Delaware general partnership, headquartered in Liberty Corner, New Jersey. IDP manufactures and sells a broad array of pumps, and provides service and parts for such pumps, in the United States and abroad. IDP is one of the world's largest pump manufacturers, with annual sales of over $875 million. IDP maintains offices and facilities at approximately 27 locations in the United States.

III. Background

8. Flowserve and IDP each manufacture and sell for use in the United States two categories of specialized, highly engineered pumps known as ''API 610 pumps'' and ''power plant pumps.'' API 610 pumps are used in the oil and gas industry, including in oil refineries, and power plant pumps are used in electrical generating facilities or ''power plants.''

9. API 610 pumps are specialized, rugged, highly engineered pumps that generally perform critical functions in an oil refinery, including the movement of erosive, corrosive, hot and flammable petroleum-based liquids under high pressure. API 610 pumps are designed, built, tested and shipped in accordance with comprehensive standards of the American Petroleum Institute.

10. Power plant pumps are specialized, highly engineered pumps that perform critical functions in the steam cycle of a power plant. (The steam cycle consists of a boiler or steam generator that feeds steam to a steam turbine that drives an electricity-producing generator.) The three basic categories of power plant pumps are: (1) ''Circulating water pumps,'' which deliver cooling water to condensers that condense the spent steam that has passed through a steam turbine; (2) ''condensate pumps,'' which extract the

condensed steam; and (3) ''boiler feed pumps,'' which move the condensed steam (now very hot water) back into the boiler or steam generator to make new steam.

11. Each manufacturer of API 610 and power plant pump lines offers its lines in an array of different models and sizes. The pumps within a line differ with respect to capacity and capabilities, including, for example, the number of stages, speed, efficiency, bearing type, suction and discharge pressure, head, temperature range, vapor pressure, rated gallons per minute, impeller diameter, suction nozzle size, discharge nozzle size, metallurgical properties, and motor type and size.

12. API 610 pumps and power plant pumps are sold pursuant to bids, which are based on extensive specifications from the customer. For each pump application in a given oil refinery or power plant project, the manufacturer selects a model and size pump and accessories to bid, and makes additional modifications to try to meet the customer's specifications.

13. The match between the requirements of a particular pump application, and the optimum operating range of the pump a manufacturer proposes to use for that application, is referred to as the ''fit'' of the proposed pump. A manufacturer's ability to provide an economically priced API 610 or power plant pump with a good fit is largely a function of the breadth of that manufacturer's lines of pumps and accessories.

14. Customers evaluate the competing bids, in part, on the basis of their compliance with the technical specifications that the customer had provided. For example, in addition to a manufacturer's proposed price for the required pumps, a customer may also consider how the fit of the pumps that that manufacturer proposes to use will affect the long-term operating costs of the oil refinery or power plant.

15. Customers also evaluate the commercial terms of the competing proposals, including each manufacturer's proposed price and proposed delivery dates. Delivery dates are an important aspect of the competition among API 610 and power plant pump manufacturers because the amount of time a manufacturer will require to deliver the pumps (which can vary from several months to over a year) may significantly affect the construction schedule for the project.

16. A customer that is undertaking an oil refinery or power plant construction project can avoid costly construction delays, or costly down-time in the operation of the refinery or power plant, by selecting a manufacturer that will be able to respond quickly to requests for technical information or design changes during the design phase of the project; to requests for technical assistance, modifications or repairs during the construction or commissioning phases of the project; and to requests for service or repairs during the operating life of the pumps.

17. For those reasons, customers that are planning oil refinery or power plant construction projects in the United States seek to obtain the API 610 or power plant pumps from a manufacturer that has a substantial presence in the United States, including engineering expertise, reputation and practical operating experience with the pump's application in similar facilities in the United States; parts availability in the United States; and a substantial network of service and repair facilities in the United States.

IV. Trade and Commerce

A. Relevant Product Markets

18. The combined technical and commercial needs of the customer differ markedly for each API 610 pump or power plant pump bid. A small but significant increase in the price of a product that meets the bid specifications would not cause a significant number of customers in the United States to substitute other products that do not meet those bid specifications.

19. Each bid for API 610 pumps and power plant pumps for installation in oil refineries and power generation plants in the United States is a line of commerce and relevant product market under Section 7 of the Clayton Act.

B. Relevant Geographic Market

20. Those competitors that could constrain Flowserve and IDP from raising prices on bids for API 610 pumps and power plant pumps for installation in oil refineries and power generation plants, respectively, in the United States are API 610 and power plant pump manufacturers with a substantial physical presence in the United States.

21. Customers installing these pumps in the United States prefer domestic pump suppliers because reputation is important, as is the ability to provide quick and reliable servicing with parts availability and to avoid shipping costs and delays. In addition, with minor exceptions, only domestic manufacturers have an installed base of pumps in the United States, thus allowing customers to more readily observe and evaluate the operation and reliability of the pump in comparable applications. Moreover, pumps manufactured abroad may cost more than comparable pumps manufactured in the United States.

22. The relevant geographic market for analyzing the proposed acquisition under Section 7 of the Clayton Act is the United States.

V. Market Structure and Anticompetitive Effects

23. Based on capabilities and bidding history, there are only four credible competitors, including Flowserve and IDP, that might bid on a large majority of bids for API 610 pumps for oil refinery projects in the United States.

24. Based on capabilities and bidding history, there are only four credible competitors, including Flowserve and IDP, that might bid on a large majority of bids for circulating water pumps for power plant construction projects in the United States.

25. Based on capabilities and bidding history, there are only three credible competitors, including Flowserve and IDP, that might bid on a large majority of bids for condensate pumps for power plant construction projects in the United States.

26. Based on capabilities and bidding history, there are only four credible competitors, including Flowserve and IDP, that might bid on a large majority of bids for boiler feed pumps for power plant construction projects in the United States.

27. Although each bidder for API 610 pumps and power plant pumps may be familiar with its competitors, it does not know with any degree of certainty the commercial or technical terms of its competitors' bids prior to submitting its own bid. That uncertainty restrains bidders' pricing. By eliminating IDP, one of Flowserve's few, significant competitors. Flowserve would be able to increase its bid without increasing the probability it would lose the bid. Similarly, the few remaining bidders could also increase their bids without increasing their risk losing. Thus, the acquisition of IDP by Flowserve creates an incentive for each bidder to bid a higher amount than it would have were IDP still a competitor.

28. Due to the broad range of pumps IDP and Flowserve offer, their overall expertise in meeting the API 610 and power plan pump needs of customers, the fit offered by their pumps, their ability to meet delivery time frames, their aftermarket parts and service availability, and other technical and commercial factors, IDP and Flowserve are frequently perceived by each other,

by other bidders, and by customers as being close or strong competitors and having a significant probability of winning a given bid.

29. The magnitude of the anticompetitive effect from the proposed acquisition will be greater the more that IDP and Flowserve view each other as close or strong competitors, and other rivals view IDP as a major competitive factor.

30. United States' oil refineries and power generators have benefitted from this competition through lower prices and greater choice. The combination of IDP and Flowserve will eliminate this competition, and the customers' benefits from this competition.

VI. The Likely Anticompetitive Effects of the Proposed Acquisition Will Not Be Eliminated by Entry

31. Substantial, timely entry of additional competitors is unlikely and, therefore, will not restrain any price increases caused by the elimination of IDP as a bidder.

32. Entry by a firm that does not currently manufacture API 610 pumps or power plant pumps would be extraordinarily difficult, costly, time consuming and financially risky; hence, such entry is highly unlikely.

33. To compete effectively, a new firm would need to offer an array of API 610 or power plant pump models. The design, production and testing of a single model of such a pump can take several years, and would require the expenditure of substantial sunk costs, as would the establishment of an engineering, parts and service network. To develop an array of pumps would further increase that time and cost.

34. Timely, substantial entry by an existing manufacturer of API 610 or power plant pumps that does not currently sell those pumps for installation in United States' oil refineries or power plants is unlikely. Such a firm could not effectively compete for sales of API 610 or power plant pumps unless it first established, in the United States, a substantial contingent of engineering personnel; a local availability of spare parts; and a substantial network of service and repair facilities. Moreover, many oil refineries and power plants will not purchase pumps from a supplier that has not demonstrated, in the United States, the reliability and efficiency of its pumps and the expertise of its engineers in the particular use for which the pump is being sought. This process can take years and the expenditure of substantial sunk costs.

VII. Violation Alleged

35. Flowserve's acquisition of IDP may substantially lessen competition on a significant number of bids for the sale of API 610 pumps used in oil refineries in the United States and power plant pumps used in power plants in the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

36. The acquisition will have the following effects, among others:

(a) Actual and potential competition between IDP and Flowserve will be eliminated;

(b) Competition generally in the manufacture, marketing and sale of API 610 pumps and power plant pumps will be lessened substantially; and

(c) Prices of API 610 pumps and power plant pumps will increase, and innovation in the development of these pumps will decrease.

VIII. Requested Relief

Wherefore, plaintiff, the United States of America, requests a judgment:

(a) That the proposed acquisition of IDP by Flowserve be adjudged and decreed to be unlawful and in violation of Section 7 of the Clayton Act, 15 U.S.C. 18;

(b) That defendants and all persons acting on their behalf be preliminarily and permanently restrained and enjoined from implementing the February 9, 2000 Purchase Agreement or any other agreement of like intent or effect;

(c) That plaintiff be awarded its costs of this action; and

(d) That plaintiff be granted such other and further relief as the Court may deem proper.

Respectfully submitted,

Joel I. Klein,
Assistant Attorney General.

Donna E. Patterson,
Deputy Assistant Attorney General.

Constance K. Robinson,
Director of Operations and Merger Enforcement.

Gail Kursh,
Chief, Health Care Task Force.

David C. Jordan,
Assistant Chief, Health Care Task Force.

Arnold C. Celnicker,
Georgia Bar No. 118050.

Steven Brodsky,
D.C. Bar No. 91470.

Justin M. Dempsey,
D.C. Bar No. 425976.

Trial Attorneys, U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Suite 400, Washington, DC 20530, (202) 305–7498.

Hold Separate Stipulation and Order

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order.

A. ''Acquirer(s)'' means the entity or entities to whom defendants divest the Divestiture Assets.

B. ''Divestiture Assets'' means the ''Divestiture Plant,'' ''Divestiture Pump Lines,'' and ''Divestiture Repair Facilities,'' as defined below.

C. ''Divestiture Plant'' means Flowserve's pump plant in Tulsa, Oklahoma, including manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in connection with the manufacturer of the SCE, VLT, VMT and HQ pump lines; manufacturing equipment and tooling dedicated to the production of the J and CGT pump lines and located in IDP's pump plant in Phillipsburg, New Jersey, all contracts, agreements, leases, commitments, certifications, and understandings, relating to the Divestiture Plant, including supply agreements; and all licenses, permits and authorizations issued by any governmental organization relating to the Divestiture Plant.

D. ''Divestiture Pump Lines'' means Flowserve's SCE, VLT, VMT, HQ, HX and WX (excluding the 93 inch size of the WX) pump lines, including parts for said lines, and IDP's and J and CGT pump lines, including parts for said lines, and also including all customer lists, contracts, accounts, credit records, repair and performance records and all other records relating to said pump lines; and all intangible assets used in the development, production, servicing and sale of Divestiture Pump Lines, including, but not limited to all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names (excluding names and marks that relate to the corporate owner of said pump lines such as ''Flowserve'' and ''IDP,'' and predecessor acquired companies), technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, molds, patterns and design tools, manuals and technical information defendants provide to their own employees, customers, suppliers, agents or licensees, and research and

development activities and data concerning historic and current research and development efforts including, but not limited to, designs of possible modifications or improvements, relating to said pump lines.

E. ''Divestiture Repair Facilities'' means the IDP service centers in Batavia, Illinois and La Mirada, California, including production, repair and service equipment at said facilities.

F. ''Flowserve'' means defendant FLOWSERVE CORPORATION, a New York corporation with its headquarters in Irving, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

G. ''IDP'' means defendant INGERSOLL-DRESSER PUMP COMPANY, a Delaware general partnership with its headquarters in Liberty Corner, New Jersey, its successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

H. ''Tulsa Plant'' means Flowserve's pump plant in Tulsa, Oklahoma, including manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in connection with the manufacture of the SCE, VLT, VMT and HQ pump lines; and excluding dedicated manufacturing equipment and tooling inventory, materials and supplies not used in connection with the manufacture of the SCE, VLT, VMT and HQ pump lines.

II. Objectives

The proposed Final Judgment filed in this case is meant to ensure defendants' prompt divestitures Assets for the purpose of establishing one or more viable competitors in the production and sale of certain types of centrifugal pumps used in oil refineries (hereinafter ''API pumps'') and certain power plant pumps used in combined cycle, co-generation and solid fuel power plants (hereinafter ''power plant pumps'') in order to remedy the effects that the United States alleges would otherwise result from Flowserve's acquisition of IDP. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Divestiture Assets remain independent, economically viable, and ongoing business assets that will remain independent and uninfluenced by defendants except as stated herein, and that competition is maintained during the pendency of the ordered divestitures.

III. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. Compliance with and Entry of Final Judgment

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Hold Separate Stipulation and Order by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Hold Separate Stipulation and Order shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Hold Separate Stipulation and Order, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, or (3) Flowserve fails to acquire IDP and certifies to the United States in writing that Flowserve will not seek to acquire IDP without first filing a new pre-merger notification under the Hart-Scott-Rodino Act, then the parties are released from all further obligations under this Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. Hold Separate Provisions

Until the divestitures required by the proposed Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate the Tulsa Plant as an independent, ongoing, economically viable competitive business unit, with management and operations of the Tulsa Plant held entirely separate, distinct and apart from those of defendants' other operations. Defendants shall not coordinate its production, marketing, or terms of sale of any products with those produced by the Tulsa Plant except as necessary to effectuate the terms of the Hold Separate Stipulation and Order and the proposed Final Judgment. Within twenty (20) days after the entry of the Hold Separate Stipulation and Order, defendants will inform the United States of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) the Tulsa Plant will be maintained and operated as an independent, ongoing, economically viable and active competitive buisness unit in the API pumps and power plant pumps businesses; (2) management of the Tulsa Plant will not be influenced by defendants except to the extent required herein; and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning production, distribution or sales of products from the Tulsa Plant will be kept separate and apart from defendant Flowserve's other operations.

C. Defendants shall use all reasonable efforts to maintain the increase the sales and revenues of the Divestiture Pump Lines. Defendants shall not alter the commissions, incentives or compensation of sales personnel in any way that might negatively impact sales of the Divestiture Pump Lines.

D. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain the Tulsa

Plant as an economically viable and competitive, ongoing business unit, consistent with the requirements of Sections V (A) and (B).

E. Defendants shall take all steps necessary to ensure that the Tulsa Plant is fully maintained in operable condition at no less than its current capacity and sales, and shall maintain and adhere to normal repair and maintenance schedules for the Tulsa Plant.

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Divestiture Assets.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Divestiture Assets.

H. Defendants' employees with primary responsibility for the production and sale of the Divestiture Pump Lines at the Tulsa Plant shall not be transferred or reassigned to other areas within the company except for transfers initiated by employees. Defendant shall provide the United States with ten (10) calendar days notice of such transfer.

I. Defendants shall appoint persons to oversee the Divestiture Assets, subject to the approval of the United States, and who will be responsible for defendants' compliance with this section. These persons shall have complete managerial responsibility for the Divestiture Assets, subject to the provisions of this proposed Final Judgment. In the event such a person(s) is unable to perform his duties, defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within this time period, the United States shall appoint a replacement at the expense of the defendants.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the proposed Final Judgment to complete the divestiture pursuant to the Final Judgment to Acquirer(s) acceptable to the United States.

K. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures required by the proposed Final Judgment or until further order of the Court.

Dated: July 28, 2000

Respectfully submitted,

For Plaintiff, United States of America:
Arnold C. Celnicker,
Georgia Bar No. 118050, U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Suite 400, Washington, DC 20530, (202) 305–7498.

For Defendant, Ingersoll–Dresser Pump Company:
David I. Gelfand,
D.C. Bar No. 416596,
Mark W. Nelson,
D.C. Bar No. 442461, Cleary, Gottlieb, Steen & Hamilton, 2000 Pennsylvania Ave., N.W., Washington, D.C. 20006–1801, (202) 974–1500.

For Defendant, Flowserve Corporation:
Stephen J. Marzen,
D.C. Bar No. 413164, Shearman & Sterling, 801 Pennsylvania Ave., N.W., Suite 900, Washington, D.C. 20004–2604, (202) 508–8174.

For Defendant, Ingersoll-Rand Company:
David I. Gelfand,
D.C. Bar No. 416596, Mark W. Nelson,
D.C. Bar No. 442461, Cleary Gottlieb, Steen & Hamilton, 2000 Pennsylvania Ave., N.W., Washington, D.C. 20006–1801, (202) 974–1500.

Order

It Is So Ordered by the Court, this 28th day of July, 2000.

Judge Ellen S. Huvelle, for
Judge Jackson, United States District Judge.

Final Judgment

Whereas, plaintiff, United States of America, filed its Compliant on July 28, 2000, plaintiff and defendants by their respective attorneys, have consented to the entity of this Final Judgment without trial or adjudication of any issue of fact or law, and within this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law

And Whereas, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essense of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the defendants to assure that competition is not substantially lessened.

And Whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, defendants have represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *Ordered, Adjudged and Decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of, and each of the parties to, this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''Acquirer(s)'' means the entity or entities to whom defendants divest the Divestiture Assets.

B. ''Flowserve'' means defendant **Flowserve Corporation**, a New York corporation with its headquarters in Irving, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''IDP'' means defendant **Ingersoll-Dresser Pump Company**, a Delaware general partnership with its headquarters in Liberty Corner, New Jersey, its successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''I–R'' means defendant **Ingersoll-Rand Company**, a New Jersey corporation with its principal executive offices in Woodcliff Lake, New Jersey, its successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''Divestiture Assets'' means the ''Divestiture Plant,'' ''Divestiture Pump Lines,'' and ''Divestiture Repair Facilities,'' as defined below.

F. ''Divestiture Plant'' means Flowserve's pump plant in Tulsa, Oklahoma, including manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in connection with the manufacture of the SCE, VLT, VMT and HQ pump lines; manufacturing equipment and tooling dedicated to the production of the J and CGT pump liens and located in IDP's pump plant in Phillipsburg, New Jersey; all contracts, agreements, leases, commitments, certifications, and understandings, relating to the Divestiture Plant, including supply

agreements; and all licenses, permits and authorizations issued by any governmental organization relating to the Divestiture Plant.

G. ''Divestiture Pump Lines'' means Flowserve's SCE, VLT, VMT, HQ, HX and WX (excluding the 93 inch size of the WX) pump lines, including parts for said lines, and IDP's J and CGT pump lines, including parts for said lines; and also including all customer lists, contracts, accounts, credit records, repair and performance records and all other records relating to said pump lines; and all intangible assets used in the development, production, servicing and sale of Divestiture Pump Lines, including, but not limited to all patents, licenses, and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names (excluding names and marks that relate to the corporate owner of said pump lines such as ''Flowserve,'' ''I–R'' and ''IDP,'' and predecessor acquired companies), technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, molds, patterns and design tools, manuals and technical information defendants provide to their own employees, customers, suppliers, agents or licensees, and research and development activities and data concerning historic and current research and development efforts, including, but not limited to, designs of possible modifications or improvements, relating to said pump lines.

H. ''Divestiture Repair Facilities'' means the IDP service centers in Batavia, Illinois and La Mirada, California, including production, repair and service equipment at said facilities.

III. Applicability

A. This Final Judgment applies to IDP, I–R and Flowserve, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, that the Acquirer(s) agrees to be bound by the provisions of this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed to divest, in a manner consistent with this Final Judgment, to an Acquirer(s) acceptable to the United States in its sole discretion:

1. A perpetual, royalty-free, assignable, transferable license(s) to manufacture the Divestiture Pump Lines, including the exclusive right to sell the Divestiture Pump Lines for installation within the United States and a nonexclusive right to sell the Divestiture Pump Lines for installation in the rest of the world; provided, however, that Flowserve may continue to sell the SCE pump line and parts to its alliance customers Shell and Mobil for a period up to ten (10) years from entry of this Final Judgment for installation within the United States, and Flowserve may continue to sell parts for the J and VLT pump lines to its alliance customers Shell and Mobil for a period up to five (5) years from entry of this Final Judgment for installation within the United States; and

2. The Divestiture Plant and the Divestiture Repair Facilities.

B. Defendants must make the above divestitures within one hundred fifty (150) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later. The United States, in its sole discretion, may agree to an extension of this period of up to thirty (30) days, and shall notify the Court in such circumstance. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client or work-product privilege. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

D. Defendants shall provide the Acquirer(s) and the United States information relating to the personnel whose primary responsibilities include the production, development and sale of the Divestiture Pump Lines to enable the Acquirer(s) to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer(s) to employ any defendant employee whose primary responsibility is the production, development and sale of the Divestiture Pump Lines.

E. Defendants shall permit prospective Acquirer(s) of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of the Divestiture Plant; to have access to any and all environmental, zoning, and other permit documents and information; and to have access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. Defendants shall warrant to all Acquirer(s) of the Divestiture Assets that each asset will be operational on the date of sale.

G. Defendants shall take no action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

H. Defendants shall warrant to the Acquirer(s) of the Divestiture Assets that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing business of manufacturing and selling the Divestiture Pump Lines to customers, including those in the petroleum and power generation industries in the United States. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The

divestitures, whether pursuant to Section IV or Section V of this Final Judgment.

1. Shall be made to an Acquirer(s) that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of manufacturing and selling the Divestiture Pump Lines to customers, including those in the petroleum and power generation industries in the United States; and

2. Shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer(s) and IDP or Flowserve give IDP or Flowserve the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer(s) to compete effectively.

V. Appointment of Trustee

A. If defendants have not divested the Divestiture Assets within the time specified in Section IV(B), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestitures of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestitures to an Acquirer(s) acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Section IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire, at the cost and expense of defendants, any investment bankers, attorneys, and other agents, who shall be solely accountable to the trustee, and reasonably necessary in the trustee's judgment to assist in the divestitures.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expenses of defendants, on such terms and conditions as the plaintiff approved, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secrets or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestitures.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished such divestitures within six months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the plaintiff, who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it deems appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the trustee, whichever is then responsible for effecting the divestitures required herein, shall notify the United States of any proposed divestitures required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestitures and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer(s), any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer(s), and any other potential Acquirer(s). Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer(s), any third party, and the trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether it objects to the proposed divestitures. If the United States provides written notice that it does not object, the divestitures may be consummated, subject only to defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture

proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under Section IV or V, defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistance Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

1. Access during defendants' office hours to inspect and copy, or at plantiff's option demand defendants provide copies of, all books, ledgers, accounts, records and documents in the possession or control of defendants, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. To interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the interviewees' reasonable convenience and without restraint or interference by defendants.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

_____

United States District Judge

Certificate of Service

I hereby certify that on this day of July 28, 2000, I caused a copy of the Complaint, the Hold Separate Stipulation and Order and the proposed Final Judgment to be served by U.S. First Class Mail or overnight delivery upon:

Stephen J. Marzen, Shearman & Sterling, 801 Pennsylvania Ave., N.W., Suite 900, Washington, D.C. 20004–2604, (202) 508–8174, Attorney for Flowserve Corporation

David I. Gelfand, Mark W. Nelson, Cleary, Gottlieb, Steen & Hamilton, 2000 Pennsylvania Ave., N.W., Washington, D.C. 20006–1801, (202) 974–1500, Attorneys for Ingersoll-Dresser Pump Company and Ingersoll-Rand Company

Arnold C. Celnicker,

Trial Attorney, Georgia Bar No. 118050, U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Suite 400, Washington, DC 20530, (202) 305–7498.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On July 28, 2000, the United States filed a civil antitrust suit alleging that an acquisition by Flowserve Corporation (''Flowserve'') of Ingersoll-Dresser Pump Company (''IDP'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Flowserve's proposed acquisition of IDP would reduce the already small number of firms that compete on bids to sell certain costly, specialized and highly engineered pumps used in oil refineries and electrical generating facilities in the United States. According to the Complaint, such a reduction in competition would likely result in higher prices and reduced selection for those pumps. The prayer for relief in the Complaint seeks a judgment that the proposed acquisition would violate Section 7 of the Clayton Act, a permanent injunction that would prevent Flowserve from acquiring IDP, that the United States be awarded costs, and other relief that the Court deems just and proper.

At the same time the Complaint was filed, the United States also filed a proposed settlement that would permit Flowserve to complete its acquisition of IDP, yet preserve competition in the markets in which the transaction would otherwise raise significant competitive concerns. The settlement consists of a proposed Final Judgment and a Hold Separate Stipulation and Order. In essence, the Hold Separate Stipulation and Order would require Flowserve to maintain certain pump lines, and associated production assets, as economically viable, ongoing concerns, operated independently of Flowserve's other businesses until the divestitures mandated by the Final Judgment have been accomplished.

The proposed Final Judgment orders defendants to divest to one or more acquirers a perpetual, royalty-free, assignable, transferable license to manufacture and sell Flowserve's SCE, VLT, VMT, HQ, HX and WX pump lines, and IDP's J and CGT pump lines; Flowserve's pump plant in Tulsa, Oklahoma; and the IDP service centers in Batavia, Illinois and La Mirada, California. Defendants must complete these divestitures within 150 days after filing of the Complaint, or five days after entry of the Final Judgment, whichever is later. If they do not complete the divestitures within the prescribed time, the Court will appoint a trustee to sell the assets.

The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (''APPA''). Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Flowserve is a New York corporation with its principal executive offices in Irving, Texas. Flowserve manufactures and sells a broad array of pumps, valves and seals used in a wide variety of manufacturing and processing industries, and provides parts and service for pumps, in the United States and abroad. Flowserve has total annual sales of over $1 billion and maintains offices and facilities at approximately 25 locations in the United States.

Ingersoll-Rand Company (''I–R'') is a New Jersey corporation with its principal executive offices in Woodcliff Lake, New Jersey. I–R is a general partner in, and controls IDP. IDP is a Delaware general partnership, headquartered in Liberty Corner, New Jersey. IDP manufactures and sells a broad array of pumps, and provides service and parts for such pumps, in the United States and abroad. IDP is one of the world's largest pump manufacturers, with annual sales of over $875 million. IDP maintains offices and facilities at approximately 27 locations in the United States.

On February 9, 2000, Flowserve agreed to acquire IDP for about $775 million. This proposed transaction, which would combine Flowserve and IDP and substantially lessen competition in the sale of certain types of pumps, precipitated the government's antitrust suit.

B. The Competitive Effects of the Transaction

1. API 610 Pumps and Power Plant Pumps. The petroleum industry is a major purchaser of pumps for hundreds of applications. The American Petroleum Institute (''API''), the petroleum industry trade organization, sets voluntary standards for pumps used in petroleum applications. The standards for centrifugal pumps are API Standard 610. A large refinery will have over a thousand pumps, and most meet API 610 standards. The standards detail not only the design of the pumps, but also the accessories used with the pump (*e.g.,* drivers, couplings, mounting plates), the inspection, testing and shipment of the pumps, and the information that must be included in bids and contracts. API 610 pumps are designed to withstand extreme conditions without leaking because they are used to move fluids under high pressure that are erosive, corrosive, hot and flammable. Thus, API 610 pumps are heavier and more rugged than most other types of pumps.

Power plant pumps are specialized, highly engineered pumps that perform critical functions in the steam cycle of a power plant. The steam cycle consists of a boiler or steam generator that feeds steam to a steam turbine that drives an electricity-producing generator. The three basic categories of power plant pumps are: (1) ''circulating water pumps,'' which deliver cooling water to condensers that condense the spent steam that has passed through a steam turbine; (2) ''condensate pumps,'' which extract the condensed steam; and (3) ''boiler feed pumps,'' which move the condensed steam (now very hot water) back into the boiler or steam generator to make new steam.

2. Product and Geographic Markets. Competition in the sale of API 610 and power plant pumps takes the form of bids that are submitted in response to extensive specifications that take specialized engineers many months to formulate, respond to, and evaluate. The specifications for each bid differ from other bids in terms of technical product attributes and commercial terms. The result of the bidding process generally is a customized pump that can satisfy the most demanding of applications, accompanied by a package of technical engineering services and commercial terms. Because the technical and commercial needs of the customer differ markedly for each API 610 pump or power plant pump bid, a small but significant increase in the price of a pump that meets the bid specifications would not cause a significant number of customers in the United States to substitute other pumps that do not meet those bid specifications. Therefore, each bid for API 610 pumps and power plant pumps for installation in oil refineries and power generation plants in the United States is a relevant product market.

Those competitors that could constrain Flowserve and IDP from

raising prices on bids for API 610 pumps and power plant pumps for installation in oil refineries and power generation plants in the United States are API 610 and power plant pump manufacturers with a substantial physical presence in the United States. Customers installing these pumps in the United States prefer domestic pump suppliers because reputation is important, as is the ability to provide quick and reliable servicing with parts availability and to avoid shipping costs and delays. In addition, with minor exceptions, only domestic manufacturers have an installed base of pumps in the United States, thus allowing customers to more readily observe and evaluate the operation and reliability of the pump in comparable applications. Moreover, pumps manufactured abroad may cost more than comparable pumps manufactured in the United States. The relevant geographic market for analyzing the proposed acquisition is the United States.

3. Anticompetitive Consequences of the Acquisition. Based on capabilities and bidding history, there are only four credible competitors, including Flowserve and IDP, that might bid on a large majority of bids for API 610 pumps for oil refinery projects in the United States, and there are only three or four credible competitors, including Flowserve and IDP, that might bid on a large majority of bids for power plant pumps for electrical generating facilities located in the United States. Although each bidder may be familiar with its competitors, it does not know with any degree of certainty the commercial or technical terms of its competitors' bids prior to submitting its own bid. That uncertainty restrains each bidder's pricing, so it will have a reasonable probability of winning the bid. By eliminating IDP, one of Flowserve's few significant competitors, Flowserve would be able to increase its bid without increasing the probability that it would lose the bid. Similarly, the few remaining bidders could also increase their bids without increasing their risk of losing. Thus, the acquisition of IDP by Flowserve would create an incentive for each bidder to bid a higher amount than it would have were IDP still a competitor.[1]

[1] Each bidder, in deciding how high to bid while facing the uncertainty as to what its rivals will bid, balances the benefit of receiving a higher price when it wins against the cost of a decreased probability of winning when its bid price is raised. When a bidder is eliminated, a given increase in a bid price by a remaining bidder leads to a smaller decrease in the probability of losing. This shift in the balance between the benefit and the cost of raising the bid price makes a price increase by each remaining bidder profitable.

The Complaint alleges that substantial entry by other pump manufacturers into the sale of API 610 and power plant pumps for installation in the United States is time-consuming, expensive and difficult, and hence, unlikely to counteract these anticompetitive effects.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the sale of API 610 and power plant pumps for installation in the United States. Within 150 days after the date the Complaint was filed, or five days after entry of the proposed Final Judgment, whichever is later, defendants must divest to an economically viable and effective acquirer(s) perpetual, royalty-free, assignable, transferable licenses to manufacture and sell Flowserve's SCE, VLT, VMT, HQ, HX and WX pump lines; and IDP's J and CGT pump lines; Flowserve's pump plant in Tulsa, Oklahoma; and the IDP service centers in Batavia, Illinois and La Mirada, California. Defendants must use their best efforts to accomplish the divestitures as expeditiously as possible. The proposed Final Judgment requires that these assets must be divested in such a way as to satisfy the United States, in its sole discretion, that the assets can and will be used by the acquirer(s) to compete effectively in the business of manufacturing and selling the divested pump lines to customers, including those in the petroleum and power generation industries in the United States,

Until the ordered divestitures take place, defendants must take all reasonable steps necessary to accomplish the divestitures and cooperate with any prospective acquirer(s). If defendants do not accomplish the ordered divestitures within the prescribed time period, the proposed Final Judgment provides that the Court will appoint a trustee to complete the divestitures. If a trustee is appointed, the proposed Final Judgment provides that defendants must pay all costs and expenses of the trustee. The trustee's commission will be structured to provide an incentive for the trustee based on the price obtained and the speed with which divestitures are accomplished. After his or her appointment becomes effective, the trustee shall serve under such other conditions as the Court may prescribe. The trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the required divestitures. At the end of 150 days, if the divestitures have not been accomplished, the trustee and the parties will make recommendations to the Court, which shall enter such orders as appropriate to accomplish the divestitures.

The relief in the proposed Final Judgment has been tailored to ensure that the ordered divestitures maintain competition that would have been eliminated as a result of the acquisition and to prevent the exercise of market power after the acquisition in the markets alleged in the Complaint.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The parties have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: Gail Kursh, Chief, Health Care Task Force, Antitrust Division, United States Department of Justice, 325 7th Street, NW, Suite 400, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Flowserve, I–R and IDP. The United States could have continued such litigation to seek preliminary and permanent injunctions against Flowserve's acquisition of IDP. The United States is satisfied, however, that defendants' divestiture of the assets described in the proposed Final Judgment will establish, preserve and ensure a viable competitor in the relevant markets identified by the United States. To this end, the United States is convinced that the proposed relief, once implemented by the Court, will prevent Flowserve's acquisition of IDP from having adverse competitive effects.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court *may* consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

Courts have recognized that the term '' 'public interest' take[s] meaning from the purposes of the regulatory legislation.'' *NAACP* v. *Federal Power Comm'n,* 425 U.S. 662, 669 (1976). Since the purpose of the antitrust laws is to preserve ''free and unfettered competition as the rule of trade,'' *Northern Pacific Railway Co.* v. *United States,* 356 U.S. 1, 4 (1958), the focus of the ''public interest'' inquiry under the APPA is whether the proposed Final Judgment would serve the public interest in free and unfettered competition. *United States* v. *American Cyanamid Co.,* 719 F.2d 558, 565 (2d Cir. 1983), *cert denied,* 465 U.S. 1101 (1984); *United States* v. *Waste Management, Inc.,* 1985–2 Trade Cas. ¶ 66,651, at 63,046 (D.D.C. 1985).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [2] Rather,

absent a showing or corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-American Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988), quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir.), *cert denied,* 454 U.S. 1083 (1981); *see also Microsoft,* 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[3]

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties do not hastily and thoughtlessly stipulate to a decree because, in doing so, they

waive their right to litigate the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation. Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

United States v. *Armour & Co.,* 402 U.S. 673, 681 (1971).

The proposed decree, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a proposed final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest' (citations omitted).[4]

Moreover, the court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the

[2] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, *Reprinted in* (1974) U.S.C.C.A.N. 6535, 6538.

[3] *United States* v. *Bechtel Corp.,* 648 F. 2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.,* 858 F. 2d at 463; *United States* v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C. D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.,* 719 F. 2d 558, 565 (2d Cir. 1983), *cert. denied,* 465 U.S. 1101 (1984).

[4] *United States* v. *American Tel. and Tel. Co.,* 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983) quoting *United States* v. *Gillette Co., supra,* 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

decree against that case.'' *Microsoft,* 56 F.3d at 1459. Since ''[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that the Court ''is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.*

VIII. Determinative documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: July 31, 2000.

Respectfully submitted,

Arnold C. Celnicker,
Georgia Bar No. 118050, U.S. Department of Justice, 325 7th Street, NW, Suite 400, Washington, D.C. 20530, (202) 514–2474.

Certificate of Service

I hereby certify that on this day of July 31, 2000, I caused a copy of the Competitive Impact Statement to be served by U.S. First Class Mail or overnight delivery upon:

Stephen J. Marzen, Shearman & Sterling, 801 Pennsylvania Ave., N.W., Suite 900, Washington, D.C. 20004–2604, (202) 508–8174, Attorney for Flowserve Corporation

David I. Gelfand, Mark W. Nelson, Cleary, Gottlieb, Steen & Hamilton, 2000 Pennsylvania Ave., N.W., Washington, D.C. 20006–1801, (202) 974–1500, Attorneys for Ingersoll-Dresser Pump Company and Ingersoll-Rand Company

Arnold C. Celnicker,
Trial Attorney, Georgia Bar No. 118050, U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Suite 400, Washington, DC 20530, (202) 305–7498.

[FR Doc. 00–20625 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on March 10, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc. (''CableLabs'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Moffat Communications, Inc., Winnipeg, Manitoba, Canada; Charter Communications, St. Louis, MO; and Access Communications Inc., Dartmouth, Nova Scotia, Canada have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification was filed with the Department on August 28, 1998. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 3, 2000 (65 FR 17535).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23423 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group, Inc.

Notice is hereby given that, on August 2, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Digital Imaging Group, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Altamira Group, Burbank, CA; PhotoDex, Inc., Austin, TX; ScanSoft, Inc., Peabody, MA; Vyou.com Inc., San Jose, CA; The Workbook, Inc., Los Angeles, CA; NewHeights Software, Inc., Victoria, British Columbia, Canada; and BizDesign, Inc., Dallas, TX have been added as parties to this venture. Also, BrandEra.com, Toronto, Ontario, Canada; Digital Zone International A/S, Aarhus C, Denmark; FotoWire Development SA, Geneve, Switzerland; G&A Imaging, Hull, Quebec, Canada; Fonecam, San Diego, CA; NTT Communications, Tokyo, Japan; and Kablink Corporation, San Diego, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Digital Imaging Group, Inc. intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 1997 (62 FR 60530).

The last notification was filed with the Department on May 4, 2000. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 1, 2000 (65 FR 46950).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23422 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Utilization Research Forum (''GURF'')

Notice is hereby given that, on May 18, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Gas Utilization Research Forum (''GURF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Institut Francais Du Petrole (IFP), Cedex, France, has become a new member to GURF and Columbia Gas of Ohio, Columbus, OH is no longer participating in GURF.

No other changes have been made in either the membership or planned

activity of the group research project. Membership in this group research project remains open, and GURF intends to file additional written notification disclosing all changes in membership. Information regarding membership in GURF may be obtained from Mark Taylor, Secretary, BC Technology, Gas Research and Technology Centre, Ashby Road, Loughborough, Leicestershire, LE11 3GR, England, Telephone (44) 1509 282773, Facsimile (44) 1509 283138.

On December 19, 1990, GURF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 16, 1991 (56 FR 1655).

The last notification was filed with the Department on April 28, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 12, 1999 (64 FR 61666).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23419 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on April 7, 2000, pursuant to section 6(a) of the national Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosure (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: The LUVIT Corporation AB, Lund, Sweden; Trustees of the California State University, Long Beach, CA; International Business Machines Corporation, Armonk, NY; PeopoleSoft, Inc., Pleasanton, CA; Virginia Polytechnic Institute and State University, Blacksburg, VA; Committee on Institutional Cooperation, Champaign, IL; and Educause, Boulder, CO.

The nature and objective of IMS Global Learning Consortium are to formulate open technical specifications (including without limitation specifications for packaging and exchanging digitized information about courses, learners, content and education or training operations) for distributed learning environments, including related hardware and software; to promote the development of global distributed learning through the cooperative and collaborative efforts of universities, non-profit organizations, agencies of federal and state governments, companies and other organizations that make a definitive, substantial and continuing commitment to the development, evolution and/or use of advanced distributed learning environments; to gather requirements from distributed learning customers and providers; to foster widespread access to, mutual sharing and adoption of the strategies and specifications developed by the organization, both by its members and by the general public; to collaborate with other associations or agencies interested in similar and related activities; to acquire, evaluate, and disseminate information in said areas, including, but not limited to, providing such information to the general public; and to prepare and disseminate training materials for use in distributed learning environments and conduct training and educational sessions pursuant to the development and use of the strategies and specifications developed by the organization.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23416 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on July 21, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recover of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Joint Information Systems Committee, Bristol, United Kingdom; Izio Corporation, San Diego, CA; and Industry Canada, Ottawa, Ontario, Canada have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23421 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Inter Company Collaboration for AIDS Drug Development

Notice is hereby given that, on May 26, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Inter Company Collaboration for AIDS Drug Development (the ''Collaboration'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Collaboration member Ajinomoto Co., Inc. of Tokyo, Japan has withdrawn from the Collaboration. Although no other changes have been made in the membership of the Collaboration, Pharmacia & Upjohn Inc., of Peapack, New Jersey, the parent company of Collaboration member Pharmacia & Upjohn Company of Kalamazoo, MI, merged with a wholly owned subsidiary of Monsanto Company of St. Louis, MO, and Monsanto Company changed its name to Pharmacia Corporation. After these actions, Pharmacia & Upjohn Inc. remains the parent of Pharmacia & Upjohn Company and is now a wholly owned subsidiary of Pharmacia Corporation of Peapack, NJ.

Membership in the Collaboration remains open, and the Collaboration intends to file additional written notification disclosing all changes in membership.

On May 27, 1993, the Collaboration filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 6, 1993 (58 FR 36223).

The last notification was filed with the Department on October 25, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 28, 2000 (65 FR 24983).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23418 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interoperability Consortium, Inc.

Notice is hereby given that, on July 20, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interoperability Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Proton World, Brussels, Belgium and Sun Microsystems, Inc., Palo Alto, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Interoperability Consortium intends to file additional written notification disclosing all changes in membership.

On January 13, 2000, Interoperability Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 21, 2000.

The last notification was filed with the Department on April 17, 2000. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23417 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum (''PERF'') Project No. 98–04

Notice is hereby given that, on August 8, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Petroleum Environmental Research Forum (''PERF'') Project No. 98–04, titled ''Understanding, Predicting and Treating Water Soluble Organic Contaminants in Produced Water Discharges'', has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Marathon Oil Company, Littleton, CO has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PERF No. 98–04 intends to file additional written notification disclosing all changes in membership.

On February 4, 2000, PERF 98–04 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 21, 2000 (65 FR 38597).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23415 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum (''PERF'')

Notice is hereby given that, on November 5, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* (''the Act''), Petroleum Environmental Research Forum (''PERF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Statoil Norge A/S, Trondheim, Norway has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum Environmental Research Forum (''PERF'') intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, Petroleum Environmental Research Forum (''PERF'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on June 5, 1998. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 29, 1998 (63 FR 51956).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–23420 Filed 9–12–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

September 5, 2000.

The Department of Labor has submitted the following (see below) emergency processing public

information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by October 13, 2000. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Ira Mills (202) 219–5095, x 113. Comments and questions about the ICR listed below should be forwarded to Office Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316. Written comments must be submitted to OIRA on or before October 10, 2000.

The Office of Management and Budget 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 response.

Agency: Employment and Training Administration.

Title: One-Stop Labor Market Information Grant Reporting.

OMB Number: 1205–ONEW.

Affected Public: States.

Form	No. of respondents	Responses per year	Total responses	Hours per response	Total burden hours
Annual Plan	54	1	54	36	1,944
Progress Reports	54	2	108	6	648
Totals	54	3	162	42	2,592

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: ETA seeks approval of an annual plan narrative and two progress reports as requirements for One Stop Labor Market Information grants. This information will be used by the Department of Labor and its managing State partners to assure that an employment statistics system required by Wagner Peyser as amended by the Workforce Investment Act meets the needs of its customers. States seeking grants are requested to provide an annual grant narrative that provides specific information on how the grant funds will accomplish any of seven priorities developed by the Department through the Workforce Information Council. In addition the States are requested to provide a brief progress report twice during the grant period which explains the progress of the grantee in accomplishing the plan.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 00–23412 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,982]

The Arnold Palmer Golf Company, Pocahontas, AR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 21, 2000, in response to a worker petition which was filed by the company on behalf of its workers at The Arnold Palmer Golf Company, Pocahontas, Arkansas. The workers produced golf bags and golf clubs.

Upon examination of the petition, it was discovered that a duplicate petition for the subject workers was instituted on August 14, 2000. The identifying number is TA–W–37,969.

Consequently further investigation in this case (TA–W–37,982) would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 24th day of August, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23511 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,801]

Kountry Kreations Towanda, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 19, 2000, in response to a worker petition which was filed on behalf of workers at Kountry Kreations, Towanda, Pennsylvania.

On August 17, 2000, the petitioner requested that her petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 23rd day of August 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–23507 Filed 9–12–00 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,967]

Reliable Exploration, Inc., Billings, MT; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was

initiated on August 14, 2000, in response to a petition filed by a company official on behalf of workers at Reliable Exploration, Incorporated, Billings, Montana.

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 22nd day of August, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–23510 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,949]

Smith & Nephew, Inc., Casting Division, Charlotte, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 7, 2000, in response to a worker petition which was filed by the company on behalf of its workers at Smith & Nephew, Inc., Casting Division, Charlotte, North Carolina.

The petitioner 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 23rd day of August, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–23509 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,783]

UFE Incorporated El Paso, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 12, 2000, in response to a petition which was filed by UNITE on behalf of workers at UFE, Incorporated, El Paso, Texas.

The signatories of the petition do not represent the workforce at the subject firm, either as a union or as a duly authorized representative. Thus, this investigation has been terminated.

Signed at Washington, DC this 23rd day of August 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–23508 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,000]

W.P. Industries, South Gate, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 21, 2000, in response to a petition filed on the same date on behalf of workers at W. P. Industries, South Gate, California.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–37,867). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 24th day of August, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23506 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

September 6, 2000.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the extension (Pending emergency OMB approval) of the collection of the One-Stop Labor Market Information Grant Plan and Progress Reports. A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before November 13, 2000.

ADDRESSES: Steve Aaronson, U.S. Employment Service, Office of Workforce Security, 200 Constitution Avenue, NW., Room C–4512, Washington, DC 20210; telephone 202–219–9092 x 151 fax 202–208–5844 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This extension is being requested in order to continue collecting information from States for One-Stop Labor Market Information Grant Plan and Progress Reports. This information will be used by the Department of Labor and its managing State partners to assure that an employment statistics system required by Wagner Peyser as amended by the Workforce Investment Act meets the needs of its customers. States seeking grants are requested to provide an annual grant narrative that provides specific information on how the grant funds will accomplish any of seven priorities developed by the Department through the Workforce Information Council. In addition the States are requested to provide a brief progress report twice during the grant period which explains the progress of the grantee in accomplishing the plan.

II. Review Focus

The Office of Management and Budget 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 collection; 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 response.

III. Current Actions

Type of Review: Extension (Pending emergency OMB approval).

Agency: Employment and Training Administration.

Title: One-Stop Labor Market Information Grant Reporting.

OMB Number: 1205–ONEW.

Affected Public: States.

Form	Number of respondents	Responses per year	Total responses	Hours per response	Total burden hours
Annual Plan	54	1	54	36	1,944
Progress Reports	54	2	108	6	648
Totals	54	3	162	42	2,592

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 8, 2000.

Grace Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 00–23513 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

September 6, 2000.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the extension of the collection of the One-Stop Occupational Employment Statistics Survey Plan and Progress Reports. A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before November 13, 2000.

ADDRESSES: Steve Aaronson, U.S. Employment Service, Office of Workforce Security, 200 Constitution Avenue, NW., Room C–4512, Washington, DC 20210; telephone 202–219–9092 x.151 fax 202–208–5844 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

This extension is being requested in order to continue collecting information from States for One-Stop Occupational Employment Statistics survey grants. Specifically we are seeking approval for an annual grant narrative and two brief progress reports. This information is needed in order for the Secretary of Labor to assure that the Department is meeting in part the responsibilities in Wagner-Peyser section 15 for an employment statistics system. Further, this information is necessary in order that departmental staff, primarily in the Employment and Training Administration, may make intelligent and informed decisions as to whether or not funds awarded to the States were productive and produced a return on investment and met customer needs.

II. Review and Focus

The Office of Management and Budget 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 have a 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 automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of response.

III. Current Action

Type of Review: Extension.

Agency: Employment & Training.

Title: One-Stop Occupational Employment Statistics Survey Grant Reporting.

OMB Number: 1205–ONEW.

Affected Public: States.

Form	Number of respondents	Responses per year	Total responses	Hour per response	Total burden hours
Annual Plan	54	1	54	36	1944
Progress Reports (2)	54	2	108	6	648
Totals	54	3	162	42	2592

Total Burden Hours: 2592.
Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 8, 2000.

Grace Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 00–23514 Filed 9–12–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Grants for Implementing Individual Training Account (ITA) Approaches Through the ITA Experiment

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of availability of funds and solicitation for grant applications (SGA). *This Notice Contains All of the Necessary Information and Forms Needed to Apply for Grant Funding.*

SUMMARY: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA) announces a competitive solicitation for grant applications (SGA) and the availability of approximately $4.5 million for approximately six grant awards. Through this notice, DOL seeks to identify local Workforce Investment Areas (local areas) committed to implementing three distinctly different approaches for delivering Individual Training Accounts (ITAs) to their customers (participants). Applicants awarded a grant under this SGA will participate in the ITA Experiment, the purpose of which is to provide better information to State and local administrators as they determine the roles of counselors in the management of participant choices in ITAs; plan the allocation of staff and training resources to best meet their objectives; and strive for the continuous improvement of services under the Workforce Investment Act (WIA).

The WIA legislation provides States and locals with considerable flexibility in using ITAs to manage participants' choices of training providers. State and local administrators are therefore faced with developing their own ITA approaches to best serve their participants. The ITA Experiment will test three ITA approaches from a spectrum of possible ITA approaches that could be adopted by local areas. All eligible participants will receive an ITA offer; that is, there will be no ''control group'' where participants are denied ITAs. Control groups will not be used because the goal of the ITA Experiment is to see which type of ITA approach, or aspects of those approaches, works best. By rigorously testing three very different ITA approaches, the ITA Experiment will help to establish which approach(es) work best for participants, for counselors, for local areas, and for the workforce development system as a whole. Administrators will be able to use this information to determine how to design an ITA system best suited for their State or local community.

Applicants awarded a grant under this SGA will receive the following benefits: (1) Federal funding to support administrative costs and other activities related to implementation and operation of ITAs; (2) support from DOL and research contractor staff experienced with and knowledgeable about ITAs and related employment and training activities; (3) technical assistance in implementing ITAs that is based on the most current research findings from the employment and training community nationwide; (4) on-going support from the research contractors in conducting all experimental activities, where the objectives of the research contractors will be to involve local staff in planning, minimize the burden on local staff, and provide responsive technical assistance and clear training materials; and (5) practical information on what ITA approach works best in their community. It is anticipated that grantees selected to implement the ITA approaches under this SGA will be exempt from performance measures for the length of the intake period.

DATES: Applications will be accepted commencing on the date of publication. The closing date for receipt of applications under this announcement is Thursday, November 30, 2000, at 4:00 p.m. Eastern Standard Time (EST) at the address below. *Telefacsimile (FAX), Telegraphed, or Electronic Applications Will Not Be Honored.*

ADDRESSES: Applications shall be mailed to the U. S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Ms. Yvonne Harrell, SGA/DFA 00–111, 200 Constitution Avenue, NW., Room S–4203, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Questions should be faxed to Ms. Yvonne Harrell, Grants Management Specialist, Division of Federal Assistance, Fax (202) 219–8739. This is not a toll-free number. All inquires should include the SGA number (DFA 00–111), and a contact name, fax and telephone numbers. This solicitation is also being published on the Internet at ETA's home page at *www.doleta.gov.* Award notifications will also be published on the ETA home page.

SUPPLEMENTARY INFORMATION:

I. Authority

The Individual Training Account (ITA) Experiment is being conducted under Section 171(c) of the Workforce Investment Act, which provides DOL/ETA with the authority to conduct multi-service projects, research projects, and multi-state projects. For example, multi-service projects test an array of approaches to the provision of employment and training services to a variety of targeted population; design, develop, and test various training approaches in order to determine effective practices; and assist in the development and replication of effective service delivery strategies for targeted populations for the national employment system as a whole. Research projects contribute to the solution of employment and training problems. Multi-state projects effectively disseminate best practices and models for implementing employment and training services; and obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how to best administer specific employment and training services.

II. Part I—Background Summary

ETA is soliciting proposals on a competitive basis for the implementation of three different ITA approaches for managing a participant's choice in the administration of ITAs under the Workforce Investment Act (WIA). The ITA approaches will be implemented through the ITA Experiment to provide State and local administrators with information on the effects of different ITA approaches to assist them in determining which approach is most appropriate to adopt.

This announcement consists of six parts:

(1) Part I—Background Summary
(2) Part II—Eligible Applicants and Application Process.
(3) Part III—Statement of Work
(4) Part IV—Submission of Application
(5) Part V—Rating Criteria and Selection Process

(6) Part VI—Monitoring, Reporting & Evaluation Requirements

A. Additional Background Information

On August 7, 1998, President Clinton signed the Workforce Investment Act (WIA) of 1998, a comprehensive reform legislation that superseded the Job Training Partnership Act (JTPA) on July 1, 2000. The WIA encourages States and localities to envision and implement a system of delivering training services to participants that goes beyond the status quo, as well as strive to continuously improve that system over time. A key element of the WIA is the requirement that local Workforce Investment Areas (WIAs) establish Individual Training Accounts (ITAs) to provide training services to participants. ITAs are intended to transform the delivery of services to adults and dislocated workers by enabling participants to choose their training providers. WIA also gives States and local areas a great deal of flexibility in deciding how much guidance and direction they will provide to participants in choosing the appropriate training.

Given the flexibility provided by WIA, State and local officials must decide how to administer ITAs for their participants who need training services. The ITA Experiment is designed to form these decisions by testing different approaches to managing participant choices in the administration of ITAs. The findings from this experiment will reveal how the different ITA approaches affect training choices, employment and earnings outcomes, returns on training investments, and participant satisfaction. State and local administrators may use this information to determine which ITA approach, or aspects of these approaches, is most appropriate for their participants.

B. Benefits to Local Areas Selected Under This SGA

Participation in the ITA Experiment will offer the following benefits for local areas:

- Federal funding to support administrative costs and other activities related to implementation and operation of ITAs;
- Support from the Department of Labor and research contractor staff experienced with and knowledgeable about ITAs and related employment and training activities;
- Technical assistance in implementing ITAs based on the most current research findings from the employment and training community nationwide;
- Ongoing support from the research contractors in conducting all experimental activities, where the objectives of the contractors will be to involve local staff in planning, minimize the burden on local staff, and provide responsive technical assistance and clear training materials; and
- Information on which of the ITA approaches work best in their community.

Part II: Eligible Applicants and Application Process

A. Eligible Applicants

Applicants eligible for this grant must be either (1) a single local Workforce Investment Board (Local Board) applying with strong evidence of support from the State, or (2) a consortium of two contiguous Local Boards applying with strong support from their respective State(s). Applicants must provide clear evidence of support from the State in their application. Applications will not be considered without this evidence.

One of the key objectives of the ITA Experiment is to detect the impacts of substantially different ITA approaches to determine which approach works best, and for whom. In order to obtain accurate and reliable estimates of outcomes for the different ITA approaches, the research contractor for this effort has determined that a minimum sample size requirement of at least 550 training recipients in one program year is needed for each selected applicant. Thus, applicants applying as an individual Local Board must provide evidence of a minimum flow of 550 training recipients in one program year. Applicants applying as a consortium must provide evidence of a combined total of at least 550 training recipients in one program year. DOL encourages collaboration among Local Boards with a smaller flow of training recipients to apply as a consortium if the combined flow of training recipients is anticipated to be at least 550. Applicants applying together as a consortium must be contiguous, i.e., Local Boards must be from the same adjoining region. Applicants applying as a consortium who are selected for the project will receive a maximum amount of $750,000 for the consortium. This amount will be distributed proportionately to the number of training recipients each Local Board expects to contribute to the total number of expected training recipients. For example, if a consortium consists of two Local Boards, and the first Local Board anticipates a flow of 250 training recipients, while the second Local Board anticipates a flow of 400, the consortium will have a combined total of 650 training recipients. Since the first Local Board is providing for 250 of the 650 total training recipients (38% of the total number of training recipients), it will receive approximately $285,000 of the $750,000 grant (38% of the total grant award). Since the second Local Board is providing for 400 of the total 650 training recipients (62% of the total number of training recipients), it will therefore receive approximately $465,000 of the $750,000 grant (62% of the total grant award).

Applicants awarded this SGA must serve both adults and dislocated workers eligible for WIA training.

B. Grant Funding and Period of Performance

It is anticipated that $4.5 million will be available to make approximately six grant awards with a maximum award amount of $750,000 each. The period of performance will be approximately 36 months from the date of execution by the Department.

C. Option to Extend

The Department of Labor may exercise its option to extend these grants for an additional period depending upon the availability of funds, the awardee's performance, and the needs of the ITA Experiment.

D. Allowable Activities

In general, there are specific activities that will be funded through the grant funds awarded under this contract. These include activities related to implementation, random assignment of the participants to one of the three ITA approaches, and data collection for the ITA Experiment. The following are some examples of how these funds might be used to support the ITA Experiment:

a. Administrative expenses (including staff training) necessary for understanding the delivery of the ITA approaches, random assignment, and data collection;

b. Administrative expenses for the delivery of orientation sessions on ITAs, counseling, and other services required under the ITA Experiment;

c. Administrative expenses related to the Eligible Training Provider (ETP) list process;

d. Expenses related to the operation and maintenance of the Service Tracking System (STS) for the ITA Experiment;

e. Travel and other expenses related to participation in networking and dissemination activities offered in conjunction with the ITA Experiment;

f. Travel and related expenses for the ITA Experiment; and

g. Other related and reasonable costs associated with implementation of the ITA Experiment.

One of the objectives for the ITA Experiment is to provide information on ITA approaches using resources consistent with the funding level normally available to Local Boards for training participants under WIA. As a result, grant funds are not intended to supplement direct ITA expenditures for their participants. Limited exceptions may be made only with the recommendation and approval of DOL. For example, DOL may approve up to 10% of the grant for direct training expenditures to participants.

E. Collaboration

Applicants are expected to collaborate with State, One-Stop administrative staff, counselors, training vendors, participants, management information systems staff, financial staff, and other related partners. Applicants are also expected to collaborate with DOL and the research contractors evaluating the ITA Experiment.

Part III. Statement of Work

A. Purpose

A key element of the Workforce Investment Act (WIA) is the requirement that local Workforce Investment Areas (local areas) establish Individual Training Accounts (ITAs) to provide training services to participants. ITAs are intended to transform the delivery of services to adults and dislocated workers by ensuring that participants can choose their training providers. WIA also gives States and local areas a great deal of flexibility in deciding how much guidance and direction they will provide to participants in choosing appropriate training.

Given the flexibility provided by WIA, State and local officials must decide how to administer ITAs for their participants who need training services. The ITA Experiment is designed to provide assistance in these decisions by testing different approaches to managing participant choice in the administration of ITAs. The findings from this experiment will reveal how the different ITA approaches affect different training choices, employment and earnings outcomes, returns on training investments, and participant satisfaction. State and local administrators can use this information to determine which ITA approach, or combination of approaches, is most appropriate for their participants.

The ITA Experiment will test three alternative approaches to managing participant choice with ITAs. These approaches were designed based on extensive research conducted by the Department of Labor and the team of research contractors evaluating the experiment. This research included discussions with various stakeholders and visits to several local areas that are already operating some type of training voucher program. Information gathered during this research was used to design three ITA approaches that are consistent with WIA; have the potential for generating different training choices and outcomes; and are both feasible and likely to be of interest to local areas implementing WIA.

The ITA approaches to be tested in the experiment vary on three characteristics related to the management of participant choice: (1) The method used to determine each participant's ITA spending; (2) the ability of local counselors to guide or limit the choice of training providers made by participants; and (3) the type of counseling provided and whether it is mandatory or voluntary. We use these variations as the basis for defining the three ITA approaches to be tested from a spectrum of possible ITA systems, which range from a highly structured approach to a true voucher approach. The approach in the middle of this range is intended to broadly represent what most local areas are doing on their own, while the other two approaches are designed to be more or less structured than what most local areas are doing on their own.

The ITA approaches will be tested in an experimental setting; that is, new participants determined to be eligible for training will be randomly assigned by lottery to one of the ITA approaches. The lottery will be conducted by the research contractors evaluating the experiment. The participant will then be directed to participate in the activities of the ITA approach to which he or she is randomly assigned. All eligible participants will receive an ITA offer; that is, there will be no ''control group'' where participants are denied ITAs. Control groups will not be used because the goal of the ITA Experiment is to see which type of ITA approach works best overall and for different participants. Random assignment is crucial to the success of the experiment because it will ensure that participants assigned to each ITA approach are similar, on average. Hence, any differences between approaches in terms of the experiences of participants and their outcomes can be attributed to the ITA approaches themselves.

Enrollment into the experiment will begin on July 1, 2001, and local areas awarded grants under this SGA must commit to an enrollment period of 12 to 18 months. Local areas choosing to participate in the experiment must also commit to operating the three ITA approaches, supporting random assignment, and helping collect data to support the experiment. DOL and the research contractors will guide and assist local areas in carrying out each of these activities.

DOL has funded a separate contract with a research contractor, Mathematica Policy Research, to provide technical assistance and evaluation activities for the ITA Experiment. Based on preliminary grantee site visits, the researchers will adapt the experimental procedures to the conditions at each site. Each site will be provided with the necessary hardware to operate the software being developed for this project, pre-implementation training sessions, an implementation guide, and a variety of related documents to support the implementation and operation of ITAs through the ITA Experiment.

Participation in the ITA Experiment will offer the following benefits for the local areas selected under this SGA:

- Federal funding to support administrative costs and other activities related to implementation and operation of ITAs;
- Support from Department of Labor and research contractor staff experienced with and knowledgeable about ITAs and related employment and training activities;
- Technical assistance in implementing ITAs that is based on the most current research findings from the employment and training community nationwide;
- Ongoing support from the research contractors in conducting all experimental activities, where the objectives of the researchers will be to involve local staff in planning, minimize the burden on local staff, and provide responsive technical assistance and clear training materials; and
- Information on which of these ITA approach(es) works best in their community.

B. Overview of Major Tasks and Schedule of Milestone Activities

A challenge for One-Stop administrators is to allocate limited training resources to achieve the best possible outcomes while preserving participant choice. To provide information to localities on which ITA approach may work best for them and their participants, the ITA Experiment will rigorously assess three distinct ITA approaches that represent different

strategies for meeting this challenge. Grantee sites selected to participate in the ITA Experiment must demonstrate a commitment to implementation of the ITA research design for the ITA Experiment, which includes the following major tasks (a description of the activities related to these major tasks are described later in this Statement of Work):

Task 1. Understanding and planning for the delivery of the three ITA approaches that are described in this Statement of Work;

Task 2. Implementation of the ITA Experiment, including the delivery of the three ITA approaches, enrollment, and random assignment of participants to one of the ITA approaches;

Task 3. Data collection of information necessary for the evaluation of the ITA Experiment.

A preliminary time line for the implementation of the ITA Experiment is as follows:

PRELIMINARY SCHEDULE OF MILESTONES ACTIVITIES FOR IMPLEMENTATION OF ITA EXPERIMENT

Milestone activities	Date
First Grantee Meeting	February 2001.
Grantees work with DOL and researchers for planning the operational procedures in each site for implementation of the ITA approaches, random assignment, and data collection.	February 2001–June 2001.
Grantees receive necessary hardware from DOL for the management information system, which is the Service Tracking System (STS); DOL provides technical assistance to grantee sites to ensure hardware is compatible with the DOL-developed software for the STS.	February 2001.
DOL testing of STS software at Pilot Site*	March 2001.
On-Site Training Session for Pilot Site staff	March 2001.
Pilot Site begins enrollment for ITA Experiment	April 1, 2001.
On-Site Training Sessions for each Grantee	May thru June 2001.
Software and computers for the ITA Experiment are fully operational at all Grantees.	May thru July 1, 2001.
Grantees begin enrollment for ITA Experiment	July 1, 2001.
Three rounds of Site Visits to be conducted by the researchers	Dates to be determined.
State staff assists researchers with compiling wage records and other administrative data on all participants in the experiment.	To begin following the completion of experimental operations.

*The Pilot Site will be determined at a later date by DOL from among the grantees selected for this project. All grantees selected for funding under this SGA must commit to serving as a pilot site, if selected. The grantee selected as the pilot site will have the opportunity to begin ITA implementation and operation before July 1, 2001, and will receive immediate TA for early implementation and operation of the ITAs. However, please note that the pilot site will not receive additional funding above the funding level stated in this SGA.

C. Overview of Evaluation Components

The ITA Experiment will be evaluated by a team of research contractors, which will be led by Mathematica Policy Research, and will include Social Policy Research Associates and Decision Information Resources. Please note that this evaluation is fully funded through a separate contract with DOL, and will not require any additional funding through this SGA. The evaluation will include two parts. The first part will be an analysis of implementation and operation of the different ITA approaches. This analysis will be based on data collected during three rounds of visits to the grantees participating in the experiment. During these visits the researchers will examine implementation and operation of the three ITA approaches from various perspectives, including those of State and local administrators, participants, and training providers. The second part of the evaluation will be an analysis of participant outcomes and the returns on the investment in the different ITA approaches. This analysis will focus on the differences in participant outcomes, such as training choices and employment and earnings, generated by the three ITA approaches. Data for this analysis will be drawn from State wage record files and other administrative records, the Service Tracking System (STS) developed by DOL specifically for the experiment, and a follow-up survey of participants.

D. Description of Major Tasks

Task 1: Understanding and Planning for the Delivery of the Three ITA Approaches

The basic features of the three ITA approaches to be tested are summarized in Table 1. These features include the overall philosophy of the approach, the structure of the ITA, the counseling activities required for participants, and the role counselors play in helping participants formulate their training decisions.

The first activity in each ITA approach is an orientation session, in which participants are informed about all available services and about the activities that are required for their particular approach. Beyond this point, the activities in each approach diverge. The researchers will provide documents and other tools to support the orientation sessions as well as the various counseling activities in each approach. Counseling activities selected for the experiment will represent some of the best practices that have been found in support of informed participant choice of training.

1. *Approach 1: Structured Participant Choice.* Approach 1 is the most structured of the three approaches to be tested. In this approach, counselors play a central role by directing participants and scarce WIA resources to training programs expected to yield a high return—that is, programs through which earnings on the new job will be high relative to the investment in training. Participants assigned to Approach 1 will be guided through a calculation of the benefits and costs of appropriate training options and toward options that offer the greatest expected returns. Moreover, counselors will reject training selections not consistent with this approach.

Once appropriate training has been chosen, participants will receive an ITA to cover the costs of training. Therefore, the amount of the ITA is considered to be ''customized'' to the individual based on the training program approved by the counselor. More specifically, the value of the ITA will equal the cost of the approved training program minus any support available from other sources, subject to a local ceiling or ''cap'' on ITA expenditures. With guidance from the research evaluation team, localities

will set this cap high enough to cover even high-cost programs on the State's Eligible Training Provider (ETP) list. Only counselors will know the cap: participants will not be provided with this information but will be informed about the amount of their own ITA. Since the ITA is set according to the cost of training under Approach 1, most participants assigned to this approach will not spend up to the ITA cap.

To help participants identify appropriate training, local staff will take participants through a sequence of training-related counseling activities. These activities have been designed to help local staff identify high-return training strategies and determine the appropriate ITA amount. Staff will use a benefit-cost guidebook and worksheet, which will be provided by the researchers, to guide participants to high-return training. Participants must complete the required counseling activities to receive approval for their training selections. Approval will be based on three conditions: (1) The selected program is on the State-approved list of eligible training providers, (2) the participant is expected to be able to complete the training, and (3) the selected program is expected to enable the participant to become employed in an occupation with high earnings relative to the resources being invested. While counselors will not be able to require a particular training program for a participant, they will have the authority to reject a participant's training selection if it does not meet any one of these three conditions. In this way, counselors will have a fairly high degree of control in directing participants to training programs that promise the highest returns on investment.

2. *Approach 2: Guided Choice.* Approach 2 is designed to broadly represent the approach that localities are most likely to adopt as they make the transition to the new WIA training environment. Local counselors will play an important but less directive role in Approach 2 than in Approach 1. Their objective is to ensure that participants make informed training decisions, taking into account the advantages and disadvantages of alternative providers and the tradeoffs implicit in devoting more or fewer ITA resources to direct training costs. For this objective to be achieved, Approach 2 participants, like Approach 1 participants, will be required to participate in structured counseling activities. In contrast to Approach 1, however, Approach 2 will not require return to training exercises through which counselors and participants explicitly weigh the benefits of different training selections against the costs, although this service will still be available if desired. The researchers will provide tools to support counseling activities under Approach 2.

Counselors will recommend appropriate, modest-cost programs to ensure that participants reserve ITA funds for anticipated training-related needs (such as transportation to the training site) and to allow the locality to reserve WIA funds in order to serve more training participants. However, participants will continue to have final control over their selections. Once participants have selected their training, local staff must approve the selected training as long as (1) the participant has satisfied the approach's counseling requirements and (2) the selected program is covered in the State's list of eligible providers and appears feasible, given the amount of the ITA and other available resources.

Under Approach 2, the ITA has the same ''fixed'' value for all participants. Because participants may choose any feasible, State-approved program, counselors cannot customize the ITA amount to each individual as in Approach 1. The fixed ITA amount will be significantly lower than the cap under Approach 1. Participants will be made aware of this amount before choosing a training provider. Since counselors will recommend appropriate and relatively low-cost training, some participants will not spend the full amount of their ITA, and ITA expenditures will therefore differ for Approach 2 participants.

Last, participants will be given the flexibility to use ITA funds to pay for direct training costs (that is, tuition and fees) and for training-related expenses (for example, books, equipment, or certification exams), subject to counselor approval.

3. *Approach 3: Maximum Participant Choice.* Approach 3 is the most flexible of the ITA approaches to be tested in the experiment. It is intended to represent a type of voucher program where participants are free to spend resources on any State-approved training program and on related expenses approved by their local counselors. Approach 3 participants will be informed of the fixed ITA amount available to them before selecting a training program; will be allowed to use their ITA to pay for approved training and for training-related expenses; and will have final authority over their training choices.

Approach 3 participants may pursue the training of their choice without any further interaction with local staff once they have participated in an orientation. Participants under this approach have maximum choice because counselors can reject training choices only if the provider is not included in the State's list of eligible training providers. Unlike Approaches 1 and 2, participation in counseling services will not be mandatory for Approach 3 participants, and failure to participate will not restrict their access to ITA funds. Approach 3 participants may elect to receive counseling or other assistance from local staff to help them select the training of their choice.

Task 2: Implementation of the ITA Experiment, Including the Delivery of the ITA Approaches, and Enrollment and Random Assignment of Participants

Before the ITA Experiment is implemented, staff from Mathematica will visit the grantees to evaluate how the three ITA approaches will be adapted to the local conditions. Following these visits, Mathematica will develop operational manuals to guide the implementation of the experiment in each site. These manuals, to be developed in collaboration with grantee staff, will describe the various ITA approaches and procedures in enough detail to ensure that local operations will be consistent with the design of the experiment. Each site will receive an operational manual customized to its local area operation.

The experiment will be pilot-tested by one grantee site. Prior to implementing the experiment in the remaining grantee sites, a debriefing will be conducted on the pilot experience. To prepare grantee staff for implementation, the researchers will develop training materials and train local staff approximately one month before enrollment begins. Once operations have begun, the researchers will provide support and technical assistance to local staff throughout the experiment. Information from this pilot test will be used to further refine ITA procedures.

The project enrollment period will last between 12 to 18 months. All grantees must commit to conducting enrollment of participants for up to 18 months. During this time, the researchers will randomly assign all participants to one of the three ITA approaches after the point at which it is determined that training is part of the participant's individual employment plan. Thus, the ITA experiment will not affect any of the core or intensive services provided to participants before determining training eligibility. It is important to remember that all three ITA approaches will be implemented by all of the selected grantees. Before random assignment, local staff will inform participants about the

experiment and have them sign an agreement consenting to participate in the study and authorizing the use of their administrative records for research purposes. In describing the experiment, local staff will explain to participants that they will be randomly assigned to one of three ITA approaches. All eligible participants will receive an ITA offer; that is, there will be no ''control group'' where participants are denied ITAs. Participants will also be asked to complete a Baseline Information Form (BIF) at that time.

Once the participant has completed a participation agreement and a BIF, the site will enter the information from the BIF into the Service Tracking System (STS), a computer system created by DOL especially for the experiment. Once the BIF is entered, the STS will conduct random assignment, and the site will be notified by e-mail about the ITA approach to which a participant has been assigned.

Task 3: Data Collection of Information Necessary for the Evaluation of the ITA Experiment.

As mentioned in the introduction, the researchers will use several data sources in the evaluation of the experiment. In addition, the local areas (and respective States) participating in the experiment will play a fairly large role in data collection. During enrollment, local staff will oversee the completion of the participation agreement and the BIF. As participants flow through the program, local staff will enter data into the STS to track enrollment into the experiment and the participation of ITA participants in training-related services and training. The STS will generate reports that will help counselors monitor participants' activities, training expenditures, and ITA accounts. Please note that local staff will not be required to enter data on core and intensive services into the STS. Each grantee site will receive computer hardware and software for the STS. Technical assistance for installing and operating the STS, will also be provided and funded by DOL under a separate contract.

In three rounds of site visits to support the analysis of implementation and operation of the ITA approaches. Following the completion of experimental operations, State staff will be expected to help the researchers compile wage records and other administrative data on all participants in the experiment.

Local areas need to provide a signed letter from their State assuring that State wage records and other administrative data required for the evaluation of the experiment will be made available.

TABLE 1.—SUMMARY OF THE ITA APPROACHES

Approach 1 Structured participant choice	Approach 2 Guided participant choice	Approach 3 Maximum participant choice
Approach Philosophy		
Maximizes return on local area training investments.	Balances participant choice and counselor guidance.	Maximizes participant choice and flexibility over training decisions.
TA Structure		
ITA amounts are ''customized'' to the individual subject to an upper limit or ''cap.''.	Participants receive ITA amount that is much lower than the Approach 1 cap.	Same as Approach 2.
Only counselors are aware of the cap on ITA expenditures.	Both participants and counselors are aware of the fixed ITA amount before choosing a training provider.	Same as Approach 2.
ITAs cover only direct training costs; other training-related assistance provided outside the ITA based on need.	ITAs cover direct training costs and other training-related expenses; no other financial assistance is provided..	Same as Approach 2.
Required Counseling Activities		
After ITA orientation, participant must participate in weekly counseling sessions covering: (a) High-return training options (b) Aptitude for high-return occupations (c) Training options in participant's selected occupation. (d) Returns-to-training in participant's selected occupation (e) Feasibility of participant's optimal training selection(s).	After ITA orientation, particip[ant must participate in weekly counseling session covering: (c) Training options in participant's selected occupation. (e) Feasibility of participant's proposed training selection(s).	After ITA orientation, the participant is not required to enroll in any additional activities, but activities are available if requested.
Counselor's Role		
Directs participant to training selections on the State Eligible Training Provider list that maximize return on investment. Approves only a recommended program after participant completes the required counseling activities.	Guides participant to appropriate training strategies. Approves participant's choice if: ..... (a) Participant has completed the required counseling activities. (b) The selection is covered in State list of eligible training providers. (c) The selection appears feasible with ITA and other available resources.	Available as a resource to participate as s/he formulates a program selection. Approves participant's choice if: (b) The selection is covered in State list of eligible training providers.

Part IV. Submission of Application

A. Selection Format Requirements for Grant Application

General Requirements: Applicants must submit four (4) copies of their proposal, with original signatures. The application narrative must be double-spaced, and on single-sided, numbered pages with the exception of format requirements for the Executive Summary. The Executive Summary must be limited to no more than two single-spaced, single-sided pages. A font size of at least twelve (12) pitch is required throughout.

There are three required sections of the application. Requirements for each section are provided in this application package. Applications that fail to meet the requirements will not be considered.

Section I—Executive Summary—Project Synopsis;

Section II—Project Financial Plan;

Section III—Project Narrative—Technical Proposal (including Appendices, *Not To Exceed 35 Pages*).

Section I. Executive Summary—Project Synopsis (format requirements limited to no more than two single-spaced, single-sided pages)—Each application shall provide a project synopsis which identifies the following:

a. The applicant;

b. The type of organization the applicant represents;

c. The identification of consortium partners and the type of organization they represent;

d. The project service area;

e. Whether the service area is an entire local workforce investment area, more than one local area, and/or all local areas in a State;

f. The specific areas of focus in the announcement which are addressed by the project;

g. The amount of funds requested;

h. The planned period of performance;

i. The comprehensive strategy proposed for providing seamless service delivery;

j. The level of commitment the applicant and consortium members have to serving participants,

Section II. Project Financial Plan—Section II of the application must include the following two required elements: (1) Standard Form (SF) 424, Application for Federal Assistance, and (2) Budget Information Form and budget narrative. All copies of the SF 424 MUST have original signatures of the legal entity applying for grant funding. Applicants shall indicate on the SF 424, the organization's IRS Status, if applicable. According to the Lobbying Disclosure Act of 1995, Section 18, an organization described in Section 501 (c) 4 of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan. The Federal Domestic Assistance Catalog number is 17.246. Section II, will not count against the application page limits. Applicants should follow the instructions included with the attachments.

The financial plan must describe all costs associated with implementing the project that are to be covered with the grant funds. All cost should be necessary and reasonable according to the Federal guidelines set forth in the ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' (also known as the :Common Rule'') codified at 29 CFR Part 97 (97.22), and ''Grants and Agreements with Institutes of Higher Education, Hospitals, and Other Non-Profit Organizations' (also known as OMB Circular A–110). Codified at 29 CFR Part 95 (95.27).

The financial plan must contain the following parts:

a. Completed ''SF 424—Application for Federal Assistance'' (see Appendix A for required form)

b. Completed ''Budget Information Form'' by line item for all costs required to implemented the project design effectively. (See Appendix B for these required forms.)

c. Budget narrative/justification which provides sufficient information to support the reasonableness of the cost included in the budget in relation to the service strategy and planned outcomes. Budget categories are administration and program activities, and should be planned in accordance with recent changes in the Department of Labor financial reporting requirements (see attached Budget Information Form).

Section III. Project Narrative—Technical Proposal—Section III of the application, the project narrative (technical proposal) shall demonstrate the offeror's capabilities in accordance with the Statement of Work in Part III of this solicitation. It is advised that the technical proposal be formatted according to the evaluation criteria for this SGA (which are described in Part V). Each application shall also include a Time line outlining project activities. The grant application shall be limited to 20 double-spaced, single-side, 8.5-inch × 11-inch pages with 1-inch margins. Attachments shall not exceed 15 pages. Text type shall be 12 point or larger. Applications that do not meet these requirements will not be considered.

B. Hand-Delivered Applications

Applications should be mailed no later than five (5) days prior to the closing date for the receipt of applications. However if applications are hand-delivered, they must be received at the designated place by 4 p.m., Eastern Time on the closing date (Thursday, November 30, 2000) for receipt of applications. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified time and closing date. Telegraphed and/or faxed proposals will not be honored. Applications that fail to adhere to the above instructions will not be honored.

C. Late Applications

Any application received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it:

(1) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calender day before the closing date specified for receipt of applications (*e.g.*, an offer submitted in response to a solicitation requiring receipt of application by the 10th of August must have been mailed by the 5th); or

(2) Was sent by U.S. Postal Service Express Mail Next Day Service—Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of application. The term ''working days'' excludes weekends and U.S. Federal holidays. The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service registered or certified mail is the U.S. postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service.

The only acceptable evidence to establish the date of mailing of a late application sent by ''Express Mail Next-Day Service—Post Office to Addressee'' is the date entered by the post office receiving clerk on the ''Express Mail Next Day Service—Post Office to Addressee''and the postmarks on both the envelope and wrapper and the original receipt from the U.S. Postal Service.

D. Withdrawal of Applications

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before award. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

Part V. Rating Criteria and Selection Process

A. Review Process

A careful evaluation of applications will be made by a technical review panel who will evaluate the applications against the criteria below. The panel results are advisory in nature and not binding on the Grant Officer. The Government may elect to award the grant with or without discussions with the offeror. In situations without discussions, an award will be based on the offeror's signature on the (SF) 424, which constitutes a binding offer. Awards made will be those that are in the best interest of the Government. It is important that applicants demonstrate that they are positioned to implement the ITA approaches described in this solicitation and to share learning that can contribute to the development of successful workforce development systems elsewhere.

B. Evaluation Criteria

1. Applicant Qualifications (30 Points)

a. Applicant must be either (1) a local Workforce Investment Board (Local Board) applying with evidence of strong support from the State in which it is located, or (2) a consortium of two contiguous Local Boards applying with strong support from their State(s). Each Local Board applying for this SGA, either singularly or as a consortium, must include, as part of the evidence of support, a statement (*i.e.*, signed letter from their State) that the State will make available wage records and other administrative data required for the evaluation of the experiment. Applicants must clearly demonstrate that they meet one of the following eligibility criteria:

i. If applicant is one Local Board, the Local Board must provide evidence of an expected minimum flow of 550 training recipients for one program year. Applicant must describe the estimated flow of training recipients it expects to offer training to in one program year. This number should be supported by historical information (*e.g.*, the number of trainees who were offered training in past program years), or other evidence to support the estimated number of participant flow for training; OR

ii. If applicant is a consortium of two Local Boards, the consortium must expect a minimum combined flow of 550 participants for training. The Local Boards in a consortium must be contiguous, *i.e.*, the Local Boards must be from the same adjoining region. This number should be supported by historical information (*e.g.*, the number of trainees who were offered training in past program years), or other evidence to support the estimated number of participant flow for training. As stated earlier in this announcement, applicants applying as a consortium receive a single amount of $750,000, which will be distributed proportionately to the number of training recipients each Local Board expects to contribute to the total number of training recipients. For example, if a consortium consists of two Local Boards, and the first Local Board anticipates a flow of 250 training recipients, while the second Local Board anticipates a flow of 400, the consortium will have a combined total of 650 training recipients. Since the first Local Board is providing for 250 of the 650 total training recipients (38% of the total number of training recipient), it will therefore receive approximately $285,000 of the $750,000 grant (38% of the total grant award). Since the second Local Board is providing for 400 of the total 650 training recipients (62% of the total number of training recipients), it will therefore receive approximately $465,000 of the $750,000 grant (62% of the total grant award). The budget information form submitted in the application for the SGA should reflect this allocation of the grant award.

The estimated flow of training recipients determines the eligibility of a single Local Board or consortium of Local Boards to apply for this grant. One of the key objectives of the ITA Experiment is to detect the impacts of substantially different ITA approaches to determine which approach works best, and for whom. In order to obtain accurate and reliable estimates of outcomes for the different ITA approaches, the research contractor has determined that a minimum sample size requirement of at least 550 training recipients in one program year is necessary from each applicant. Therefore, DOL will not consider proposals that fail to show evidence of meeting this criteria.

b. Describe the Local Board(s), including (but not limited to) a brief history, the number of One-Stop Centers within the local area, the number of staff that counsel training recipients for all One-Stops, anticipated WIA funding levels, and size and demographics of local workforce investment area(s) served.

2. Approach (35 Points)

a. Provide a complete flowchart and description of the array of services currently used, as well as the services that are anticipated to be available, to locally support and serve training recipients.

b. Provide a complete flowchart and description of the procedures and services used to determine how and when a participant is determined eligible for training, including a description of how the services are different between participants receiving intensive services and participants receiving training services.

c. Discuss any potential roadblocks or considerations in implementing any of the ITA approaches or operational aspects of the ITA Experiment. Also, describe possible solutions to handling these issues.

d. Describe the Eligible Training Provider (ETP) list and Consumer Reporting System (CRS) in your state. On each of the systems, include information on the format, types of information posted, how it is accessed and used by counselors and participants, how they are maintained, and how long they have been in use by the applicant. Also, provide the estimated number of providers on the ETP list. Copies of parts of the ETP list and the CRS can be used as examples of format.

e. Present a detailed time line describing how the applicant could perform the tasks for implementing the ITA Experiment, given the milestones described in the Statement of Work.

f. Provide a brief description of the computer management information system used locally at the site, if any, and include the types of data that is collected and how it is maintained.

3. Interest and Commitment (25 Points)

a. Discuss the applicant's commitment to providing site staff availability for staff training and other related activities planned by DOL and the researchers to ensure proper implementation of the ITA approaches, random assignment, and data collection. Applicant must provide commitment of one full-time project manager for this project, for a minimum of 18 months, along with the project manager's resume. Applicant must also provide a staffing chart for the ITA Experiment, and provide names, positions, and functions of key staff committed to the experiment, *e.g.*, the project manager, One-Stop counselors, staff for managing/inputting data for the STS, etc.

b. Describe the applicant's interest in and commitment to implementing random assignment for the ITA Experiment.

c. Describe the applicant's level of interest in participating as the Pilot Site to operate the ITA Experiment 8–12 weeks before the other grantees begin the experiment. As noted in the

Statement of Work, it is anticipated that the Pilot Site will begin operations around April 15, 2001, and the other grantees will begin operations on July 1, 2001.

d. Explain the applicant's interest in treating the ITA Experiment as a priority in comparison with other workforce development system innovations.

4. Previous Experience (10 Points)

a. Describe the applicant's previous experience, if any, with designing and/or implementing ITAs, or any other voucher-type programs.

b. Discuss the applicant's history of peer-to-peer assistance with learning from program innovations, especially on a regional or national basis.

c. Provide an example of a creative approach the applicant organization(s) has designed to improve their local area's workforce development system.

Part VI. Monitoring, Reporting & Evaluation Requirements

A. Monitoring

DOL shall be responsible for ensuring effective implementation of each competitive grant project under the ITA Experiment in accordance with the Workforce Investment Act legislation, regulations, the provisions of this announcement, and the negotiated grant agreement. Applicants should assume that at least one on-site project reviews will be conducted by Department staff, or their designees. This review will focus on the project's performance in meeting the goals of the ITA Experiment, implementing with the requirements of each ITA approach for participants who are served, expenditure of grant funds on allowable activities, and collaboration with other organizations as required. Grants may be subject to additional reviews at the discretion of DOL.

B. Reporting

DOL will arrange for providing technical assistance to selected grantees in establishing appropriate reporting and data collection methods and processes based upon the STS created by DOL for the experiment. An effort will be made to accommodate and provide assistance to selected grantees to be able to complete all reporting electronically. In addition to the STS, selected grantees will be required to provide the following reports:

a. Monthly progress reports; and

b. Standard Form 269, Financial Status Report Form, on a quarterly basis.

Evaluation reports for the ITA Experiment will be prepared by an independent research evaluation firm, Mathematica Policy Research. The evaluation reports, including interim and final reports, are fully funded by DOL through a separate contract, and will not require any additional funding through this SGA.

C. Evaluation

DOL has contracted with an independent research evaluation firm, Mathematica Policy Research, to conduct an evaluation of the process, outcomes, impacts, and return on investment of the ITA Experiment. RFP #DCS–99–28 describes the evaluation criteria and is available for review at http://www.wdsc.org/sga/rfp/rfp99–28.htm. Grantees must agree to make their records available to research contractor personnel, as necessary. The research contractor will be required to maintain the confidentiality of all individual records they receive for the purpose of evaluating the ITA Experiment.

D. Conclusion

The WIA legislation provides States and locals with considerable flexibility in using ITAs to manage a participant's choice of training providers. State and local administrators are therefore faced with developing their own ITA approaches to best serve their participants. The ITA Experiment will test three ITA approaches that could be adopted by local Workforce Investment Areas. By rigorously testing these three approaches, the ITA Experiment can help to establish which approaches work best for participants, for counselors, for Workforce Investment Boards, and for the workforce development system as a whole. Administrators will be able to use this information to determine which of the ITA approaches is best suited for their State or local community.

Signed in Washington D.C., this 7th day of September 2000.

Laura A. Cesario,

Grant Officer, Division of Federal Assistance.

Appendices

Appendix A: (SF) 424—Application for Federal Assistance
Appendix B: Budget Information Form
Appendix C: Evidence of State Support
Appendix D: Application Cover Sheet

BILLING CODE 4510–30–P

Appendix A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction		2. DATE SUBMITTED	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

17-246

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.

Item:	Entry:
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Appendix B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel	$	$	$
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)	$	$	$
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)	$	$	$

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits:*** *Indicate the rate and amount of fringe benefits.*

3. ***Travel:*** *Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment:*** *Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies:*** *Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual:*** *Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other:*** *Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs:*** *Add lines 1 through 7.*

9. ***Indirect Costs:*** *Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested:*** *Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

Appendix D

Cover Sheet

SGA DFA - 00- 111 _____

INDIVIDUAL TRAINING ACCOUNT EXPERIMENT APPROACH

APPLICANT NAME _____

_____ **SINGLE ENTITY**

_____ **CONSORTIUM**

_____ **EVIDENCE OF STATE SUPPORT**

_____ **PARTICIPANT SAMPLE SIZE**

[FR Doc. 00–23430 Filed 9–12–00; 8:45 am]
BILLING CODE 4510–30–MC

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Pension and Welfare Benefits Administration (PWBA) is announcing that collection of information included in its Prohibited Transaction Exemption 97–41 has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA 95). This notice announces the OMB approval number and expiration date.

FOR FURTHER INFORMATION CONTACT: Address requests for copies of the information collection request (ICR) to Gerald B. Lindrew, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 23, 2000 (65 FR 15653), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of Prohibited Transaction Class Exemption 97–41 (Collective Investment Fund Conversion Transactions). In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0104. The approval expires 08/31/2003.

Under 5 CFR 1320.5 (b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Dated: September 7, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 00–23512 Filed 9–12–00; 8:45 am]
BILLING CODE 4510–29–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2000–3 CARP DTRA2]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice with a request for comments.

SUMMARY: The Copyright Office is announcing receipt of a petition to convene a Copyright Arbitration Royalty Panel (''CARP'') to set rates and terms for the period beginning January 1, 2001, for two statutory licenses which, in one case, allows certain eligible nonsubscription services to perform sound recordings publicly by means of digital audio transmissions and, in the second case, allows a transmitting organization to make an ephemeral recording of a sound recording for the purpose of making a permitted public performance. The Office is also announcing the date by which a party who wishes to participate in the rate adjustment proceeding must file its Notice of Intention to Participate.

DATES: Comments and Notices of Intention to Participate are due no later than October 13, 2000.

ADDRESSES: An original and five copies of a Notice of Intention to Participate and an original and five copies of any comment shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE., Washington, DC 20559–6000; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

Since 1995 copyright owners of sound recordings have enjoyed an exclusive right to perform publicly their copyrighted work by means of a digital audio transmission, subject to certain limitations. 17 U.S.C. 106(6). Among the initial limitations placed on the performance of the sound recording was the creation of a statutory license to cover performances made by nonexempt, noninteractive, digital subscription services. 17 U.S.C. 114 (1995).

However, it soon became apparent that with the increased use of digital communications networks, like the Internet, further legislation was needed to clarify how the law applied to nonsubscription digital audio services. Congress responded by passing the Digital Millennium Copyright Act of 1998 (''DMCA''), Public Law 105–304, which amended section 114 to expand the scope of the statutory license to include a public performance of a sound recording by means of ''an eligible nonsubscription transmission'' [1] and a transmission by ''a preexisting satellite digital audio radio service'' which performs a sound recording by means of a digital audio transmission.[2]

The DMCA also created a second statutory license to cover the making of an ''ephemeral recording'' of a sound recording—a necessary adjunct to the making of a digital transmission. 17 U.S.C. 112(e). The new statutory license allows entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in section 114(d)(1)(C)(iv), to make an ephemeral recording of a sound recording for purposes of a later transmission. The new license also provides a means by which a transmitting entity with a statutory license under section 114(f) can make more than the one phonorecord specified in section 112(a). 17 U.S.C. 112(e).

Determination of Reasonable Terms and Rates

The procedure set forth in the statute for establishing reasonable terms and rates is the same for both licenses. *See* 17 U.S.C. 112(e), 114(f), 801(b)(1) and 803(a). The terms and rates for the two new statutory licenses may be determined through a voluntary

[1] An ''eligible nonsubscription transmission'' is a noninteractive digital audio transmission which, as the name implies, does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or entertainment programming, but not to sell, advertise, or promote particular goods or services. 17 U.S.C. 114(j)(6)(1998).

[2] A ''preexisting satellite digital audio radio service'' is a subscription digital audio radio service that received a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. 17 U.S.C. 114(j)(10)(1998). Only two entities, CD Radio and XM Satellite Radio (formerly known as American Mobile Radio Corporation), are known to qualify under the statutory definition as preexisting satellite digital audio radio services.

negotiation process, or if necessary, through compulsory arbitration conducted pursuant to Chapter 8 of the Copyright Act. If interested parties are able to negotiate an industry-wide agreement during the negotiation phase of the proceeding, they may submit the proposal to the Copyright Office for publication in the **Federal Register**. The Librarian can adopt the proposed terms and rates without convening a copyright arbitration royalty panel (''CARP''), provided that no party with a substantial interest and a desire to participate in an arbitration proceeding files a comment opposing the negotiated rates and terms. 37 CFR 251.63(b). If, however, no industry-wide agreement is reached, or only certain parties negotiate license agreements, then a user relying upon one or both of the statutory licenses shall be bound by the terms and rates established through the arbitration process.

To initiate the arbitration phase of the proceeding, an interested party must file a petition with the Copyright Office, requesting that a CARP be convened for the purpose of determining the rates and terms for the statutory licenses. *See* 17 U.S.C. 112(e)(6), 114(f)(2)(C), 801(b)(1) and 803(a)(1).

Initial Rate Adjustment Proceeding

When Congress passed the DMCA in 1998, it chose not to set rates and terms for either the new section 112 or the expanded section 114 license. Instead, the statute directed the Librarian of Congress to initiate a voluntary negotiation period within 30 days of enactment of the act for the purpose of determining reasonable terms and rates for each license for the period beginning on the date of enactment of the DMCA and ending on December 31, 2000. 17 U.S.C. 112(e)(4) and 114(f)(2)(A); see also, 63 FR 65555 (November 27, 1998).

In response to the November 27 notice, interested parties engaged in extensive negotiations but were unable to reach a settlement agreeable to all parties. Consequently, the Recording Industry Association of America, Inc. (''RIAA'') filed a petition on July 23, 1999, with the Copyright Office in accordance with 17 U.S.C. 112(e)(4) and 114(f)(2)(B), requesting that the Office convene a CARP for the purpose of setting rates and terms for the public performance of sound recordings by means of eligible nonsubscription transmissions and the making of the necessary ephemeral recordings to facilitate the transmissions during the period beginning on October 28, 1998, and ending on December 31, 2000.

Accordingly, the Office announced a schedule, setting the dates for the 45-day precontroversy discovery period and the initiation of the date of the 180-day arbitration period for the initial rate adjustment proceeding. *See* 64 FR 52107 (September 27, 1999). This schedule was later suspended, pending completion of a rulemaking proceeding the purpose of which was to determine whether a broadcaster could stream an AM/FM radio signal via the Internet under a statutory provision that exempted a broadcast transmission from the digital performance right. *See* Order, Docket No. 99–6 CARP DTRA (March 21, 2000); 65 FR 14227 (March 16, 2000).

Petition to Convene a Second Copyright Arbitration Royalty Panel

In the interim, the Copyright Office announced a new negotiation period, in accordance with section 112(e)(6) and 114(f)(2)(C)(i)(II) of the Copyright Act. *See* 65 FR 2194 (January 13, 2000). The purpose of the second round of negotiations was to set the rates and terms for the section 112 and section 114 statutory licenses for the next period beginning on January 1, 2001. Absent an industry-wide, negotiated license agreement for the new period, copyright owners of sound recordings and entities availing themselves of the statutory licenses from January 1, 2001, onward, are subject to the final determination of an arbitration proceeding that will set the rates and terms for the new period. To date, no settlement agreement has been filed with the Office. To convene a CARP for this purpose, however, a party with a significant interest in establishing reasonable terms and rates for the statutory licenses must file a petition with the Copyright Office, requesting that a CARP adjust the rates and terms. 17 U.S.C. 112(e)(6), 114(f)(2)(C), 801(b)(1) and 803(a)(1). Petitions had to be filed with the Office during a 60-day period beginning on July 1, 2000.

On August 28, 2000, RIAA filed a petition in accordance with 17 U.S.C. 112(e)(6) and 114(f)(2)(C) requesting that the Office convene a CARP for the purpose of setting rates and terms in accordance with these provisions for the two-year period beginning January 1, 2001. In the petition, RIAA also states that it ''reserves the right to request that the Librarian adopt terms and rates under sections 112 and 114 for the 2001–2002 license period without convening a CARP, depending on the outcome of the pending negotiations and the 1998–2000 CARP proceeding . . . [and] the right to seek separate proceedings to establish terms and rates as appropriate even though [it] is submitting a single petition under both Section 112 and Section 114 statutory licenses and for all eligible services.'' Petition at 2–3.

Any party who wishes to comment on the RIAA petition may file a comment with the Copyright Office no later than close of business on October 13, 2000. The Librarian will consider these comments when evaluating the sufficiency of the petition. *See* 37 CFR 251.64.

Comments and Notices of Intention to Participate

The regulations governing rate adjustment proceedings require that, upon the filing of a petition for rate adjustment, the Office establish a date certain by which parties wishing to participate in the proceeding must file with the Librarian a Notice of Intention to Participate. 37 CFR 251.45(a). In consideration of the ongoing negotiations, the Office is setting October 13, 2000 as the date by which an interested party must file its Notice of Intention to Participate. Failure to submit a timely notice will preclude the interested party from participating in the CARP proceeding the purpose of which will be to set rates and terms for: (1) certain digital audio transmissions by a service eligible to make use of the expanded section 114 license, and (2) for ephemeral recordings made in accordance with the section 112 license.

Precontroversy Discovery Periods and Initiation of Arbitrations

Schedules for the 45-day precontroversy discovery period will be announced for the rate adjustment proceedings, Docket Nos. 99–6 CARP DTRA and 2000–3 CARP DTRA2, once the Office concludes the rulemaking proceeding concerning the streaming of an AM/FM radio signal over the Internet by an FCC-licensed broadcaster and issues its ruling on a pending motion to consolidate the initial rate adjustment proceeding with the second proceeding the purpose of which is to consider rates and terms for the sections 112 and 114 statutory licenses for the period beginning on January 1, 2001.

Dated: September 8, 2000.

David O. Carson,

General Counsel.

[FR Doc. 00–23538 Filed 9–12–00; 8:45 am]

BILLING CODE 1410–33–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meetings

September 7, 2000.

TIME AND DATE: 11 a.m., Thursday, September 14, 2000.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW, Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a majority vote of the Commission that the Commission consider and act upon the following in closed session:

1. Disciplinary Proceeding, Docket No. D 2000–1.

TIME AND DATE: 2 p.m., Thursday, September 14, 2000.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor on behalf of Noe v. J & C Mining, Docket No. KENT 99–248–D (Issues include whether the judge erred in concluding that J & C Mining did not constructively discharge a miner after he refused to transfer to the third shift).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR §§ 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 00–23617 Filed 9–11–00; 12:42 pm]

BILLING CODE 6735–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of three currently approved information collections. The first information collection is used in all NARA research rooms and museums for customers to provide comments, suggestions, and complaints about NARA service. The information will be used to improve service and plan future services. The other two currently approved information collections are used in the National Historical Publications and Records Commission (NHPRC's) grant program for subvention of part of the costs of manufacturing and distributing volumes published by NHPRC-supported documentary editorial projects. One of the NHPRC information collections is a grant application prepared by university and other non-profit presses applying for a subvention grant. The other NHPRC information collection is a sales report made by a non-profit press which has received a subvention grant from the NHPRC. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before November 13, 2000 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* Customer Comment Form.
OMB number: 3095–0007.
Agency form number: NA Form 14045.
Type of review: Regular.
Affected public: Individuals.
Estimated number of respondents: 1,925.
Estimated time per response: 5 minutes.
Frequency of response: On occasion.
Estimated total annual burden hours: 160 hours.
Abstract: The information collection is a customer comment form made available to persons who use NARA services or visit NARA museums. The form is voluntary and is used to record comments, complaints, and suggestions from NARA customers. NARA uses the information to correct problems and improve service.

2. *Title:* NHPRC Subvention Grant Guidelines and Application.
OMB number: 3095–0021.
Agency form number: N/A.
Type of review: Regular.
Affected public: Universities and non-profit presses.
Estimated number of respondents: 18.
Estimated time per response: 6 hours.
Frequency of response: On occasion. On the average, a press submits two subvention applications per year.
Estimated total annual burden hours: 216 hours.
Abstract: The information collection is prescribed by 36 CFR 1206. The application is submitted by university and other non-profit presses applying to the NHPRC grant program for subvention of part of the costs of manufacturing and distributing volumes published by NHPRC-supported editorial projects.

3. *Title:* NHPRC Annual Sales Reports for Subvention Grants.
OMB number: 3095–0022.
Agency form number: None.
Type of review: Regular.
Affected public: Non-profit presses that have received an NHPRC subvention grant.
Estimated number of respondents: 18.
Estimated time per response: 1 hour.
Frequency of response: One time only. On the average, a press has two on-going subvention grants and therefore submits two sales reports per year.
Estimated total annual burden hours: 36 hours.
Abstract: The information collection is prescribed by 36 CFR 1206. The sales information provided by non-profit presses is used by Commission staff to

gauge interest among scholars and the general public in documentary editions supported by Commission grants.

Dated: September 5, 2000.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 00–23476 Filed 9–12–00; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Integrative Activities (1373).

Date and Time: October 4–5, 2000 8:30 a.m.–5 p.m.

Place: Training Room, Cox Hall, Emory University, Atlanta, GA.

Type of Meeting: Closed.

Contact Person: Dr. Christopher Platt, Program Director for Neuroscience, Division of Integrative Biology & Neuroscience, Rm. 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–1420.

Purpose of Meeting: To provide advice and recommendations concerning further NSF support of the Science & Technology Center for Behavioral Neuroscience.

Agenda: To review and evaluate the progress to date on all aspects of the Center for Behavioral Neuroscience.

Reason for Closing: The project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 7, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23488 Filed 9–12–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (1203).

Date/Time: October 5, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1020, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Andrew J. Lovinger, Program Director, Polymers Program, Division of Materials Research, Room 1065, National Science Foundation, Arlington, VA 22230. Telephone (703) 292–4933.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process to determine finalists considered for FY2001 Faculty Early Career Development (CAREER) Proposals by the Polymers Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 7, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23491 Filed 9–12–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences (1204).

Date/Time: October 12–13, 2000; 8:30 a.m.–4 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1020, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Alvin I. Thaler, Program Director, Infrastructure Program, Room 1025 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–4863.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Career Panel Meeting as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 7, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23492 Filed 9–12–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Physics (1208).

Date/Time: October 11–12, 2000 8 a.m. to 5 p.m.

Place: National Superconducting Cyclotron Laboratory at Michigan State University.

Type of Meeting: Closed.

Contact Person: Dr. Bradley D. Keister, Program Director for Nuclear Physics, Room 1015N, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. (703) 292–7377.

Purpose of Meeting: To conduct a Technical Review of the Coupled Cyclotron Project.

Agenda: To hear presentations and write recommendations concerning the Coupled Cyclotron Project.

Reason for Closing: The proposals being reviewed include information of a proprietary or Confidential nature, including technical information; information on personnel and proprietary data for Present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 7, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23489 Filed 9–12–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Undergraduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Undergraduate Education (1214).

Date/Time: October 4–7, 2000; 8 a.m. to 5 p.m.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Type of Meeting: Closed.

Contact Person: Drs. Harriet G. Taylor, Duncan E. McBride and Diane A. Jones, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8667.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CSEMS proposals as part of the selection process to determine finalists considered for FY2001 Computer Science, Engineering and Mathematics Scholarships.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 7, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23490 Filed 9–12–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–412]

Firstenergy Nuclear Operating Company, (Beaver Valley Power Station, Unit 2); Exemption

I

The FirstEnergy Nuclear Operating Company (FENOC/the licensee) is the holder of Facility Operating License No. NPF–73 that authorizes operation of the Beaver Valley Power Station, Unit 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor located in Shippingport, Beaver County, Pennsylvania.

II

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, § 50.60(a), requires that ''all light-water nuclear power reactors * * * must meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary set forth in appendices G and H to this part.'' Appendix G to 10 CFR Part 50, requires that pressure-temperature (P/T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, this regulation states that ''[t]he appropriate requirements on * * * the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Additionally, it specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G, Limits. This section of the ASME Code in turn specifies that RPV P/T limits be developed using the K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1, as the lower bound for fracture toughness.

Pressurized water reactor licensees have installed low temperature overpressure protection (LTOP) systems in order to protect the reactor coolant pressure boundary (RCPB) from being operated outside of the boundaries established by the P/T limit curves and to provide pressure relief of the RCPB during low temperature overpressurization events. The licensee is required by the Beaver Valley Unit 2 Technical Specifications (TSs) to update and submit the changes to its LTOP setpoints whenever the licensee is requesting approval for amendments to the P/T limit curves in the Beaver Valley Unit 2 TSs.

In order to address provisions of amendments to the TS P/T limits and LTOP curves, the licensee requested in its submittal dated June 17, 1999, that the staff exempt Beaver Valley Unit 2 from application of specific requirements of 10 CFR Part 50, § 50.60(a), and 10 CFR Part 50, appendix G, and substitute the use of ASME Code Case N–640. It should be noted that, as a result of ASME Code committee action, the original designation for this Code Case (N–626) was changed to N–640. Therefore, Code Case N–640 will be discussed below rather than Code Case N–626, which is the designation referenced in Attachments C and D of the submittal. Code Case N–640 is an alternate reference for fracture toughness for reactor vessel materials for use in determining the P/T limits.

The proposed action is in accordance with the licensee's application for exemption contained in a submittal dated June 17, 1999, and is needed to support the TS amendment that is contained in the same submittal. The proposed amendment will revise the P/T limits of TS 3/4.4.9 for Beaver Valley Unit 2 related to the heatup, cooldown, and inservice test limitations for the reactor coolant system (RCS) to 15 Effective Full Power Years (EFPYs). It will also revise the section of the TSs that relates to the overpressure protection system (OPPS) to reflect the revised P/T limits of the reactor vessels.

Code Case N–640 (formerly Code Case N–626)

The licensee has proposed an exemption to allow the use of ASME Code Case N–640 in conjunction with ASME Section XI, 10 CFR 50.60(a), and 10 CFR Part 50, appendix G.

The proposed amendment to revise the P/T limits for Beaver Valley Unit 2, relies, in part, on the requested exemption. In accordance with Code Case N–640, these revised P/T limits have been developed using the KK_{Ic} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1, in lieu of the KK_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1, as the lower bound for fracture toughness. The other margins involved with the ASME Section XI, Appendix G, process of determining P/T limit curves remain unchanged.

Use of the K_{IC} curve in determining the lower bound fracture toughness in the development of the P/T operating limits curve is more technically correct than the K_{Ia} curve. The K_{IC} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The use of the initial conservatism of the K_{Ia} curve when the curve was codified in 1974 was justified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, however, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P/T curves based on the K_{IC} curve will enhance overall plant safety by opening the P/T operating window with the greatest safety benefit in the region of low temperature operations. Current OPPS setpoints produce operational constraints by limiting the P/T range available to the operator for heatup or cooldown of the plant. The operating window through which the operator heats up and cools down the RCS is established by the difference between the maximum allowable pressure determined by Appendix G of ASME Section XI and the minimum required pressure for the reactor coolant pump (RCP) seals adjusted for OPPS overshoot and instrument uncertainties. The operating window becomes more restrictive with continued reactor vessel service.

Since the RCS P/T operating window is defined by the P/T operating and test limit curves developed in accordance with the ASME Section XI, Appendix G, procedure, continued operation of Beaver Valley Unit 2 with these P/T curves without the relief provided by ASME Code Case N–640 would unnecessarily restrict the P/T operating window, especially at low temperature conditions. Reducing this operating window could potentially have an adverse safety impact by increasing the possibility of inadvertent OPPS actuation due to pressure surges

associated with normal plant evolutions such as RCP start and swapping operating charging pumps with the RCS in a water-solid condition.

Additionally, the impact on the P/T limits and OPPS setpoints has been evaluated for an increased service period to 15 EFPYs based on ASME Section XI, Appendix G, requirements. The results indicate that OPPS would significantly restrict the ability to perform plant heatup and cooldown, create an unnecessary burden to plant operations, and challenge control of plant evolutions required with OPPS enabled. Implementation of the proposed P–T curves, as allowed by ASME Code Case N–640, does not significantly reduce the margin of safety. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G, requirements by application of ASME Code Case N–640, while maintaining, pursuant to 10 CFR50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *.''

The underlying purpose of 10 CFR part 50, section 50.60(a), and 10 CFR part 50, appendix G, is to protect the integrity of the reactor coolant pressure boundary in nuclear power plants. This is accomplished through these regulations that, in part, specify fracture toughness requirements for ferritic materials of the reactor coolant pressure boundary. The NRC staff accepts the licensee's determination that an exemption would be required to approve the use of Code Case N–640.

The NRC staff examined the licensee's rationale to support the exemption request. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR part 50, Appendix G; ASME Section XI, appendix G; and Regulatory Guide 1.99, Revision 2, the NRC staff finds that the application of Code Case N–640 will provide results which are sufficiently conservative to ensure the integrity of the reactor coolant pressure boundary and, thus, meet the underlying intent of 10 CFR part 50, section 50.60(a), and 10 CFR part 50, appendix G. This is also consistent with determinations that the NRC staff has reached for other licensees under similar conditions, and based on the same considerations. Therefore, the NRC staff finds that special circumstances set forth in 10 CFR 50.12(a)(2)(ii) are present and that the methodology of Code Case N–640 may be used to revise the P/T limits and the LTOP setpoints for the Beaver Valley Unit 2 RCS.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants FENOC an exemption from the requirements of 10 CFR part 50, section 50.60(a), and 10 CFR part 50, appendix G, for the Beaver Valley Unit 2 reactor coolant system.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment. (65 FR 50722).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6 day of September 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–23526 Filed 9–12–00; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation (Crystal River Unit No. 3); Order Approving Application Regarding Proposed Acquisition By CP&L Holdings, Inc. Of Florida Progress Corporation; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on May 31, 2000 (65 FR 34740), in which the Commission issued an order under 10 CFR 50.80 approving the indirect transfer of control of Florida Power Corporation's interest in Crystal River Unit No. 3, Facility License No. DPR–72, that will occur under a proposed share exchange transaction between Florida Progress Corporation and CP&L Holdings, Inc. This action is necessary to correct an erroneous date.

FOR FURTHER INFORMATION CONTACT: Len Wiens, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, telephone 301–415–1495, e-mail: law@nrc.gov.

SUPPLEMENTARY INFORMATION: On page 34741, in the second column, in the fourth complete paragraph, ''May 23, 2000,'' is corrected to read ''May 22, 2000.''

Dated at Rockville, Maryland, this 5th day of September 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–23527 Filed 9–12–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

PSEG Nuclear, LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of PSEG Nuclear, LLC (the licensee) to withdraw Public Service Electric & Gas Company's (PSE&G) December 28, 1998, application for proposed amendment to Facility Operating License No. NPF–57 for the Hope Creek Generating Station (HCGS), located in Salem County, New Jersey.

On August 21, 2000, the license for HCGS, to the extent held by PSE&G, was transferred to PSEG Nuclear Limited Liability Company (PSEG Nuclear). By letter dated September 6, 2000, PSEG Nuclear stated that they have assumed responsibility for the active items on the Hope Creek docket previously submitted by PSE&G as of the date of the transfer.

The proposed amendment would have revised the technical specifications to increase the allowable leak rate of the main steam isolation valves (MSIV) and delete the MSIV Sealing System.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 10, 1999 (64 FR 6707). However, by letter dated August 29, 2000, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 28, 1998, and the licensee's letter dated August 29, 2000, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 7th day of September 2000.

For the Nuclear Regulatory Commission.

John Harrison,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–23528 Filed 9–12–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of September 11, 18, 25, October 2, and 9, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 11

Wednesday, September 13

9:30 a.m.

Affirmation Session (Public Meeting)

a: Final Rules—10 CFR Part 35, ''Medical Use of Byproduct Material'' and 10 CFR Part 20, ''Standards for Protection Against Radiation'' (Tentative)

b: Final Rule: ''Adjustment of Civil Monetary Penalties''; Proposed Revision to the Enforcement Policy to Conform to the Final Rule Adjusting Civil Monetary Penalties and Minor Administrative Changes to Parts 1 and 13

Week of September 18—Tentative

There are no meetings scheduled for the Week of September 18.

Week of September 25—Tentative

Friday, September 29

9:25 a.m.

Affirmation Session (Public Meeting) (If needed)

9:30 a.m.

Briefing on Risk-Informing Special Treatment Requirements (Public Meeting) (Contact: Tim Reed, 301–415–1462). This meeting will be webcast live at the Web address *www.nrc.gov/live.html*.

1:30 p.m.

Briefing on Threat Environment Assessment (Closed-Ex. 1)

Week of October 2—Tentative

Friday, October 6

9:25 a.m.

Affirmation Session (Public Meeting) (If needed)

9:30 a.m.

Meeting with ACRS (Public Meeting) (Contact: John Larkins, 301–415–7360)

Week of October 9—Tentative

There are no meetings scheduled for the Week of October 9.

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.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: September 8, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–23561 Filed 9–8–00; 4:40 pm]

BILLING CODE 9590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program: Medically Underserved Areas for 2001

AGENCY: Office of Personnel Management.

ACTION: Notice of medically underserved areas for 2001.

SUMMARY: The Office of Personnel Management (OPM) has completed its annual determination of the States that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for the calendar year 2001. This is necessary to comply with a provision of the FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. Accordingly, for calendar year 2001, OPM's calculations show that the following States are Medically Underserved Areas under the FEHB Program: Alabama, Idaho, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, South Carolina, South Dakota, Utah, and Wyoming. The 2001 list is identical to the 2000 list, except we have removed North Dakota from the list for calendar year 2001.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ingrid Burford, 202–606–0004.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. The FEHB law also requires that a State be designated as a Medically Underserved Area if 25 percent or more of the population lives in an area designated by the Department of Health and Human Services (HHS) as a primary medical care manpower shortage area. Such States are designated as Medically Underserved Areas for purposes of the FEHB Program, and the law requires plan payments to all qualified providers in these States.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the States that qualify as Medically Underserved Areas for the

next calendar year by comparing the latest Department of Health and Human Services State-by-State population counts on primary medical care manpower shortage areas with U.S. Census figures on State resident populations.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–23539 Filed 9–12–00; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

The Presidential Advisory Committee on Expanding Training Opportunities

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

Time and Date: 8:30 a.m., Monday, September 25, 2000.

Place: Office of Personnel Management, 1900 E Street, NW., Room 1350, Washington, DC 20415.

Status: This meeting will be open to the public. Seating is limited and will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact the Office of Personnel Management through the information shown below to obtain appropriate accommodations. Any member of the public wishing further information about the meeting or wishing to submit oral or written comments should contact the Designated Federal Official through the information shown below. Requests for oral comments must be in writing and received no later than 5:00 p.m. Eastern Daylight Savings Time on Wednesday, September 21, 2000. Each individual or group making an oral presentation will be limited in time based on the agenda and the number of people requesting to speak. Remarks may be submitted for the record. Written comments (30 copies) which are received in enough time will be shared with the Committee prior to the meeting. Comments received close to the meeting date will be shared with the Committee at the meeting.

Matters to be Considered: Executive Order 13111, Using Technology to Improve Training Opportunities for Federal Government Employees, was issued by the President on January 12, 1999, and established the Presidential Advisory Committee on Expanding Training Opportunities. At its second meeting, the Committee will discuss a variety of topics related to their tasks: outline of identified issues; E-learning technologies and markets; target populations and their needs; and Federal Training Technology Recommendations. The Committee will also discuss their overall approach, timeline, and plans to accomplish their tasks. Committee functions include (1) providing an independent assessment of (a) progress made by the Federal Government in its use and integration of technology in training programs; (b) how Federal Government programs, initiatives, and policies can encourage or accelerate training technology to provide more accessible, timely, and cost-effective training opportunities for all Americans; (c) mechanisms for the Federal Government to encourage private sector investment in the development of high quality instructional software and wider deployment and use of technology-mediated instruction so that all Americans may take advantage of the opportunities provided by learning technology; and (d) the appropriate Federal Government role in research and development for learning technologies and their applications in order to develop high quality training and education opportunities for all Americans and (2) an analysis of options for helping adult Americans finance the training and post-secondary education needed to upgrade skills and gain new knowledge.

For Further Information: Please contact Barbara Swanson, Designated Federal Officer for the Presidential Advisory Committee on Expanding Training Opportunities, at U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415; at telephone (202) 606–2721; or fax (202) 606–5231.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–23545 Filed 9–12–00; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 2a19–1; SEC File No. 270–294; OMB Control No. 3235–0332.

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 (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 2a19–1 under the Investment Company Act of 1940 (the ''Act'') provides that investment company directors will not be considered interested persons, as defined by section 2(a)(19) of the Act, solely because they are registered broker-dealers or affiliated persons of registered broker-dealers, provided that the broker-dealer does not execute any portfolio transactions for the company's complex, engage in any principal transactions with the complex or distribute shares for the complex for at least six months prior to the time that the director is to be considered not to be an interested person and for the period during which the director continues to be considered not to be an interested person. The rule also requires the investment company's board of directors to determine that the company would not be adversely affected by refraining from business with the broker-dealer. In addition, the rule provides that no more than a minority of the disinterested directors of the company may be registered broker-dealers or their affiliates.

Before the adoption of Rule 2a19–1, many investment companies found it necessary to file with the Commission applications for orders exempting directors from section 2(a)(19) of the Act. Rule 2a19–1 is intended to alleviate the burdens on the investment company industry of filing for such orders in circumstances where there is no potential conflict of interest. The conditions of the rule are designed to indicate whether the director has a stake in the broker-dealer's business with the company such that he or she might not be able to act independently of the company's management.

The Commission estimates that approximately 3,200 investment companies may choose to rely on rule 2a19–1, and that each investment company may spend one hour annually compiling and keeping records related to the requirements of the rule. The total annual burden associated with the rule is estimated to be 3,200 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Complying with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. Rule 2a19–1 does not require the filing of any information with the Commission. To the extent that records kept in connection with this rule are made available to the Commission's staff as part of the Commission's inspection program, those records are generally kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and

Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: September 6, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23435 Filed 9–12–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Approval of Existing Information Collections: Rule 27e–1 and Form N–27E–1; SEC File No. 270–486; OMB Control No. 3235–new. Rule 27f–1 and Form N–27E–1; SEC File No. 270–487; OMB Control No. 3235-new.

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 (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of the collections of information under the Investment Company Act of 1940 (''Act'') summarized below.

Rule 27e–1 [17 CFR 270.27e–1] is entitled ''Requirements for Notice to be Mailed to Certain Purchasers of Periodic Payment Plan Certificates Sold Subject to Section 27(d) of the Act.'' Form N–27E–1 is entitled ''Notice to Periodic Payment Plan Certificate Holders of 18 Month Surrender Rights with Respect to Periodic Payment Plan Certificates.'' Rule 27f–1 [17 CFR 270.27f–1] is entitled ''Notice of Right of Withdrawal Required to Be Mailed to Periodic Payment Plan Certificate Holders and Exemption from Section 27(f) for Certain Periodic Payment Plan Certificates.'' Form N–27F–1 is entitled ''Notice to Periodic Payment Plan Certificate Holders of 45 Day Withdrawal Right with Respect to Periodic Payment Plan Certificates.'' Form N–27E–1, which is prescribed by Rule 27e–1 in order to implement the statutory mandate in section 27(e) of the Act, serves to notify holders of periodic payment plan certificates who have missed certain payments of their surrender rights with respect to the certificates. Form N–27F–1, which is prescribed by Rule 27f–1, is used to notify recent purchasers of periodic payment plan certificates, of their right under section 27(f) of the Act to return the certificates within a specified period for a full refund. The Form N–27E–1 and Form N–27F–1 notices, which are sent directly to holders of periodic payment plan certificates, serve to alert purchasers of periodic payment plans of their rights in connection with their plan certificates.

Commission staff estimates that there are fewer than five issuers of periodic payment plan certificates affected by Rules 27e–1 and 27f–1. The frequency with which each of these issuers or their representatives must file the Form N–27E–1 and Form N–27F–1 notices varies with the number of periodic payment plans sold and the number of certificate holders who miss payments. The Commission estimates, however, that approximately 5,000 Form N–27E–1 notices and 48,900 Form N–27F–1 notices are sent out annually. The Commission estimates that each Form N–27E–1 notice takes approximately 4.5 minutes (0.075 hours) to prepare. Therefore, the total annual burden of Form N–27E–1 is estimated to be approximately 375 hours. The Commission estimates that each Form N–27F–1 notice takes approximately 3.5 minutes (.05833 hours) to prepare. Therefore, the total annual burden of Form 27F–1 is estimated to be 2,852 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.[1]

Complying with the collection of information requirements of Rule 27e–1 is mandatory for issuers of periodic payment plans or their depositors or underwriters in the event holders of plan certificates miss certain payments within eighteen months after issuance. Complying with the collection of information requirements of Rule 27f–1 is mandatory for custodian banks of periodic payment plans for which the sales load deducted from any payment exceeds 9 percent of the payment. The information provided pursuant to Rules 27e–1 and 27f–1 will be provided to third parties and, therefore, will not be kept confidential. The Commission is seeking OMB approval, because an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0004. Comments must be submitted to OMB within 30 days of this notice.

Dated: September 6, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23436 Filed 9–12–00; 8:45 am]

BILLING CODE 8010–01–M

[1] These estimates are based on informal conversations between the Commission staff and representatives of periodic payment plan issuers.

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–12110; Release No. 24619/ August 23, 2000]

Investment Company Act of 1940; In the Matter of Nationwide Separate Account Trust, et al.; Nationwide Insurance, One Nationwide Plaza, 1–35–13, Columbus, OH 43215

Correction

In **Federal Register** Document No. 00–22113 beginning on page 52794 for Wednesday, August 30, 2000, the file number was incorrectly stated as 812–11942. The correct file number is 812–12110.

Dated: September 7, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23484 Filed 9–12–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24635; File No. 812–12120]

Pruco Life Insurance Company, et al.

September 7, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'' or ''Act'') granting exemptions from the provisions of Sections 2(a)(32),22(c), and 27(i)(2)(A)

of the 1940 Act and Rule 22c–1 thereunder, to permit the recapture of credits applied to purchase payments made under certain deferred variable annuity contracts.

Applicants: Pruco Life Insurance Company (''Pruco Life''); Pruco Life Flexible Premium Variable Annuity Account (''Pruco Life Account''); Pruco Life Insurance Company of New Jersey (''Pruco Life of New Jersey''); Pruco Life of New Jersey Flexible Premium Variable Annuity Account (''Pruco Life of New Jersey Account''); and Prudential Investment Management Services, LLC (''PIMS,'' and collectively with the Insurance Companies and the Accounts, ''Applicants'').

Summary of Application: Applicants seek an order of the Commission to permit, under specified circumstances, the recapture of certain credits applied to purchase payments made under: (1) Certain deferred variable annuity contracts (the ''Contracts'') that Pruco Life Insurance Company and Pruco Life Insurance Company of New Jersey (the ''Insurance Companies'') issue through certain separate accounts (the ''Accounts''); and (2) contracts that the Insurance Companies may in the future issue through the Accounts or any other separate account established in the future by the Insurance Companies (''Future Accounts''), which contracts are substantially similar in all material respects to the Contracts (the ''Future Contracts''). Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. (''NASD'') member broker-dealer controlling or controlled by, or under common control with, the Insurance Companies, whether existing or created in the future, that serves as a distributor or principal underwriter of the Contracts or any Future Contracts offered through the Accounts or any Future Account (''Affiliated Broker-Dealers'').

Filing Date: The application was filed on May 26, 2000, and amended and restated on September 1, 2000.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 28, 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 who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0609. Applicants, c/o The Prudential Insurance Company of America, 100 Mulberry Street, Newark, NJ 07102–4077, Attn: Lee D. Augsburger, Esq.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Senior Counsel, or Keith E. Carpenter, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: the following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Pruco Life is a stock life insurance company organized under the laws of the State of Arizona. Pruco Life of New Jersey is a stock life insurance company organized under the laws of the State of New Jersey. Pruco Life of New Jersey is a wholly-owned subsidiary of Pruco Life, which is itself a wholly-owned subsidiary of The Prudential Insurance Company of America (''Prudential'').

2. PIMS, a wholly-owned subsidiary of Prudential, is the principal underwriter of the Contracts. PIMS is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, as amended (the ''1934 Act'') and is a member of the NASD. PIMS will enter into arrangements with one or more registered broker-dealers, which may be affiliated with PIMS, to offer and sell the Contracts. PIMS also may enter into these arrangements with banks that may be acting as broker-dealers without separate registration under the 1934 Act pursuant to legal and regulatory exceptions. PIMS may distribute the Contracts directly. PIMS may enter into similar arrangements for Future Contracts.

3. Pruco Life will be the issuer of the Contracts funded through Pruco Life Account and serves as depositor of the account. Pruco Life of New Jersey will be the issuer of the Contracts funded through Pruco Life of New Jersey Account and serves as depositor of the account. Pruco Life and Pruco Life of New Jersey may in the future issue Future Contracts through the Accounts, or through Future Accounts for which they would also serve as depositor.

4. Pruco Life Account is a segregated asset account of Pruco Life, and Pruco Life of New Jersey Account is a segregated asset account of Pruco Life of New Jersey. The respective Accounts will fund the variable benefits available under the Contracts. The offering of the Contracts will be registered under the Securities Act of 1933 (the ''1933 Act''). The Insurance Companies may issue Future Contracts through their respective accounts or through Future Accounts. That portion of the assets of Pruco Life Account and Pruco Life of New Jersey Account equal to the reserves and other Contract liabilities with respect to those Accounts are not chargeable with liabilities arising out of any other business of Pruco Life and Pruco Life of New Jersey, respectively. Any income, gains or losses, realized or unrealized, from assets allocated to Pruco Life Account or Pruco Life of New Jersey Account, as applicable, without regard to other income, gains or losses of Pruco Life or Pruco Life of New Jersey. The same will be true of any Future Account.

5. The Contracts are variable flexible premium deferred annuity contracts and are substantially similar in all material respects. Future Contracts funded by any Account of Future Account will be substantially similar to the Contracts in all material respects. Registered representatives of PIMS and affiliated or unaffiliated broker-dealers with which PIMS enters into selling agreements will sell the Contracts. The Contracts may be issued on a non-tax qualified basis or in connection with retirement plans that qualify for favorable federal income tax treatment under Section 408 of the Internal Revenue Code as an individual retirement plan. The Contracts provide a choice of features, including a guaranteed minimum death benefit and a guaranteed minimum income benefit, which are elected at issue. The benefits under each of these features are based on the protected value option that is elected. Depending upon the terms of the Contract, the protected value is either the highest contract value on any contract anniversary (''Step-Up''), purchase payments credited with a 5% effective annual rate of interest (''Roll-Up''), or the greater of the Step-Up and Roll-Up. The Contracts provide for various withdrawal options, annuity benefits and payout annuity options, as well as transfer privileges among the investment options, dollar cost averaging, and other features.

6. A Contract may be purchased with a minimum initial payment of $10,000. Subsequent purchase payments must be

at least $1,000. The initial annual purchase payment and aggregate maximum purchase payment limit is generally $20 million, and the maximum purchase payment in any year subsequent to the first is generally $2 million.

7. Each time an Insurance Company receives a purchase payment under the Contracts, it will allocate to the contract value a credit equal to a percentage of each purchase payment received (a ''Credit''). The Credit percentage will equal 4%. The Credit will be allocated among the variable investment options in the same percentages as the purchase payment to which it relates. Each Credit is subject to its own vesting schedule. If a withdrawal is made of all or part of a purchase payment, the non-vested portion of the Credit attributable to that purchase payment will be recaptured according to the following schedule:

Number of contract anniversaries since date of purchase payment	Vested percentage
0	0
1	10
2	20
3	30
4	40
5	50
6	60
7	100

Under some versions of the Contracts, the Credit may vest sooner. In no event, however, will the percentage of the Credit that has vested after a given number of Contract Anniversaries be less than the percentage stated in this paragraph. The Credit recapture is in addition to any withdrawal charge that may be applicable. For purposes of the bonus recapture, withdrawals of purchase payments are taken on a first-in first-out basis, and all purchase payments are withdrawn before earnings are withdrawn.

8. Each Insurance Company will fund Credits from its general account assets. An Insurance Company will recapture the non-vested portion of the Credits under the following circumstances: (a) A withdrawal or surrender is made during the vesting period applicable to the Credit, (b) the Contract is canceled under the ''free look'' provision; (c) death occurs within one year of a purchase payment; or (d) annuitization occurs during the vesting period applicable to the Credit. If the calculation of the death benefit occurs within one year of a purchase payment, then in calculating the death benefit payable, the contract value will be adjusted to recapture the non-vested Credit attributable to that purchase payment. Any Credit applied one year or more prior to the date of death will not be subject to recapture.

9. Owners of the Contracts may allocate their purchase payments among 25 subaccounts of the Accounts, and each subaccount will invest in shares of a corresponding portfolio (each, a ''Portfolio'' of an open-end, diversified series management investment company registered under the Act (each, a ''Fund,'' and collectively, the ''Funds''). The funds currently available under the Contracts are The Prudential Series Fund, Inc., and Janus Aspen Series. At a later date, the Insurance Companies may create additional subaccounts of the Accounts to invest in additional Portfolios, or other such underlying portfolios or other investments as may now or in the future be available. Similarly, subaccounts of the Accounts may be combined or eliminated from time to time. Future Contracts may offer Funds managed by the same as well as other investment advisers.

10. The Contracts provide for a withdrawal charge equal to a percentage of purchase payments surrendered that declines according to the following schedule.

Contract anniversaries since purchase payment	Withdrawal charge (in percent)
0	7
1	7
2	7
3	6
4	5
5	4
6	3
7	2
8	1
9	0

Some Contract may offer lower withdrawal charges. In no event will the withdrawal charge after a given number of Contract Anniversaries be greater than the percentage set forth in this paragraph. A ''charge-fee'' amount, generally equal, on an annual basis, to 10% of the excess of purchase payments over withdrawals and applied on a first-in first-out basis, is exempt from the withdrawal charge.

11. Other charges under the Contracts are: (a) Asset-based mortality and expense risk charges at annual rates of 1.40% for the base death benefit, 1.60% for the guaranteed minimum death benefit with either the Step-Up or the Roll-Up, and 1.70% for the guaranteed minimum death benefit with the greater of the Step-Up and the Roll-Up assessed pro-rata against the net assets of each subaccount; (b) for Contracts where the guaranteed minimum income benefit feature has been elected, a charge at a current annual rate of 0.25% of the protected value for either the Step-Up or the Roll-Up and 0.35% for the greater of the Step-Up and Roll-Up, which is deducted proportionally from the net assets of each subaccount on each Contract Anniversary and pro-rata upon partial withdrawals (when the remaining contract value is less than the amount of the charge), and upon surrender of the Contract; (c) an annual contract maintenance charge of up to $60, which is deducted proportionally from the assets invested in each subaccount; (d) in those jurisdictions in which premium taxes are assessed, a charge to cover these taxes, either when the contract is issued or when annuity payment begin; and (e) for each transfer among subaccounts after the twelfth in a single contract year, a charge of up to $30 assessed pro rata from the subaccounts involved in the transfer. The underlying Funds each impose investment management fees and charges for other expenses.

12. Applicants seek exemption pursuant to Section 6(c) from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to the extent necessary to permit an Insurance Company that issues Contracts that provide for Credits upon the receipt of purchase payments, to recapture all or the unvested portion of certain Credits in the following instances: (a) A withdrawal or surrender is made during the vesting period applicable to the Credit; (b) the Contract is canceled under the free look provision; (c) death occurs within one year of a purchase payment; or (d) annuitization occurs during the vesting period applicable to the Credit.

Applicant's Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission, pursuant to Section 6(c) of the Act, grant the requested exemptions with respect to the Contracts, and any Future Contracts funded by the Accounts or Future Accounts that are issued by the Insurance Companies and underwritten or distributed by PIMS or Affiliated Broker-Dealers. Applicants undertake that Future Contracts funded by the

Accounts or any Future Account will be substantially similar in all material respects to the Contracts. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants represent that it is not administratively feasible to track the Credit amount in the subaccounts after the Credit is applied. The asset-based charges applicable to the subaccounts will be assessed against the entire amounts held in the respective subaccounts, including the Credit amount, during the period when the owner's interest in the Credit is not completely vested. During such periods, the aggregate asset-based charges assessed against an owner's contract value will be higher than those that would be charged if the owner's contract value did not include the Credit.

3. Subsection (i) of Section 27 of the Act provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) of the Act defines ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

4. Applicants submit that the recapture of the Credit amount in the circumstances set forth in the application would not deprive an owner of his or her proportionate share of the issuer's current net assets. An owner's interest in the amount of any Credits allocated upon receipt of purchase payments is not fully vested until the vesting period for that purchase payment has expired. Until the right to recapture the Credit has expired and any Credit amount is completely vested, the Insurance Companies retain the right and interest in the Credit amount, although not in the earnings attributable to that amount. Thus, when the Insurance Companies recapture any Credit, they are merely retrieving their own assets, and the owner has not been deprived of a proportionate share of the applicable Account's assets, because his or her interest in the Credit amount has not vested. With respect to Credit recaptures upon the exercise of the free-look privilege, it would be unfair to allow an owner exercising that privilege to retain a Credit amount under a Contract that has been returned for a refund after a period of only a few days. If the Insurance Companies could not recapture the Credit, individuals could purchase a Contract with no intention of retaining it, and simply return it for a quick profit. The recapture of Credits relating to purchase payments made within one year prior to death or after death is designed to provide the Insurance Companies with a measure of protection against ''anti-selection.'' The risk here is that, rather than spreading purchase payments over a number of years, an owner will make very large payments shortly before death, thereby leaving the Insurance Companies less time to recover the cost of the Credits applied, to their financial detriment. Again, the amounts recaptured equal the Credits provided by each Insurance Company from its own general account assets, and any gain would remain as part of the Contract's value when annuity payments begin.

5. Applicants submit that the provisions for recapture of any Credits under the Contracts do not, and any such Future Contract provisions will not, violate Section 2(a)(32) and 27(i)(2)(A) of the Act. Indeed, Applicants believe that a contrary conclusion would be inconsistent with a stated purpose of the National Securities Markets Improvement Act of 1996 (''NSMIA''), which is ''to amend the [Act] to provide more effective and less burdensome regulation.'' Sections 26(e) and 27(i) were added to the Act pursuant to Section 205 of NSMIA to implement the purposes of NSMIA and the Congressional intent. Thus, the application of a Credit to purchase payments made under the Contracts should not raise any questions as to each Insurance Company's compliance with the provisions of Section 27(i). Nevertheless, to avoid any uncertainties, Applicants request an exemption from Sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Credit under the circumstances described herein with respect to the Contracts and any Future Contracts, without the loss of the relief from Section 27 provided by Section 27(i).

6. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, their redeemable securities to accomplish the same purposes as contemplated by Section 22(c). Rule 22c–1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

7. An Insurance Company's recapture of the Credit might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Accounts. Applicants contend, however, that the recapture of the Credit does not violate Section 22(c) and Rule 22c–1. Applicants argue that the recapture of the Credit does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce as far as reasonably practicable, namely (i) the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. These evils were the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing allowed investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the value of outstanding mutual fund shares. The proposed recapture of the Credit poses no such threat of dilution. To effect a recapture of a Credit, an Insurance Company will redeem interests in an owners' annuity account at a price determined on the basis of the current net asset value of the respective Accounts. The amount recaptured will equal the amount of the Credit that the Insurance Company paid out of its general account assets. Although owners will be entitled to retain any investment gain attributable to the Credit, the amount of such gain will be determined on the basis of the current net asset value of the respective Accounts. Thus, no dilution will occur upon the recapture of the Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely,

speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit. Applicants contend that because neither of the harms that Rule 22c–1 was meant to address is found in the recapture of the Credit, Rule 22c–1 and Section 22(c) should have no application to any Credit. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recapture the Credit under the Contracts and Future Contacts.

8. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put an amount greater than their purchase payments to work for them in the selected variable investment options. Also, owners will retain any earnings attributable to the Credit and, unless any of the contingencies set forth on the Application apply, the principal amount of all Credit.

9. Applicants submit that the recapture of any Credit only applies in relation to the risk of anti-selection against an Insurance Company. ''Anti-selection'' can generally be described as a risk that Contract owners obtain an undue advantage based on elements of fairness to the Insurance Companies and the actuarial and other factors each takes into account in designing the Contracts. Each Insurance Company provides all Credits from its general account on a guaranteed basis. Thus, it undertakes a financial obligation that contemplates the retention of the Contracts by their owners over an extended period, consistent with the long-term nature of retirement planning. The Insurance Companies expect generally to recover their costs, including Credits, over an anticipated duration while a Contract is in force. An Insurance Company's right to recapture Credits applied to purchase payments made within a year of death protects the Insurance Company against the risk that owners will contribute larger amounts as they approach death to obtain the Credit, while avoiding Contract charges over the long term. With respect to refunds paid upon the return of Contracts within the ''free-look'' period, the amount payable by the Insurance Company must be reduced by the allocated Credits. Otherwise, purchasers could apply for Contracts for the sole purpose of exercising the free-look refund provision and making a quick profit.

10. Applicants submit that their request for an order that applies to any Account or any Future Account established by an Insurance Company in connection with the issuance of Contracts and Future Contracts that are substantially similar to the Contracts described herein in all material respects, and underwritten or distributed by PIMS or Affiliated Broker-Dealers, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this Application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise.

11. Applicants undertake that Future Contracts funded by Accounts or by Future Accounts that seek to rely on the order issued pursuant to this Application will be substantially similar to the Contracts in all material respects.

Conclusion

Sections 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt under persons security or transaction, or any class or classes or persons, securities or transactions, from any provision or provisions of the Act, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that, based upon the facts and for the reasons set forth above, their exemptive requests meet the standards set out in Section 6(c) and that an order should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23485 Filed 9–12–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43244; File No. SR–OCC–00–06]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Clearing Fees Charged for Established Products Effective September 1, 2000

September 5, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 10, 2000, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC is proposing to reduce its levels of clearing fees which are charged for established products effective September 1, 2000.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is proposing to reduce the clearing fees charged for established products. During the first half of 2000, OCC experienced a record volume of options cleared. As a result, OCC proposes to reduce its clearing fees, effective September 1, 2000, as follows:

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

Contract trade level	Current clearing fee	Proposed clearing fee
1–500	$0.09/contract	$.0575/contract.
501–1000	0.07/contract	.045/contract.
1001–2000	0.06/contract	.04/contract.
>2000	110.00 flat fee	65.00 flat fee.

The proposed discounted fee schedule will enable clearing members to benefit from reduced fees without adversely affecting OCC's ability to maintain an acceptable level of retained earnings. Commencing the first trading day of 2001, the discounted clearing fees will revert to their current levels.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [3] and the rules and regulations thereunder because it benefits clearing members by reducing fees and allocates fees among clearing members in an equitable manner.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) [4] of the Act and Rule 19b–4(f)(2) [5] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–00–06 and should be submitted by October 4, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23437 Filed 9–12–00; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

User Input to the Aviation Weather Technology Transfer (AWTT) Board

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA will hold an informal public meeting to seek aviation weather user input. Details: October 10, 2000; Ernest N. Morial Convention Center, 900 Convention Center Blvd., New Orleans, Louisiana; 1 pm to 5 pm in room 244. The objective of this meeting is to provide an opportunity for interested aviation weather users to provide input on FAA;'s plans for implementing new weather products.

DATES: The meeting will be held in Room 244 at the Ernest N. Morial Convention Center, 900 Convention Center Blvd., New Orleans, LA 70130 in conjunction with the National Business Aviation Association, Inc. (NBAA) annual convention. Times: 1 5 pm, on October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Debi Bacon, Aviation Weather Policy Division, ARW 100, Federal Aviation Administration, 400 7th St. SW., Washington, DC 20590; telephone number (2020) 366 1040; fax: (202) 366 5549; email: *debi.bacon@faa.gov.* Internet address: http://www.debi.bacon@faa.gov.

SUPPLEMENTARY INFORMATION:

History

The FAA has established an Aviation Weather Technology Transfer (AWTT) Board to manage the orderly transfer of weather capabilities and products from research and development into operations. The AWTT Board is chaired by the head of the Aviation Weather Directorate, ARW–1 and is composed of stakeholders in Air Traffic Services, ATS; Regulation and Certification, AVR; and Research and Acquisitions, ARA in the Federal Aviation Administration and the Office of Meteorology in the National Weather Service.

The AWTT Board will meet semi-annually or as needed, to determine the readiness of weather research and development products for experimental use or for full operational use. The Board's determinations will be based upon criteria in the following areas: users' needs; benefits; costs; risks; technical readiness; operational readiness and budget requirements.

The user interface process is designed to allow FAA to both report progress and receive feedback from industry users. Each AWTT Board meeting will be preceded by a half-day industry review session approximately one month prior to each Board meeting. These industry review sessions will be announced in the **Federal Register** and open to all interested parties.

This meeting is the first industry review session and is intended to receive feedback for the November 2000 AWTT Board meeting.

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by

representatives of the FAA Headquarters.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate. This meeting is being held in conjunction with the NBAA annual conference. There is a charge to attend the NBAA conference, however any person attending this informal meeting only, will be admitted by NBAA conference officials to this meeting only.

(c) FAA personnel present will conduct a briefing on how the new AWTT system works. Any person will be allowed to ask questions during the presentation and FAA personnel will clarify any part of the process that is not clear.

(d) FAA personnel will present a briefing on a specific product that will be reviewed at the November 2000 AWTT Board Meeting. Any person will be allowed to ask questions during the presentation and FAA personnel will clarify any part of the presentation that is not clear.

(e) Any person present may give feedback on the product to be presented. Feedback on the proposed product will be captured through discussion between FAA personnel and any persons attending the meeting. The meeting will not be formally recorded. However, informal tape recordings may be made of the presentations to ensure that each respondent's comments are noted accurately.

(f) An official verbatim transcript or minutes of the informal meeting will not be made. However, a list of the attendees, a digest of discussions during the meeting and an action item list will be produced. Any person attending may receive a copy of the written information upon request to the information contact, above.

(g) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback may also be submitted to FAA personnel for up to seven (7) days after the close of the meeting.

Agenda

(a) Opening Remarks and Discussion of Meeting Procedures

(b) Briefing on AWTT Process

(c) Request for User Input

(d) Closing Comments

Issued in Washington, DC, on September 5, 2000.

David Whatley,

Program Director, Aviation Weather Directorate.

[FR Doc. 00–23185 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Duluth International Airport, Duluth, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Duluth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 13, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450–2706.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond Klosowski, Executive Director, Duluth Airport Authority, at the following address: Duluth Airport Authority, Duluth International Airport, 4701 Grinden Drive, Duluth, MN 55811.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Duluth Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon Nelson, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450–2706, telephone (612) 713–4358. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Duluth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 16, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Duluth Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 14, 2000.

The following is a brief overview of the application.

PFC application number: 00–04–C–00–DLH.

Level of the Proposed PFC: $3.00.

Proposed charge effective date: December 1, 2000.

Proposed charge expiration date: February 1, 2003.

Total estimated PFC revenue: $628,931.00.

Brief description of proposed projects: Acquire snow blower, acquire runway sander (snow removal equipment), security upgrade, design and phase I construction for runway 9–27 centerline and touchdown zone lighting, design for CAT II Instrument Landing System, install centerline and touchdown zone lighting, and PFC consultant fees. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: non-scheduled Part 135 Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA Office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Duluth Airport Authority Office.

Issued in Des Plaines, Illinois, on August 23, 2000.

Benito De Leon,

Manager, Airports Planning/Programming Branch, Great Lakes Region.

[FR Doc. 00–23497 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–98–4370]

Transportation Equity Act for the 21st Century; Implementation of the Transportation and Community and System Preservation Pilot Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for applications for Fiscal Year (FY) 2002 Transportation and Community and System Preservation (TCSP) grants; request for FY 2002 TCSP research recommendations; request for comments on program implementation and research needs.

SUMMARY: This document provides guidance on section 1221 of the Transportation Equity Act for the 21st Century (TEA–21), which established the Transportation and Community and System Preservation Pilot (TCSP) Program. The TCSP provides funding for grants and research to investigate and address the relationship between transportation and community and system preservation. The States, local governments, metropolitan planning organizations (MPOs), tribal governments, and other local and regional public agencies are eligible for discretionary grants to plan and implement transportation strategies which improve the efficiency of the transportation system, reduce environmental impacts of transportation, reduce the need for costly future public infrastructure investments, ensure efficient access to jobs, services and centers of trade, and examine development patterns and identify strategies to encourage private sector development patterns which achieve these goals. FY 2002 is the fourth year of the TCSP program.

The FHWA seeks requests for FY 2002 TCSP grants, recommendations for FY 2002 TCSP research, and public comments from all interested parties regarding implementation of the TCSP program and research related to the program in FY 2002 and beyond.

DATES: Applications for FY 2002 grants and recommendations for research should be received in the appropriate FHWA Division Office by close of business Wednesday, January 31, 2001. Comments on program implementation, research needs, and priorities should be received by the DOT Docket Clerk on or before the close of business Wednesday, January 31, 2001.

ADDRESSES: Grant applications should be submitted to the FHWA Division Office in the applicant's State. Division addresses and telephone numbers are provided in Attachment III of this notice.

Mail or hand deliver comments on program implementation to the docket number that appears in the heading of this document, U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, D.C. 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those persons desiring notification of receipt of comments must include a self-addressed, stamped postcard or print the acknowledgment page after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Ms. Felicia Young, Office of Human Environment, (HEPH), (202) 366–0106; or Mr. S. Reid Alsop, Office of the Chief Counsel, (HCC–30), (202) 366–1371, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590–0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and other program related information are available on the TCSP web site: *http://tcsp-fhwa.volpe.dot.gov.*

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document also may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

Section 1221 of the TEA–21 (Public Law 105–178, 112 Stat. 107 (1998)) established the TCSP. The Department of Transportation's Strategic Plan (1997–2003) includes a series of goals related to safety, mobility and access, economic growth and trade, enhancement of communities and the natural environment, and national security. The TCSP pilot program furthers each of these goals by providing funds for grants and research to investigate and address the relationship between transportation and community and system preservation. By funding innovative activities at the neighborhood, local, metropolitan, regional, and State levels, the program is intended to increase the knowledge of the costs and benefits of different approaches to integrating transportation investments, community preservation, land development patterns, and environmental protection. It will enable communities to investigate and address important relationships among these many factors.

The TCSP program offers States, local governments, MPOs, tribal governments, and other public agencies the opportunity to develop, implement and evaluate current preservation practices and activities that support these practices, as well as to develop new and innovative approaches to meet the purposes of the TCSP grant program (see Section II).

The USDOT established the TCSP in cooperation with other Federal agencies, State, regional, and local governments. The FHWA is administering the program and has established an interagency team to assist with program implementation. Representatives include the Department's Federal Transit Administration (FTA), the Federal Railroad Administration (FRA), the Research and Special Programs Administration/Volpe Center (RSPA), and the Office of the Secretary of Transportation (OST), and the Environmental Protection Agency (EPA).

This notice includes three sections: Section I: TCSP Program Information; Section II: Requests for FY 2002 TCSP Grants; and Section III: Recommendations for FY 2002 TCSP Research.

Section I: TCSP Program Information

Introduction

The TCSP provides funding for grants and research to investigate and address the relationship between transportation and community and system preservation. States, local governments,

tribal governments, and MPOs are eligible for discretionary grants to plan and implement strategies which improve the efficiency of the transportation system, reduce environmental impacts of transportation, reduce the need for costly future public infrastructure investments, ensure efficient access to jobs, services and centers of trade, and examine development patterns and identify strategies to encourage private sector development patterns which achieve these goals. Through the TCSP, States, local governments, and MPOs implement and evaluate current preservation practices and activities that support these practices, as well as develop new and innovative approaches. FY 2002 is the fourth year of the TCSP program.

The TCSP supports the Administration's high priority goals to encourage the development of livable communities.

Purposes

Section 1221 of the TEA–21 identifies five purposes for TCSP projects. The purposes are broad and include transportation efficiency, the environment, access to jobs, services, and trade centers, efficient use of the existing infrastructure, and land use patterns. A key element of the TCSP is exploring the link between transportation and land use patterns. The FHWA is looking for innovative approaches to test and evaluate the effectiveness of integrating land use planning and transportation planning to meet the purposes of TCSP.

Innovation

Funding in the TCSP is intended to plan, implement, and test new approaches for meeting the TCSP program goals. As a pilot program, the TCSP provides the opportunity to support and encourage non-traditional approaches, including non-traditional partnerships, and for communities to exchange experiences on new transportation and community preservation strategies.

Evaluation and Results

Project evaluation is a key component of the TCSP to help agencies and organizations demonstrate how new transportation related strategies can be most effectively implemented.

Applicants are required to include a project evaluation plan as part of their TCSP application. The evaluation plan should describe roles, responsibilities, project objectives, performance measures, evaluation methodologies, data sources, schedule milestones, and budgets. Clearly, stating the project's objectives and activities and anticipated results are important for successful proposals. It is also important to demonstrate how results will be measured, and how evaluation information will be made available to a national audience (*e.g.,* through reports, web-sites, new models, etc.).

Partnerships

The TCSP encourages public and private participation in proposed projects. In addition, the TCSP encourages applicants to include non-traditional partners on the project team. The project team should also reflect the project type and scope. The roles and functions of the partners should also be explained.

FY 2001 TCSP Program

In response to the November 19, 1999, **Federal Register** notice (64 FR 63364–63371) requesting applications for TCSP funding, the FHWA received 298 applications from 48 States, Puerto Rico, and the District of Columbia for $197.2 million. These applications are being reviewed and the FHWA plans to award the FY 2001 funds to successful applicants after October 1, 2000.

Funding for the TCSP was authorized at $20 million for FY 1999 and $25 million each year for FYs 2000 through 2003 by the TEA–21. However, demand for the TCSP funds has exceeded the funds available. The FHWA has been able to provide funding to only 11.2 percent of the TCSP applicants. When combined with congressional earmarking, the funds available for competitive TCSP grants have been further reduced.

Summary of Comments to the Docket

The November 19, 1999, **Federal Register** notice (64 FR 63364) requested comments on the TCSP program implementation in FY 2001 and beyond. No comments were submitted to the docket (FHWA–98–4370) under this request. The complete docket may be viewed at the locations identified under the captions **ADDRESSES** and Electronic Access in the preamble.

Section II: Request for FY 2002 TCSP Grants

Introduction

The grants funded under the TCSP program will develop, implement, and evaluate transportation strategies supporting transportation and community and system preservation practices which incorporate beneficial short-and long-term environmental, economic, and social equity effects to help build livable communities.

Application Process

Applicants must follow the format identified under Attachment I to this notice. The FHWA and a multi-agency technical review panel will review the applications before making recommendations to the Federal Highway Administrator and the USDOT Secretary for final approval.

Funds Availability

Because of the high demand for the limited TCSP funds, applicants are strongly recommended to request TCSP support for the smaller innovative phases of larger projects that could be funded from other sources. In addition, leveraging other Federal, State, local, and private funds will further demonstrate local commitment to the project. Phased projects should stand alone and be capable of being implemented and producing results in each phase.

TCSP grant funds are not available up front in a lump sum. Like other Federal-aid programs, TCSP funding is reimbursable to the grant recipient after initial expenditures are made.

Eligible Recipients

State agencies, MPOs, tribal governments, and units of local governments recognized by a State are eligible recipients of TCSP grant funds. This includes towns, cities, public transit agencies, air resources boards, school boards, and park districts. While non-governmental organizations are not eligible to receive TCSP funds under section 1221 of the TEA–21, they are encouraged to form partnerships with an eligible recipient as the project sponsor.

A State or MPO may be both a project sponsor and endorse other activities proposed and submitted by a local government within its boundary.

Grant Program Purposes

Activities funded under the TCSP should address and integrate each of the program purposes listed below. Priority will be given to those proposals which most clearly and comprehensively meet and integrate the TCSP purposes and are most likely to produce successful results. How well proposed projects address each purpose is a principal criterion in recommending proposals for funding. Applicants should develop proposals that specifically address these purposes, as follows:

1. Improve the Efficiency of the Transportation System

• Identify, develop, and evaluate new strategies and measures of transportation efficiency that are based

on maximizing the use of existing community infrastructure, such as, highways, railroads, transit systems and the built environment.

• Address the transportation system as a whole rather than focusing on one mode of transportation. This may include, for example, improving the integration of various modes of travel, such as, highway, transit, pedestrian, bicycling, and rail or improving the efficiency of port, rail, and highway connections for freight and jobs.

• Performance measures should include a focus on movement of people and goods and access rather than movement of automobiles, and on services provided rather than vehicle miles traveled.

2. Reduce the Impacts of Transportation on the Environment

• Explore the long-term direct and indirect social, economic, and environmental impacts of transportation investments on the natural and built environment. The environmental factors discussion should include air quality, as well as ecosystems, habitat fragmentation, water quality, and community and cultural issues, such as, disadvantaged populations and environmental justice, as appropriate.

• Performance measures should relate the results of TCSP activities to the larger community, regional environment, and the transportation system.

3. Reduce the Need for Costly Future Public Infrastructure

• Describe how the project will reduce the need for costly future public infrastructure investment or create tools and techniques to measure these savings over the life cycle of the activities.

• Performance measures should include projected life cycle savings obtained through avoiding future investments or maintenance.

4. Ensure Efficient Access to Jobs, Services and Centers of Trade

• Clearly demonstrate how the project will improve efficient, affordable access to jobs, services, and centers of trade and address benefits for disadvantaged populations. This could also include the use of new technologies that increase access for people and businesses while reducing the need to travel.

• Performance measures should include improved access to jobs and services, and improved freight movements.

5. Encourage Private Sector Development Patterns

• Identify and test effective strategies to encourage private sector investments that result in land development patterns that help meet the goals of this pilot program and that avoid or mitigate negative equity impacts on neighborhoods and businesses, effectively linking land use and transportation is a key feature of TCSP.

• Performance measures should demonstrate and permit monitoring of changes in development patterns and private sector investment trends, or opportunities resulting from TCSP-related activities.

Grant Priorities

In addition to meeting the purposes of the TCSP as discussed above, grant applications are evaluated on the following factors:

1. Demonstrated Commitment of Non-Federal Resources

Although matching funds are not required, priority is given to projects that leverage non-Federal funds and take advantage of in-kind contributions, such as, maintenance agreements, land donations, and volunteer time. Local funds and resources contributed for a project demonstrates commitment to a project and indicates the likelihood that it will be fully implemented.

Matching funds and resources should be directly related to the proposed project and its activities. The local match also should be available for use at the time the project activities occur.

In addition to non-Federal funds, applicants are encouraged to pursue other Federal resources to support Livability Initiatives, such as, Transportation Enhancement, Congestion Management and Air Quality funds, as well as related programs sponsored by other Federal agencies and departments. A description of the President's Livability Initiative can be found on the White House web site: http://www.livablecommunities.gov/.

2. Project Evaluation Plan

The plan to evaluate the project's objectives and outcomes is a required, key element of the grant proposal. The evaluation plan should describe and evaluate goals, expected outcomes, measures, evaluation methodologies, major evaluation milestones and deliverables for the project. See the discussion on Evaluation below.

3. Equitable Distribution of Grants to Diverse Populations

The FHWA will ensure the equitable geographic and demographic distribution of funds. Applicants should identify and describe who will be served by the project.

4. Demonstrated Commitment to Public and Private Involvement, Including the Participation of Non-Traditional Partners in the Project Team

Project partners could include public utility operators, social services agencies, community groups, environmental organizations, non-profit organizations, public health agencies, private land development organizations, and real estate investors. The non-traditional partners should be active players on the project team who help develop the project's assumptions and scenarios. Applicants will describe the roles and commitments of all their partners in the application.

Applicant Category

The TCSP was intended to support localities that have already begun preservation practices and to encourage those areas just starting these practices. The legislation refers to the types of grants being requested as planning grants and implementation grants, as follows:

(a) *Planning grants*—test or implement new, innovative planning methods, programs and outreach strategies that facilitate the development and/or dissemination of information that meets the purposes of the TCSP.

(b) *Implementation grants*—will result in the rehabilitation and/or development of a transportation or transportation-related facility that meets the purposes of the TCSP program.

Eligible Activities

Projects eligible for Federal highway and transit funding (title 23, U.S.C., or chapter 53 of title 49, U.S.C.) or other activities determined by the Secretary to be appropriate are also eligible for TCSP funding. This allows a broad range of transportation activities to be funded. Grants will be awarded for new and innovative transportation activities meeting the purposes of the TCSP program, but remain unfunded under the current Federal-aid program.

The grant request may include funding for travel for one representative to attend two national workshops to present the project plans, status, and results.

Strategic Priorities

The TCSP's goal is to develop a broad range of strategies for urban, suburban,

and rural communities that help promote livable communities through transportation investments and operations. The TCSP legislative language is general and provides States, MPOs, tribal governments, and local agencies the flexibility to create innovative approaches to address TCSP goals. Grants will be awarded for activities that meet the purposes of the program described above and are innovative and replicable.

The FHWA is using individual project evaluations conducted by grantees, the results of research, and overall program evaluation to determine the strategic priorities for the TCSP. Rather than setting specific strategic priorities, the FHWA is providing information about previously funded projects with suggestions to prospective applicants of the FHWA's interest areas. Applicants should:

1. Highlight innovative and unique aspects of their proposals, and how the results of their proposal will further the purposes of the TCSP;

2. Not duplicate previously funded activities (see the TCSP web site *http://tcsp-fhwa.volpe.dot.gov/proapps.html* for information about past grant recipients) unless there is a significant change in the scope, application, or results of the strategy;

3. Highlight the results and broad impacts on communities of current preservation practices including urban growth boundaries, infill development, and land use changes. Identify how these were measured; and

4. Consider projects that:

- Integrate community health, safety and social equity goals with transportation to promote livable communities;
- Plan or implement regional and local strategies to mitigate greenhouse gas emissions;
- Use technology and communications that provide people and businesses with improved access to goods and services to promote livable communities; and
- Enhance intermodal and freight access to promote economic growth and access to jobs in communities.

Projects should be ready to begin at the beginning of the Federal fiscal year for which funds are requested. Plans and documented results should be available to be shared with others at the completion of each phase of the project. Applications should identify when the project will be started and when results are expected.

Evaluation

Each application is required to have an evaluation plan that monitors, evaluates, and analyzes the project in three areas: process, product, and outcome. The project sponsor will provide the results of the analysis to the FHWA. This information is necessary to provide an opportunity for others to learn more about the practical implications of integrating land use, transportation, and environmental decisionmaking.

The project evaluation should be based on the project's goals and objectives. The project's current and future performance should be measured and evaluated through: (a) Quantitative assessments, such as the measurement of changes in traffic flow and mode choice (*e.g.,* increased pedestrian and bicycle traffic), environmental impacts, and reduced number of trips; (b) analytic procedures which forecast the current and future impacts of projects, such as, travel demand, land development, or economic forecasting; and/or (c) qualitative assessments, such as, interviews, surveys, changes in local ordinances, or other anecdotal evidence.

Developing measures to determine the results of the projects is difficult and there is no general consensus on operative measures. A TCSP program evaluation resource guide, references, and case studies are available on the TCSP web site *http://tcsp-fhwa.volpe.dot.gov/programs.html* or from the FHWA Division in your State.

Relationship of the TCSP to the Transportation Planning Process

The TCSP intends to complement, strengthen, and enhance the Statewide and MPO planning process mandated by the TEA–21. This process promotes the ongoing, cooperative, and active involvement of the public, transportation providers, public interest groups, and State, metropolitan, and local government agencies in the development of statewide and metropolitan transportation plans and improvement programs (23 CFR part 450).

The TCSP funds are intended to leverage new transportation and community preservation initiatives rather than to fund the ongoing planning activities of States and MPOs. Applicants:

- Must clearly demonstrate their coordination with State and local planning agencies and the project's consistency with appropriate statewide and metropolitan transportation planning processes.
- May test or implement new, innovative planning methods and programs that significantly enhance the existing statewide and MPO transportation planning processes.
- Must coordinate with the appropriate State DOT or MPO to ensure the project is consistent with and doesn't circumvent the planning processes.
- Should encourage and improve public involvement in the overall planning process, as well as for the individual project.
- May not request funds for projects that have already been scheduled for funding and are in the current State or MPO TIP.

Construction projects funded by the TCSP will ultimately be included in an approved State or MPO Transportation Improvement Program (TIP). If proposed highway and transit projects using Federal funds or requiring Federal approvals are in air quality non-attainment or maintenance areas, they should be included in any air quality conformity analysis required as part of the transportation planning process. Because TCSP projects may target improved air quality as part of their broader goals, it is important to document a project's beneficial air quality impacts.

Non-construction activities, such as, regional plan and policy developments, project evaluations, and land development code changes, may not need to appear in a statewide or MPO TIP, but should still have the support or endorsement of the State or MPO. Planning activities should be reflected in the metropolitan area's Unified Planning Work Program. Non-construction activities may result in changes to existing State and MPO plans and, therefore, should be coordinated with other jurisdictions within a metropolitan region or State.

FHWA Division Role

The FHWA Division Office is the first line of contact for the TCSP program. The staff person assigned responsibility for the TCSP will work with applicants and successful grant recipients to ensure that all Federal requirements above those of the TCSP have been met. This person can also help develop project agreements, obtain reimbursements, and can assist in preparing environmental and other paperwork clearances.

Questions about the grant program should be directed to the FHWA's Division Office in the State in which the project is located (Attachment III).

Schedule and Administrative Processes

The FHWA has an established financial management process with the State Departments of Transportation to administer Federal-aid projects. However, if a grant recipient prefers another process, *i.e.,* a cooperative

agreement or grant through another eligible agency (*e.g.,* a public transit agency) the FHWA Division will work with the grantee to develop a different funding mechanism.

By close of business Wednesday, January 31, 2001, applicants must submit four (4) printed and stapled copies of the application and a 3.5-inch disk with the application file to the appropriate FHWA Division office. The announcement of FY 2002 grant recipients will not be made until after the beginning of the FY 2002 fiscal year (October 1, 2001).

TCSP FY 2002 TIME LINE

TCSP milestones	FY 2002
Grant applications due to the FHWA Division Offices.	January 31, 2001.
Research project recommendations due to the FHWA.	January 31, 2001
Grant projects awarded.	After October 1, 2001.

Section III: Recommendations for FY 2001 TCSP Research

Introduction

The TCSP includes a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment, and to investigate the role of the private sector in shaping such relationships. The research program also includes monitoring, evaluation, and analysis of projects carried out under the grant program.

Program Evaluation and Outreach

Under the research component of TCSP, the FHWA will establish outreach, technical assistance, and other means to share and implement the results elsewhere. Current outreach plans include **Federal Register** notices, grant workshops, the FHWA web site, and publication of TCSP related articles.

Research Program

Because most of the TCSP funds are being allocated for grants, limited funding will be available to undertake research. The FHWA is soliciting comments on the research needs to support the FY 2002 TCSP.

The goal for TCSP research program is to build a knowledge base to enable State, regional and local government agencies, the private sector, and communities, to develop tools and methodologies to support livable communities. With coordination and input from its partners and stakeholders, the FHWA will identify and initiate needed research to support the purposes of the TCSP. The research program is integral to the TCSP and will support and complement the activities conducted through TCSP planning and implementation grants.

The FHWA requests research recommendations that are consistent with the TCSP strategic priorities to:

1. *Evaluate results of current community preservation practices.* Information is needed on the specific outcomes of current statewide, regional, and local community preservation practices, such as, green corridors, smart growth, urban growth boundaries, higher density development, and land use controls to improve transportation efficiency. The research statement should include both costs and benefits of these initiatives and performance measures.

2. *Develop needed tools and methodologies to support decision makers.* Transportation-related tools and analytical techniques will be enhanced to help support the State and local decision makers in taking a longer term view and balancing economic, social equity, and environmental goals.

Attachment I: FY 2002 TCSP Grant Application Format

Project Submission and Formatting Requirements

1. The application may be no more than 15 pages in length following the format described below.

2. *Do not* submit additional supporting materials. Each application must stand on its own without the assistance of supplemental materials. Exception: site maps, plans, and photographs are encouraged, but should be reproducible in black and white.

3. *Do not* submit letters of support. Do include references to State and local support in the application (Part F. Partners).

4. *General Information:*

—Page Size: 8½″ × 11″ (including maps), portrait orientation.
—Typeface: 11 point.
—Printing: single sided only.
—Binding: *Do* staple only the top left corner of each copy. No other method of binding other than a simple staple should be used.
—Labeling: On each page provide the project title and page number.

5. *File format for electronic submission:*

—File Format: WordPerfect version 6/7/8 or Word version 2000 or earlier on a 3.5-inch disk labeled with the project title and name.
—No watermarks, embedded text, or graphics in the document.

6. Check your disks for viruses.

7. Submit four (4) printed copies of the application and a disk with the application file to the FHWA Division office in the your State by COB Wednesday, January 31, 2001.

8. Applications, once submitted, become the property of the United States Department of Transportation.

Application Organization and Format

Page 1. Project Information & Project Abstract

Part A. Project Information.

Project Location (City/ County, State): _____
Project Title: _____
Key Contact Name: _____
Title: _____
Agency: _____
Mailing Address (Street/ PO Box): _____
City, State, Zip code: _____
Phone: _____
Fax: _____
E-Mail: _____
Web site: _____
Applicant Category (check one)
Planning ____ Implementation ____
Project Type (*i.e.,* planning TOD, brownfield redevelopment, job access): _____
_____
Congressional District(s) and Congressional Representative name(s) in which the project is located B List in order: _____
_____
_____
TCSP Funds Requested: $ _____
Matching Funds/Services value: $ _____
Total TCSP-related Project Costs: $ _____

Abstract (Maximum 1 paragraph): The abstract should capture your project's main purpose. Describe the project and the expected results. Identify the scale of activity, such as, rural, urban, statewide, *etc.,* and provide information on the types of populations affected by the project (*i.e.,* size of population, commuter, disadvantaged, minority, *etc.*).

Example: ''This project forms a unique partnership among the regional air pollution control district, local government, the building industry, business alliances, farming organizations, and non-profit groups to promote smart growth in California's San Joaquin Valley. The partners have come to recognize that without a change in patterns of development, the agricultural economic base of the region will decline, transportation infrastructure will become increasingly congested and poorly maintained, and people will continue to be exposed to harmful levels of air pollution. This project fulfills requests from Valley communities for assistance in implementing the principles through model ordinances, design guidelines and implementation strategies. After completion of this first phase, the City of Fresno, the largest city in the San Joaquin Valley, and the City of Reedley, representing small cities, will participate in pilot projects to implement the new ordinances and strategies in their communities. During the project and after its completion, the Local Government Commission will use its extensive livable communities network to share the project Valley-wide and nationally.''

Pages 2–4. Project Narrative

Part B. Project Narrative (Maximum 3 pages). The narrative is the long description of your project goals and tasks. In it you will need to:

—Identify the geographic scale of the proposed activity (system, region, corridor, *etc.*).

—Identify the demographics of the people who will benefit from the project (low income, minority, mixed).
—Identify the project's expected results in the short-and longer-term (20–40 years).
—Describe the expectations or vision for the ultimate impact of the activity.
—Identify how the project partners will help accomplish the goals

Pages 5–6. Project Objectives and Meeting TCSP

Part C. Objective, Purpose, and Criteria. Describe how the project meets each TCSP objective and how the objectives will be accomplished by the project activities. See Section II. Grant Program Purposes, above, for further explanation.

1. Improve the efficiency of the transportation system.
2. Reduce the impacts of transportation on the environment.
3. Reduce the need for costly future investments in public infrastructure.
4. Ensure efficient access to jobs, services, and centers of trade.
5. Examine development patterns and identify strategies to encourage private sector development patterns that achieve the goals of the TCSP.

Pages 7–8. Applicant Category, Planning Coordination, and Partners

Part D. Applicant Category. Indicate the category under which your project falls: (a) Planning or (b) implementation. See explanation under Section II, Applicant Category, above. Then discuss (in a paragraph or two) how the project will further the intended or established community preservation practices within your community or jurisdiction.

Part E. Coordination. Indicate how you have coordinated with the appropriate MPO or State Department of Transportation. Identify how the project activities are consistent with the State or MPO planning processes.

If the project is for construction, identify when and from whom the proposed project received the necessary environmental approvals. These must have been given prior to the application and will help indicate that the project is ready for bidding or implementation. Construction projects should be included in the State or Metropolitan Transportation Improvement Program (TIP).

Part F. Partners. List and briefly describe the agencies, organizations, and companies who are on the project team. Their roles should correspond to the work plan activities indicated under Part H below. Describe the role and functions of the non-traditional partners participating on the project team. Describe plans for public involvement or education of the private and public sector.

Pages 9–11. Project Evaluation Plan

Part G. Project Evaluation Plan. The FHWA has developed guidance on preparing evaluation plans for TCSP. Evaluation plans should include goals and objectives and evaluation methodologies, including means of monitoring, indicators and measures of performance, and plans for reporting results. Within the limits of space allowed for the proposal, applicants should provide initial ideas on evaluation approaches, which can be expanded and formalized in more complete evaluation plans after awards are made. Copies of this guidance and other related materials on evaluation can be found on the FHWA TCSP web site (*http://www.fhwa.dot.gov/program.html*) or from the FHWA's Division office in the applicant's State (see Attachment III).

Pages 12–13. Work Plan and Schedule of Activities

Part H. Work Plan and Schedule of Activities. Provide a schedule for completing the project's major steps or milestones. This information should include key project activities and identify a timeline for written project evaluation reports. The work plan activities must directly relate to the budget line items activities identified under Part I. Budget and Resources.

Major activities	Critical dates
Activity 1 description. What is being accomplished, by whom, by when.	
Activity 2 description. What is being accomplished, by whom, by when.	
Activity etc. description. What is being accomplished, by whom, by when.	
Project Evaluation Plan. What is being accomplished, by whom, by when.	

Pages 14–15. Budget and Resources

Part I. Budget and Resources. List all funding, both Federal and non-Federal, and in-kind resources for the project using a table, similar to the one below. List the major costs by project activity following the order of activities identified in Part H. Work Plan Activities and Schedule. The budget should also show how the TCSP funds and other matching funds are used for these activities. The budget may include the costs for travel for one representative of the project team to participate and present the status and results of the project at two national conferences.

Priority is given to proposals that demonstrate a commitment of non-Federal resources. Clearly describe the use of in-kind and direct funding contributions and distinguish contributions made directly for the proposed projects from those made for other related activities.

Activities	TCSP	Local match	Total cost
Activity 1 description	$	$	$
Local Resources ($Value)			
Local Matches B source(s)			
Other Matches B source(s)			
Activity 2 description	$	$	$
Local Resources ($Value)			
Local Matches B source(s)			
Other Matches B source(s)			
Activity etc. description	$	$	$
Local Resources ($Value)			
Local Matches B source(s)			
Other Matches B source(s)			
Project Evaluation Plan	$	$	$
Local Resources ($Value)			
Local Matches B source(s)			
Other Matches B source(s)			
Totals	$	$	$

Attachment II: FY 2002 TCSP Research Recommendations Format

Research Submission and Formatting Requirements

1. The recommendation should be no more than 1 page in length following the format described below.

2. *Do not* submit additional supporting materials. Each recommendation must stand on its own without the assistance of supplemental materials.

3. *Do not* submit letters of support.

4. *General Information:*

—Page Size: 8 ½″ x 11″, portrait orientation.
—Typeface: 11 point.
—Printing: single sided only.
—Binding: *DO* staple only the top left corner of each copy. No other method of binding than a simple staple should be used.
—Labeling: On each page provide the research title and page number.

5. *File format for electronic submission:*

—File Format: WordPerfect version 6/7/8 or Word version 2000 or earlier on a 3½ inch floppy disk labeled with the project title and name.
—No watermarks, embedded text, or graphics in the document.

6. Check your disks for viruses.

7. Submit four (4) printed copies and a 3.5-inch disk of the recommendation to the FHWA Division office in the your State by COB Wednesday, January 31, 2001.

8. Recommendations, once submitted, become the property of the United States Department of Transportation.

Research Recommendation Organization and Format

Page 1. Research Information & Research Abstract

Part A. Information.

Research Project Location (City/County, State): _____
Research Project Title: _____
_____
Key Contact Name: _____
Title: _____
Agency: _____
Mailing Address (Street/PO Box): _____
City, State, Zip code: _____
Phone: _____
Fax: _____
E-Mail: _____
Web site: _____
Congressional District(s) and Congressional Representative name(s) in which the research activity is proposed. List in order: _____
_____
Estimated cost of research: $ _____

Abstract (Maximum 1 page). The abstract should capture your proposal's main purpose. Describe the research and the expected results. Include the benefits and impacts of conducting the proposed research. The abstract should also describe how the research effort meets each TCSP objective and how the following objectives will be accomplished by the research activities.

1. Improve the efficiency of the transportation system.

2. Reduce the impacts of transportation on the environment.

3. Reduce the need for costly future investments in public infrastructure.

4. Ensure efficient access to jobs, services, and centers of trade.

5. Examine development patterns and identify strategies to encourage private sector development patterns that achieve the goals of the TCSP.

Attachment III

FHWA Division Offices

State	Address, Email, phone number, facsimile number
ALABAMA (HDA–AL)	500 Eastern Boulevard, Suite 200, Montgomery, AL 36117–2018; E-ddress: *Alabama.FHWA@fhwa.dot.gov;* Phone: 334–223–7370; Fax: 334–223–7325.
ALASKA (HDA–AK)	709 W. Ninth Street, Room 851, Juneau, AK 99802–1648; E-ddress: *Alaska.FHWA@fhwa.dot.gov;* Phone: 907–586–7180; Fax: 907–586–7420.
ARIZONA (HDA–AZ)	234 N. Central Avenue, Suite 330, Phoenix, AZ 85004; E-ddress: *Arizona.FHWA@fhwa.dot.gov;* Phone: 602–379–3646; Fax: 602–379–3608.
ARKANSAS (HDA–AR)	Federal Office Building, 700 West Capitol Avenue, Room 3130, Little Rock, AR 72201–3298; E-ddress: *Arkansas.FHWA@fhwa.dot.gov;* Phone: 501–324–5625; Fax: 501–324–6423.
CALIFORNIA (HDA–CA)	980 9th Street, Suite 400, Sacramento, CA 95814–2724; E-ddress: *California.FHWA@fhwa.dot.gov;* Phone: 916–498–5001; Fax: 916–498–5008.
COLORADO (HDA–CO)	555 Zang Street, Room 250, Lakewood, CO 80228–1097; E-ddress: *Colorado.FHWA@fhwa.dot.gov;* Phone: 303–969–6730; Fax: 303–969–6740.
CONNECTICUT (HDA–CT)	628–2 Hebron Avenue, Suite 303, Glastonbury, CT 06033–5007; E-ddress: *Connecticut.FHWA@fhwa.dot.gov* Phone: 860–659–6703; Fax: 860–659–6724.
DELAWARE (HDA–DE)	300 South New Street, Suite 2101, Dover, DE 19904–6726; E-ddress: *Delaware.FHWA@fhwa.dot.gov;* Phone: 302–734–5323; Fax: 302–734–3066.
DISTRICT OF COLUMBIA (HDA–DC).	Union Center Plaza, Suite 750, 820 First Street, N.E., Washington, DC 20002; E-ddress: *DC.FHWA@fhwa.dot.gov;* Phone: 202–523–0163; Fax: 202–523–0181.
FLORIDA (HDA–FL)	227 N. Bronough Street, Suite 2015, Tallahassee, FL 32301; E-ddress: *Florida.FHWA@fhwa.dot.gov;* Phone: 850–942–9650 x3001; Fax: 850–942–9691.
GEORGIA (HDA–GA)	61 Forsyth Street, SW., Suite 17T100; Atlanta, GA 30303–3104; E-ddress: *Georgia.FHWA@fhwa.dot.gov;* Phone: 404–562–3630; Fax: 404–562–3703.
HAWAII (HDA–HI)	300 Ala Moana Boulevard, Rm. 3306, Honolulu, HI 96850; E-ddress: *Hawaii.FHWA@fhwa.dot.gov;* Phone: 808–541–2700; Fax: 808–541–2704.
IDAHO (HDA–ID)	3050 Lakeharbor Lane, Suite 126, Boise, ID 83703; E-ddress: *Idaho.FHWA@fhwa.dot.gov;* Phone: 208–334–9180; Fax: 208–334–1691.
ILLINOIS (HDA–IL)	3250 Executive Park Drive, Springfield, IL 62703–4514; E-ddress: *Illinois.FHWA@fhwa.dot.gov;* Phone: 217–492–4640; Fax: 217–492–4621.
INDIANA (HDA–IN)	575 N. Pennsylvania Street, Room 254, Indianapolis, IN 46204–1576; E-ddress: *Indiana.FHWA@fhwa.dot.gov;* Phone: 317–226–7475; Fax: 317–226–7341.
IOWA (HDA–IA)	105 6th Street, Ames, IA 50010–6337; E-ddress: *Iowa.FHWA@fhwa.dot.gov;* Phone: 515–233–7300; Fax: 515–233–7499.
KANSAS (HDA–KS)	3300 South Topeka Blvd., Suite 1, Topeka, KS 66611–2237; E-ddress: *Kansas.FHWA@fhwa.dot.gov;* Phone: 785–267–7281; Fax: 785–267–7290.
KENTUCKY (HDA–KY)	330 W. Broadway, Frankfort, KY 40601; E-ddress: *Kentucky.FHWA@fhwa.dot.gov;* Phone: 502–223–6720; Fax: 502–223–6735.
LOUISIANA (HDA–LA)	5304 Flanders Drive, Suite A, Baton Rouge, LA 70808–4348; E-ddress: *Louisiana.FHWA@fhwa.dot.gov;* Phone: 225–757–7600; Fax: 225–757–7601.
MAINE (HDA–ME)	40 Western Avenue, Room 614, Augusta, ME 04330; E-ddress: *Maine.FHWA@fhwa.dot.gov;* Phone: 207–622–8487; Fax: 207–626–9133.
MARYLAND (HDA–MD)	The Rotunda, 711 West 40th Street, Suite 220, Baltimore, MD 21211; E-ddress: *Maryland.FHWA@fhwa.dot.gov;* Phone: 410–962–4440; Fax: 410–962–4054.

FHWA DIVISION OFFICES—Continued

State	Address, Email, phone number, facsimile number
MASSACHUSETTS (HDA–MA).	55 Broadway, 10th Floor, Cambridge, MA 02142; E-ddress: *Massachusetts.FHWA@fhwa.dot.gov;* Phone: 617–494–3657; Fax: 617–494–3355.
MICHIGAN (HDA–MI)	Federal Building, 315 West Allegan Street, Room 207, Lansing, MI 48933; E-ddress: *Michigan.FHWA@fhwa.dot.gov;* Phone: 517–377–1844; Fax: 517–377–1804.
MINNESOTA (HDA–MN)	Galtier Plaza, Box 75, 175 East Fifth Street, Suite 500, St. Paul, MN 55101–2904; E-ddress: *Minnesota.FHWA@fhwa.dot.gov;* Phone: 651–291–6100; Fax: 651–291–6000.
MISSISSIPPI (HDA–MS)	666 North Street, Suite 105, Jackson, MS 39202–3199; E-ddress: *Mississippi.FHWA@fhwa.dot.gov;* Phone: 601–965–4215; Fax: 601–965–4231.
MISSOURI (HDA–MO)	209 Adams Street, Jefferson City, MO 65101; E-ddress: *Missouri.FHWA@fhwa.dot.gov;* Phone: 573–636–7104; Fax: 573–636–9283.
MONTANA (HDA–MT)	2880 Skyway Drive, Helena, MT 59602, E-ddress: *Montana.FHWA@fhwa.dot.gov;* Phone: 406–449–5303 Ext. 235; Fax: 406–449–5314.
NEBRASKA (HDA–NE)	Federal Building, Room 220, 100 Centennial Mall North, Lincoln, NE 68508–3851; E-ddress: *Nebraska.FHWA@fhwa.dot.gov;* Phone: 402–437–5521; Fax: 402–437–5146.
NEVADA (HDA–NV)	705 North Plaza Street, Suite 220, Carson City, NV 09701–0602; E-ddress: *Nevada.FHWA@fhwa.dot.gov;* Phone: 775–687–1204; Fax: 775–687–3803.
NEW HAMPSHIRE (HDA–NH).	279 Pleasant Street, Suite 204, Concord, NH 03301–7502; E-ddress: *NewHampshire.FHWA@fhwa.dot.gov;* Phone: 603–228–0417; Fax: 603–228–2829.
NEW JERSEY (HDA–NJ)	840 Bear Tavern Road, Suite 310, West Trenton, NJ 08628–1019; E-ddress: *NewJersey.FHWA@fhwa.dot.gov;* Phone: 609–637–4200; Fax: 609–538–4913.
NEW MEXICO (HDA–NM) ...	604 W. San Mateo Road, Santa Fe, NM 87505; E-ddress: *NewMexico.FHWA@fhwa.dot.gov;* Phone: 505–820–2021; Fax: 505–820–2050 or -2040.
NEW YORK (HDA–NY)	Leo W. O'Brien Federal Bldg, Rm 719, Clinton Avenue and North Pearl Street, Albany, NY 12207; E-ddress: *NewYork.FHWA@fhwa.dot.gov;* Phone: 518–431–4125; Fax: 518–431–4121.
NORTH CAROLINA (HDA–NC).	310 New Bern Avenue, Suite 410, Raleigh, NC 27601; E-ddress: *NorthCarolina.FHWA@fhwa.dot.gov;* Phone: 919–856–4346; Fax: 919–856–4353.
NORTH DAKOTA (HDA–ND)	1471 Interstate Loop, Bismarck, ND 58503–0567; E-ddress: *NorthDakota.FHWA@fhwa.dot.gov;* Phone: 701–250–4204; Fax: 701–250–4395.
OHIO (HDA–OH)	200 North High Street, Room 328, Columbus, OH 43215; E-ddress: *Ohio.FHWA@fhwa.dot.gov;* Phone: 614–280–6896; Fax: 614–280–6876.
OKLAHOMA (HDA–OK)	300 N. Meridian, Suite 105 S, Oklahoma City, OK 73107–6560; E–ddress: *Oklahoma.FHWA@fhwa.dot.gov;* Phone: 405–605–6012; Fax: 405–605–6170.
OREGON (HDA–OR)	The Equitable Center, Suite 100, 530 Center Street, NE., Salem, OR 97301–3740; E-ddress: *Oregon.FHWA@fhwa.dot.gov;* Phone: 503–399–5749; Fax: 503–399–5838.
PENNSYLVANIA (HDA–PA)	228 Walnut Street, Room 558, Harrisburg, PA 17101–1720; E-ddress: *Pennsylvania.FHWA@fhwa.dot.gov;* Phone: 717–221–3461; Fax: 717–221–3494.
PUERTO RICO (HDA–PR) ..	Carlos Chardon Street, Room 329, San Juan, Puerto Rico 00918–1755; E-ddress: *PuertoRico.FHWA@fhwa.dot.gov;* Phone: 787–766–5600; Fax: 787–766–5924.
RHODE ISLAND (HDA–RI) ..	380 Westminster Mall, Fifth Floor, Providence, RI 02903; E-ddress: *RhodeIsland.FHWA@fhwa.dot.gov;* Phone: 401–528–4541; Fax: 401–528–4542.
SOUTH CAROLINA (HDA–SC).	1835 Assembly Street, Suite 1270, Columbia, SC 29201; E-ddress: *SouthCarolina.FHWA@fhwa.dot.gov;* Phone: 803–765–5411; Fax: 803–253–3989.
SOUTH DAKOTA (HDA–SD)	116 East Dakota Avenue, Pierre, SD 57501–3110; E-ddress: *SouthDakota.FHWA@igate.fhwa.dot.gov;* Phone: 605–224–8033; Fax: 605–224–1766.
TENNESSEE (HDA–TN)	640 Grassmere Park Road, Suite 112, Nashville, TN 37211–3568; E-ddress: *Tennessee.FHWA@fhwa.dot.gov;* Phone: 615–781–5770; Fax: 615–781–5773
TEXAS (HDA–TX)	300 East Eighth Street, Room 826, Austin, TX 78701; E-ddress: *Texas.FHWA@fhwa.dot.gov;* Phone: 512–916–5511; Fax: 512–916–5881.
UTAH (HDA–UT)	2520 West 4700 South, Suite 9A, Salt Lake City, UT 84118; E-ddress: *Utah.FHWA@fhwa.dot.gov;* Phone: 801–963–0182; Fax: 801–963–0093.
VERMONT (HDA–VT)	87 State Street, Montpelier, VT 05602; E-ddress: *Vermont.FHWA@fhwa.dot.gov;* Phone: 802–828–4423; Fax: 802–828–4424.
VIRGINIA (HDA–VA)	400 North 8th Street, Room 750, Richmond, VA 23240; E-ddress: *Virginia.FHWA@fhwa.dot.gov;* Phone: 804–775–3320; Fax: 804–775–3356.
VIRGIN ISLANDS	For information, contact the Puerto Rico Division at 787–766–5600.
WASHINGTON (HDA–WA) ..	Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, WA 98501–1284; E-ddress: *Washington.FHWA@fhwa.dot.gov;* Phone: 360–753–9480; Fax: 360–753–9889.
WEST VIRGINIA (HDA–WV)	700 Washington Street East,Geary Plaza, Suite 200,Charleston, WV 25301–1604; E-ddress: *WestVirginia.FHWA@fhwa.dot.gov;* Phone: 304–347–5928; Fax: 304–347–5103.
WISCONSIN (HDA–WI)	Highpoint Office Park, 567 D'Onofrio Drive, Madison, WI 53719–2814; E-ddress: *Wisconsin.FHWA@fhwa.dot.gov;* Phone: 608–829–7500; Fax: 608–829–7526 (Main), Fax: 608–829–7540 (backup).
WYOMING (HDA–WY)	1916 Evans Avenue, Cheyenne, WY 82001–3764; E-ddress: *Wyoming.FHWA@fhwa.dot.gov;* Phone: 307–772–2101; Fax: 307–772–2011.

FHWA/FTA METROPOLITAN OFFICES

Office	Address, Email, phone number, facsimile number
Los Angeles Metropolitan Office (HMO–CA–LA).	201 North Figueroa Street, Suite 1460; Los Angeles, CA 90012; Phone: 213–202–3950; Fax: 213–202–3961.

FHWA/FTA METROPOLITAN OFFICES—Continued

Office	Address, Email, phone number, facsimile number
Chicago Metropolitan Office (HMO–IL–CH).	200 West Adams, Room 2410, Chicago, IL 60606–5232; Phone: 312–886–1616; Fax: 312–353–3925.
New York Office (HMO–NY–NY).	26 World Trade Center, Room 320, New York, NY Metropolitan 10048, Fax: 212–466–1939, 212–668–2201.
	26 Federal Plaza, Suite 2940, New York, NY 10278–0194, Fax 212–264–8973, 212–668–2170.
Philadelphia Metropolitan Office (HMO–PA–PH).	1760 Market Street, Suite 903, Philadelphia, PA 19103; Phone: 215–656–7070; Fax: 215–656–7269.

Authority: 23 U.S.C. 315; sec. 1221, Pub. L. 105–178, 112 Stat. 107, 221 (1998); and 49 CFR 1.48.

Issued on: August 30, 2000.

Walter L. Sutton, Jr.,

Federal Highway Deputy Administrator.

[FR Doc. 00–23267 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (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 collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on December 14, 1999 [64 FR 69815–69817].

DATES: Comments must be submitted on or before October 13, 2000.

FOR FURTHER INFORMATION CONTACT: Alan Block at the National Highway Traffic Safety Administration, Office of Research and Traffic Records (NTS–31), 202–366–6401. 400 Seventh Street., SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Part Time Seat Belt User Program.

OMB Number: 2127—New.

Type of Request: New information collection requirement.

Abstract: Purpose of this survey is to provide NHTSA with critical information of the effectiveness of a program designed to increase seat belt use among part time belt users. The results of the surveys would identify whether the program interventions penetrated to the targeted audience(s), and provide the context in which the seat belt observation data would be interpreted.

Affected Public: Randomly selected members of the general public aged sixteen and older in telephone households.

Estimated Total Annual Burden: 253.33

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, D.C. 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it on or before October 13, 2000.

Issued in Washington, D.C., on September 7, 2000.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 00–23425 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7897]

Notice of Receipt of Petition for Decision that Nonconforming 1996–1998 Ferrari F355 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 1996–1998 Ferrari F355 passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1996–1998 Ferrari F355 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 13, 2000.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission

into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies LLC of Baltimore, Maryland (''J.K.'')(Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 1996–1998 Ferrari F355 passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1996-1998 Ferrari F355 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1996–1998 Ferrari F355 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1996–1998 Ferrari F355 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1996–1998 Ferrari F355 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence* * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *BrakeFluid,* 124 *Accelerator Control Systems,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that all other placards in the dash will be changed for ease of identification by the driver, and that in most instances, the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lamps; (b) Installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lights; (c) installation of a U.S.-model high mounted stop lamp on vehicles that are not already so equipped.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a key microswitch and a warning buzzer.

Standard No. 118 *Power Window Systems:* installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 201 *Occupant Protection in Interior Impact:* inspection of all vehicles and replacement of components subject to standard with U.S. model components on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a safety belt warning buzzer, wired to the driver's seat belt latch; (b) replacement of the driver's and passenger's side air bags, control units, sensors, seat belts and knee bolsters with U.S.-model components on vehicles that are not already so equipped. The petitioner states that the vehicles are equipped at the front and rear outboard seating positions with combination lap and shoulder belts that are self tensioning and capable of being released by means of a single red push-button.

Standard No. 214 *Side Impact Protection:* installation of U.S.-model doorbars in vehicles that are not already so equipped.

Additionally, the petitioner states that small braces must be added to the corner areas of non-U.S. certified 1996–1998 Ferrari F355 passenger cars to comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also states that a vehicle identification plate must be affixed to the vehicle near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

AUTHORITY: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 8, 2000.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 00–23469 Filed 9–12–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Customs Service

Extension of the ACS Reconciliation Prototype

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document announces that the Automated Commercial System (ACS) Reconciliation Prototype is being extended indefinitely. The prototype will continue to operate in accordance with the notice published in the **Federal**

Register on February 6, 1998, as modified by the notices published in the **Federal Register** on August 18, 1998; July, 21, 1999; and December 29, 1999.

ADDRESSES: Written comments regarding this notice and or applications to participate in the prototype should be addressed to the Reconciliation Team, U.S. Customs Service, 1300 Pennsylvania Ave., NW., Room 5.2A, Washington, DC 20229–0001, ATTN: Mr. John Leonard.

FOR FURTHER INFORMATION CONTACT: John Leonard: (202) 927–0915 or Sandra Chilcoat: (202) 927–0032.

SUPPLEMENTARY INFORMATION: Customs announced and explained the ACS prototype test of reconciliation in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998. Changes and clarifications to the prototype were announced in **Federal Register** documents published on August 18, 1998 (63 FR 44303), July 21, 1999 (64 FR 39187), and December 29, 1999 (64 FR 73121). On June 8, 2000, Customs published a notice in the **Federal Register** (65 FR 36505) requesting comments and evaluations regarding the prototype. Customs examination of the responses is continuing and results will be published in the **Federal Register**.

This document announces that the prototype, originally limited to consumption entries filed through September 30, 2000, will be extended until further notice. Once Customs determines to end the prototype, reasonable notice of the new expiration date will be published in the **Federal Register**. The prototype will continue to operate in accordance with the notice published in the **Federal Register** on February 6, 1998, as modified by the notices published in the **Federal Register** on August 18, 1998; July, 21, 1999; and December 29, 1999. As previously announced, applications to participate in the prototype will be accepted throughout its duration. Additional information regarding the prototype can be found at *http://www.customs.gov/recon.*

Dated: September 7, 2000.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations

[FR Doc. 00–23411 Filed 9–12–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Fees for Customs Services at User Fee Airports

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document advises the public of an increase in the fees charged user fee airports by Customs for providing Customs services at these designated facilities. The fees are based on actual costs incurred by Customs in purchasing equipment and providing training and one Customs inspector on a full-time basis, and, thus, merely represent reimbursement to Customs for services rendered. The fees to be increased are the initial fee charged for a user fee airport's first year after it signs a Memorandum of Agreement with Customs to become a user fee airport, and the annual fee thereafter charged user fee airports.

EFFECTIVE DATE: The new fees will be effective October 1, 2000, and will be reflected in quarterly, user fee airport billings issued on or after that date.

FOR FURTHER INFORMATION CONTACT: April Hovey Conti, Office of Finance, (202) 927–2014.

SUPPLEMENTARY INFORMATION:

Background

Section 236 of the Trade and Tariff Act of 1984 (Pub. L. 98–573, 98 Stat. 2992) (codified at 19 U.S.C. 58b), as amended, authorizes the Secretary of the Treasury to make Customs services available and charge a fee for the use of such services at certain specified airports and at any other airport, seaport, or other facility designated by the Secretary pursuant to specified criteria. (The list of user fee airports is found at § 122.15 of the Customs Regulations (19 CFR 122.15).) The fee that is charged is an amount equal to the expenses incurred by the Secretary in providing the Customs services at the designated facility, which includes purchasing equipment and providing training and inspectional services, *i.e.,* the salary and expenses of individuals employed by the Secretary to provide the Customs services, and, thus, merely represents reimbursement to Customs for services rendered. The fees being raised are the initial fee charged for a user fee airport's first year after it signs a Memorandum of Agreement with Customs to become a user fee airport (currently set at $111,500), and the annual fee thereafter charged user fee airports (currently set at $80,000). The notice establishing the current user fee rates was published in the **Federal Register** on July 8, 1999 (64 FR 36969).

The user fees charged a user fee airport are typically set forth in a Memorandum of Agreement between the user fee facility and Customs. While the amount of these fees are agreed to be at flat rates, they are adjustable, as costs and circumstances change.

Adjustment of User Fee Airport Fees

As of May 31, 2000, Customs has determined that, in order for the user fee charged to actually reimburse Customs for services provided, the initial fee must be increased from $111,500 to $117,600, and the recurring annual fee subsequently charged must be increased from $80,000 to $84,500. The new fees will be effective October 1, 2000, and will be reflected in quarterly, user fee airport billings issued on or after that date.

Dated: September 8, 2000.

Wayne Hamilton,

Asstant Commissioner, Office of Finance.

[FR Doc. 00–23537 Filed 9–12–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–GS(T)

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–GS(T), Generation-Skipping Transfer Tax Return For Terminations.

DATES: Written comments should be received on or before October 13, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue

Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Generation-Skipping Transfer Tax Return For Terminations.

OMB Number: 1545–1145.

Form Number: 706–GS(T).

Abstract: Form 706–GS(T) is used by trustees to compute and report the tax due on generation-skipping transfers that result from the termination of interests in a trust. The IRS uses the information to verify that the tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 7 hours, 1 minute.

Estimated Total Annual Burden Hours: 702.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–23530 Filed 9–12–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–GS(D–1)

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–GS(D–1), Notification of Distribution From a Generation-Skipping Trust.

DATES: Written comments should be received on or before November 13, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notification of Distribution From a Generation-Skipping Trust.

OMB Number: 1545–1143.

Form Number: 706–GS(D–1)

Abstract: Form 706–GS(D–1) is used by trustees to provide information to the IRS and to distributees regarding generation-skipping distributions from trusts. The information is needed by distributees to compute the generation-skipping tax imposed by Internal Revenue Code section 2601. The IRS uses the information to verify that the tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 80,000.

Estimated Time Per Respondent: 4 hours, 22 minutes.

Estimated Total Annual Burden Hours: 348,800.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–23531 Filed 9–12–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–46–94]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–46–94 (TD 8594), Losses on Small Business Stock (§ 1.1244(e)–1).

DATES: Written comments should be received on or before November 13, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Losses on Small Business Stock.

OMB Number: 1545–1447.

Regulation Project Number: CO–46–94.

Abstract: Section 1.1244(e)–1(b) of the regulation requires that a taxpayer claiming an ordinary loss with respect to section 1244 stock must have records sufficient to establish that the taxpayer satisfies the requirements of section 1244 and is entitled to the loss. The records are necessary to enable the Service examiner to verify that the stock qualifies as section 1244 stock and to determine whether the taxpayer is entitled to the loss.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–23532 Filed 9–12–00; 8:45 am]

BILLING CODE 4830–01–U

Federal Register

Wednesday,
September 13, 2000

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants; Paper and Other Web Coating; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6854–7]

RIN 2060–AG58

National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing a standard to limit hazardous air pollutant (HAP) emissions from facilities that coat paper and other web substrates and are major sources of HAP emissions. The standard is being proposed under section 112 of the Clean Air Act (CAA or Act), as amended on November 15, 1990, to protect public health and the environment by reducing HAP emissions from new and existing facilities. The CAA requires these sources to achieve the maximum degree of reduction in emissions of HAP that is achievable. The proposed standard would eliminate approximately 80 percent of nationwide HAP emissions from major sources.

DATES: *Comments.* Comments must be received on or before November 13, 2000.

Public Hearing. If anyone contacts us by September 27, 2000 to request to speak at a public hearing, we will hold a hearing at 10 a.m. on October 11, 2000.

ADDRESSES: *Comments.* Send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–09, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also send comments and data by electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. (See **SUPPLEMENTARY INFORMATION**, below, for more on file formats.) Be sure to include the docket number, A–99–09, on your comment.

Public Hearing. If anyone contacts us requesting a public hearing by the required date (see DATES), a public hearing will be held at our Office of Administration Auditorium in Research Triangle Park, North Carolina. You should contact Ms. Janet Eck, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–7946 to request to speak at a public hearing or to find out if a hearing will be held.

Docket. Docket No. A–99–09 contains information about the proposed rule. You can read and copy it between 8 a.m. and 5:30 p.m., Monday through Friday (except Federal holidays) at our Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460; telephone (202) 260–7548. Go to Room M–1500, Waterside Mall (ground floor). The docket office may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Almodovar, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–0283; facsimile number (919) 541–5689; e-mail address: almodovar.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by e-mail to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1, or Corel 8 file format. All comments and data submitted in electronic form must note the docket number: A–99–09. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Paul Almodovar, c/o OAQPS Document Control Officer (Room 740B), U.S. Environmental Protection Agency, 411 W. Chapel Hill Street, Durham, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Janet Eck (see **ADDRESSES** above) at least 2 days in advance of the public hearing. Persons interested in attending the public hearing should also call Ms. Eck (see **ADDRESSES** above) to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket for this regulatory action is A–99–09. The docket is an organized and complete file of all the information we consider in developing this rule. It is a dynamic file because material is added throughout the rulemaking process. The docketing system allows you to readily identify and find documents so you can participate in rulemaking. Along with the proposed and promulgated standards and their preambles, contents of the docket will serve as the record in case of judicial review (see section 307(d)(7)(A) of the CAA). The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules http://www.epa.gov/ttn/oarpg. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Plain Language. In compliance with President Clinton's June 1, 1998 Executive Memorandum on plain language in government writing, this preamble is written using plain language. Thus, the use of ''we'' and ''us'' in this document refers to EPA. The use of ''you'' refers to the reader, and may include industry; State, local, and tribal governments; environmental groups; and other interested individuals.

Regulated Entities. Categories and entities potentially regulated by this action include those listed on the following table.

This table is not intended to be exhaustive, but is just a guide to entities likely to be regulated by final action on this proposal. It lists the types of entities that may be regulated, but you should examine the applicability criteria in section II of this preamble and in

§ 63.3290 of the proposed rule to decide whether your facility is likely to be regulated by final action on this proposal. If you have any questions about whether your facility will be subject to the standard, call the person listed in the preceeding **FOR FURTHER INFORMATION CONTACT** section.

REGULATED ENTITIES

Category	SIC codes	NAICS codes	Examples of potentially regulated entities
Paper and Other Web Coating	2653 2657 [a]2671 2672 [a]2673 [a]2674 2675 2679 [a]2754 2761 3074 3081 3083 3291 [a]3497 3861 3955 [a]3996	322211 322212 322221 322222 322223 322224 322225 322226 322299 323111 323116 325992 326111 326112 326113 32613 326192 32791 332999 339944	Those facilities with web coating operations[b] that coat substrate used in products including, but not limited to: corrugated and solid fiber boxes; folding paperboard boxes, including sanitary; flexible packaging (packing paper and plastics film, coated and laminated); pressure sensitive tape and labels, coated and laminated paper, not elsewhere classified (nec); plastics, foil, and coated paper bags; bags: uncoated paper and multiwall; die-cut paper and board; converted paper and paperboard products, nec (gift wrap, paper wallpaper, cigarette paper); commercial printing, gravure; manifold business forms; plastic aseptic packaging; unsupported plastics film and sheet; laminated plastics plate, sheet, and profile shapes; abrasive products; laminated aluminum (metal) foil and leaf, flexible packaging; photographic equipment and supplies; carbon paper and inked ribbons; linoleum, asphalted-felt base, and other hard surface floor coverings.

[a] Facilities in these SIC codes are expected to be primarily covered under the printing and publishing national emission standards for hazardous air pollutants (NESHAP).

[b] Web coating operations refer to the continuous application of a layer of material across the entire length of the usable substrate to: provide a covering, finish, or protective layer to the substrate; provide adhesion between two substrates for lamination; and where the continuous web substrate is flexible enough to be wound or unwound as rolls.

Background Information Document. The Background Information Document (BID) for the proposed standard may be obtained from the TTN; the paper and other web coating docket (A–99–09); the U.S. Environmental Protection Agency Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777; or the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650. Please refer to ''National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating—Background Information for Proposed Standards'' (EPA–453/R–00–002).

Outline. The information presented in this preamble is organized as follows:

I. What are the subject and purpose of this proposed rule?
II. Does this proposed rule apply to me?
III. What is the proposed emission standard?
IV. When do I show initial compliance with the proposed rule?
V. What testing and monitoring must I do?
VI. What notification, recordkeeping, and reporting requirements must I follow?
VII. What are the environmental, energy, and economic impacts of this proposed rule?
VIII. What is the basis for selecting the level of the proposed standards?
IX. What is the basis for selecting the format of the proposed standards?
X. Administrative requirements

I. What Are the Subject and Purpose of This Proposed Rule?

The CAA requires us to establish standards to control HAP emissions from source categories identified under section 112(c) of the CAA. An initial source category list was published in the **Federal Register** on July 16, 1992 (57 FR 31576). The source category list identifies ''Paper and Other Web Coating (Surface Coating)'' as a source category because it contains major sources. Under the CAA, a major source is defined as ''* * * any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year (tpy) or more of any one HAP or 25 tpy or more of any combination of HAP.'' We have estimated that there are over 400 existing paper and other web coating facilities, with approximately 210 estimated to be major sources.

The purpose of the proposed rule is to reduce emissions of HAP from paper and other web coating major sources. The source category is for major sources only. Area sources are not included in this source category and therefore are not subject to the proposed standards. We estimate that annual baseline organic HAP emissions from this source category are approximately 35,000 megagrams per year (Mg/yr) (39,000 tpy). The proposed rule would eliminate approximately 29,000 Mg/yr (32,000 tpy) of these organic HAP emissions (about an 80 percent reduction).

The organic HAP emitted from the paper and other web coating process include toluene, methanol, methyl ethyl ketone, xylenes, phenol, methylene chloride, ethylene glycol, glycol ethers, hexane, methyl isobutyl ketone, cresols and cresylic acid, dimethylformamide, vinyl acetate, formaldehyde, and ethyl benzene. These pollutants can cause reversible or irreversible toxic effects following sufficient exposure. The potential toxic effects include eye, nose, throat, and skin irritation, and blood cell, heart, liver, and kidney damage.

The degree of adverse effects to human health from exposure to HAP can range from mild to severe. The extent and degree to which the human health effects may be experienced are dependent upon (1) The ambient concentration observed in the area (as influenced by emission rates, meteorological conditions, and terrain); (2) the frequency and duration of exposures; (3) characteristics of exposed individuals (genetics, age, preexisting health conditions, and lifestyle), which vary significantly with the population; and (4) pollutant-specific characteristics

(toxicity, half-life in the environment, bioaccumulation, and persistence).

II. Does This Proposed Rule Apply to Me?

A. What Facilities are subject to This Proposed Rule?

The paper and other web coating source category includes any facility located at a major source and engaged in the coating of paper, plastic film, metallic foil, and other web surfaces. The source category does not include printing operations covered under the printing and publishing national emission standards for hazardous air pollutants (NESHAP) (40 CFR part 63, subpart KK). The source category does not include coil coating, *i.e.*, the application of an organic coating to the surface of any metal strip at least 0.15 millimeter (0.006 inch) thick that is packaged in a roll or coil, which is being regulated as a separate source category. Fabric coating is also being regulated as a separate source category. However, we identified facilities in the paper and other web coating source category that also apply coatings to fabric, sometimes on the same coating lines. We are proposing that such coating lines be part of the paper and other web coating source category and not subject to the future fabric coating NESHAP. Paper and other web coating may be simply referred to as ''web coating'' since paper is one of several web substrates in the paper and other web coating source category.

The proposed rule applies to you if you own or operate any web coating lines at a facility that is a major source of HAP emissions. This means that the coating lines at a major source would be subject to the proposed standard without regard to the relative proportion of HAP emissions from the web coating lines to total HAP emissions at the source.

If your facility is a nonmajor (area) source, *i.e.*, actual and potential annual emissions are less than 10 tons of any single HAP and less than 25 tons of all HAP combined, you would not be subject to this proposed rule.

If your facility is a major source, you would be required to meet the proposed emission limits for all the web coating lines at your facility. We have defined a web to be a continuous substrate (*e.g.,* paper, plastic film, foil) that is capable of being rolled at any point during the coating process. We have defined a web coating line to be any number of work stations, of which one or more applies a layer of coating material along the length of a continuous web substrate, and any associated drying equipment between an unwind (or feed station) and a rewind (or cutting station). Printing presses subject to the printing and publishing NESHAP are not web coating lines.

B. What Is the Affected Source?

We define an affected source as a stationary source, group of stationary sources, or part of a stationary source to which a specific NESHAP applies. Within a source category, we select the specific emission sources (emission points or groupings of emission points) that will make up the affected source for that category. To select these emission sources, we mainly consider the constituent HAP and quantity emitted from individual or groups of emission points.

For the paper and other web coating NESHAP, the affected source is proposed to be the collection of all the web coating lines at a facility. We are not proposing requirements for operations related to coating line and parts cleaning, coating mixing and storage, film formation, and wastewater.

Coating lines and equipment that are not in the source category, and thus, not in the affected source, include those that perform both coating and printing and comply with the national emission standards for the printing and publishing industry; those that coat coil, even if only part of the time, and therefore, are in the coil coating source category; and those that coat only fabric and are in the fabric coating, printing, and dyeing source category (but if both fabric and other web coating is performed on a coating line, the line is included in the paper and other web coating affected source).

Many industrial facilities perform both coating and printing operations. Within the printing industry, the product and packaging rotogravure and wide-web flexographic industry segment (that includes the flexible packaging industry as a major subsector) does the most coating, with material use distributed almost equally between inks and other types of coatings. Printing operations are covered under the NESHAP for the printing and publishing industry. The printing and publishing NESHAP also includes an option for facilities that perform both printing and coating to include certain coating operations. Therefore, many facilities that could potentially be subject to the proposed NESHAP for the paper and other web coating industry may have coating lines already subject to the printing and publishing NESHAP. Such web coating lines included in compliance demonstrations under the printing and publishing NESHAP are not subject to this standard. A detailed discussion of the printing and publishing industry is included in the BID for that industry (Docket No. A–92–42, National Emission Standards for Hazardous Air Pollutants: Printing and Publishing Industry—Background Information for Proposed Standards (EPA–453/R–95–002a)).

III. What Is the Proposed Emission Standard?

A. Proposed Limits

In the proposed rule, you would be able to choose any one of three options to limit organic HAP emissions at existing and new sources and meet the allowable level. The HAP emission limits are based on emission capture and control technology that can reduce total organic HAP emissions by 95 percent at existing sources and 98 percent at new sources. The emission limits reflect this level of control by limiting organic HAP emissions to no more than 5 percent and 2 percent of the organic HAP applied each month at existing and new sources, respectively; and by limiting emissions based on the weight of the solids part of your coating or the weight of your total coating. As discussed in section VIII of this preamble, we believe expressing emission limits in this way is appropriately based on the maximum achievable control technology (MACT) level of control and offers flexibility to reduce emissions through the use of control technology, pollution prevention, or a combination of the two.

The three HAP emission limits proposed for existing sources are: (1) Limit emissions to no more than 5 percent of the organic HAP applied for the month; (2) limit the total amount of organic HAP in your coatings, or the total amount of organic HAP emitted, to no more than 20 weight percent of the total solids applied to web substrates in a month; or (3) limit the total amount of organic HAP in your coatings, or the total amount of organic HAP emitted, to no more than 4 weight percent of the total mass of coating material applied to the web substrate in a month.

The three HAP emission limits proposed for new sources are: (1) Limit emissions to no more than 2 percent of the organic HAP applied for the month; (2) limit the total amount of organic HAP in your coatings, or the total amount of organic HAP emitted, to no more than 8 weight percent of the total solids applied to web substrates in a month; or (3) limit the total amount of organic HAP in your coatings, or the total amount of organic HAP emitted, to no more than 1.6 weight percent of the

total mass of coating material applied to the web substrate in a month.

In submitting comments, please specify whether the comment pertains to one or all of the emission limitation options of the proposed standard. We will further evaluate the proposed standard based on our review of public comments and other information we may receive. The final rule may reflect any one of the proposed options to limit organic HAP emissions, a combination of the proposed options, or all three options.

The General Provisions (40 CFR part 63, subpart A) would also apply to you. The General Provisions codify procedures and criteria we use to carry out all part 63 NESHAP promulgated under the CAA. The General Provisions contain administrative procedures, preconstruction review procedures, and procedures for conducting compliance-related activities such as notifications, recordkeeping and reporting, performance testing, and monitoring. The proposed rule refers to individual sections of the General Provisions that we believe will be of particular interest to you. However, unless specifically overridden in table 1 of the proposed rule, all of the General Provisions requirements would apply to you.

B. Interaction With Other Regulations

You may be subject to both the paper and other web coating NESHAP and other future or existing rules, such as new source performance standards (NSPS) and State rules requiring reasonably available control technology limits on volatile organic compounds (VOC) emissions. You must comply with all rules. Duplicative recordkeeping and reporting requirements and differences in emission limitations may be resolved through your title V permit.

C. What Pollutants Are Limited by This Proposal?

Today's proposed rule would limit total organic HAP emissions from coating lines. We did not identify inorganic HAP as pollutants emitted by this source category.

IV. When Do I Show Initial Compliance With the Proposed Rule?

Existing sources would have to comply with the final rule no later than 3 years after the effective date of the final rule. The effective date is the date of publication of the final rule in the **Federal Register**. New or reconstructed sources would have to comply upon start-up of the affected source or the effective date of the final rule, whichever is later. Details of compliance requirements can be found in the General Provisions, as outlined in table 1 of the proposed rule.

Before your initial compliance demonstration, you would choose one of the three emission limit options for your affected source. In your initial compliance certification, you would notify the Administrator of your choice, and after that you would monitor and report compliance results accordingly. If you decide to change to another emission limitation option, you are also required to notify the Administrator, as with other changes at the facility, discussed in section VI.

V. What Testing and Monitoring Must I Do?

In addition to the specific testing and monitoring requirements specified below for the affected source, the proposed rule adopts the testing requirements specified in § 63.7 and specifies that performance tests at existing sources must be conducted by the compliance date.

A. Test Methods and Procedures

You may comply with the proposed standards by applying materials meeting the organic HAP emission rate limits, by using capture and control equipment to reduce organic HAP emissions by 95 percent at existing sources and by 98 percent at new sources, or by using a combination of low organic HAP materials and capture and control equipment to meet the organic HAP emission rate limits.

If you demonstrate compliance based on the coating materials applied on your coating lines, you must determine the organic HAP content of materials applied. To make this determination, you may either use EPA Method 311 of appendix A of 40 CFR part 63, use an alternative method for determining the organic HAP content (but only after obtaining EPA approval), or use the volatile organic content of the coating materials applied as the value for the organic HAP content. The volatile organic content must be determined by EPA Method 24 of appendix A of 40 CFR part 60 (or an approved alternative method). If you are demonstrating compliance by applying coating materials that meet the emission limit based on coating solids applied, the solids content of the materials must be determined using EPA Method 24. You may rely on manufacturer's data to determine the organic HAP content or volatile matter and solids content when these data are equivalent to those obtained from Method 311 (or an approved alternative method) and Method 24 (or an approved alternative method), respectively. You must also determine the mass of each coating material applied using company records. You must calculate the organic HAP content and mass of all coating materials applied on the coating lines for each monthly period. However, only changes in a material formulation would require a redetermination of total organic HAP weight fraction for that material. To demonstrate compliance, you must calculate the average mass of organic HAP in coating materials applied and show that it is less than the organic HAP emission limits specified.

If you use an emission capture and control system to comply with the proposed standard, you must demonstrate that the overall control efficiency reduces total organic emissions by at least 95 percent at existing sources and 98 percent at new sources. Alternatively, you may use capture and control equipment in combination with low organic HAP materials and demonstrate you meet the organic HAP emission limit specified. To comply using the combined approach, you must determine the overall control efficiency of the equipment and the organic HAP and solids content of the materials applied. These values must be determined for each monthly period.

The overall control efficiency for a capture and control system would be demonstrated based on emission capture and reduction efficiency. To determine the capture efficiency, you would either verify the presence of a permanent total enclosure using EPA Method 204 of 40 CFR part 51, appendix M, in which case you could assume 100 percent capture; or use EPA Method 204A through F, or Appendix A of 40 CFR part 63, Subpart KK, to measure capture efficiency.

You must determine the emission reduction efficiency of a control device by conducting a performance test or using a continuous emission monitoring system (CEMS). If you use CEMS, you must determine the inlet and outlet concentration to calculate the control efficiency. The CEMS must comply with performance specification 8 or 9 in 40 CFR part 60, appendix B.

If you conduct a performance test, we are proposing that the removal efficiency of a control device be determined based on three runs, each run lasting 1 hour. Method 1 or 1A of 40 CFR part 60, appendix A, must be used for selection of the sampling sites. Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, must be used to determine the gas volumetric flow rate. Method 3, 3A or 3B, of 40 CFR part 60, appendix A, must be used for gas

analysis to determine dry molecular weight. Method 4 of 40 CFR part 60, appendix A, must be used to determine stack moisture. Method 25 or 25A of 40 CFR part 60, appendix A, must be used to determine organic volatile matter concentration. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, may be used if approved by the Administrator.

If you use a solvent recovery system, you may alternatively determine the overall control efficiency using a liquid-liquid material balance. If you demonstrate compliance with the material balance, you must measure the amount of all materials applied during each month and determine the volatile matter content of these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the month and calculate the overall solvent recovery efficiency.

The test methods we propose to require, as discussed above, are existing EPA methods that are familiar to the industry, readily available, and appropriate to the device or the parameter being measured. The tests selected are expected to establish adequately whether the facility is complying with the standard.

B. Monitoring Requirements

According to paragraph (a)(3) of section 114 of the CAA, monitoring of stationary sources is required to determine the compliance status of the sources, and whether compliance is continuous or intermittent. For affected sources complying with the proposed standard with capture and control systems, initial compliance is determined through an initial performance test and ongoing compliance through continuous monitoring. We are proposing the parameters to be monitored for certain types of control devices now used in the industry. You must set the values of these parameters that correspond to compliance with the proposed standard during your initial performance test. These values are your ''operating limits.'' If future monitoring shows that capture and control equipment is operating outside the range of values established during the initial performance test, then you are deviating from the operating limits.

If you use a capture and control system to meet the proposed standard, you are required to submit a plan identifying the operating limit and monitoring procedures for the capture system. You must monitor in accordance with your plan unless we require an alternate monitoring procedure.

If you use a thermal or catalytic oxidizer, you must monitor temperature using a continuous parameter monitoring system. If you use a thermal oxidizer, you must establish the average combustion temperature recorded during the performance test as the operating limit. If you use a catalytic oxidizer, you must establish as the operating limits the average gas temperatures recorded during the performance test both upstream and downstream of the catalyst bed. The time-weighted average of the values recorded during the performance test shall be computed to establish the parameter value(s). For catalytic oxidizers, temperature monitors are placed immediately before and after the catalyst bed. For thermal oxidizers, the temperature monitor is placed in the firebox or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

If you use a solvent recovery system, you must conduct monthly mass balances or operate continuous emission monitors as described in the performance test section.

If you use a combination of capture and control devices and low-HAP materials, you are required to monitor the parameters of the capture and control devices as indicated above. In addition, you must record data on the HAP and solids content of the materials applied to determine the HAP emission rate as described in the performance test section.

The proposed rule specifies the types of parameters that must be monitored for common types of control devices: temperature monitoring for oxidizers and either continuous emission monitor systems or mass balance measurements for solvent recovery. These parameters were selected because they are good indicators of control device performance, and because continuous parameter monitoring instrumentation is available at a reasonable cost. You must install, calibrate, maintain, and operate all monitoring equipment as specified in the proposed rule. If you use control devices other than those identified in the proposed standard, you must submit the operating parameters to be monitored to the Administrator for approval. You could be approved, on a case-by-case basis, to monitor parameters not specifically listed in the proposed standards. The authority to approve the parameters to be monitored is retained by the Administrator and is not delegated.

VI. What Notification, Recordkeeping, and Reporting Requirements Must I Follow?

The proposed rule requires you to comply with notification, recordkeeping, and reporting requirements, generally as described in the General Provisions (see table 1 of the proposed rule) and specifically as designed to support demonstration of compliance with this proposed rule. We believe that these requirements are necessary and sufficient to ensure that you comply with the requirements in the proposed subpart JJJJ.

A. Initial Notification

If the NESHAP apply to you, you must send an initial notification to the EPA Regional Office in the region where your facility is located and to your State agency. If you have an existing source, you must submit the initial notification no later than 1 year before the required compliance date for the standard. If you have a new or reconstructed source, you must submit the notification no later than 120 days after either the date of initial start-up or the effective date of the final rule, whichever is later.

The Initial Notification Report notifies us and your State agency that you have an existing facility that is subject to the proposed standard or that you have constructed a new facility. Thus, it allows you and the Federal or State enforcement agency to plan for compliance activities. The General Provisions for NESHAP specifies the information you must include in the initial notification and other reporting requirements for new or reconstructed sources.

B. Notification of Performance Tests

If the NESHAP apply to you, you will have several options for demonstrating compliance. If you demonstrate compliance by using a capture and control system to reduce emissions of HAP, you must conduct a performance test as described above. Prior to conducting the performance test, you must notify us or the delegated State or local agency at least 60 calendar days before the performance test is scheduled to begin, as indicated in the General Provisions for NESHAP.

C. Notification of Compliance Status

You are required to send a notice of compliance status within 180 days after the compliance date as specified in the General Provisions for NESHAP. This report must include your compliance certification, the results of any performance tests and monitoring, and a description of how you will demonstrate continuing compliance.

The notification of compliance status must specifically identify whether low-HAP materials, emission capture and control systems, or a combination of low-HAP materials and capture and control systems were used to comply with this regulation. For capture and control systems, it must also identify the operating limits established during the performance test. Specific reporting requirements are dependent upon how you choose to comply with the proposed rule.

D. Recordkeeping Requirements

To comply with the proposed standard based on organic HAP content or organic HAP emissions on a weight basis, records must be maintained of the organic HAP, volatile organic content and solids content of each coating applied, and the amount of each coating applied on paper and other web coating lines each month.

If capture and control technology is used, you are required to keep records of the equipment monitoring parameter measurements specified in the proposed rule that are discussed in section V above. You must also develop a start-up, shutdown, and malfunction plan. You would have to make the plan available for inspection if the Administrator requests to see it. It would stay in your records for the life of the affected source or until the source no longer must meet the standard in the proposed rule.

E. Periodic Reports

Each reporting year is divided into two semiannual reporting periods. If no deviations occur during a semiannual reporting period, you would submit a semiannual compliance report stating that the affected source has been in compliance. A deviation is any instance in which you fail to meet any requirement or obligation of the proposed standard or any term or condition adopted to meet the proposed standard. The following semiannual compliance reports would be required under this proposal when deviations occur:

- If you are complying by using oxidizers, report all deviations from the oxidizer operating parameters.
- If you are complying by using solvent recovery systems and liquid-liquid mass balance, report mass balance calculations for all months when the material balances deviated from the emission limit.
- If you are complying by using oxidizers or solvent recovery systems with continuous emission monitors, report all deviations from the operating parameter values established for the capture system and all deviations of the emission limit.
- If you are complying by using low-HAP coating materials, report all deviations from the emission limit.
- If you are complying by using a combination of capture and control systems with low-HAP coating materials, report all deviations from the emission limit and all deviations from operating parameters described above.

You would also have to send us reports for each semiannual reporting period in which the following occur:

- A change occurs at your facility or within your process that might affect its compliance status.
- A change from what was reported in the initial notice occurs at your facility or within your process.
- You decide to change to another emission limitation option.

VII. What Are the Environmental, Energy, and Economic Impacts of This Proposed Rule?

We developed model plant facilities to represent the industry based on the data we collected. We estimated environmental, energy, and economic impacts based upon what these facilities must do to meet the proposed rule. There are several options for demonstrating compliance with these standards, and each facility has flexibility to adopt the compliance option which has the least economic impact for their individual situation. Most of the existing major source facilities in this industry apply solvent-based coatings and utilize thermal oxidation to reduce emissions. Therefore, in estimating the impacts associated with the proposed rule, we assumed that most facilities would install a permanent total enclosure and either install a new thermal oxidizer or improve an existing one. If a facility complies with the proposed rule by applying coatings that meet the proposed emission limitation, the capital and operating costs and other impacts would be lower than estimated. Hence, the estimates presented below may overestimate the costs and other impacts as some facilities may comply with the proposed rule by applying low-HAP coatings.

A. Emission Reductions

For existing affected sources in the paper and other web coating industry (approximately 210 major sources), the nationwide baseline organic HAP emissions are estimated to be 35,000 Mg/yr (39,000 tpy). We estimate that implementation of the final rule would reduce emissions from major sources by approximately 29,000 Mg/yr (32,000 tpy), or approximately 80 percent.

We have projected the growth of the paper and other web coating industry and anticipate 32 new affected sources will be constructed over the next 5 years. These sources will need to comply with NSPS in 40 CFR part 60 for VOC and, therefore, we estimated baseline emissions using a 90 percent reduction of organic HAP as the existing level of control. We estimated that nationwide organic HAP baseline emissions from new sources will be about 2,875 Mg/yr (3,170 tpy). We estimate that implementation of the final rule would reduce emissions from new affected sources by about 2,300 Mg/yr (2,535 tpy), or approximately 80 percent.

B. Secondary Environmental Impacts

Secondary environmental impacts are considered to be any air, water, or solid waste impacts, positive or negative, associated with the implementation of the final standard. These impacts are exclusive of the direct organic HAP air emissions reductions discussed in the previous section.

We estimate that more than 99 percent of the organic HAP emissions from paper and other web coating are VOC. Therefore, the capture and control of organic HAP that are presently emitted will result in a decrease in VOC emissions. Consequently, we estimate the current nationwide VOC emissions from the paper and other web coating source category to be at least 35,000 Mg/yr (39,000 tpy), the nationwide organic HAP estimate. The proposed emission controls for organic HAP will reduce non-HAP VOC emissions as well. Emissions of VOC have been associated with a variety of health and welfare impacts. The VOC emissions, together with nitrogen oxides, are precursors to the formation of ground-level ozone, or smog. Exposure to ambient ozone is responsible for a series of public health impacts, such as alterations in lung capacity and aggravation of existing respiratory disease. Ozone exposure can also damage forests and crops.

The use of newly installed or upgraded control devices to meet the proposed standard would result in greater electricity consumption (see section VII of this preamble). Increases in emissions of nitrogen oxides, sulfur dioxide, carbon monoxide, and carbon dioxide, as well as certain HAP, from electric utilities could result. The operation of newly installed or upgraded control devices would also require combustion of supplemental fuel, typically natural gas (see section VII of this preamble), resulting in

additional emissions of nitrogen oxides, carbon monoxide, and carbon dioxide.

It is expected that some paper and other web coating facilities will comply with the proposed standard by substituting non-HAP materials for organic HAP presently in use. In some cases, the non-HAP materials may be VOC, however, in other cases, non-VOC materials (*e.g.*, water) may be used. Facilities converting to waterborne materials as a means or partial means of compliance may have reduced Resource Conservation and Recovery Act hazardous waste disposal if the status of the waste material changes from hazardous to nonhazardous. An increase in wastewater discharge may then occur if this waste material and waterborne wash up materials are discharged to publicly owned treatment works. However, we do not expect any significant increases in wastewater discharge to result from the proposed rule.

New and upgraded catalytic oxidizers will require catalysts. Catalyst life is estimated to be more than 10 years. Spent catalysts will represent a small amount of solid waste, and sometimes the spent catalyst will be regenerated by the manufacturer for reuse. Activated carbon used in solvent recovery systems is returned to the manufacturer at the end of its useful life and converted to other salable products. Little solid waste impact is expected from this source.

C. Energy Impacts

The operation of new and upgraded control devices will require additional energy. Capture of previously uncontrolled solvent-laden air will require fan horsepower. Operation of oxidizers, particularly thermal oxidizers, may require supplemental fuel (typically natural gas) to increase the combustion temperature and improve destruction efficiency.

The total additional electrical energy required to meet the proposed standard is estimated to be 313 million kilowatt-hours per year. Fuel requirements total 3.7 billion British thermal units per year. These fuel impacts are based on a ''worst-case'' scenario, that is the use of thermal oxidizers at all facilities, which is the control scenario expected to result in the highest energy impacts.

D. Cost Impacts

The total nationwide capital and annualized costs (1998 dollars) attributable to compliance with the proposed standard have been estimated for existing and new sources. Costs are based on the use of permanent total enclosures, thermal oxidizers, and monitoring equipment. The capital costs with other methods of control (*e.g.,* applying low-HAP coatings) are expected to be significantly lower.

It is expected that any new facility using solvent-based coatings will install control systems to comply with applicable State and Federal regulations for reducing VOC emissions from the various sectors of this source category (*e.g.,* the standards of performance for new stationary sources in 40 CFR part 60). The data we gathered on this industry indicate that thermal oxidation is the most common control technology installed to meet the requirements of the existing regulations. Thermal oxidation is capable of achieving a 98 percent reduction of HAP emissions. Therefore, the additional costs to a new facility resulting from this proposed standard were estimated based on the costs of constructing a permanent total enclosure to deliver all HAP emissions to the existing thermal oxidizer.

Capital costs would be incurred by installing capture and control systems at existing facilities presently without capture and control systems, and upgrading capture and control systems at existing facilities that do not meet the proposed standard. Additionally, we estimated the cost for the purchase of monitoring equipment needed as a capital investment to meet the monitoring, recordkeeping, and reporting requirements of the proposed rule. Total nationwide capital costs are estimated to be $210 million with the cost for existing sources and new sources estimated to be $198 million and $12 million, respectively.

Total nationwide annual costs of the proposed standard have been estimated at $68 million with the annual cost for existing and new sources estimated to be $63 million and $5 million, respectively. These costs include capital recovery over a 10-year period, operating costs for the newly installed and upgraded capture and control systems, and costs for monitoring, recordkeeping, and reporting. These are net costs after taking into account the costs presently being incurred for the baseline control level.

E. Economic Impacts

The economic impact analysis (EIA) shows that the expected price increases for affected output would range from only 0.1 to 1.1 percent as a result of the proposed standard. The expected change in production of affected output is a reduction of 0.1 to 1.1 percent as a result of the proposed standard. There are three plant closures predicted out of 169 facilities included in the economic model. Although any facility closure is cause for concern, it should be noted that the baseline economic condition of the facilities predicted to close affects the closure estimate provided by the economic model. Facilities which are already experiencing adverse economic conditions for reasons unconnected to this rule are more vulnerable to the impact of any new costs than those that are not. The facilities predicted to close appear to have low profitability levels currently. While the rule may adversely impact the three facilities predicted to close, we do not predict an adverse economic impact to the industry as a whole.

VIII. What Is the Basis for Selecting the Level of the Proposed Standards?

A. Source of Authority for Standards Development

Section 112(c) of the CAA directs us to develop a list of all categories of major sources and appropriate area sources that emit one or more of the 188 HAP listed under section 112(b) of the CAA. Paper and other web coating is a listed source category because of its organic HAP emissions that include, but are not limited to, toluene, methanol, methyl ethyl ketone, xylenes, phenol, methylene chloride, ethylene glycol and glycol ethers, hexane, methyl isobutyl ketone, cresols and cresylic acid, dimethylformamide, vinyl acetate, formaldehyde, and ethyl benzene. Section 112(d) of the CAA then directs us to promulgate regulations establishing standards for each category or subcategory of major and area sources of HAP listed pursuant to section 112(c). Those emission standards are to reflect the application of MACT.

B. What Is the Basis for Defining the Affected Source?

In selecting the affected source(s) for MACT standards, our primary goal is to ensure that MACT is applied to all the HAP-emitting equipment within the source category or subcategory being regulated. The affected source also defines where new source MACT applies under a particular standard. Specifically, the General Provisions define the terms ''construction'' and ''reconstruction'' with reference to the term ''affected source'' (§ 60.2) and provide that new source MACT applies when construction and reconstruction occur (§ 60.5). The collection of equipment evaluated in determining MACT (including the MACT floor) is usually the collection of equipment used in defining the affected source.

In defining the affected source for the paper and other web coating proposed NESHAP, we considered available information on HAP emissions, control

configurations, industry practices, products produced, and the impacts of other standards. In general, paper and other web coating facilities are covered by the SIC codes listed in the Regulated Entities table. However, facilities classified under other SIC codes may be subject to the proposed standard if the facility meets the definition of a major source and conducts paper and other web coating (see section II of this preamble).

Although the industry manufactures an extensive list of products, the coating processes used by the different segments of the industry are very similar. Typically, the web substrate is put on a web coating line where it is unwound, coated, rewound and/or cut to size, and packaged. Alternatively, a web may be unwound, coated, and combined with another material by lamination (either before or instead of being rewound). The web coating line may include one work station or multiple work stations which apply the coating to the web. Each work station typically uses a single type of coating applicator (*e.g.,* reverse roll, knife roll, gravure cylinder, dip, and squeeze). When there are multiple work stations on a single web coating line, each station may use a different type of applicator depending on the needs of a specific product. Typically, a drying oven immediately follows each work station.

The primary organic HAP emission source in web coating is the solvent used in the coatings. The solvent acts as a vehicle for the material that is used to coat the web. Once the coating is on the web, the solvent is usually evaporated in dryers or otherwise converted to another material some time during the coating process.

In the various segments of the paper and other web coating industry, the same primary organic HAP emission sources can be found. Dryer organic HAP emissions can represent more than 90 percent of the total organic HAP emissions from coating operations. Some emitted organic HAP are not captured in the dryer exhaust. This uncaptured or fugitive organic HAP include that which evaporate from the coatings into the coating room during application, and that which evaporate from the web in the dryers but are then swept out of the dryer as the web travels toward the succeeding work station. Most, if not all, of the solvent emitted can be collected if capture equipment is installed to collect fugitive solvent vapors.

Dryer exhaust and fugitive emissions can be vented to control devices such as oxidizers or solvent recovery systems. Organic HAP may escape destruction or recovery by the control system, as they may be retained in the coated web. Organic HAP that remains in the web after removal from the coating line may leave the facility in the coated web product or may evaporate during additional processing (*e.g.,* slitting, folding, stitching, etc.).

Coating application and drying/curing are the largest emission sources of organic HAP emissions for all segments of the paper and other web coating industry. Because these emission points are on the web coating lines, the web coating lines are the largest emission source. Therefore, the proposed affected source is broadly defined as the collection of all web coating lines at a facility (see section II of this preamble). This broad definition was selected to provide sources with flexibility for compliance demonstrations, *i.e.,* averaging emissions from all web coating lines rather than demonstrating compliance for each individual line.

C. What Is the MACT Floor That Is the Basis for the Proposed Standard?

Data were obtained from 268 paper and other web coating facilities. Facility data were obtained through survey instruments, facility visits, and data reported to EPA's Aerometric Information Retrieval System.

Of the 268 facilities, 210 were estimated to have the potential to be major sources. These 210 facilities were analyzed to identify the top performing facilities in terms of emission limitations from coating lines. The best controlled facilities used capture and control systems to reduce HAP emissions. Capture technology included work station hoods and total enclosures around the coating lines. Control technology included catalytic and thermal oxidation, as well as solvent recovery systems using carbon adsorption or condensation units.

In many cases, existing control devices were originally designed and operated to control VOC emissions. We assumed that the performance of these control devices with respect to VOC and organic HAP is equivalent because the organic HAP commonly used in this industry are also VOC.

Of the 210 facilities in the MACT floor database, 119 used capture and control systems. The same types of capture and control systems were used by these facilities even though the types of coatings, web-substrates and products varied widely. All of the facilities were ranked by the percent overall emissions reductions achieved for the collection of all the coating lines at each facility. The average reduction achieved by the best controlled 12 percent of the facilities was 95 percent. Consequently, we identified 95 percent overall control of organic HAP emissions as the MACT floor for existing sources.

We also determined that new sources employing permanent total enclosures with new destruction or recovery systems can be designed to achieve 98 percent overall control of organic HAP emissions. This is the anticipated level of control for new sources using the emission capture and control technologies used by the best controlled sources in the category. Although some facilities reported more than 98 percent overall control of organic HAP emissions, this higher level of control may not be achievable on a continuous basis under all normal operating conditions applicable to new sources. Consequently, 98 percent overall control of organic HAP emissions is the MACT floor for new sources.

D. What Are the Control Options Beyond the MACT Floor?

We did not identify any control equipment capable of achieving emissions reductions beyond the MACT floor for new sources. We identified and considered one control level more stringent than the MACT floor for existing sources. The more stringent level for existing sources would require 98 percent overall control of organic HAP emissions from coating lines. In evaluating this control option to select the most appropriate MACT level, we calculated the additional costs and emissions reductions associated with requiring existing sources to achieve this more stringent level of control. While many existing sources can improve upon existing capture and control systems to achieve a 98 percent overall control of organic HAP emissions from coating lines, we believe that most of these same facilities would need to fully replace existing capture and control systems to achieve the more stringent level of control.

We calculated the cost effectiveness (*i.e.*, cost for each ton of HAP reduced) for reducing HAP emissions at existing sources meeting the MACT floor and the more stringent level of control. Requiring existing sources to meet the MACT floor level results in estimated emissions reductions of 28,700 Mg/yr (31,600 tpy) at an estimated cost of $63 million per year or $1,990 per ton of HAP reduced. We determined that the incremental cost for the more stringent level of control ($84.5 million) compared to the incremental emissions reductions (3,766 tpy) (an incremental cost effectiveness of $22,433 per ton of HAP reduced) did not warrant going beyond the MACT floor. Therefore, we

did not select the more stringent control option as the basis for the standard.

E. What Is the Proposed MACT Standard?

For reasons discussed above, we selected the MACT floors for existing and new paper and other web coating lines as the appropriate level of control for this source category. The proposed level of control for existing sources is 95 percent overall control of organic HAP emissions from coating lines, alternatively stated as limiting emissions to no more than 5 percent of the organic HAP applied. The proposed level of control for new sources is 98 percent overall control of organic HAP emissions from coating lines, alternatively stated as limiting emissions to no more than 2 percent of the organic HAP applied.

Paper and other web coating facilities may be able to reduce the HAP content of the coatings applied on their coating lines. We consider such HAP reductions as pollution prevention and believe pollution prevention is a desirable outcome. To encourage further pollution prevention, we are also proposing emission limitations in two formats that reflect the MACT level of control, but would not require sources to use add-on controls to achieve that level.

Coating formulations and organic HAP content vary depending on the coating characteristics required for the products being produced. We evaluated the coating data available to us to establish a baseline organic HAP content for the coatings currently used in this source category. For existing sources, we reduced the baseline organic HAP content of coatings by 95 percent to establish the emission limitations of 0.20 kilograms (kg) of HAP emitted per kg of coating solids applied and 0.04 kg of HAP emitted per kg of coating applied. Similarly, for new sources, we reduced the baseline organic HAP content by 98 percent to establish the emission limitations of 0.08 kg HAP emitted per kg of coating solids applied and 0.016 kg of HAP emitted per kg of coating applied.

We believe these emission limitations, expressed in the proposed standard as both a HAP content limit and a HAP emission limit, are appropriately based on the MACT level of control. Compliance with the HAP content limits and equivalent HAP emission limits must be determined using the monthly average HAP applied on a mass solids or mass coating basis. Sources operating capture and control systems can comply with these emission limitations by determining the organic HAP content of the coatings applied on all their coating lines and factoring in the capture and control efficiency such that the monthly average controlled organic HAP emissions from the affected source meet these limits.

IX. What Is the Basis for Selecting the Format of the Proposed Standards?

The proposed format for the emission standard is an overall percent reduction of emissions, taking into account both capture and control system efficiencies. Data available to us regarding the efficiency of capture and control systems used in this industry indicate that overall efficiency is typically determined by a performance test for capture systems and oxidizers and liquid-liquid material balance for solvent recovery systems. The proposed standard allows for determining overall control efficiency through a variety of mechanisms to be consistent with industry practices. We selected this format because it reflects MACT at all facilities and allows flexibility in the method selected for achieving the percent reduction limit.

The use of an allowable concentration of emissions in the exhaust gases discharged to the atmosphere was also considered. The major disadvantage of this format is its inability to identify the overall control efficiency of the capture and control system, and thus, the overall percent reduction of organic HAP emissions. The concentration of emissions in exhaust gases could be decreased by increasing dilution air through the capture and control system. Thus, we do not believe an exhaust gas concentration limit is appropriate for demonstrating the overall percent reduction of emissions.

To encourage the use of low- and no-HAP materials, two additional formats are proposed. These formats limit emissions to either mass of HAP per mass of coating solids applied, or mass of HAP per mass of coating material applied (both solids and liquid). Affected sources can use either low- or no-HAP coating materials to meet these limits or capture and control systems, or a combination of the two. These formats do not establish any certain percent reduction requirement for capture and control systems but do accurately reflect application of MACT. Thus, they can provide flexibility for a source to combine add-on control with use of low-HAP materials to achieve the emissions reductions.

X. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the

process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule 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 section 6 of the Executive Order do not apply to this proposed rule. Although section 6 of Executive Order 13132 does not apply to this proposed rule, EPA did consult with State and local officials to enable them to provide timely input in the development of this proposed rule.

C. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate paper and other web coating lines. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on an assessment of health or safety risks. Furthermore, this rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed rule 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 1 year. The maximum total annual cost of this proposed rule for any year has been estimated to be about $68 million. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), 5 U.S.C. 601, et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business ranging from 500 to 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. In accordance with the RFA, EPA conducted an assessment of the proposed standard on small businesses within the paper and other web coating industry. Based on SBA size definitions for the affected industries and reported sales and employment data, EPA identified 50 of the 103 companies owning affected facilities as small businesses. Although small businesses represent 49 percent of the companies within the source category, they are expected to incur only 25 percent of the total industry compliance costs of $63 million. There are only six small firms with compliance costs equal to or greater than 3 percent of their sales. In addition, there are only four small firms with cost-to-sales ratios between 1 and 3 percent.

The EPA performed an EIA to estimate the changes in product price and production quantities for the firms affected by this proposed rule. The analysis shows that of the 54 facilities owned by affected small firms, only one would be expected to shut down rather than incur the cost of compliance with the proposed rule. Although any facility closure is cause for concern, it should be noted that the baseline economic condition of the facility predicted to close affects the closure estimate provided by the economic model. Facilities which are already experiencing adverse economic conditions for reasons unconnected to this rule are more vulnerable to the impact of any new costs than those that are not. The facility predicted to close appears to have low profitability levels currently. The EPA also notes that, while economies of scale will require individual small firms to pay a somewhat higher proportion of revenues than large firms for compliance, the burden on most small firms is quite low nevertheless. The median compliance cost is well below 1 percent of sales for both small and large firms affected by the proposed standard (0.16 and 0.03 percent of sales for small and large firms, respectively).

In summary, this analysis supports today's certification under the RFA because, while a few small firms may experience significant impacts, there will not be a substantial number incurring such a burden. For more information, consult the docket for this project.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA has nonetheless worked aggressively to minimize the impact of this rule on small entities, consistent with our obligations under the CAA. We solicited input from small entities during the data-gathering phase of the proposed rulemaking. Section VIII of this preamble further describes the information we obtained. Many small entities, like other affected paper and other web coating sources, currently comply with regulations limiting emissions of VOC. These facilities currently limit VOC emissions using add-on control equipment or pollution prevention coatings (coatings with little VOC content). Some small entities raised concerns regarding potential overlap between VOC regulations and the NESHAP. To address these concerns and be consistent with the current VOC control techniques, our proposed compliance options, test methods, and recordkeeping and reporting requirements would allow small entities to comply with the proposed regulation using most of their existing VOC compliance procedures. We believe this will significantly reduce the compliance burden for small entities, thereby mitigating potential impacts and preventing any duplication of effort. In addition, we are proposing compliance options which give small entities flexibility in choosing the most cost-effective and least-burdensome alternative for their operation. For example, a facility could purchase and use low-HAP coatings (*i.e.,* pollution prevention) that meet the proposed standard instead of using add-on capture and control systems. This method of compliance can be demonstrated with minimum burden by using already-maintained purchase and usage records. No testing of materials would be required, as the facility owner could show that their coatings meet the emission limits by providing formulation data supplied by the manufacturer. We are also proposing that compliance demonstrations be conducted monthly, rather than on a daily basis. We believe this will reduce the amount of records needed to demonstrate compliance with the rule. Furthermore, we are proposing the minimum monitoring, recordkeeping, and reporting requirements specified in the general provisions (40 CFR part 63, subpart A). We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1951) and a copy may be obtained from Sandy Farmer by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The annual monitoring, recordkeeping, and reporting burden for this collection (averaged over the first 3 years after the effective date of the rule) for existing web coating facilities is estimated to be 155 labor hours per facility at a total annual cost of $14,414 per facility. This estimate includes a one-time submission of a start-up, shutdown, and malfunction plan with semiannual reports for any event when the procedures in the plan were not followed; semiannual excess emission reports; notifications; and recordkeeping. The total capital/start-up cost component (including purchase of services component) annualized over its expected useful life is $121,000. The operation and maintenance costs component is $35,000 per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and

requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on EPA's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division (2822), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503 marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after September 13, 2000, a comment to OMB is best assured of having its full effect if OMB receives it by October 13, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, section 12(d) (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards (VCS) instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.,* material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more VCS bodies. Examples of organizations generally regarded as VCS bodies include the American Society for Testing and Materials, the National Fire Protection Association, and the Society of Automotive Engineers. The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable VCS.

This proposed rulemaking involves technical standards. Therefore, during the proposed rulemaking process, EPA searched for VCS that might be applicable. The search for emissions monitoring procedures identified 18 VCS that appeared to have possible use in lieu of EPA standard reference methods. However, after reviewing the available standards, EPA determined that ten of the candidate consensus standards (ASME C00031 or PTC 19–10–1981), ASTM D3154–91, ASTM 3271–87, ASTM D3464–96, ASTM D3796–90, ASTM E337–84, and EN 1093–4:1996, EN 12619:1999, ISO 9096:1992, and ISO 10780:1994) identified for measuring emissions of HAP or surrogates subject to emission standards in the proposed rule would not be practical due to lack of equivalency, documentation, and validation data. Seven of the remaining candidate consensus standards (ASME/BSR MFC 12m, ASME/BSR MFC 13m, ASTM Z6871Z, ISO PWI 17895, ISO/DIS 11890–1, ISO/DIS 11890–2 and ISO/FDIS 14965) are under development or under EPA review. The EPA plans to follow, review and consider adopting these standards after their development and further review by EPA are completed.

The ASTM 3960–98 is practical for use in measuring the VOC content of surface coatings for this proposal. This standard uses the same techniques, equipment, and procedures as Method 24. Since this proposal allows the measurement of VOC content as a surrogate for HAP using Method 24, this is an acceptable method alternative to EPA Method 24 for VOC. Therefore, ASTM 3960–98 will be incorporated by reference into 40 CFR 63.14 by the EPA.

Six consensus standards: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 91), and ASTM D5403–93 are already incorporated by reference in EPA Method 24 and five consensus standards: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS 9–94 are incorporated by reference in EPA Method 311.

The EPA takes comment on proposed compliance demonstration requirements proposed in this rulemaking and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commentors should also explain why this proposed rule should adopt these VCS in lieu of EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if method other than Method 301, 40 CFR part 63, appendix A was used).

Section 63.3360 of the proposed standard lists the EPA's testing methods and performance standards included in the proposed rule. Most of the standards have been used by States and industry for more than 10 years. Nevertheless, § 63.3360 allows for any State or source to apply to EPA for permission to use an alternative method in place of any of the EPA testing methods or performance standards listed in § 63.3360.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 14, 2000.

Carol M. Browner,

Administrator.

For reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding a subpart JJJJ to read as follows:

Subpart JJJJ—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

Sec.

What This Subpart Covers

63.3280 What is in this subpart?
63.3290 Does this subpart apply to me?
63.3300 Which of my emission sources are affected?
63.3310 What definitions are used in this subpart?

Emission Standards and Compliance Dates

63.3320 What emission standards must I meet?
63.3330 When must I comply?

General Requirements for Compliance with the Emission Standards and for Monitoring and Performance Tests

63.3340 What general requirements must I meet?
63.3350 If I have a control device, what monitoring must I do?
63.3360 What performance test methods must I conduct?

Requirements for Showing Compliance

63.3370 How do I demonstrate compliance with the emission standards?

Reports and Records

63.3400 What reports must I submit?
63.3410 What records must I keep?

Delegation of Authority

63.3420 What authorities may be delegated to the States?
63.3420—63.3479 [Reserved]

Tables

Table 1 to Subpart JJJJ—Applicability of 40 CFR Part 63 General Provisions to Subpart JJJJ

What This Subpart Covers

§ 63.3280 What is in this subpart?

This subpart describes the actions you must take to reduce emissions of hazardous air pollutants (HAP) from paper and other web coating. Paper is one of several web substrates to which coatings are applied using a web coating line. This subpart establishes emission standards for web coating lines and specifies what you must do to comply if you own or operate a facility with web coating lines that is a major source of HAP. Certain requirements apply to all who must follow the subpart; others depend on the means you use to comply with an emission standard.

§ 63.3290 Does this subpart apply to me?

The provisions of this subpart apply to each new and existing facility that is a major source of HAP, as defined in § 63.2, at which web coating lines are operated.

§ 63.3300 Which of my emission sources are affected?

(a) The affected source subject to this subpart is the collection of all web coating lines at your facility, except:

(1) Web coating lines that are stand-alone coating equipment under 40 CFR part 63, subpart KK, and the owner or operator includes such coating lines in its compliance demonstration under subpart KK.

(2) Web coating lines which are used for coating coil.

(3) Web coating lines which are research or laboratory equipment as defined in § 63.3310.

(b) [Reserved]

§ 63.3310 What definitions are used in this subpart?

(a) All terms used in this subpart that are not defined below have the meaning given to them in the Clean Air Act (CAA or Act) and in subpart A of this part.

Always-controlled work station means a work station associated with a dryer from which the exhaust is delivered to a control device with no provision for the dryer exhaust to bypass the control device. Sampling lines for analyzers and relief valves needed for safety purposes are not considered bypass lines.

As-applied means the condition of a coating at the time of application to a substrate, including any added solvent.

As-purchased means the condition of a coating as delivered to the user.

Capture efficiency means the fraction of all organic HAP emissions generated by a process that is introduced to a control device, expressed as a percentage.

Capture system means a hood, enclosed room, or other means of collecting organic HAP emissions into a closed-vent system that exhausts to a control device.

Car-seal means a seal that is placed on a device that is used to change the position of a valve or damper (*e.g.*, from open to closed) in such a way that the position of the valve or damper cannot be changed without breaking the seal.

Coating materials means all inks, varnishes, adhesives, primers, solvents, reducers, and other solids-containing materials applied to a substrate via a web coating line. Materials used to form a substrate are not considered coating materials.

Coil means a continuous metal substrate where the metal is greater than 0.006 inch thick.

Control device means a device such as a solvent recovery device or oxidizer which reduces the organic HAP in an exhaust gas by recovery or by destruction.

Control device efficiency means the ratio of organic HAP emissions recovered or destroyed by a control device to the total organic HAP emissions that are introduced into the control device, expressed as a percentage.

Day means a 24-consecutive-hour period.

Deviation means any instance in which an affected source, subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during start-up, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Fabric means any of the substrates knotted, woven and nonwoven yarn, thread, and textiles; fiberglass; cord; and carpet.

Facility means all contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

Formulation data means data on the organic HAP weight fraction, volatile matter weight fraction, or solids weight fraction of a material that is generated by the manufacturer or means other than a test method specified in this subpart or an approved alternative method.

HAP means hazardous air pollutants.

HAP applied means the organic HAP content of all coating materials applied to a substrate by a coating line affected source.

Intermittently-controllable work station means a work station associated with a dryer with provisions for the dryer exhaust to be delivered to or diverted from a control device depending on the position of a valve or damper. Sampling lines for analyzers and relief valves needed for safety purposes are not considered bypass lines.

Month means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

Never-controlled work station means a work station which is not equipped with provisions by which any emissions, including those in the exhaust from any associated dryer, may be delivered to a control device.

New source means any affected source the construction or reconstruction of which is commenced after September 13, 2000.

Overall organic HAP control efficiency means the total efficiency of a capture and control system.

Research or laboratory equipment means any equipment for which the primary purpose is to conduct research and development into new processes and products, where such equipment is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner.

Uncontrolled coating line means a coating line consisting of only never controlled work stations.

Unwind or feed station means a unit from which substrate is fed to a web coating line.

Web means a continuous substrate (*e.g.*, paper, film, foil) which is flexible

enough to be wound or unwound as rolls. Fabric and coil are not considered web substrates for purposes of this subpart.

Web coating line means any number of work stations, of which one or more applies a layer of coating material along the length of a continuous web substrate, and any associated drying equipment between an unwind or feed station and a rewind or cutting station. Printing presses subject to subpart KK of this part are not web coating lines.

Work station means a unit on a web coating line where material is deposited onto a web substrate.

(b) The symbols used in equations in this subpart are defined as follows:

(1) C_{ahi} = the monthly average, as-applied, organic HAP content of coating material, i, expressed as a weight fraction, kilogram (kg)/kg.

(2) C_{asi} = the monthly average, as-applied, solids content, of coating material, i, expressed as a weight fraction, kg/kg.

(3) C_{avi} = the monthly average, as-applied, volatile organic content of coating material, i, expressed as a weight fraction, kg/kg.

(4) C_c = the concentration of organic compounds as carbon, parts per million by volume (ppmv).

(5) C_{hi} = the organic HAP content of coating material, i, as-purchased, expressed as a weight fraction, kg/kg.

(6) C_{hij} = the organic HAP content of material, j, added to as-purchased coating material, i, expressed as a weight fraction, kg/kg.

(7) C_{si} = the solids content of coating material, i, expressed as a weight fraction, kg/kg.

(8) C_{sij} = the solids content of material, j, added to as-purchased coating material, i, expressed as a weight fraction, kg/kg.

(9) C_{vi} = the volatile organic content of coating material, i, expressed as a weight fraction, kg/kg.

(10) C_{vij} = the volatile organic content of material, j, added to as-purchased coating material, i, expressed as a weight fraction, kg/kg.

(11) E = the organic volatile matter control efficiency of the control device, percent.

(12) CE = the organic volatile matter capture efficiency of the capture system, percent.

(13) G_i = the mass fraction of each coating material, i, which was applied at 20 weight percent or greater solids content, on an as-applied basis, kg/kg.

(14) H_a = the monthly allowable organic HAP emissions, kg.

(15) H_e = the total monthly organic HAP emitted, kg.

(16) H_L = the monthly average, as-applied, organic HAP content of all coating materials applied, expressed as kg organic HAP per kg of coating material applied, kg/kg.

(17) H_m = the total monthly organic HAP applied, kg.

(18) H_s = the monthly average, as-applied, organic HAP to solids ratio, kg organic HAP/kg solids applied.

(19) H_{si} = the as-applied, organic HAP to solids ratio of coating material, i.

(20) L = the mass organic HAP emitted per mass of solids applied, kg/kg.

(21) M_{Bi} = the sum of the mass of coating material, i, as-applied on intermittently-controllable work stations operating in bypass mode and the mass of coating material, i, as-applied on never-controlled work stations, in a month, kg.

(22) M_{ci} = the sum of the mass of coating material, i, as-applied on intermittently-controllable work stations operating in controlled mode and the mass of coating material, i, as-applied on always-controlled work stations, in a month, kg.

(23) M_f = the total organic volatile matter mass flow rate, kg/hour (h).

(24) M_{fi} = the organic volatile matter mass flow rate at the inlet to the control device, kg/h.

(25) M_{fo} = the organic volatile matter mass flow rate at the outlet of the control device, kg/h.

(26) M_i = the mass of as-purchased coating material, i, applied in a month, kg.

(27) M_{ij} = the mass of material, j, added to as-purchased coating material, i, in a month, kg.

(28) M_{Lj} = the mass of non-solids-containing coating material, j, added to solids-containing coating materials which were applied at less than 20 weight percent solids content, on an as-applied basis, in a month, kg.

(29) M_{vr} = the mass of volatile matter recovered in a month, kg.

(30) n = the number of organic compounds in the vent gas.

(31) p = the number of different coating materials applied in a month.

(32) q = the number of different materials added to the coating material.

(33) Q_{sd} = the volumetric flow rate of gases entering or exiting the control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm)/h.

(34) R = the overall organic HAP control efficiency, percent.

(35) R_v = the organic volatile matter collection and recovery efficiency, percent.

(36) S = the mass organic HAP emitted per mass of material applied, kg/kg.

(37) 0.0416 = conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(38) 12.0 = the molecular weight of carbon.

Emission Standards and Compliance Dates

§ 63.3320 What emission standards must I meet?

(a) If you own or operate any paper and other web coating affected source that is subject to the requirements of this subpart, you must comply with these requirements on and after the compliance dates as specified in § 63.3330.

(b) You must limit emissions to:

(1) No more than 5 percent of the organic HAP applied for the month at existing sources, and no more than 2 percent of the organic HAP applied for the month at new sources; or

(2) No more than 4 percent of the mass of coating materials applied for the month at existing sources, and no more than 1.6 percent of the mass of coating materials applied for the month at new sources; or

(3) No more than 20 percent of the mass of solids applied for the month at existing sources, and no more than 8 percent of the solids applied for the month at new sources.

(c) You must demonstrate compliance with this standard by following one of the procedures in § 63.3370.

§ 63.3330 When must I comply?

(a) If you own or operate an existing affected source subject to the provisions of this subpart, you must comply by the compliance date. The compliance date is [3 years after publication of the final rule in the **Federal Register**]. You must complete any performance test required in § 63.3360 prior to the compliance date.

(b) If you own or operate a new affected source subject to the provisions of this subpart, you must comply immediately upon start-up of the affected source, or after [the date of publication of the final rule in the **Federal Register**], whichever is later.

(c) If you own or operate a reconstructed affected source subject to the provisions of this subpart, you must comply immediately upon start-up of the affected source, or after [the date of publication of the final rule in the **Federal Register**], whichever is later. Affected sources which have undergone reconstruction as defined in § 63.2 are subject to the requirements for new affected sources. The costs associated with the purchase and installation of air pollution control equipment are not considered in determining whether the affected source has been reconstructed.

Additionally, the costs of retrofitting and replacing of equipment that is installed specifically to comply with this subpart are not considered reconstruction costs.

General Requirements for Compliance With the Emission Standards and for Monitoring and Performance Tests

§ 63.3340 What general requirements must I meet?

Table 1 of this subpart specifies the provisions of subpart A of this part that apply to you if you are subject to this subpart.

§ 63.3350 If I have a control device, what monitoring must I do?

(a) A summary of monitoring you must do follows:

If you operate a web coating line, and have the following:	Then you must:
(1) Intermittently-controlled work stations.	Record parameters related to possible exhaust flow bypass of control device and coating use (paragraph (c) of this section).
(2) Solvent recovery unit	Operate continuous emission monitoring system (CEMS) and perform quarterly audits or measure volatile matter recovered and conduct a liquid-liquid material balance (paragraph (d) of this section).
(3) Oxidizer	Operate continuous parameter monitoring system (CPMS) (paragraph (e) of this section).
(4) Capture system	Monitor capture system operating parameter (paragraph (f) of this section).

(b) Following the date on which the initial performance test of a control device is completed, to demonstrate continuing compliance with the standard, you must monitor and inspect each capture system and each control device used to comply with § 63.3320. You must install and operate the monitoring equipment as specified in paragraphs (c) through (f) of this section.

(c) *Bypass and coating use monitoring.* If you own or operate coating lines with intermittently-controlled work stations, you must monitor bypasses of the control device and the mass of each coating material applied at the work station during any such bypass. You must demonstrate that any coating material applied on an uncontrolled-work station or an intermittently-controlled work station operated in bypass mode is allowed in your compliance demonstration according to § 63.3370(n) through (o). The bypass monitoring must be conducted using at least one of the procedures in paragraphs (c)(1) through (4) of this section for each work station and associated dryer.

(1) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that provides a record indicating whether the exhaust stream from the dryer was directed to the control device or was diverted from the control device. The time and flow control position must be recorded at least once per hour, as well as every time the flow direction is changed. A flow control position indicator must be installed at the entrance to any bypass line that could divert the exhaust stream away from the control device to the atmosphere.

(2) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration; a visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve or damper is maintained in the closed position, and the exhaust stream is not diverted through the bypass line.

(3) *Valve closure continuous monitoring.* Ensure that any bypass line valve or damper is in the closed position through continuous monitoring of valve position when the control device is in operation. The monitoring system must be inspected at least once every month to verify that the monitor will indicate valve position.

(4) *Automatic shutdown system.* Use an automatic shutdown system in which the coating line is stopped when flow is diverted away from the control device to any bypass line when the control device is in operation. The automatic system must be inspected at least once every month to verify that it will detect diversions of flow and will shut down operations.

(d) *Solvent recovery unit.* If you own or operate a solvent recovery unit to comply with § 63.3320, you must meet the requirements in either paragraph (d)(1) or (2) of this section depending on how control efficiency is determined.

(1) *Continuous emission monitoring system (CEMS).* If you are demonstrating compliance with the standard in § 63.3320 through continuous emission monitoring of a control device, you must install, calibrate, operate, and maintain CEMS to measure the total organic volatile matter concentration at both the control device inlet and the outlet such that the reduction efficiency can be determined. Each continuous emission monitor must comply with performance specification 8 or 9 of 40 CFR part 60, appendix B, as appropriate. The requirements of procedure 1, appendix F, of 40 CFR part 60 must also be followed. In conducting the quarterly audits of the monitors as required by procedure 1, appendix F, you must use compounds representative of the gaseous emission stream being controlled.

(2) *Liquid-liquid material balance.* If you are demonstrating compliance with the standard in § 63.3320 through liquid-liquid material balance, you must install, calibrate, maintain, and operate according to the manufacturer's specifications a device that indicates the cumulative amount of volatile matter recovered by the solvent recovery device on a monthly basis. The device must be certified by the manufacturer to be accurate to within ± 2.0 percent by mass.

(e) *Continuous parameter monitoring system (CPMS).* If you are using an oxidizer to comply with the standard in § 63.3320, you must install and operate CPMS according to paragraphs (e)(1) through (6)(vii) of this section:

(1) Each CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four successive cycles of operation to have a valid hour of data.

(2) You must have valid data from at least 90 percent of the hours during which the process operated.

(3) You must determine the hourly average of all recorded readings. Provided all of the recorded readings clearly demonstrate continuous compliance with the standard that applies to you, then you are not required to determine the hourly average of all recorded readings.

(4) You must determine the rolling 3-hour average of all recorded readings for each operating period.

(5) You must record the results of each inspection, calibration, and validation check.

(6) For each temperature monitoring device, you must also:

(i) Locate the temperature sensor as specified in § 63.3360(e)(3).

(ii) Use a temperature sensor with a minimum tolerance of 2.2 degrees Celsius or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a chart recorder is used, it must have a sensitivity in the minor division of at least 20 degrees Fahrenheit.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owners manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 16.7 degrees Celsius of the process temperature sensor's reading.

(vi) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vii) At least monthly, inspect all components for integrity and all electrical connections for continuity, oxidation, and galvanic corrosion.

(f) *Capture system monitoring.* If you are complying with the standard in § 63.3320 through the use of a capture system and control device, you must submit a monitoring plan containing the information specified in paragraphs (f)(1) and (2) of this section. You must monitor the capture system in accordance with paragraph (f)(3) of this section. You must submit the monitoring plan to the Administrator with the compliance status report required by § 63.9(h).

(1) The monitoring plan must:

(i) Identify the operating parameter to be monitored to ensure that the capture efficiency measured during the initial compliance test is maintained; and

(ii) Discuss why this parameter is appropriate for demonstrating ongoing compliance; and

(iii) Identify the specific monitoring procedures.

(2) The monitoring plan must specify the operating parameter value, or range of values, that demonstrate compliance with the standards in § 63.3320. The specified operating parameter, or range of values, must represent the conditions present when the capture system is being properly operated and maintained.

(3) You must conduct monitoring in accordance with the plan submitted to the Administrator unless comments received from the Administrator require an alternate monitoring scheme.

§ 63.3360 What performance test methods must I conduct?

(a) The performance test methods you must conduct are as follows:

If you control organic HAP on your web coating lines by:	You must:
(1) Limiting organic HAP or volatile matter content of coatings.	Determine the organic HAP or volatile matter and weight solids content of coating materials according to procedures in paragraphs (c) and (d) of this section.
(2) Using a capture and control system.	Conduct performance tests to determine: (i) the destruction efficiency of oxidizers according to paragraph (e) of this section; and (ii) the capture efficiency of capture systems according to paragraph (f) of this section.

(b) If you are using a control device to comply with the requirements of § 63.3320, you are not required to conduct a performance test to demonstrate compliance if one or more of the criteria in paragraphs (b)(1) through (3) of this section are met.

(1) The control device is equipped with continuous emission monitors for determining inlet and outlet total organic volatile matter concentration, and capture efficiency has been determined in accordance with the requirements of this subpart, such that an overall organic HAP control efficiency can be calculated, and the continuous emission monitors are used to demonstrate continuous compliance in accordance with § 63.3350; or

(2) You have met the requirements of § 63.7(h) (for waiver of performance testing); or

(3) The control device is a solvent recovery system, and you comply by means of a monthly liquid-liquid material balance.

(c) *Organic HAP content.* If you own or operate a paper and other web coating facility, you must determine the organic HAP weight fraction of each coating material ''as-purchased,'' C_{hi}, by following one of the procedures in paragraphs (c)(1) through (3) of this section, and determine the organic HAP weight fraction of each coating material ''as-applied,'' C_{ahi}, by following the procedures in paragraph (c)(4) of this section.

(1) *Method 311.* You may test the coating material in accordance with Method 311 of appendix A of part 63. The Method 311 determination may be performed by the manufacturer of the coating material and the results provided to the owner or operator. The organic HAP content must be calculated according to the criteria and procedures in paragraphs (c)(1)(i) through (iii) of this section. If the HAP content values are not determined using Method 311, the owner or operator must submit an alternative test method for determining their values for approval by the Administrator. The recovery efficiency of the test method must be determined for all of the target organic HAP and a correction factor, if necessary, must be determined and applied.

(i) Count each organic HAP measured to be present at greater than or equal to 0.1 weight percent for carcinogens and greater than or equal to 1.0 weight percent for noncarcinogens.

(ii) The weight fraction of each organic HAP shall be expressed as a value truncated four places after the decimal point.

(iii) Calculate the weight fraction of organic HAP in the tested material by summing the counted individual organic HAP weight fractions. The total HAP content shall be expressed as a value truncated three places after the decimal point.

(2) *Method 24.* The owner or operator may determine the volatile organic content (i.e., the weight fraction of nonaqueous volatile matter) of the coating material in accordance with § 63.3360(d)(1) and use this value for the organic HAP content for all compliance purposes.

(3) *Formulation data.* The owner or operator may use formulation data to calculate the organic HAP weight fraction of a coating material. Formulation data may be provided to the owner or operator by the manufacturer of the material. In the event of an inconsistency between Method 311 of appendix A of part 63 test data and a facility's formulation data and the Method 311 test value is higher, the Method 311 data will govern. Formulation data may be used provided that the information represents all organic HAP present at a level equal to or greater than 0.1 percent for carcinogens and equal to or greater than 1.0 percent for noncarcinogens in any raw material used, weighted by the mass fraction of each raw material used in the coating material's formulation.

(4) *As-applied organic HAP weight fraction, C_{ahi}.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied organic HAP weight fraction, C_{ahi}, is equal to the as-purchased organic HAP weight fraction, C_{hi}. Otherwise, the as-applied organic HAP weight fraction, C_{ahi}, must be calculated using Equation 3a of § 63.3370.

(d) *Volatile organic and solids content.* If you own or operate a paper and other web coating facility, you must determine the as-purchased volatile organic content, C_{vi}, and solids content, C_{si}, of each coating material applied by following the procedures in paragraph (d)(1) or (2) of this section, and the as-applied volatile organic content, C_{avi}, and solids content, C_{asi}, of each coating material by following the procedures in paragraph (d)(3) of this section.

(1) *Method 24.* You must determine the volatile organic and solids weight fraction of each coating material applied using Method 24 of 40 CFR part 60, appendix A. The Method 24 determination may be performed by the manufacturer of the material and the results provided to the owner or operator. If these values cannot be determined using Method 24, the owner or operator must submit an alternative technique for determining their values for approval by the Administrator.

(2) *Formulation data.* You may determine the volatile organic content of materials based on formulation data and may rely on volatile organic content data provided by material suppliers. In the event of any inconsistency between the formulation data and the results of Test Method 24 of 40 CFR part 60, appendix A, the results of Test Method 24 will govern.

(3) *As-applied volatile organic content, C_{avi}, and solids content, C_{asi}.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied volatile organic content, C_{avi}, is equal to the as-purchased volatile content, C_{vi}, and the as-applied solids content, C_{asi}, is equal to the as-purchased solids content, C_{si}. Otherwise, the as-applied volatile organic content, C_{avi}, must be calculated using Equation 3b of § 63.3370 and the as-applied solids content, C_{asi}, must be calculated using Equation 4 of § 63.3370.

(e) *Destruction efficiency of oxidizer.* If you are using an oxidizer to comply with the standard in § 63.3320, you must conduct a performance test to establish the destruction efficiency of the oxidizer according to the methods and procedures in paragraphs (e)(1) and (2) of this section. You must establish the associated combustion zone temperature for a thermal oxidizer and the associated catalyst bed inlet and outlet temperatures for a catalytic oxidizer according to the procedures in paragraph (e)(3) of this section.

(1) An initial performance test to establish the destruction efficiency of an oxidizer must be conducted such that oxidizer inlet and outlet testing is conducted simultaneously, and the data are reduced in accordance with the reference methods and procedures in paragraphs (e)(1)(i) through (ix):

(i) Method 1 or 1A of 40 CFR part 60, appendix A, must be used for sample and velocity traverses to determine sampling locations.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, must be used to determine gas volumetric flow rate.

(iii) Method 3, 3A, or 3B of 40 CFR part 60, appendix A, must be used for gas analysis to determine dry molecular weight.

(iv) Method 4 of 40 CFR part 60, appendix A, must be used to determine stack gas moisture.

(v) The gas volumetric flow rate, dry molecular weight, and stack gas moisture must be determined for each run specified in paragraph (e)(1)(vii) of this section.

(vi) Method 25 of 40 CFR part 60, appendix A, must be used to determine volatile organic compound concentration, except as provided in paragraphs (e)(1)(vi)(A) through (C) of this section. You must submit notice of the intended test method to the Administrator for approval along with notice of the performance test required under § 63.7(c). You may use Method 25A of 40 CFR part 60, appendix A; if

(A) An exhaust gas volatile organic compound concentration of 50 ppmv or less is required to comply with the standards of § 63.3320; or

(B) The volatile organic compound concentration at the inlet to the control system and the required level of control are such that result in exhaust gas volatile organic compound concentrations of 50 ppmv or less; or

(C) Because of the high efficiency of the control device, the anticipated volatile organic compound concentration at the control device exhaust is 50 ppmv or less, regardless of inlet concentration.

(vii) Except as provided in § 63.7(e)(3), each performance test must consist of three separate runs; each run conducted for at least 1 hour under the conditions that exist when the affected source is operating under normal operating conditions. For the purpose of determining volatile organic compound concentrations and mass flow rates, the average of the results of all the runs will apply.

(viii) Organic volatile matter mass flow rates must be determined for each run specified in paragraph (e)(1)(vii) of this section using Equation 1:

$$M_f = Q_{sd}\, C_c\, [12]\, [0.0416]\, [10^{-6}] \qquad \text{Eq 1}$$

(ix) Emission control device efficiency must be determined using Equation 2:

$$E = \frac{M_{fi} - M_{fo}}{M_{fi}} \qquad \text{Eq 2}$$

(2) You must record such process information as may be necessary to determine the conditions in existence at the time of the performance test. Operations during periods of start-up, shutdown, and malfunction will not constitute representative conditions for the purpose of a performance test.

(3) For the purpose of determining the value of the oxidizer operating parameter that must demonstrate continuing compliance, the average of the values recorded during the performance test must be computed according to the procedures in this paragraph (e)(3). For an oxidizer other than catalytic oxidizer, the owner or operator must establish as the operating parameter the minimum combustion temperature in the combustion chamber. This must be accomplished by locating the temperature sensor in the combustion zone. For a catalytic oxidizer, the owner or operator must establish as the operating parameters the minimum gas temperature at the inlet and the temperature rise across the catalyst bed. This must be accomplished by locating temperature sensors at both the inlet and outlet of the catalyst bed. You must collect temperature data every 15 minutes during the entire period of the 3-hour performance test and determine the average temperature over the 3-hour performance test by computing the average of all of the 15-minute readings.

(f) *Capture efficiency.* If you are using an oxidizer to comply with the standard in § 63.3320, you must determine capture efficiency of the capture system using the procedures in paragraph (f)(1),(2), or (3) of this section, as applicable.

(1) You may assume your capture efficiency, CE, equals 100 percent if your capture system is a permanent total enclosure. You must confirm that your capture system is a permanent total enclosure by demonstrating that it meets the requirements of section 6 of EPA Method 204 of 40 CFR part 51, appendix M, and that all exhaust gases from the enclosure are delivered to a control device.

(2) You may determine capture efficiency, CE, according to the protocols for testing temporary total enclosures that are specified in Methods 204 and 204A through F of 40 CFR part 51, appendix M. You may exclude never-controlled work stations from such capture efficiency determinations.

(3) You may use any capture efficiency protocol and test methods that satisfy the criteria of either the Data Quality Objective or the Lower Confidence Limit approach as described in appendix A of subpart KK of this part. The owner or operator may exclude never-controlled work stations from such capture efficiency determinations.

Requirements for Showing Compliance

§ 63.3370 How do I demonstrate compliance with the emission standards?

(a) A summary of how you must demonstrate compliance follows:

If you choose to demonstrate compliance by:	Then you must demonstrate that:
(1) Use of ''as-purchased'' compliant coating materials.	(i) Each coating material used at an existing source does not exceed 0.04 kg organic HAP per kg coating material (*i.e.*, 4 weight percent) and each coating material used at a new source does not exceed 0.016 kg organic HAP per kg coating material (*i.e.*, 1.6 weight percent) as-purchased (paragraph (b) of this section); or
	(ii) Each coating material used at an existing source does not exceed 0.2 kg organic HAP per kg solids (*i.e.*, 20 weight percent solids) and each coating material used at a new source does not exceed 0.08 kg organic HAP per kg solids (*i.e.*, 8 weight-percent solids) as-purchased (paragraph (b) of this section).
(2) Use of ''as-applied'' compliant coating materials.	(i) Each coating material used at an existing source does not exceed 0.04 kg organic HAP per kg coating material (*i.e.*, 4 weight percent) and each coating material used at a new source does not exceed 0.016 kg organic HAP per kg coating material (*i.e.*, 1.6 weight percent) as-applied on a monthly average basis (paragraph (c)(1) of this section); or
	(ii) Each coating material used at an existing source does not exceed 0.2 kg organic HAP per kg solids (*i.e.*, 20 weight-percent solids) and each coating material used at a new source does not exceed 0.08 kg organic HAP per kg solids (*i.e.*, 8 weight percent) as-applied on a monthly average basis (paragraph (c)(2) of this section); or
	(iii) Monthly average of all materials used at an existing source does not exceed 0.04 kg organic HAP per kg coating material (*i.e.*, 4 weight percent) and monthly average of all materials used at a new source does not exceed 0.016 kg organic HAP per kg coating material (*i.e.*, 1.6 weight percent) as-applied on a monthly average basis (paragraph (c)(3) of this section); or
	(iv) Monthly average of all coating material used at an existing source does not exceed 0.2 kg organic HAP per kg solids and monthly average of all coating materials used at a new source does not exceed 0.08 kg organic HAP per kg solids as-applied on a monthly average basis (paragraph (c)(4) of this section).
(3) Tracking total monthly HAP applied	Total monthly organic HAP applied does not exceed the calculated limit based on emission limitations (paragraph (d) of this section).

If you choose to demonstrate compliance by:	Then you must demonstrate that:
(4) Use of a control device	Overall organic HAP control efficiency is equal to 95 percent at an existing source and 98 percent at a new source, on a monthly basis (paragraph (e) of this section).
(5) Use of a combination of compliant coatings and control devices, and maintain an acceptable equivalent emission rate.	(i) Average equivalent emission rate does not exceed 0.2 kg organic HAP per kg solids at an existing source and 0.08 kg organic HAP per kg solids at a new source on a monthly average as-applied basis (paragraph (f) of this section); or
	(ii) Average equivalent emission rate does not exceed 0.04 kg organic HAP per kg coating material at an existing source and 0.016 kg organic HAP per coating material at a new source on a monthly average as-applied basis (paragraph (g) of this section); or
	(iii) Average equivalent emission rate does not exceed the calculated limit based on emission limitations (paragraph (h) of this section).

(b) *As-purchased ''compliant'' coating materials.* (1) If you comply by using coatings that individually meet the limits in § 63.3320(b)(2) or (3), you must demonstrate that each coating material applied during the month at an existing source contains no more than 0.04 weight fraction organic HAP or 0.2 kg organic HAP per kg solids, and that each coating material applied during the month at a new source contains no more than 0.016 weight fraction organic HAP or 0.08 kg organic HAP per kg solids, on an as-purchased basis, as determined in accordance with § 63.3360(c).

(2) You are in compliance with emission limits in § 63.3320(b)(2) and (3) if each coating material applied at an existing source is applied as-purchased and contains no more than 0.04 kg organic HAP per kg coating material or 0.2 kg organic HAP per kg solids, and each coating material applied at a new source is applied as-purchased and contains no more than 0.016 kg organic HAP per kg coating material or 0.08 kg organic HAP per kg solids.

(c) *As-applied ''compliant'' coating materials.* If you comply by using coatings that meet the limits in § 63.3320(b)(2) or (3) as-applied, you must demonstrate compliance by following one of the procedures in paragraph (c)(1) through (4) of this section. Compliance is determined in accordance with paragraph (c)(5) of this section.

(1) *Each coating material as-applied meets the weight fraction of coating standard (§ 63.3320(b)(2)).* You must demonstrate that each coating material applied at an existing source during the month contains no more than 0.04 kg organic HAP per kg coating material applied, and each coating material applied at a new source contains no more than 0.016 kg organic HAP per kg coating material applied on a monthly average as-applied basis as determined in accordance with paragraphs (c)(1)(i) through (ii) of this section. You must calculate the as-applied organic HAP content of as-purchased materials which are reduced, thinned, or diluted prior to application.

(i) Determine the organic HAP content or volatile organic content of each coating material applied on an as-purchased basis in accordance with § 63.3360(c).

(ii) Calculate the monthly average as-applied organic HAP content, C_{ahi}, of each coating material using Equation 3a:

$$C_{ahi} = \frac{(C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij})}{M_i + \sum_{j=1}^{q} M_{ij}} \qquad \text{Eq 3a}$$

or calculate the monthly average as-applied volatile organic content, Cavi, of each coating material using Equation 3b:

$$C_{avi} = \frac{(C_{vi}M_i + \sum_{j=1}^{q} C_{vij}M_{ij})}{M_i + \sum_{j=1}^{q} M_{ij}} \qquad \text{Eq 3b}$$

(2) *Each coating material as-applied meets the weight fraction of solids standard (§ 63.3320(b)(3)).* You must demonstrate that each coating material applied at an existing source contains no more than 0.20 kg of organic HAP per kg of solids applied, and each coating material applied at a new source contains no more than 0.08 kg of organic

HAP per kg of solids applied on a monthly average as-applied basis. You must demonstrate compliance in accordance with paragraphs (c)(2)(i) and (ii) of this section.

(i) Determine the as-applied solids content of each coating material following the procedure in § 63.3360(d). You must calculate the monthly average as-applied solids content of materials which are reduced, thinned, or diluted prior to application, using Equation 4:

$$C_{asi} = \frac{(C_{si}M_i + \sum_{j=1}^{q} C_{sij}M_{ij})}{M_i + \sum_{j=1}^{q} M_{ij}} \quad \text{Eq 4}$$

(ii) Calculate the as-applied organic HAP to solids ratio, H_{si}, using Equation 5:

$$H_{si} = \frac{C_{ahi}}{C_{asi}} \quad \text{Eq 5}$$

(3) *Monthly average organic HAP content of all coating materials as-applied is less than weight percent limit (§ 63.3320(b)(2)).* Demonstrate that the monthly average as-applied organic HAP content, H_L, of all coating materials applied at an existing source is less than 0.04 kg organic HAP per kg of material applied, and all coating materials applied at a new source are less than 0.016 kg organic HAP per kg of material applied, as determined by Equation 6:

$$H_L = \frac{\sum_{i=1}^{p} (M_i C_{hi} + \sum_{j=1}^{q} M_{ij} C_{hij})}{\sum_{i=1}^{p} (M_i + \sum_{j=1}^{q} M_{ij})} \quad \text{Eq 6}$$

(4) *Monthly average HAP content of all coating materials, as-applied, is less than weight fraction of solids limit (§ 63.3320(b)(3)).* Demonstrate that the monthly average as-applied organic HAP content on the basis of solids applied, H_S, of all coating materials applied at an existing source is less than 0.20 kg organic HAP per kg solids applied, and all coating materials applied at a new source are less than 0.08 kg organic HAP per kg solids applied, as determined by Equation 7:

$$H_S = \frac{\sum_{i=1}^{p} (M_i C_{hi} + \sum_{j=1}^{q} M_{ij} C_{hij})}{\sum_{i=1}^{p} (M_i C_{Si} + \sum_{j=1}^{q} M_{ij} C_{Sij})} \quad \text{Eq 7}$$

(5) The affected source is in compliance with emission limits in § 63.3320(b)(2) and (3) if:

(i) The organic HAP content of each coating material as-applied at an existing source is no more than 0.04 kg organic HAP per kg coating material or 0.2 kg organic HAP per kg solids, and the organic HAP content of each coating material as-applied at a new source contains no more than 0.016 kg organic HAP per kg coating material or 0.08 kg organic HAP per kg solids; or

(ii) The monthly average organic HAP content of all as-applied coating materials at an existing source are no more than 0.04 kg organic HAP per kg coating material or 0.2 kg organic HAP per kg solids, and the monthly average organic HAP content of all as-applied coating materials at a new source are no more than 0.016 kg organic HAP per kg coating material or 0.08 kg organic HAP per kg solids.

(d) *Monthly allowable HAP mass.* Demonstrate that the total monthly organic HAP applied, H_m, as determined by Equation 8, is less than the calculated equivalent allowable organic HAP, H_a, as determined by paragraph (l) of this section:

$$H_m = \sum_{i=1}^{p} (M_i C_{hi} + \sum_{j=1}^{q} M_{ij} C_{hij}) \qquad \text{Eq 8}$$

(e) *Capture and control to reduce emissions to no more than allowable limit (§ 63.3320(b)(1)).* Operate a capture system and control device and demonstrate an overall organic HAP control efficiency of at least 95 percent at an existing source and at least 98 percent at a new source for each month. Unless either of the cases described in paragraph (e)(1) or (2) of this section applies to the affected facility, you must demonstrate compliance in accordance with the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device, or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer.

(1) If the affected source has only always-controlled work stations and operates more than one capture system or more than one control device, you must demonstrate compliance in accordance with the provisions of either paragraph (n) or (p) of this section.

(2) If the affected source operates one or more never-controlled work stations or one or more intermittently-controllable work stations, you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section.

(f) *Capture and control to achieve weight fraction of solids applied limit (§ 63.3320(b)(3)).* Operate a capture system and control device and limit the organic HAP emission rate from an existing source to no more than 0.20 kg organic HAP emitted per kg solids applied, and from a new source to no more than 0.08 kg organic HAP emitted per kg solids applied as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controllable work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device, or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer.

(g) *Capture and control to achieve weight fraction limit (§ 63.3320(b)(2)).* Operate a capture system and control device and limit the organic HAP emission rate to no more than 0.04 kg organic HAP emitted per kg coating material applied at an existing source, and no more than 0.016 kg organic HAP emitted per kg coating material applied at new sources as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controllable work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device, or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer.

(h) *Capture and control to achieve allowable emission rate, H_a.* Operate a capture system and control device and limit the monthly organic HAP emissions to less than the allowable emissions as calculated in accordance with paragraph (l) of this section. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controllable work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (n) of this section. Otherwise, the owner or operator must demonstrate compliance following the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device, or the procedure in paragraph (k) of this section when emissions are controlled by an oxidizer.

(i) *Solvent recovery device compliance demonstration.* If you use a solvent recovery device to control emissions, you must show compliance by following the procedures in either paragraph (i)(1) or (2) of this section:

(1) *Liquid-liquid material balance.* Perform a liquid-liquid material balance for each and every month as specified in paragraphs (i)(1)(i) through (v) of this section and use the applicable equations in paragraphs (i)(1)(vi) through (ix) of this section to convert the data to units of the selected compliance option in paragraphs (e) through (h) of this section. Compliance is determined in accordance with paragraph (i)(1)(x) of this section.

(i) Measure the mass of each coating material applied on the coating line or group of coating lines controlled by a common solvent recovery device during the month.

(ii) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied, organic HAP emission rate based on material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied, C_{ahi}, during the month following the procedure in § 63.3360(c).

(iii) Determine the volatile organic content, Cavi, of each coating material as-applied during the month following the procedure in § 63.3360(d).

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied or emission of less than the calculated allowable organic HAP, determine the solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(v) Measure and monitor the amount of volatile organic matter recovered for the month according to the procedures in § 63.3350(d)(2).

(vi) *Recovery efficiency, R_v.* Calculate the volatile organic matter collection and recovery efficiency, Rv, using Equation 9:

$$R_v = 100 \frac{M_{vr}}{\sum_{i=1}^{p}(M_i C_{vi} + \sum_{j=1}^{q} M_{ij} C_{vij})} \quad \text{Eq 9}$$

(vii) *Organic HAP emitted, H_e.* Calculate the organic HAP emitted during the month, H_e, using Equation 10:

$$H_e = [1 - \frac{R_v}{100}][\sum_{i=1}^{p} (C_{hi} M_i + \sum_{j=1}^{q} C_{hij} M_{ij})] \quad \text{Eq 10}$$

(viii) *Organic HAP emission rate based on solids applied, L.* Calculate the organic HAP emission rate based on solids applied, L, using Equation 11:

$$L = \frac{H_e}{\sum_{i=1}^{p} (C_{si} M_i + \sum_{j=1}^{q} C_{sij} M_{ij})} \quad \text{Eq 11}$$

(ix) *Organic HAP based on materials applied, S.* Calculate the organic HAP emission rate based on material applied, S, using Equation 12:

$$S = \frac{H_e}{\sum_{i=1}^{p} [M_i + \sum_{j=1}^{q} M_{ij}]} \quad \text{Eq 12}$$

(x) You are in compliance with the emission limitations in § 63.3320(b) if:

(A) The volatile organic matter collection and recovery efficiency, R_v, is 95 percent or greater at an existing source and 98 percent or greater at a new source; or

(B) The organic HAP emission rate based on solids applied, L, is no more than 0.20 kg organic HAP per kg solids applied at an existing source and no more than 0.08 kg organic HAP per kg solids applied at a new source; or

(C) The organic HAP emission rate based on material applied, S, is no more than 0.04 kg organic HAP per kg material applied at an existing source and no more than 0.016 kg organic HAP per kg material applied at a new source; or

(D) The organic HAP emitted during the month, H_e, is less than the calculated allowable organic HAP, H_a, as determined using paragraph (l) of this section.

(2) *Continuous emission monitoring of capture system and control device performance.* Demonstrate initial compliance through a performance test on capture efficiency and continuing compliance through continuous emission monitors and continuous monitoring of capture system operating parameters following the procedures in paragraphs (i)(2)(i) through (vii) of this section. Use the applicable equations specified in paragraphs (i)(2)(viii) through (x) of this section to convert the monitoring and other data into units of the selected compliance option in paragraphs (e) through (h) of this section. Compliance is determined in accordance with paragraph (i)(2)(xi) of this section.

(i) *Recovery efficiency, E.* Continuously monitor the gas stream entering and exiting the control device to determine the total organic volatile matter mass flow rate (*e.g.,* by determining the concentration of the vent gas in grams per cubic meter, and the volumetric flow rate in cubic meters per second, such that the total organic volatile matter mass flow rate in grams per second can be calculated), such that the percent control efficiency, E, of the control device can be calculated for each month using Equation 2 of § 63.3360.

(ii) *Capture efficiency monitoring.* Whenever a coating line is operated, continuously monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture efficiency.

(iii) Determine the percent capture efficiency, CE, in accordance with § 63.3360(f).

(iv) *Control efficiency, R.* Calculate the overall organic HAP control efficiency, R, achieved for each month using Equation 13:

$$R = \frac{(E)\,(CE)}{100} \quad \text{Eq 13}$$

(v) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied, organic HAP emission rate based on materials applied, or emission of less than the calculated allowable organic HAP, measure the mass of each coating material applied on the coating line or group of coating lines controlled by a

common control device during the month.

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied, organic HAP emission rate based on material applied or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied, $C_{ahi,}$ during the month following the procedure in § 63.3360(c).

(vii) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied or emission of less than the calculated allowable organic HAP, determine the solids content of each coating material as-applied, Casi, during the month following the procedure in § 63.3360(d).

(viii) *Organic HAP emitted, H_e.* Calculate the organic HAP emitted during the month, H_e, for each month using Equation 14:

$$H_e = [1 - (\frac{E}{100}\frac{CE}{100})][\sum_{i=1}^{p} C_{ahi}M_i] \qquad \text{Eq 14}$$

(ix) *Organic HAP emission rate based on solids applied, L.* Calculate the organic HAP emission rate based on solids applied, L, using Equation 11 of this section.

(x) *Organic HAP based on materials applied, S.* Calculate the organic HAP emission rate based on material applied, S, using Equation 12 of this section.

(xi) *Compare actual performance to performance required by compliance option.* The affected source is in compliance with the emission limitations in § 63.3320(b) if the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(A) The organic volatile matter collection and recovery efficiency, R_v, is 95 percent or greater at an existing source and 98 percent or greater at a new source; or

(B) The organic HAP emission rate based on solids applied, L, is no more than 0.20 kg organic HAP per kg solids applied at an existing source and no more than 0.08 kg organic HAP per kg solids applied at a new source; or

(C) The organic HAP emission rate based on material applied, S, is no more than 0.04 kg organic HAP per kg material applied at an existing source and no more than 0.016 kg organic HAP per kg material applied at a new source; or

(D) The organic HAP emitted during the month, H_e, is less than the calculated allowable organic HAP, H_a, as determined using paragraph (l) of this section.

(j) [Reserved]

(k) *Oxidizer compliance demonstration procedures.* If you use an oxidizer to control emissions, you must show compliance by following the procedures in paragraph (k)(1) of this section. Use the applicable equations specified in paragraph (k)(2) of this section to convert the monitoring and other data into units of the selected compliance option in paragraph (e) through (h) of this section. Compliance is determined in accordance with paragraph (k)(3) of this section.

(1) Demonstrate initial compliance through performance tests of capture efficiency and control device efficiency and continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (k)(1)(i) through (vi) of this section:

(i) Determine the oxidizer destruction efficiency, E, using the procedure in § 63.3360(e).

(ii) Determine the capture system capture efficiency, CE, in accordance with § 63.3360(f).

(iii) *Capture and control efficiency monitoring.* Whenever a coating line is operated, continuously monitor the operating parameters established in accordance with § 63.3350(e) and (f) to ensure capture and control efficiency.

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied, organic HAP emission rate based on materials applied, or emission of less than the calculated allowable organic HAP, measure the mass of each coating material applied on the coating line or group of coating lines controlled by a common oxidizer during the month.

(v) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied, organic HAP emission rate based on material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied, C_{asi}, during the month following the procedure in § 63.3360(c).

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on solids applied or emission of less than the calculated allowable organic HAP, determine the solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(2) Convert the information obtained under paragraph (k)(1) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (k)(2)(i) through (iv) of this section.

(i) *Control efficiency,* R. Calculate the overall organic HAP control efficiency, R, achieved using Equation 13 of this section.

(ii) *Organic HAP emitted, H_e.* Calculate the organic HAP emitted during the month, H_e, using Equation 14 of this section.

(iii) *Organic HAP emission rate based on solids applied, L.* Calculate the organic HAP emission rate based on solids applied, L, for each month using Equation 11 of this section.

(iv) *Organic HAP based on materials applied, S.* Calculate the organic HAP emission rate based on material applied, S, using Equation 12 of this section.

(3) You are in compliance with the emission limitations in § 63.3320(b) if the oxidizer is operated such that the average operating parameter value is greater than the operating parameter value established in accordance with § 63.3360(e) for each 3-hour period, and the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(i) The overall organic HAP control efficiency, R, is 95 percent or greater at an existing source and 98 percent or greater at a new source; or

(ii) The organic HAP emission rate based on solids applied, L, is no more than 0.20 kg organic HAP per kg solids applied at an existing source and no more than 0.08 kg organic HAP per kg solids applied at a new source; or

(iii) The organic HAP emission rate based on material applied, S, is no more than 0.04 kg organic HAP per kg material applied at an existing source and no more than 0.016 kg organic HAP per kg material applied at a new source; or

(iv) The organic HAP emitted during the month, H_e, is less than the calculated allowable organic HAP, H_a,

as determined using paragraph (l) of this section.

(l) *Monthly allowable HAP emissions.* This paragraph (l) provides the procedures and calculations for determining monthly allowable organic HAP emissions, H_a, for use in demonstrating compliance in accordance with paragraph (d), (h), (i)(1)(xi)(D), (i)(2)(xi)(D), or (k)(1)(xi)(D) of this section. You will need to determine the amount of material applied at ≥20 weight percent solids and the amount of material applied at <20 weight percent solids. The allowable organic HAP limit is then calculated based on material applied at ≥20 weight percent solids complying with 0.2 kg organic HAP per kg solids at existing sources or 0.08 kg organic HAP per kg solids at new sources, and material applied at <20 weight percent solids complying with 4 weight percent organic HAP at existing sources and 1.6 weight-percent organic HAP at new sources, as follows:

(1) Determine the as-purchased mass of each coating material applied each month, M_i.

(2) Determine the as-purchased solids content of each coating material applied each month, in accordance with § 63.3360(d)(1), C_{si}.

(3) Determine the as-purchased mass fraction of each coating material which was applied at 20 weight percent or greater solids content, on an as-applied basis, G_i.

(4) Determine the total mass of each solvent, diluent, thinner, or reducer added to coating materials which were applied at less than 20 weight percent solids content on an as-applied basis each month, M_{ij}.

(5) Calculate the monthly allowable organic HAP emissions, H_a, using Equation 15a for existing sources:

$$H_a = 0.20\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.04\left[\sum_{i=1}^{p} M_i (1 - G_i) + \sum_{j=1}^{q} M_{Lj}\right] \quad \text{Eq 15a}$$

or Equation 15b for new sources:

$$H_a = 0.08\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.016\left[\sum_{i=1}^{p} M_i (1 - G_i) + \sum_{j=1}^{q} M_{Lj}\right] \quad \text{Eq 15b}$$

(m) [Reserved]

(n) *Combinations of capture and control.* If you operate more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controllable work stations, you must calculate HAP emissions according to the procedures in paragraphs (n)(1) through (4) of this section, and use the calculation procedures specified in paragraph (n)(5) of this section to convert the monitoring and other data into units of the selected control option in paragraphs (e) through (h) of this section. Use the procedures specified in paragraph (n)(7) of this section to demonstrate compliance.

(1) *Solvent recovery system using liquid-liquid balance compliance demonstration.* If you choose to comply by means of a liquid-liquid mass balance for each solvent recovery system used to control one or more coating lines, you must determine the organic HAP emissions for those coating lines controlled by that solvent recovery system either:

(i) In accordance with paragraphs (i)(1)(i) through (iii) and (v) through (vii) of this section if the coating lines controlled by that solvent recovery system have only always-controlled work stations; or

(ii) In accordance with paragraphs (i)(1)(ii) and (iii), (v) and (vi), and (o) of this section if the coating lines controlled by that solvent recovery system have one or more never-controlled or intermittently-controllable work stations.

(2) *Solvent recovery system using performance test compliance demonstration and CEMS.* To demonstrate compliance through an initial test of capture efficiency, continuous monitoring of a capture system operating parameter, and a CEMS on each solvent recovery system used to control one or more coating lines, you must:

(i) For each capture system delivering emissions to that solvent recovery system, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture system efficiency; and

(ii) Determine the organic HAP emissions for those coating lines served by each capture system delivering emissions to that solvent recovery system either:

(A) In accordance with paragraphs (i)(2)(i) through (iii), (v) and (vi), and (viii) of this section if the coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (i)(2)(i) through (iii), (vi), and (o) of this section if the coating lines served by that capture and control system have one or more never-controlled or intermittently-controllable work stations.

(3) *Oxidizer.* To demonstrate compliance through performance tests of capture efficiency and control device efficiency, continuous monitoring of capture system, and CPMS for control device operating parameters for each oxidizer used to control emissions from one or more coating lines, you must:

(i) Monitor the operating parameter established in accordance with § 63.3350(e) to ensure control device efficiency; and

(ii) For each capture system delivering emissions to that oxidizer, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture efficiency; and

(iii) Determine the organic HAP emissions for those coating lines served by each capture system delivering emissions to that oxidizer either:

(A) In accordance with paragraphs (k)(1)(i) through (v) and (vii) of this section if the coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (k)(1)(i) through (iii), (v), and (o) of this section if the coating lines served by that capture and control system have one or more never-controlled or intermittently-controllable work stations.

(4) *Uncontrolled coating lines.* If you own or operate one or more

uncontrolled coating lines, you must determine the organic HAP applied on those coating lines using Equation 8 of this section. The organic HAP emitted from an uncontrolled coating line is equal to the organic HAP applied on that coating line.

(5) Convert the information obtained under paragraphs (n)(1) through (4) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (n)(5)(i) through (iv) of this section.

(i) *Organic HAP emitted, H_e.* Calculate the organic HAP emissions for the affected source for the month by summing all organic HAP emissions calculated according to paragraphs (n)(1), (2)(ii), (3)(iii), and (4) of this section.

(ii) *Solids applied, C_{asi}.* If demonstrating compliance on the basis of organic HAP emission rate based on solids applied or emission of less than the calculated allowable organic HAP, the owner or operator must determine the solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(iii) *Organic HAP emission rate based on solids applied, L.* Calculate the organic HAP emission rate based on solids applied, L, for each month using Equation 11 of this section.

(iv) *Organic HAP based on materials applied, S.* Calculate the organic HAP emission rate based on material applied, S, using Equation 12 of this section.

(6) *Compliance.* The affected source is in compliance with the emission limitations in § 63.3320(b) for the month if all operating parameters required to be monitored under paragraphs (n)(1) through (3) of this section were maintained at the values established under §§ 63.3350 and 63.3360; and

(i) The total mass of organic HAP emitted by the affected source based on solids applied, L, is no more than 0.20 kg organic HAP per kg solids applied at an existing source, and no more than 0.08 kg organic HAP per kg solids applied at a new source; or

(ii) The total mass of organic HAP emitted by the affected source based on material applied, S, is no more than 0.04 kg organic HAP per kg material applied at an existing source, and no more than 0.016 kg organic HAP per kg material applied at a new source; or

(iii) The total mass of organic HAP emitted by the affected source during the month, H_e, is less than the calculated allowable organic HAP, H_a, as determined using paragraph (l) of this section; or

(iv) The total mass of organic HAP emitted by the affected source was not more than 5 percent of the total mass of organic HAP applied for the month at an existing source, and no more than 2 percent of the total mass of organic HAP applied for the month at a new source. The total mass of organic HAP applied by the affected source in the month must be determined by the owner or operator using Equation 8 of this section.

(o) *Intermittently-controllable and never-controlled work stations.* If you have been expressly referenced to this paragraph by paragraphs (n)(1)(ii), (n)(2)(ii)(B), or (n)(3)(iii)(B) of this section for calculation procedures to determine organic HAP emissions for your intermittently-controllable and never-controlled work stations you must:

(1) Determine the sum of the mass of all coating materials as-applied on intermittently-controllable work stations operating in bypass mode and the mass of all coating materials as-applied on never-controlled work stations during the month, M_{Bi}.

(2) Determine the sum of the mass of all coating materials as-applied on intermittently-controllable work stations operating in a controlled mode and the mass of all coating materials applied on always-controlled work stations during the month, M_{Ci}.

(3) *Liquid-liquid compliance demonstration.* For each coating line or group of coating lines for which you use the provisions of paragraph (n)(1)(ii) of this section, you must calculate the organic HAP emitted during the month using Equation 16:

$$H_e = [\sum_{i=1}^{p} M_{Ci} C_{ahi}][1 - \frac{R_v}{100}] + [\sum_{i=1}^{p} M_{Bi} C_{ahi}] \qquad \text{Eq 16}$$

(4) *Performance test to determine capture efficiency and control device efficiency.* For each coating line or group of coating lines for which you use the provisions of paragraph (n)(2)(ii)(B) or (n)(3)(iii)(B) of this section, you must calculate the organic HAP emitted during the month, H_e, using Equation 17:

$$H_e = [\sum_{i=1}^{p} M_{Ci} C_{ahi}][1 - (\frac{E}{100}\frac{CE}{100})] + [\sum_{i=1}^{p} M_{Bi} C_{ahi}] \qquad \text{Eq 17}$$

(p) *Always-controlled work stations with more than one capture and control system.* If you operate more than one capture system or more than one control device, and only have always-controlled work stations, then you are in compliance with the emission limitation in § 63.3320(b)(1) for the month if for each coating line or group of coating lines controlled by a common control device:

(1) The volatile matter collection and recovery efficiency, R_v, as determined by paragraphs (i)(1)(i), (iii), (v), and (vi) of this section, is at least 95 percent at an existing source and at least 98 percent at a new source; or

(2) The overall organic HAP control efficiency as determined by paragraphs (i)(2)(i) through (v) of this section for each coating line or group of coating lines served by that control device and a common capture system is at least 95 percent at an existing source and at least 98 percent at a new source; or

(3) The overall organic HAP control efficiency as determined by paragraphs (k)(1)(i) through (iii) and (k)(2)(i) of this section for each coating line or group of coating lines served by that control device and a common capture system is at least 95 percent at an existing source and at least 98 percent at a new source.

Reports and Records

§ 63.3400 What reports must I submit?

(a) Each owner or operator of an affected source subject to this subpart must submit the reports specified in paragraphs (b) through (h) of this section to the Administrator:

(b) You must submit an initial notification as required by § 63.9(b).

(1) Initial notification for existing sources must be submitted no later than 1 year before the compliance date specified in § 63.3330(a).

(2) Initial notification for new and reconstructed sources must be submitted as required by § 63.9(b).

(3) For the purpose of this rule, a title V or part 70 permit application may be used in lieu of the initial notification required under § 63.9(b), provided the same information is contained in the permit application as required by § 63.9(b), and the State to which the permit application has been submitted has an approved operating permit program under part 70 of this chapter and has received delegation of authority from EPA to implement and enforce this subpart.

(4) If you are using a permit application in lieu of an initial notification in accordance with paragraph (b)(3) of this section, the permit application must be submitted by the same due date specified for the initial notification.

(c) You must submit a semi-annual compliance report according to paragraphs (c)(1) and (2) of this section.

(1) Compliance report dates.

(i) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.3330(a) and ending on June 30 or December 31, whichever date is the first date following the end of the calendar half immediately following the compliance date that is specified for your source in § 63.3330(a).

(ii) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the calendar half immediately following the compliance date that is specified for your affected source in § 63.3330(a).

(iii) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iv) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(v) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and the permitting authority has established dates for submitting semiannual reports pursuant to § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (c)(1)(i) through (iv) of this section.

(2) The compliance report must contain the following information in paragraphs (c)(2)(i) through (vi) of this section:

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the accuracy of the content of the report.

(iii) Date of report and beginning and ending dates of the reporting period.

(iv) If there are no deviations from any emission limitations (emission limit or operating limit) that apply to you, a statement that there were no deviations from the emission limitations during the reporting period, and that no continuous monitoring system (CMS) was inoperative, inactive, malfunctioning, out-of-control, repaired, or adjusted.

(v) For each deviation from an emission limitation (emission limit or operating limit) that applies to you that occurs at an affected source where you are not using a CEMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(2)(i) through (iii) of this section, and:

(A) The total operating time of each affected source during the reporting period.

(B) Information on the number, duration, and cause of deviations (including unknown cause), if applicable, and the corrective action taken.

(C) Information on the number, duration, and cause for CPMS downtime incidents, if applicable, other than downtime associated with zero and span and other daily calibration checks.

(vi) For each deviation from an emission limit occurring at an affected source where you are using a CEMS to comply with the emission limit in this subpart, you must include the information in paragraphs (c)(2)(i) through (iii) and (vi)(A) through (J) of this section.

(A) The date and time that each malfunction started and stopped.

(B) The date and time that each CEMS and CPMS, if applicable, was inoperative, except for zero (low-level) and high-level checks.

(C) The date and time that each CEMS and CPMS, if applicable, was out-of-control, including the information in § 63.8(c)(8).

(D) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of start-up, shutdown, or malfunction or during another period.

(E) A summary of the total duration (in hours) of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(F) A breakdown of the total duration of the deviations during the reporting period into those that are due to start-up, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(G) A summary of the total duration (in hours) of CEMS and CPMS downtime during the reporting period, and the total duration of CEMS and CPMS downtime as a percent of the total source operating time during that reporting period.

(H) A breakdown of the total duration of CEMS and CPMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, nonmonitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and other unknown causes.

(I) The date of the latest CEMS and CPMS certification or audit.

(J) A description of any changes in CEMS, CPMS, or controls since the last reporting period.

(d) You must submit a Notification of Performance Tests as specified in §§ 63.7 and 63.9(e) if you are complying with the emission standard using a control device and you are required to conduct a performance test. This notification, and the site-specific test plan required under § 63.7(c)(2), must identify the operating parameters to be monitored to ensure that the capture efficiency of the capture system and the control efficiency of the control device measured during the performance test is maintained. Unless EPA objects to the parameter or requests changes, you may consider the parameter approved.

(e) You must submit a Notification of Compliance Status as specified in § 63.9(h).

(f) You must submit performance test reports as specified in § 63.10(d)(2) if you are using a control device to comply with the emission standard, and you have not obtained a waiver from the performance test requirement or you are not exempted from this requirement by § 63.3360(b). The performance test must be submitted as part of the notification of compliance status required in § 63.3400(i).

(g) You must submit start-up, shutdown, and malfunction reports as specified in § 63.10(d)(5), except that the provisions in subpart A of this part

pertaining to start-ups, shutdowns, and malfunctions do not apply unless a control device is used to comply with this subpart.

(1) If actions taken by an owner or operator during a start-up, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are not completely consistent with the procedures specified in the source's start-up, shutdown, and malfunction plan required by § 63.6(e)(3), the owner or operator must state such information in the report. The start-up, shutdown, or malfunction report must consist of a letter containing the name, title, and signature of the responsible official who is certifying its accuracy and must be submitted to the Administrator.

(2) Separate start-up, shutdown, or malfunction reports are not required if the information is included in the report specified in paragraph (c)(2)(vi) of this section.

§ 63.3410 What records must I keep?

(a) Each owner or operator of an affected source subject to this subpart must maintain the records specified in paragraphs (a)(1) through (3) of this section on a monthly basis in accordance with the requirements of § 63.10(b)(1):

(1) Records specified in § 63.10(b)(2) of all measurements needed to demonstrate compliance with this standard, including:

(i) Continuous emission monitor data in accordance with the requirements of § 63.3350(d);

(ii) Control device and capture system operating parameter data in accordance with the requirements of § 63.3350(c), (e), and (f);

(iii) Organic HAP content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(c);

(iv) Volatile matter and solids content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(d);

(v) Overall control efficiency determination using capture efficiency test and oxidizer destruction efficiency test in accordance with the requirements of § 63.3360(e) and (f); and

(vi) Material usage, HAP usage, volatile matter usage, and solids usage and compliance demonstrations using these data in accordance with the requirements of § 63.3370(b), (c), and (e).

(2) Records specified in § 63.10(c) for each continuous monitoring system operated by the owner or operator in accordance with the requirements of § 63.3350(b).

(b) Each owner or operator of an affected source subject to this subpart must maintain records of all liquid-liquid material balances performed in accordance with the requirements of § 63.3370. The records must be maintained in accordance with the requirements of § 63.10(b).

Delegation of Authority

§ 63.3420 What authorities may be delegated to the States?

(a) In delegating implementation and enforcement authority to a State under 40 CFR part 63, subpart E, the authorities contained in paragraph (b) of this section must be retained by the Administrator and not transferred to a State.

(b) Authority which will not be delegated to States: § 63.3360(c), approval of alternate test method for organic HAP content determination; § 63.3360(d), approval of alternate test method for volatile matter determination.

§§ 63.3421–63.3479 [Reserved]

Tables

TABLE 1 TO SUBPART JJJJ.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART JJJJ

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.1(a)(1)–(4)	Yes.	
§ 63.1(a)(5)	No	Reserved.
§ 63.1(a)(6)–(8)	Yes.	
§ 63.1(a)(9)	No	Reserved.
§ 63.1(a)(10)–(14)	Yes.	
§ 63.1(b)(1)	No	Subpart JJJJ specifies applicability.
§ 63.1(b)(2)–(3)	Yes.	
§ 63.1(c)(1)	Yes.	
§ 63.1(c)(2)	No	Area sources are not subject to emission standards of subpart JJJJ.
§ 63.1(c)(3)	No	Reserved.
§ 63.1(c)(4)	Yes.	
§ 63.1(c)(5)	Yes.	
§ 63.1(d)	No	Reserved.
§ 63.1(e)	Yes.	
§ 63.2	Yes	Additional definitions in subpart JJJJ.
§ 63.3(a)–(c)	Yes.	
§ 63.4(a)(1)–(3)	Yes.	
§ 63.4(a)(4)	No	Reserved.
§ 63.4(a)(5)	Yes.	
§ 63.4(b)–(c)	Yes.	
§ 63.5(a)(1)–(2)	Yes.	
§ 63.5(b)(1)	Yes.	
§ 63.5(b)(2)	No	Reserved.
§ 63.5(b)(3)–(6)	Yes.	
§ 63.5(c)	No	Reserved.
§ 63.5(d)	Yes.	
§ 63.5(e)	Yes.	
§ 63.5(f)	Yes.	
§ 63.6(a)	Yes	Applies only when capture and control system is used to comply with the standard.
§ 63.6(b)(1)–(5)	Yes.	
§ 63.6(b)(6)	No	Reserved.

TABLE 1 TO SUBPART JJJJ.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART JJJJ—Continued

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.6(b)(7)	Yes.	
§ 63.6(c)(1)–(2)	Yes.	
§ 63.6(c)(3)–(4)	No	Reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	No	Reserved.
§ 63.6(e)	Yes	Provisions pertaining to start-ups, shutdowns, malfunctions, and CMS do not apply unless an add-on control system is used.
§ 63.6(f)	Yes.	
§ 63.6(g)	Yes.	
§ 63.6(h)	No	Subpart JJJJ does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(14)	Yes.	
§ 63.6(i)(15)	No	Reserved.
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	
§ 63.7	Yes	Except § 63.3330 specifies that performance tests at existing sources must be conducted by the compliance date.
§ 63.8(a)(1)–(2)	Yes.	
§ 63.8(a)(3)	No	Reserved.
§ 63.8(a)(4)	Yes.	
§ 63.8(b)	Yes.	
§ 63.8(c)(1)–(3)	Yes	§ 63.8(c)(1)(i) & (ii) only apply if you use capture and control systems and are required to have a start-up, shutdown, and malfunction plan.
§ 63.8(c)(4)	Yes.	
§ 63.8(c)(5)	No	Subpart JJJJ does Not require COMS.
§ 63.8(c)(6)–(c)(8)	Yes	Provisions for COMS are Not applicable.
§ 63.8(d)–(f)	Yes	§ 63.8(f)(6) only applies if you use CEMS.
§ 63.8(g)	Yes	Only applies if you use CEMS.
§ 63.9(a)	Yes.	
§ 63.9(b)(1)	Yes.	
§ 63.9(b)(2)	Yes	Except § 63.3400(b)(1)(i) requires submittal of initial notification for existing sources no later than 1 year before compliance date.
§ 63.9(b)(3)–(5)	Yes.	
§ 63.9(c)–(e)	Yes.	
§ 63.9(f)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.9(g)	Yes	Provisions for COMS are not applicable.
§ 63.9(h)(1)–(3)	Yes.	
§ 63.9(h)(4)	No	Reserved.
§ 63.9(h)(5)–(6)	Yes.	
§ 63.9(i)	Yes.	
§ 63.9(j)	Yes.	
§ 63.10(a)	Yes.	
§ 63.10(b)(1)–(3)	Yes	§ 63.10(b)(2)(i) through (v) only apply if you use a capture and control system.
§ 63.10(c)(1)	Yes.	
§ 63.10(c)(2)–(4)	No	Reserved.
§ 63.10(c)(5)–(8)	Yes.	
§ 63.10(c)(9)	No	Reserved.
§ 63.10(c)(10)–(15)	Yes.	
§ 63.10(d)(1)–(2)	Yes.	
§ 63.10(d)(3)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.10(d)(4)–(5)	Yes.	
§ 63.10(e)(1)–(2)	Yes	Provisions for COMS are not applicable.
§ 63.10(e)(3)	No.	
§ 63.10(f)	Yes.	
§ 63.11	Yes.	
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes.	
§ 63.15	Yes.	

[FR Doc. 00–22653 Filed 9–12–00; 8:45 am]

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Federal Register

Wednesday,
September 13, 2000

Part III

Environmental Protection Agency

40 CFR Part 141

Unregulated Contaminant Monitoring Regulation for Public Water Systems; Analytical Methods for List 2 Contaminants and Clarifications; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–6863–3]

RIN 2040–AD58

Unregulated Contaminant Monitoring Regulation for Public Water Systems; Analytical Methods for List 2 Contaminants; Clarifications to the Unregulated Contaminant Monitoring Regulation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, requires the U.S. Environmental Protection Agency to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. In fulfillment of this requirement, EPA published the Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for public water systems on September 17, 1999 (64 FR 50556), which included lists of contaminants for which monitoring was required or would be required in the future. These lists included: List 1 for contaminants with analytical methods; List 2 for contaminants with methods that were being refined; and List 3 for contaminants with methods that were still being developed.

This rule proposes analytical methods for fourteen contaminants on List 2, and to require monitoring for those contaminants in drinking water. These methods and associated monitoring are proposed to support EPA decisions concerning whether or not to regulate and establish standards for these contaminants in drinking water. The intent of regulating and setting standards for any of these contaminants that may be found to occur at levels of health concern is to protect public health. Additionally in this rule, EPA proposes modifications to the UCMR (published September 17, 1999) that affect the implementation of monitoring for both List 1 and List 2 contaminants.

DATES: Comments must be received by October 13, 2000.

ADDRESSES: Send written comments to the Comment Clerk, docket number W–00–01, Water Docket (MC 4101), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC, 20460. Comments may also be hand delivered to the Water Docket at Room EB57 U.S. EPA, 401 M Street, SW., Washington DC. Please submit an original and three copies of your comments and enclosures (including references). The full record for this document has been established under docket number W–00–01 and includes supporting documentation as well as printed, paper versions of electronic comments. The full record is available for inspection from 9 a.m. to 4 p.m. Monday through Friday, excluding legal holidays, at the Water Docket, East Tower Basement, Waterside Mall, U.S. EPA, 401 M Street, SW., Washington DC. For access to docket (Docket No. W–00–01) materials, please call (202) 260–3027 between 9 a.m. and 3:30 p.m., Eastern Daylight Savings Time, Monday through Friday, to schedule an appointment. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For technical information regarding everything but the analytical methods, contact Charles Job, Drinking Water Protection Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW (MC 4606), Washington, DC 20460, (202) 260–7084. For technical information regarding the analytical methods, contact David Munch, Technical Support Center, U.S. Environmental Protection Agency, 26 W. Martin Luther King Dr., Cincinnati OH, 45268, (513) 569–7948, or e-mail at Munch.Dave@EPA.gov. General information may also be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Abbreviations and Acronyms Used in the Preamble and Final Rule

2,4-DNT—2,4-dinitrotoluene
2,6-DNT—2,6-dinitrotoluene
4,4'-DDE—4,4'-dichloro dichlorophenyl ethylene, a degradation product of DDT
Alachlor ESA—alachlor ethanesulfonic acid, a degradation product of alachlor
AOAC—Association of Official Analytical Chemists
APHA—American Public Health Association
ASDWA—Association of State Drinking Water Administrators
ASTM—American Society for Testing and Materials
CAS—Chemical Abstract Service
CASRN—Chemical Abstract Service Registry Number
CCL—Contaminant Candidate List
CCR—Consumer Confidence Reports
CERCLA—Comprehensive Environmental Response, Compensation & Liability Act
CFR—Code of Federal Regulations
CFU/mL—colony forming units per milliliter
CWS—community water system
DCPA—dimethyl tetrachloroterephthalate, chemical name of the herbicide dacthal
DCPA mono- and di-acid degradates—degradation products of DCPA
DDE—dichloro dichlorophenyl ethylene, a degradation product of DDT
DDT—dichloro diphenyl trichloroethane, a general insecticide
DNA—deoxyribonucleic acid
EDL—estimated detection limit
EPA—Environmental Protection Agency
EPTC—s-ethyl-dipropylthiocarbamate, an herbicide
EPTDS—Entry Point to the Distribution System
ESA—ethanesulfonic acid, a degradation product of alachlor and other acetanilide pesticides
FACA—Federal Advisory Committee Act
FSIS—federalism summary impact statement
FTE—full-time equivalent
GC—gas chromatography, a laboratory method
GLI method—Great Lakes Instruments method
GW—ground water
GUDI—ground water under the direct influence (of surface water)
HPLC—high performance liquid chromatography, a laboratory method
IC—ion chromatography
ICR—Information Collection Rule
IRFA—initial regulatory flexibility analysis
IMS—immunomagnetic separation
IRIS—Integrated Risk Information System
IS—internal standard
LLE—liquid/liquid extraction, a laboratory method
MAC—Mycobacterium avium complex
MCL—maximum contaminant level
MCT—matrix conductivity threshold
MDL—method detection limit
MRL—minimum reporting level
MS—mass spectrometry, a laboratory method
MS—sample matrix spike
MSD—sample matrix spike duplicate
MTBE—methyl tertiary-butyl ether, a gasoline additive
NAWQA—National Water Quality Assessment Program
NCOD—National Drinking Water Contaminant Occurrence Database
NDWAC—National Drinking Water Advisory Council
NERL—National Environmental Research Laboratory
NPS—National Pesticide Survey
NTIS—National Technical Information Service
NTNCWS—non-transient non-community water system
NTTAA—National Technology Transfer and Advancement Act
OGWDW—Office of Ground Water and Drinking Water
OMB—Office of Management and Budget
PAH—Polycyclic aromatic hydrocarbon
PB—particle beam
PBMS—Performance-Based Measurement System
PCi/L—picocuries per liter
PCR—polymerase chain reaction
^{210}Pb—Lead-210 (also Pb-210), a lead isotope and radionuclide; part of the uranium decay series

^{210}Po—Polonium-210 (also Po-210), a polonium isotope and radionuclide; part of the uranium decay series
PWS—Public Water System
PWSF—Public Water System Facility
QA—quality assurance
QC—quality control
RDX—royal demolition explosive, hexahydro-1,3,5-trinitro-1,3,5-triazine
RFA—Regulatory Flexibility Act
RPD—relative percent difference
RSD—relative standard deviation
SBREFA—Small Business Regulatory Enforcement Fairness Act
SD—standard deviation
SDWA—Safe Drinking Water Act
SDWIS—Safe Drinking Water Information System
SDWIS/FED—the Federal Safe Drinking Water Information System
SM—Standard Methods for the Examination of Water and Wastewater
SMF—Standard Compliance Monitoring Framework
SOC—synthetic organic compound
SOP—standard operating procedure
SPE—solid phase extraction, a laboratory method
spp.—multiple species
SRF—State Revolving Fund
STORET—Storage and Retrieval System
SW—surface water
TBD—to be determined
TDS—total dissolved solid
TNCWS—transient non-community water system
TTHM—total trihalomethane
UCMR—Unregulated Contaminant Monitoring Regulation/Rule
UCM—Unregulated Contaminant Monitoring
UMRA—Unfunded Mandates Reform Act of 1995
USEPA—United States Environmental Protection Agency
UV—ultraviolet
VOC—volatile organic compound
µg/L—micrograms per liter
µS/cm—microsiemens per centimeter

Preamble Outline

Potentially Regulated Entities
I. Regulatory Background
II. Explanation of Today's Action
A. Relation to the UCMR Published in September 1999
B. Systems Affected by This Rule
C. Changes to the UCMR Associated with List 2 Contaminants
1. Description of Screening Surveys for List 2 Contaminants
2. Contaminants and Analytical Methods
a. New Methods Proposed for Use in Screening Survey One
(i) Summary of EPA Method 532.0: Determination of Phenylurea Compounds in Drinking Water by Solid Phase Extraction and High Performance Liquid Chromatography with Ultraviolet Detection
(ii) Summary of EPA Method 528: Determination of Phenols in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS)
(iii) Summary of EPA Method 526: Determination of Selected Semivolatile Organic Compounds in Drinking Water by Solid Phase Extraction and Capillary Column GC/MS
(iv) Peer Review
(v) Laboratory Approval and Certification
b. Monitoring Nitrobenzene at Low-Level in Screening Survey One
c. Proposal for Monitoring of *Aeromonas* in a Second Screening Survey
d. Exclusion of RDX, and Alachlor ESA and Other Acetanilide Pesticide Degradation
Products from Monitoring under Screening Survey One
(i) Alachlor ESA and Other Acetanilide Pesticide Degradation Products
(ii) RDX
e. Movement of Polonium-210 from UCMR (1999) List 2 to UCMR (1999) List 3
3. All List 2 Monitoring at Entry Points to the Distribution System
4. Implementation
a. Coordination of Assessment Monitoring and Screening Surveys
b. Selection of Systems by Water Source and Size
c. Sampling Period, Location, and Frequency
d. Sample Analysis
e. Reporting
D. Other Technical Changes and Clarifications to the UCMR (CFR 141.40)
1. Updating the National Drinking Water Contaminant Occurrence Database
2. Reporting System and Laboratory Contacts
3. Modification of Data Element Definitions
4. Clarification of Data Reporting Procedures
5. Clarification of Systems Purchasing Water from Other Systems
6. Clarification of Source (Raw) Water Monitoring Alternative
7. Clarification of Treatment Plant Latitude/Longitude Options
8. Addition of Consensus Method for Testing
9. Approval of EPA Method 502.2 and Standard Methods 6200C for the Analysis of MTBE
10. Approval of EPA Methods 515.3 and 515.4 for the Analysis of DCPA mono-acid degradate and DCPA di-acid degradate
11. Use of pH as a Water Quality Parameter
12. Method Detection Limit Reference
13. Detection Confirmation
14. Method Defined Quality Control
15. Clarification of Resampling
16. Update on Statistical Selection of the Nationally Representative Sample of Small Systems
III. Other Issues Related to Unregulated Contaminant Monitoring
A. Reporting Processes
1. Systems
2. States
B. Reporting Data on Other Contaminants
C. More Complete Specification of Contaminants for Unregulated Contaminant Monitoring in the Future
1. Contaminant Groups
2. Analytical Method Groups
3. Parent and Degradates
4. Mixtures of Contaminants
5. Other
D. Synchronization of UCMR and CCL in the Future
IV. Cost and Benefits of the Rule
V. Administrative Requirements
A. Executive Order 12866—Regulatory Planning and Review
B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks
C. Unfunded Mandates Reform Act
D. Paperwork Reduction Act
E. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et seq.
F. National Technology Transfer and Advancement Act
G. Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
H. Executive Order 13132 (Federalism)
I. Executive Order 13084—Consultation and Coordination with Indian Tribal Governments
J. President's Plain Language Directive
VI. Public Involvement in Regulation Development
VII. References

Potentially Regulated Entities

The regulated entities are public water systems. All large community and non-transient non-community water systems serving more than 10,000 persons are required to monitor under the revised UCMR. A community water system (CWS) is a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. Non-transient non-community water system (NTNCWS) means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year. Only a national representative sample of community and non-transient non-community systems serving 10,000 or fewer persons are required to monitor. Transient non-community systems, which are systems that do not regularly serve at least 25 of the same persons over six months per year, are not required to monitor. States, Territories, and Tribes, with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act sometimes conduct analyses to measure for contaminants in water samples and are regulated by this action. Categories and entities potentially regulated by this action include the following:

Category	Examples of potentially regulated entities	SIC
State, Local, & Tribal Governments	States, local and tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; States, local and tribal governments that themselves operate community and non-transient non-community water systems required to monitor.	9511
Industry	Private operators of community and non-transient non-community water systems required to monitor.	4941
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	9511

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 141.35(a) of the September 17, 1999 UCMR (see 64 FR 50556) and § 141.40(a) of the September 17, 1999 UCMR as amended by this rule. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Regulatory Background

SDWA section 1445(a)(2), as amended in 1996, requires EPA to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. To meet these requirements, EPA published the Revisions to the Unregulated Contaminant Monitoring Regulation for Public Water Systems on September 17, 1999, (64 FR 50556), which substantially revised the previous Unregulated Contaminant Monitoring (UCM) Program, codified at 40 CFR 141.40. The UCMR revised the regulations at 40 CFR 141.35, 141.40, 142.16 and deleted and reserved 142.15(c)(3). The rule covered: (1) The frequency and schedule for monitoring unregulated contaminants, based on PWS size, water source, and likelihood of finding contaminants; (2) a new, shorter list of contaminants for which systems will monitor, referred to as the UCMR (1999) List, which was divided into three lists based on analytical methods availability; (3) procedures for selecting and monitoring a nationally representative sample of small PWSs (those serving 10,000 or fewer persons), and; (4) procedures for entering the monitoring data in the National Drinking Water Contaminant Occurrence Database (NCOD), as required under section 1445. This final rule included a list of contaminants to be monitored which was further subdivided into three lists: List 1 for contaminants with current approved analytical methods, List 2 for contaminants with methods being refined, and List 3 for contaminants with methods being developed in research. In a supplemental rule, published March 2, 2000 (65 FR 11371), the methods for two List 1 contaminants were established as were some technical corrections to the UCMR rule.

Sixteen contaminants were included on the UCMR (1999) List 2, with their analytical methods listed as ''reserved'', pending the conclusion of EPA refinement and review of the analytical methods. Today's rule amends the 1999 UCMR to specify methods for monitoring for 14 contaminants (13 organic chemicals and one microorganism) on List 2. It adds one contaminant to List 2 (nitrobenzene, NOTE: Nitrobenzene is already on List 1 with a method that does not allow detection near the current health effects level) and moves one other contaminant (polonium-210) from List 2 to List 3. Today's rule, when final, will activate Screening Survey monitoring for these 14 contaminants, as described in § 141.40(a)(3), Table 1, List 2.

Today's rule also contains several minor changes to the September 1999 rule. Additionally, the preamble includes discussion of issues of a long-range nature that may affect the unregulated contaminant monitoring program in the future. These issues include: options for defining ''contaminant'' to more fully address the occurrence of related contaminants (for example, parent compounds and degradates); retention of data for contaminants also identified by the specified methods but not required to be reported under this regulation; synchronization of the UCMR with the Contaminant Candidate List (CCL); and the UCMR data reporting process.

II. Explanation of Today's Action

Today's action proposes analytical methods for measurement of 14 contaminants in drinking water, which were included on the UCMR (1999) List 2. The sixteen 1999 List 2 contaminants and their sources, including amendments to List 2 proposed today, are presented in Table 1, Uses and Environmental Sources of UCMR (1999) List 2 Contaminants. This action also proposes modifications affecting the sample collection, analysis and reporting of both List 1 and List 2 contaminants. Please note that EPA is not requesting comment on any aspect of the September 1999 UCMR (as revised in March 2000) other than those changes proposed today; specifically, EPA is not requesting comment on the UCMR list of contaminants other than the two minor changes proposed today (adding one List 1 contaminant (nitrobenzene) to List 2 with a refined analytical method capable of lower detection levels and moving one List 2 contaminant (polonium-210) to List 3.)

TABLE 1.—USES AND ENVIRONMENTAL SOURCES OF UCMR (1999) LIST 2 CONTAMINANTS

Contaminant name	CASRN	Use or environmental source
Proposed Chemical Contaminants		
1,2-diphenylhydrazine	122–66–7	Used in the production of benzidine and anti-inflammatory drugs.
2-methylphenol	95–48–7	Released in automobile and diesel exhaust, coal tar and petroleum refining, and wood pulping.
2,4-dichlorophenol	120–83–2	Chemical intermediate in herbicide production.

TABLE 1.—USES AND ENVIRONMENTAL SOURCES OF UCMR (1999) LIST 2 CONTAMINANTS—Continued

Contaminant name	CASRN	Use or environmental source
2,4-dinitrophenol	51–28–5	Released from mines, metal, petroleum, and dye plants
2,4,6-trichlorophenol	88–06–2	By-product of fossil fuel burning, used as bactericide and wood/glue preservative.
Alachlor ESA and other acetanilide pesticides.	.....	Degradation product of alachlor and other acetanilide pesticides, herbicides generally used with corn, bean, peanut, and soybean crops to control grasses and weeds.
Diazinon	333–41–5	Insecticide used with rice, fruit, vineyards, and corn crops.
Disulfoton	298–04–4	Insecticide used with cereal, cotton, tobacco, and potato crops.
Diuron	330–54–1	Herbicide used on grasses in orchards and wheat crops.
Fonofos	944–22–9	Soil insecticide used on worms and centipedes.
Linuron	330–55–2	Herbicide used with corn, soybean, cotton, and wheat crops.
Nitrobenzene	98–95–3	Used in the production of aniline, which is used to make dyes, herbicides, and drugs.
Polonium-210	13981–52–7	A polonium isotope and radionuclide; part of the uranium decay series—NOTE: proposed to be moved to List 3.
Prometon	1610–18–0	Herbicide used on annual and perennial weeds and grasses.
RDX (royal demolition explosive, hexahydro-1,3,5-trinitro-1,3,5-triazine).	121–82–4	Used in explosives; ammunition plants.
Terbufos	13071–79–9	Insecticide used with corn, sugar beet, and grain sorghum crops.
Microbiological Contaminant		
Aeromonas hydrophila	N/A	Present in all freshwater and brackish water.

A. Relation to the UCMR Published in September 1999

The final UCMR, published on September 17, 1999, and subsequently revised on March 2, 2000, consisted of many program elements designed to enhance and improve the unregulated contaminant monitoring program in several important ways. The rule specifies (1) which systems must monitor, including a statistical approach to select a representative sample of small public water systems; (2) a list of contaminants for which systems must monitor; (3) the monitoring time, frequency, and location of sampling; (4) which methods are to be used for analyzing the contaminants; (5) quality control elements that must be followed in addition to those specified in each analytical method, (6) reporting requirements; and (7) State and Tribal participation concerning the implementation of the monitoring program.

EPA divided the list of contaminants for which systems must monitor into three separate lists based on the availability of analytical methods. List 1, Assessment Monitoring, consisted of 12 contaminants for which analytical methods were available. List 2, Screening Survey, consisted of 16 contaminants for which analytical methods would be developed by the time of initial monitoring in 2001. Pre-Screen Testing, List 3, had 8 contaminants for which analytical methods research is being conducted. Only the contaminants on List 1 must be monitored at all 2,774 large community and non-transient non-community public water systems serving more than 10,000 persons and at a representative sample of approximately 800 systems serving 10,000 or fewer persons. From this set of approximately 3,600 large and small public water systems, EPA will randomly select 300 large and small systems to monitor for List 2 contaminants. Today's rule specifies the analytical methods for fourteen List 2 contaminants. Methods for the other two List 2 contaminants, RDX and Alachlor ESA, need to be refined for analysis in treated drinking water.

The placement of the 16 contaminants on List 2 meant that their analytical methods were being further refined and not ready for the extensive monitoring that would occur for the List 1 contaminants. The evaluation of these new methods during monitoring for List 2 contaminants will include developing the data necessary to support the determination of practical quantitation levels, which are needed to support possible future regulations, as well as determining the occurrence of the analytes measured. Today's proposal would provide for monitoring of 13 List 2 chemical contaminants at the 180 small systems randomly selected (with the small systems doing the sampling and EPA conducting the testing and reporting) from the 800 small systems in the State Monitoring Plans beginning in January 2001. State Monitoring Plans (SMP) collectively specify the 800 randomly selected small water systems serving 10,000 or fewer persons and constitute the national representative sample of such systems. The SMPs also specify the randomly selected large systems that must monitor for List 2 contaminants. The 120 randomly selected large systems would begin List 2 chemical contaminant monitoring January 2002. A second Screening Survey for one List 2 microbiological contaminant will be performed in 2003 by 180 other small systems and 120 other large systems. The delay of the Screening Survey for the microbiological contaminant is allow laboratories to gain experience with the new method and have capacity available for large system testing. The proposed timing will allow monitoring of these List 2 contaminants at small systems concurrently with the List 1, Assessment Monitoring, contaminants. Small systems will monitor in 2001 for List 2 contaminants ahead of large systems in 2002 because EPA is paying for the small system monitoring and also desires to evaluate the performance of the methods to make any adjustments to them prior the large systems using the methods, which must be paid for by the large systems.

Methods are continuing to be refined for the remaining two List 2 contaminants. If methods are developed in a timely fashion for these contaminants, they may be added for monitoring in a separate action, probably in 2003, or during the next UCMR 5-year monitoring cycle which would begin in 2006 . (Please refer to preamble section II.C.2.d.)

As provided in the September 1999 rule, surface water systems will monitor quarterly for one year and as required in the recently revised regulations at 64 FR 50556 ground water systems will

monitor twice in one year for List 2 chemical contaminants. Today's proposal specifies quarterly monitoring for microbiological contaminants with monthly monitoring during the vulnerable (warm) quarter. Assessment Monitoring must be done within the three years of 2001 through 2003, which will allow coordination with the three-year compliance monitoring cycle for regulated contaminants. The exceptions that would involve Assessment Monitoring beyond 2003 include: loss of a samples for any reason, necessitating another sampling event, and initiating sampling at entry points to the distribution system if contaminants are found in systems that conduct their other compliance monitoring at source (raw) water sampling points. One of these quarterly or semiannual sampling events must occur in the most vulnerable period of May through July, or an alternate vulnerable period designated by the State, to ensure monitoring of seasonally elevated contaminant concentrations.

B. Systems Affected by This Rule

The focus of the UCMR is on the occurrence or likely occurrence of contaminants in drinking water of community and non-transient, non-community water systems. For regulatory purposes, public water systems are categorized as ''community water systems,'' or ''non-community water systems.'' Community water systems are specifically defined as ''public water systems which serve at least 15 service connections used by year-round residents or regularly serve at least 25 year round residents.'' (40 CFR 141.2) A ''non-community water system'' means any other public water system. Non-community water systems include non-transient non-community water systems and transient non-community water systems. Non-transient non-community systems are those that regularly serve at least 25 of the same persons over six months per year (e.g., schools, industrial buildings). Transient systems are all other non-community systems, which typically serve a transient population such as restaurants or hotels. As explained in the September 1999 UCMR, EPA is excluding transient water systems from monitoring for unregulated contaminants, including those on List 2. The results from the very small community and non-transient non-community systems can be extrapolated to the transient non-community systems.

With respect to size, about 2,800 large systems (defined here as those serving more than 10,000 persons) provide drinking water to about 80 percent of the U.S. population served by public water systems. The SDWA does not provide for EPA funding of this monitoring. Under the UCMR program, all large systems will be required to monitor for List 1 unregulated contaminants. Only a representative sample of systems serving 10,000 persons or fewer will be required to monitor for unregulated contaminants. SDWA requires EPA to pay for the reasonable testing costs for the national representative sample of small systems.

As described in the September 17, 1999, **Federal Register** (64 FR 50556), EPA will select 300 large and small systems from the systems required to conduct Assessment Monitoring for List 1 to participate in the monitoring for List 2 contaminants. The 300 systems will be divided as follows: 120 large systems serving more than 10,000 persons and 180 small systems serving 10,000 or fewer persons. These allocations will be further subdivided as follows: For the large systems, 60 systems will be selected from systems serving more than 50,000 persons and 60 will be from systems serving from 10,001 to 50,000 persons. For the small systems, 60 systems will be selected from each of the following service size categories: 25 to 500 persons, 501 to 3,300 persons, and 3,301 to 10,000 persons. These systems will be further allocated by water source type and will be randomly selected from the systems required to conduct Assessment Monitoring for List 1 contaminants. EPA has identified the randomly selected large systems that must monitor for List 2 contaminants and placed the list of these systems in the docket for this proposed regulation (docket number W–00–01). The small systems that EPA has randomly selected to monitor for List 2 contaminants from the representative sample of 800 small systems are identified in the State Monitoring Plans for small systems that EPA has sent to States for review.

EPA will pay for the shipping, testing and reporting of results for samples from small systems serving 10,000 or fewer persons. Large systems must arrange and pay for the monitoring, shipping, testing and reporting of results of List 2 contaminants at laboratories approved for List 2 contaminant analysis. If large systems and/or their laboratories are testing for the chemical contaminants identified in List 2 that require use of EPA Methods 526 or 528, they can meet the List 2 certification requirements for EPA Methods 526 or 528 by being certified for use of EPA Methods 525.2 under § 141.28 prior to the analysis of the List 2 contaminants for which EPA Methods 526 or 528 are required. If large systems and/or their laboratories are testing for the chemical contaminants identified in List 2 that require use of EPA Method 532, they can meet the List 2 certification requirements for EPA Method 532 by being certified for use of EPA Methods 549.1 or 549.2 under § 141.28 prior to the analysis of the contaminants for which EPA Method 532 is required. Method 525.2 is a solid phase extraction GC/MS method as are both Methods 526 and 528. Methods 549.1 and 549.2 are solid phase extraction HPLC methods as is Method 532. Using this system of laboratory approval for the UCMR assures that the laboratories that perform these analysis are currently certified to perform compliance monitoring with methods that use the same technologies as those incorporated in the UCMR methods, while providing PWSs with the widest possible source of approved laboratories.

Large PWSs must arrange for the testing for *Aeromonas* using EPA Method 1605 as identified in List 2 by a laboratory certified under § 141.28 for compliance analysis using an EPA-approved membrane filtration method for the analysis of Coliform indicator bacteria. EPA may require laboratories performing EPA Method 1605 to participate in ongoing performance testing (PT) studies to be conducted by EPA, expected to be announced in 2001 or 2002, ahead of the List 2 *Aeromonas* monitoring in 2003.

C. Changes to the UCMR Associated with the Screening Survey for List 2 Contaminants

1. Description of Screening Surveys for List 2 Contaminants

The contaminants for which EPA is proposing new methods, are listed in-§ 141.40(a)(3), Table 1, List 2. This rule, when final, will activate the Screening Survey monitoring for these contaminants. The analytical methods were under development for these contaminants at the time the revised UCMR was promulgated. The purpose of the Screening Survey is to analyze for contaminants where the use of newly developed, non-routine analytical methods are required. The Screening Survey approach will allow EPA to maximize scientifically-defensible occurrence data for emerging contaminants of concern more quickly than could be obtained through a more standard unregulated contaminant monitoring effort. The Screening Survey will, for example, be useful in addressing questions concerning whether a contaminant of concern is in

fact occurring in drinking water and the range of concentrations of that occurrence. The Screening Survey is also intended to allow EPA to screen contaminants to see if they occur at high enough frequencies or at concentrations that justify inclusion in future unregulated contaminant Assessment Monitoring or at sufficiently low frequencies so that they do not require further monitoring.

The contaminants in UCMR (1999) List 2 will be monitored, as part of a Screening Survey, by a smaller, statistically selected sample of 300 systems which represent all (large and small) community and non-transient non-community water systems. As in Assessment Monitoring for List 1 contaminants, public water systems serve as a surrogate for the population potentially affected, and are a more efficient way to develop a sampling approach to estimate exposure to contaminants. These systems will be selected using a random number generator. The sample size needed for estimating frequencies of contaminant occurrence are smaller if the actual occurrence frequencies are close to 0 or to 100 percent. When a contaminant is consistently present or consistently absent, it requires fewer samples to determine its frequency with adequate statistical confidence than if it occurs about half the time. Only 300 PWSs are needed to determine if a contaminant is present 5 percent of the time or less frequently, at a 99 percent confidence level and with a 3 percent margin of error. (The same criteria require 1,844 samples when the frequency could be any number.)

If the contaminant occurrence findings are significant, EPA may include the contaminant in the next Unregulated Monitoring Rule (projected to be proposed in 2004 and promulgated in 2005 for additional monitoring. EPA currently considers positive results from 1 to 2 percent of systems as generally significant enough to warrant further monitoring. If the contaminant occurrence is not significant, then no further monitoring would be required. EPA believes that 1 to 2 percent (with the estimated margin of error) is consistent with the approach that this monitoring is a Screening Survey to determine whether the contaminant(s) are occurring in any public water system. One to 2 percent occurrence is equal to 3 to 6 systems for the sample, but mathematically this can be extrapolated to 690 to 1,380 systems out of all small systems in the United States that may have an occurrence of the contaminants. EPA considers this extent of occurrence to be significant and to warrant more extensive monitoring, perhaps even through Assessment Monitoring. EPA will, of course, evaluate other factors and not just the extent of occurrence before deciding to regulate a contaminant.

Another possible outcome of the Screening Survey may be regulatory development. For example, if the contaminant is observed extensively (in a higher percentage of PWSs, such as 5 percent or more) and EPA has health effects data for the contaminant that indicate a significant concern, then that specific contaminant may move directly to development of a national primary drinking water standard (NPDWR) without further monitoring. EPA believes that an occurrence of a contaminant in 5 percent or more of systems, for example, in the Screening Survey may be sufficient to determine whether or not to initiate regulation development. EPA may decide that it needs more information, in which case, EPA could include the contaminant to the next Unregulated Monitoring Rule for more extensive monitoring to inform the regulatory process. This may not always be necessary, however.

Additionally, EPA may conduct a further Screening Survey in this 2001–2005 round of unregulated contaminant monitoring if the analytical methods for the remaining contaminants can be developed and validated for use. The two remaining contaminants include: alachlor ESA and other acetanilide pesticide degradates, and RDX. This monitoring may occur during a twelve month period during the years 2002 through 2004.

With respect to funding the Screening Survey, EPA will pay for the shipping, testing, and reporting for systems serving 10,000 or fewer persons. Systems serving 10,000 or fewer persons will be responsible for sample collection and preparing the samples for shipment. EPA will pay for the shipping of these samples to an EPA-designated laboratory for testing and for reporting of monitoring results to EPA, with a copy to the State. Large systems, those serving more than 10,000 persons, must arrange and pay for the monitoring, shipping, testing, and reporting of results.

2. Contaminants and Analytical Methods

In today's proposal, EPA is proposing the use of three new EPA methods for the monitoring of 13 chemical contaminants on List 2. These contaminants and methods are listed in Table 2. In addition, EPA is proposing to add nitrobenzene to List 2. Methods for two chemical contaminants alachlor ESA and other acetanilide pesticide degradates and RDX are still being refined and remain reserved on List 2. EPA is also proposing to move polonium-210 to List 3. Finally, EPA is proposing a method and monitoring framework for *Aeromonas* for List 2 monitoring (see Table 2). Table 3 lists other pertinent information related to the method specifications for the fourteen contaminants to be monitored from List 2. The status of the contaminants and methods are discussed in further detail in this section.

TABLE 2.—LIST 2 CONTAMINANT METHODS STATUS

	Proposed method or method status	Explanation
Chemical contaminant		
2-methylphenol	EPA Method 528	Ready for List 2 Monitoring in 2001–2002.[a]
2,4,6-trichlorophenol	EPA Method 528	Ready for List 2 Monitoring in 2001–2002.[a]
2,4-dichlorophenol	EPA Method 528	Ready for List 2 Monitoring in 2001–2002.[a]
2,4-dinitrophenol	EPA Method 528	Ready for List 2 Monitoring in 2001–2002.[a]
Linuron	EPA Method 532	Ready for List 2 Monitoring in 2001–2002.[a]
Diuron	EPA Method 532	Ready for List 2 Monitoring in 2001–2002.[a]
1,2 diphenylhydrazine	EPA Method 526	Ready for List 2 Monitoring in 2001–2002.[a]
Diazinon	EPA Method 526	Ready for List 2 Monitoring in 2001–2002.[a]
Disulfoton	EPA Method 526	Ready for List 2 Monitoring in 2001–2002.[a]
Fonofos	EPA Method 526	Ready for List 2 Monitoring in 2001–2002.[a]
Prometon	EPA Method 526	Ready for List 2 Monitoring in 2001–2002.[a]

TABLE 2.—LIST 2 CONTAMINANT METHODS STATUS—Continued

	Proposed method or method status	Explanation
Nitrobenzene	EPA Method 526	Ready for List 2 Monitoring in 2001–2002.[a]
Terbufos	EPA Method 526	Ready for List 2 Monitoring in 2001–2002.[a]
Alachlor ESA and other acetanilide pesticide degradates.	Being refined	Candidate for a 3rd Screening Survey, if conducted.
RDX	Being refined	Candidate for a 3rd Screening Survey, if conducted.
Radioactive Contaminant		
Polonium-210	No Applicable Method	Research needed; Move to List 3.
Microbiological Contaminant		
Aeromonas	EPA Method 1605	Ready for List 2 Monitoring in 2nd Screening Survey in 2003.

[a] EPA is proposing that small systems selected for the Screening Survey One monitor for these contaminants in 2001, and large systems selected for the Screening Survey One monitor in 2002.

TABLE 3.—DETECTION AND QUANTITATION FOR LIST 2 CONTAMINANTS

	MDL	Proposed MRL[a]
Contaminant		
2-methylphenol	0.03 µg/L	1 µg/L.
2,4,6-trichlorophenol.	0.05 µg/L	1 µg/l.
2,4-dichlorophenol	0.03 µg/L	1µg/L.
2,4-dinitrophenol	0.3 µg/L	5 µg/L.
1,2 diphenylhydrazine.	0.03 µg/L	0.5 µg/L.
Diazinon	0.02 µg/L	0.5 µg/L.
Disulfoton	0.02 µg/L	0.5 µg/L.
Fonofos	0.02 µg/L	0.5 µg/L.
Prometon	0.04 µg/L	0.5 µg/L.
Terbufos	0.02 µg/L	0.5 µg/L.
Nitrobenzene	0.01 µg/L	0.5 µg/L.
Linuron	0.07 µg/L	1 µg/L.
Diuron	0.1 µg/L	1 µg/L.
Alachlor ESA and other acetanilide pesticide degradates.	NA	NA.
RDX	NA	NA.
Radioactive contaminant		
Polonium-210 [NOTE: proposed to move to List 3]		
Microbiological Contaminant		
Aeromonas	0.2 cfu/100 mL.	0.2 cfu/100 mL.

NA: Data not available.

[a] Proposed MRL based upon precision and accuracy data derived during methods development and verified in second laboratory validation.

a. *New Methods Proposed for Use in Screening Survey One.* This section includes summaries of the three analytical methods that are being proposed for use for the chemicals included in the Screening Survey in 2001 and 2002. Table 2 lists the contaminants and new methods. The details of these methods and the results of their peer reviews are documented in Water Docket W–00–01. EPA invites public comment on these methods.

(i) *Summary of EPA Method 532.0:* Determination of Phenylurea Compounds in Drinking Water by Solid Phase Extraction and High Performance Liquid Chromatography with Ultraviolet Detection. Today, EPA is proposing the use of EPA Method 532.0 to analyze for diuron and linuron. Under this method, a 500 milliliter volume of water is extracted on a chemically bonded C18 cartridge or disk, extracted with a small amount of methanol, and the resulting extract injected into a high performance liquid chromatographic (HPLC) system equipped with a C18 column and a UV detector. All positive results are confirmed using a second, dissimilar HPLC column.

• *Refinements from Previous Methods.* While linuron and diuron are included in the scope of NPS Method 4 (LLE/HLPC/UV) and EPA Method 553 (SPE/HPLC/MS), these methods were determined to be inappropriate for this monitoring. NPS Method 4 uses mercuric chloride for biological stabilization, does not contain any reagents to reduce disinfectant residuals, and requires the extraction of 1 liter water samples with 180 mL of methylene chloride. EPA Method 553 does not include biological stabilization, and requires the use of a HPLC/MS equipped with a particle beam interface. In EPA Method 532, copper sulfate is used to biologically stabilize samples, solid phase extraction of 500 mL samples reduces solvent use, and analysis is conducted by performing separation and detection using commonly available HPLC/UV instrumentation.

(ii) *Summary of EPA Method 528:* Determination of Phenols in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS). EPA is proposing to require the use of EPA Method 528 to analyze for 2-methylphenol, 2,4,6-trichlorophenol, 2,4-dichlorophenol, and 2,4-dinitrophenol. Under this method, a 1 liter water sample is extracted on a solid phase extraction cartridge containing 0.5 grams of a modified polystyrene divinyl benzene solid phase which is eluted with a small amount of methylene chloride. The resulting extract is then analyzed using a capillary column equipped with GC/MS.

• *Refinements from Previous Methods.* EPA Method 552 lists 2,4-dichlorophenol as an analyte; however, under the conditions specified, the analytes interfere with one another. Other methods evaluated required the use of techniques that are no longer used in modern laboratories such as large volume solvent extraction, acid, base/neutral fractionation, and were developed for packed column chromatography. In addition, no documentation of either aqueous or extract analyte stability was available. In EPA Method 528, sample extractions are performed using solid phase extraction without fractionation, capillary column separation without the need to derivatize the analytes, and the use of mass spectrometry to reduce false positives. Samples are biologically preserved through acidification and disinfectant residuals are reduced with sodium sulfite.

(iii) *Summary of EPA Method 526:* Determination of Selected Semivolatile Organic Compounds in Drinking Water by Solid Phase Extraction and Capillary Column GC/MS. EPA is proposing to require the use of EPA Method 526 to analyze for 1,2-diphenylhydrazine, diazinon, disulfoton, fonofos, prometon, nitrobenzene, and terbufos. Under this method, a 1 liter sample is extracted on a chemically bonded styrene divinyl

benzene organic phase cartridge or disk The cartridge or disk is eluted with small quantities of ethyl acetate followed by methylene chloride. The resulting extract is then analyzed on a capillary column equipped GC/MS.

• *Refinements from Previous Methods.* While several of the analytes included in EPA Method 526 are also listed as analytes in EPA Method 507, EPA Method 508, EPA Method 525.2 and other methods, accurate and precise measurement of these analytes in stored samples is not achieved, because of extremely rapid aqueous degradation of these analytes. Literature searches and data collected during methods development of EPA Method 526 demonstrated that many of these analytes are subject to both acid and base catalyzed hydrolysis and that this hydrolysis is also catalyzed by the presence of metals. These compounds are also subject to biological degradation in stored samples, and degradation by free chlorine. In EPA Method 526, reagents are added to all samples to stabilize the analytes. This includes a buffer to neutralize pH, EDTA to complex metals, a biocide to stabilize analytes against biological degradation, and a reagent to reduce disinfectant residuals. Using these reagents, analyte stability has been demonstrated. In addition, all of these reagents can be added to the sample bottles prior to their shipment to the sample collection site.

(iv) *Peer Review.* EPA conducted peer reviews of the analytical methods proposed today. The peer reviews were conducted both within EPA and by personnel from; Montgomery Watson Laboratories, Philadelphia Suburban Water Company, and the American Water Works Service Company.

Summaries of these reviews and EPA responses to them are available at the Water Docket (MC 4101), U.S. EPA, 401 M Street, SW, Washington DC, 20460, Docket number W–00–01.

(v) *Laboratory Approval and Certification.* EPA is proposing that laboratories currently certified to conduct drinking water compliance monitoring using EPA Method 525.2 will be automatically approved to conduct UCMR analysis using methods 526 and/or 528. Laboratories currently certified to conduct drinking water compliance monitoring using EPA methods 549.1 or 549.2, will be automatically approved to conduct UCMR analysis using method 532.

For small systems, EPA will conduct a competitive solicitation and selection process during 2000 to select up to 8 contract laboratories nationally to analyze for List 2 contaminants under contract to EPA. All small system shipping and analysis costs will be payed by EPA. The laboratories must be able to demonstrate that they can meet the certification requirements specified in § 141.40 (a)(5)(ii)(G)(3).

Large systems selected for the Screening Survey will be notified by the State or EPA at least 90 days before the dates established for collecting and submitting samples to determine the presence of contaminants on List 2. For List 2 contaminants, large systems must send samples to certified laboratories (as specified earlier) and then report the results to EPA as specified in § 141.35.

b. *Monitoring Nitrobenzene at Low-Level in Screening Survey One.* EPA requires monitoring for nitrobenzene in Assessment Monitoring of the UCMR between 2001 through 2003 (Table 1, List 1 in the September 1999 UCMR, 64 FR 50613). Nitrobenzene can be reliably and accurately measured at concentrations above 10 µg/L using the purge and trap GC/MS methods approved for use in the Assessment Monitoring phase of the UCMR (64 FR 50556). Although preliminary health effects data suggest that nitrobenzene may be of concern at concentrations lower than can be reliably measured using purge and trap GC/MS methods, nitrobenzene was included in the Assessment Monitoring phase of the UCMR since methods reliably measuring nitrobenzene at lower concentrations were not available at the time. In addition, because the same purge and trap GC/MS methods were being approved and specified for the analyses of other compounds included in Assessment Monitoring, monitoring for nitrobenzene using these same methods could be accomplished at minimal additional cost to the regulated utilities, States, or EPA. Therefore, EPA felt it was prudent to require this monitoring to obtain valid national occurrence data for this compound.

Since recent health effects information indicates that nitrobenzene may be of concern at concentrations lower than that measured in the assessment portion of the UCMR, EPA also continued additional methods development research. The analytical method (EPA Method 526) developed for the analyses of List 2 compounds diazinon, disulfoton, fonofos, 1,2-diphenylhydrazine, terbufos, and prometon can also reliably measure nitrobenzene at considerably lower concentrations than the purge and trap methods currently approved for the analyses of nitrobenzene in the Assessment Monitoring phase of the UCMR. However, EPA Method 526 was not available at the time that methods for Assessment Monitoring were approved and does not measure any other compound for which monitoring is required under Assessment Monitoring. EPA Method 526 has been developed and is being proposed to enable monitoring and testing of the listed compounds on List 2. Therefore, EPA is retaining the required monitoring for nitrobenzene in the Assessment Monitoring phase of the UCMR to collect national monitoring data, and it is also requiring monitoring for nitrobenzene in this Screening Survey phase of the UCMR to determine the occurrence of nitrobenzene at lower concentrations using the new multi-analyte EPA Method 526. This will permit the Agency to obtain a substantial amount of occurrence data for nitrobenzene at concentrations above 10 µg/L through Assessment Monitoring and also obtain a statistically significant estimate of nitrobenzene at much lower concentrations in the Screening Survey phase of the UCMR.

c. *Proposal for Monitoring of Aeromonas in a Second Screening Survey.* Because a validated *Aeromonas* method was not available at the time of promulgation of the September 17, 1999, UCMR, EPA is proposing today to monitor *Aeromonas* in the second round of the Screening Survey, anticipated to occur in 2003. As currently promulgated in the UCMR, *Aeromonas* is included on List 2. List 2 contaminants would be monitored in a representative randomly selected sample consisting of 180 small systems and 120 large systems. Site vulnerability based on likely occurrence of *Aeromonas* spp. (multiple species) will not be a factor in system selection for monitoring.

(i) *Analytical Method.* The proposed *Aeromonas* spp. method for List 2 monitoring is EPA Method 1605, which is a membrane filter assay based on the ampicillin-dextrin (ADA) method of Havelaar *et al.* (1987), with two additional tests for confirmation, cytochrome oxidase and trehalose fermentation. This method identifies *Aeromonas* to the genus level and detects *A. hydrophila* and a majority of the other aeromonad species. Single laboratory validation of Method 1605 and external peer review, necessary to finalize Method 1605, have been completed. Laboratory approval and certification requirements for *Aeromonas* are proposed in § 141.40 (a)(5)(ii)(G)(3). *Aeromonas* analyses must be performed by laboratories certified under § 141.28 for compliance analysis of coliform indicator bacteria using an EPA approved membrane filtration procedure. Because of

differences between Method 1605 and existing membrane filtration methods, EPA believes it is advisable to require laboratories performing EPA Method 1605 also to participate in performance testing (PT) studies to be conducted by EPA. Multilab precision and accuracy statistics are now being developed and analyzed through EPA's Technical Support Center in Cincinnati, Ohio, to provide a basis for determining whether performance testing (PT) by laboratories is necessary to demonstrate that they are capable of consistent analysis for *Aeromonas.* Laboratories conducting *Aeromonas* analyses need to demonstrate that they are able to identify this genus adequately. Based on the results of the multi-laboratory analysis, EPA will make a determination whether it is feasible to produce PT samples for *Aeromonas.* If it is feasible, then EPA will specify in the final rule that successful PT analysis is required prior to lab approval and may require yearly performance tests thereafter to maintain approval.

Commenters representing the scientific community have criticized the proposed analytical method (Method 1605) for not identifying potentially pathogenic strains of *Aeromonas* spp. Currently available methods can only identify taxonomic groups to which pathogenic strains are likely to belong, but will not necessarily indicate whether or not isolates are pathogenic. Isolates from Method 1605 will be tested for taxonomic characteristics that are associated with pathogenic clinical isolates in follow-up tests conducted by EPA or a contractor. Although those tests would increase the specificity of detection, they would add a cost burden to the water systems. Therefore, EPA proposes to do these additional analyses for small and large systems that have confirmed positive colonies of *Aeromonas* (see proposed § 141.40(a)(3), Table 1, List 2, footnote j). Confirmed *Aeromonas* colonies would be archived by analytical laboratories performing Method 1605, and would be shipped to EPA. EPA will arrange to have additional analyses done on isolates to determine the hybridization groups that are associated with pathogenic forms. If the number of confirmed positive samples detected using Method 1605 is less than 2000, all positive isolates, will be analyzed; however, if 2000 or more confirmed *Aeromonas* colonies are found, a representative subset will be analyzed. This will provide some indication of the distribution of different hybridization groups or isolates having virulence factors in finished water and would enable the detected aeromonads to be related to potentially pathogenic types, such as hybridization groups 1, 4 and 8 (Altwegg *et al.,* 1990) which account for 85% of clinical isolates (Janda, 1991). However, strains from many other recognized hybridization groups have also been isolated from human clinical material. Follow-up testing on *Aeromonas* isolates will not include determination of virulence factors. Morgan *et al.* (1985) determined that the possession of virulence factors did not necessarily indicate that *Aeromonas* strains would cause diarrhea in volunteers. This study and others (Janda, 1991; Palumbo *et al.,* 2000) suggests that virulence factors produced by *Aeromonas* that are involved in human disease have not been completely characterized. Since the relation of virulence factors to human disease, and even our knowledge of all virulence factors is incomplete, inclusion of virulence factor testing in the characterization of *Aeromonas* isolates could lead to a potentially incorrect interpretation of results. The detection of isolates having virulence factors might be interpreted as being human pathogens, thereby being equivalent to false positives and increasing the level of risk perceived to be posed by *Aeromonas.*

(ii) *Analytical Method for Determining Pathogenic Strains.* The phenotypic method described by Abbott *et al.* (1992) will be used to identify the hybridization group of each isolate. These investigators described a group of biochemical tests which were able to place 132 of 133 Aeromonas isolates in the correct hybridization group. The use of biochemical tests to determine hybridization groups of Aeromonas is well established (Borrell *et al.,* 1998, Altwegg *et al.,* 1990 and others).

EPA is currently evaluating two DNA sequence based methods for identifying *Aeromonas.* The restriction fragment length polymorphism (RFLP) method of Borrell *et al.* (1997) has been applied to 96 Aeromonas isolates from well and cistern water samples. Additional restriction enzymes were needed to distinguish hybridization groups 2,3,11,16, and 17. Currently these same isolates are being independently identified by sequencing two variable regions on the Aeromonas 16S ribosomal gene (Demarta *et al.,* 1999). The EPA will decide once all the data has been produced whether one of these two methods provides an advantage over the phenotypic method of identification. The EPA welcomes comment concerning the use of these alternative molecular based methods for the identification of *Aeromonas* to the hybridization group level.

(iii) *Vulnerability Factors Affecting Sampling Locations.* Comments have been made by *Aeromonas* experts that the proposed screening survey would not detect *Aeromonas* since it would be a representative survey and would not target water distribution systems that are vulnerable to *Aeromonas* regrowth. Selection of vulnerable water distribution systems would require that the factors responsible for *Aeromonas* regrowth in distribution systems be understood well enough to reliably predict when *Aeromonas* would be present in the distribution system. Published reports and other sources list at least 10 factors associated with *Aeromonas* occurrence in distribution systems. Nonetheless, there is insufficient data (Holmes *et al.,* 1996) or agreement between different studies (see ''pros'' and ''cons'' in Table 4) on how to identify vulnerability characteristics to consistently predict which systems are vulnerable to *Aeromonas* occurrence. Therefore, EPA does not feel that enough is understood about *Aeromonas* occurrence to target vulnerable systems, and systems selected for monitoring will be chosen as a representative survey. At the same time, however, there appears to be general agreement that aeromonads grow best within distribution systems during warm seasons when finished water temperature is elevated or in waters characterized as having a low chlorine residual (Holmes *et al.,* 1996). Therefore, EPA is proposing to require sampling at times or locations within a distribution system thought to be vulnerable.

TABLE 4.—FACTORS AFFECTING OR RELATED TO Aeromonas ABUNDANCE

Factor	References
1. Chlorine Residual.	Pro: Grows at <0.2 mg/L chlorine (Holmes and Nicolls, 1995), present when chlorine residual consistently less than 0.3 mg/L (Burke et al., 1984). Con: Little relation between *Aeromonas* numbers and chlorine residual; may be present at 0.45 mg/L chlorine (Gavriel et al. 1998).

TABLE 4.—FACTORS AFFECTING OR RELATED TO Aeromonas ABUNDANCE—Continued

Factor	References
2. Temperature or Season.	Pro: Associated with unchlorinated water above 14.5°C (Burke et al., 1984); Most abundant at >12°C, mid June to end of September (Scotland) (Gavriel et al., 1998); June through October (England) (Holmes and Nicolls, 1995); May through October (Oregon) (LeChevallier et al., 1982) Con: *Aeromonas* can grow and has been detected in distribution systems at low temperatures (Holmes and Nicolls, 1995).
3. Rainfall	Pro: Relationship between *Aeromonas* and rainfall in all drinking water reservoirs surveyed (Gavriel et al., 1998); *Aeromonas* numbers may have been affected in a river by rain Pathak et al. 1988); Con: *Aeromonas* occurrence not related to the same degree to rain fall in all rivers sampled (Pettibone, 1998).
4. Heterotrophic plate counts.	Pro: Le Chevallier et al., 1982; Significant correlation (r=0.848, p<0.001) of *Aeromonas* with HPC. Con: No relation of *Aeromonas* to HPC or TOC (Havelaar et al. 1990, Gavriel et al., 1998).
5. Biofilms	Pro: Holmes and Nicolls, 1995; *Aeromonas* is biofilm-associated, especially in surface water derived areas. Con: van der Kooij et al., 1999; *Aeromonas* density is related to the biofilm formation rate.
6. Long residence time in distribution system.	Pro: Havelaar et al. 1990; *Aeromonas* increased in the distal parts of the distribution system. Con: Gavriel et al., 1998 *Aeromonas* found in several closely situated drinking water reservoirs, but not in outlying drinking water reservoirs.
7. Anaerobic ground water or low redox.	van der Kooij personal communication; *Aeromonas* regrowth in anaerobic water containing methane (Havelaar et al., 1990).
8. Corroding cast iron water pipes.	van der Kooij personal communication.
9. pH	Moyer, personal communication.
10. Lime softening.	Plants that lime soften may be more susceptible to *Aeromonas* colonization with low chlorine residual and temperature >15°C (Moyer, unpublished observation).

(iv) *Sampling Times and Locations.* Since the literature suggests that the occurrence of *Aeromonas* numbers .. (Gavriel et al., 1998) and species (Kuhn *et al.,* 1997) tends to be sporadic in water distribution systems, EPA proposes at § 141.40(a)(5)(ii)(B), Table 3, Monitoring Frequency by Contaminant and Water Source Types, that systems sample six times during the year, once per quarter during the cooler seasons and once per month during the warmest (vulnerable) quarter. This would result in sampling in March, June, July, August, September, and December. Six samples will increase the likelihood of detecting sporadic occurrence. At each sample time, three samples would be taken from each system. Sampling locations would include one midpoint in the distribution system where the chlorine residual would be expected to be typical for the system (midpoint, or MD, as defined in the Rule), and two points of maximum retention or locations where the chlorine residual would have typically declined (point of maximum residence, or MR, and location of lowest disinfectant residual or LD, respectively, as defined in the Rule).

Sites selected for *Aeromonas* samples could utilize locations identified for certain other contaminants which may occur under similar conditions to those described for *Aeromonas*. Sampling for coliform indicator bacteria, which would include midpoint samples, is described in 40 CFR 141.21. Compliance monitoring samples for coliform bacteria are taken from a variety of locations through the distribution system. Some of these samples are from locations where the chlorine residual would be representative of the distribution system and would not have significantly declined. Locations specified in the sample plan for coliform bacteria that meet this description could be used for the *Aeromonas* midpoint sample. Additionally, samples will be required to be taken from two locations in the distribution system where the chlorine residual is expected to be low, which is similar to total trihalomethane (TTHM) sample points. Sample locations for TTHMs are described in 63 FR 69468 (1998), the Disinfectants and Disinfection Byproducts Rule, and 40 CFR 141.30. These sample locations would be at distal parts of the distribution system (taking care to avoid chlorine booster stations) or dead ends, or locations which had previously been determined to have the lowest chlorine residual for systems which disinfect. Undisinfected ground water systems would utilize the same sample locations as those that disinfect. Additional information on *Aeromonas* occurrence in relation to retention time or chlorine residual are given in Havelaar *et al.,* 1990, Burke *et al.,* 1984, Gavriel *et al.,* 1998, Holmes and Nicolls, 1995. These studies suggest that *Aeromonas* is more likely to occur where the chlorine residual has declined to less than 0.3 mg/L or where the residence time in the distribution system is longest. Stelzer *et al.* (1992) found *Aeromonas* more commonly at distances greater than 10 km from the treatment plant. Holmes *et al.* (1996) reported after growth of *Aeromonas* in part of a distribution system where the retention time of treated water could exceed 72 hours.

In cases where water is purchased by another water system, distribution systems may be interconnected. In this case, all consecutive systems would be responsible for monitoring at the three specified locations for *Aeromonas*. This is consistent with the requirements of the Total Coliform Rule and the Disinfection Byproducts (DBP) Rule. This approach is proposed in § 141.40(a)(3), Table 1, List 2, footnote i. However, States may specify the three distribution system sampling points that represent the longest residence time or low chlorine residual points of the larger consecutive systems' distribution system so that sampling at three sampling points is not necessary for all consecutive systems. This specification of distribution system sampling points by States allows them to reduce burden in cases where the number of consecutive systems is large, or, from a larger distribution system operation standpoint, it is practical and scientifically sound and justified (because the three sampling points of the larger distribution system are reasonably known and identifiable) to select only the three sampling points in the larger consecutive systems' distribution system (as indicated in § 141.40(a)(3), Table 1, List 2, footnote i of the proposed rule) to meet the proposed UCMR requirements.

Sample location descriptions for large distribution systems may not be

applicable for small systems. In the event that the midpoint and distal or low chlorine residual sample locations described for larger systems do not apply, small systems may use a coliform sample location, and two samples at the farthest point from the source water intake.

Three samples from different parts of the distribution system for the UCMR screening survey would provide additional information that would be useful for the next five-year cycle of assessment monitoring which is expected to begin in 2006, depending on the outcome of the screening survey. Due to the size of the screening survey (300 systems total) versus that of assessment monitoring (approximately 3,600 systems), any additional information acquired during the screening survey prior to the next cycle of Unregulated Contaminant monitoring would result in substantial savings. This sampling scheme would provide the best compromise to give a reasonable indication of the occurrence of aeromonads both seasonally and throughout the distribution system while not overburdening the systems with undue cost.

Factors relating to *Aeromonas* occurrence are different than those for chemical contaminants. Therefore, EPA proposes that the water quality parameters identified in § 141.40(a)(4)(i)(B), Table 2, Water Quality Parameters to be Monitored with UCMR Contaminants, be analyzed and reported for the microbiological contaminant on List 2, *Aeromonas*. These parameters include water pH, turbidity, temperature, and free and total chlorine residual.

EPA plans to conduct an in-depth survey at a few systems (a performance test that would precede the Screening Survey) after EPA analyzes the multi-lab statistics for EPA Method 1605 to verify that the previously described sampling and analysis scheme would provide useful data.

(v) *Responsibility for Sampling.* Sampling in the distribution system will include sampling in consecutive systems (systems purchasing water from a primary supplying system). EPA proposes today in revisions to § 141.40(a)(3) Table 1, List 2, that the system that owns the distribution system serving consecutive systems is the public water system responsible for the monitoring of contaminants (in this case, *Aeromonas*) that have been identified for monitoring in distribution systems. The reason for this responsibility is that the system owning the distribution system owns and controls the water in it until it is delivered and thus controls the access to the distribution.

EPA invites public comment on the UCMR monitoring program for *Aeromonas*.

d. *Exclusion of RDX, and Alachlor ESA and Other Acetanilide Pesticide Degradation Products from Monitoring under Screening Survey at This Time.* Not all of the contaminants included in the UCMR (1999) List 2 in the final UCMR Rule (64 FR 50556) are activated for Screening Survey monitoring by this rule. Some of these contaminants, as indicated in this section, still do not have appropriate analytical methods available for monitoring.

(i) *Alachlor ESA and Other Acetanilide Pesticide Degradation Products.* In the **Federal Register** notice announcing the draft Contaminant Candidate List (CCL; 62 FR 52193), EPA initially included only alachlor ethane sulfonic acid (alachlor ESA) on the draft list. However, in response to the proposal, EPA received public comment supporting the inclusion of other acetanilide pesticide degradation products, such as metolachlor ESA and metolachlor oxanilic acid (metolachlor OA). EPA agreed that other acetanilide pesticide degradation products should be included, and thus listed ''alachlor ESA and other acetanilide pesticide degradation products'' as a contaminant group on the final 1998 CCL (63 FR 10273). In part, this was done because at the time of publication of the final 1998 CCL, the Agency did not have sufficient information to determine which degradation products should be included. In the publication of the final UCMR, it was again noted that EPA is evaluating which specific degradation products might be included in this group, and that when these have been identified and analytical methods determined, they could be proposed for monitoring (64 FR 50556).

A few procedures have been identified from the literature and discussions with other agencies that have been used to analyze for particular alachlor degradates. In particular, USGS has utilized some research procedures to measure alachlor ESA in environmental water samples. These are still research procedures and the processes and instrumentation used, such as solid-phase extraction (SPE) with liquid chromatography/mass spectrometry or SPE and enzyme-linked immunosorbent assay, are not commonly available in laboratories performing drinking water analyses. Further, these procedures do not contain the preservation and dechlorination steps necessary to ensure analyte stability in drinking water samples. Such procedures need further refinement and field validation to ensure they would be suitable methods for routine sampling by public water systems or for routine laboratory implementation. For these reasons, EPA is not at this time including alachlor ESA and other acetanilide pesticide degradation products for UCMR (1999) List 2 monitoring. EPA has begun methods development work for acetanilide pesticide degradation products including alachlor ESA and OA, acetochlor ESA and OA, metolachlor ESA and OA, propachlor ESA and OA, and dimenthenamide ESA and OA. When validated methods are available, EPA may propose Screening Survey monitoring for these contaminants.

(ii) *RDX.* EPA did not initially propose to include RDX on the UCMR (1999) List. In the final Rule, however, in response to public comment, EPA included RDX on List 2 of the UCMR (1999) List pending identification of an appropriate analytical method. During the peer review conducted for the UCMR, reviewers identified analytical techniques (*e.g.,* Method 8330, 8095) contained in EPA's SW–846 that might be suitable for monitoring RDX in drinking water and should be investigated. However, one reviewer noted that some of these techniques are often difficult to perform, and that a new or improved method for measuring RDX should be developed. EPA has since evaluated these techniques (3535 for extraction and 8095 and 8330 for determination in various matrices) and found that they are not appropriate for use in the UCMR for drinking water. Specifically, these methods do not contain any instructions for sample collection and preservation of chlorinated samples, and do not include requirements for the use of surrogates and/or internal standards. The U.S. Army Cold Regions Research and Engineering Laboratory (CRREL) has also developed methods to analyze for RDX in contaminated soil and water samples. However, these methods refer to SW 846 for sampling, preservation, and quality control requirements. Since none of these methods require either the sampling and preservation procedures or the quality control elements necessary to ensure the quality of data generated in drinking waters at low RDX concentrations, EPA does not feel that these methods are appropriate for use in the UCMR.

There are also safety considerations which need to be addressed. Relatively pure samples of chemicals are used to make standards and spikes for calibration and laboratory quality

control. RDX is a chemical used in weapons-grade explosives, presenting a very unique safety issue for each laboratory that might be analyzing for RDX under the UCMR. These safety issues must also be resolved before a method is approved for use. For these reasons, EPA is not activating RDX for UCMR (1999) List 2 monitoring.

Note: The methods for RDX and Alachlor ESA (as well as all the List 3 contaminants identified in the September 1999 Revisions to the UCMR) are currently under development and it is not certain when these methods will be completed. If these methods are completed before December 2001, additional rulemaking should be anticipated with those completed methods being proposed, public comment solicited, final promulgated for the method(s), and the defined monitoring schedule completed on or before December 2003. If these methods are still in development after December 2001, EPA will then begin to consider including these contaminants in the next five-year cycle of UCMR monitoring, currently planned to begin in January 2006.

e. *Movement of Polonium-210 from UCMR (1999) List 2 to UCMR (1999) List 3.* When EPA published the proposed UCMR (1999) List on April 30, 1999 (64 FR 23398). The Agency requested comment on whether to include the radionuclide polonium-210 on the UCMR (1999) List. Polonium-210 was included on List 2 of the UCMR (1999) list in the Final Rule because it was believed at the time that the analytical method for this contaminant was easy to perform. However, further analysis of the method has since indicated that additional development and validation work is needed before the method can be used for drinking water analysis. In addition, EPA and external research indicates that depending on the MRL, the currently available procedure for polonium-210 may be very time consuming and will likely require an experienced analyst, which raises significant laboratory capacity and capability concerns. Few, if any, laboratories currently performing compliance drinking water radiochemistry have any experience with polonium-210. Before requiring monitoring for this contaminant, EPA will need to address issues related to radionuclide laboratory capacity and certification. Due to the need for further research and development of drinking water analytical methods for this contaminant, EPA is proposing to move polonium-210 to List 3 of the UCMR (1999) List, as reflected in proposed § 141.40(a)(3), Table 1, List 3.

The reason that EPA proposes that polonium-210, unlike RDX and alachlor, be moved to List 3 is that for the other two organic chemicals, methods are available but are being refined. However, for polonium-210, the methods are not yet at a sufficient point to be used for drinking water analyses, let alone be refined for routine application. Thus, for drinking water analyses, the methods still require development, peer review and EPA approval. As a result, polonium-210 is more appropriately placed on List 3. EPA invites public comment on moving polonium-210 to List 3.

3. All List 2 Monitoring at Entry Points to the Distribution System

EPA is proposing to modify § 141.40(a)(7), which addresses monitoring for List 2 contaminants, to clarify that all List 2 monitoring must be done at entry points to the distribution system. The current UCMR allows systems that routinely sample at source (raw) water sampling points to sample List 1 contaminants at those points until an unregulated chemical contaminant is found. After such a detection, the system must generally initiate monitoring at the entry points to the distribution system for those contaminants detected (and at its discretion, the other contaminants in the detected contaminant's method, or for all the other UCMR List 1 and 2 contaminants (and their methods) for which it must test). Since EPA is seeking a representative result from the 300 systems (120 large and 180 small systems) that are required to monitor for List 2 chemical contaminants and is also limiting the timeframe for conducting this monitoring (1 year: 2001 for the first Screening Survey of small systems and 2002 for the first Screening Survey of large systems), all List 2 chemical contaminant monitoring at large systems should be done at entry points to the distribution system. Sampling beyond this year would jeopardize the data set's consistency. In States which require compliance monitoring in the source water, Assessment Monitoring for List 1 contaminants in source water is permitted since the approved compliance monitoring methods can simultaneously monitor for these List 1 contaminants and the cost burden is reduced. Contaminants included in List 2 are not included in methods currently used for compliance monitoring, and, consequently, monitoring in source water does not reduce costs and makes it difficult to obtain accurate exposure estimates. All List 2 chemical contaminant monitoring will be done using new methods, so there will not be problems of method applicability at a different sampling point for other compliance purposes.

Specifically, EPA proposes to clarify in § 141.40(a)(7) that List 2 chemical contaminant monitoring by the randomly selected 120 large systems, which is only to be conducted over 1 year (2002) (not any 12 months over the 3-year period, as with List 1 Assessment Monitoring), must be at the entry point to the distribution system for all systems for chemical monitoring, to provide for consistent results nationally. [Note that the 180 small systems randomly selected to monitor in 2001 for Screening Survey One for List 2 contaminants will conduct that monitoring with their Assessment Monitoring for List 1 contaminants, as indicated in this Preamble at 4. Implementation, a. Coordination of Assessment Monitoring and Screening Surveys.] The national data will then be consistent for future analyses. EPA invites public comment on this clarification.

4. Implementation

a. *Coordination of Assessment Monitoring and Screening Surveys.* While no modification of the regulation is proposed for coordination of Assessment Monitoring of List 1 and Screening Surveys for List 2, such coordination, to the extent possible, is an important aspect of the UCMR program. Coordination of Assessment Monitoring and Screening Surveys for small systems will occur for all the small systems required to do both in the year that they are selected to conduct Assessment Monitoring. Not all small systems will be selected to do both, but for those that are, this is clearly indicated in the Initial State Monitoring Plans for small systems: If a small system is selected to conduct a Screening Survey of List 2 contaminants, the SMP for this monitoring is to carry out the Screening Survey and Assessment Monitoring in the same year and frequency. For large systems serving more than 10,000 persons, the systems randomly selected to do the first screening survey must carry out the monitoring for that survey in 2002. Large and small systems selected for the second screening survey for *Aeromonas* must monitor for that microorganism in 2003. This second Screening Survey may not coincide with Assessment Monitoring at any system from the standpoint of sampling months and will be conducted at completely different sampling locations: three sites in the distribution system. EPA recognizes that these dates may not always coincide with compliance monitoring. However, the monitoring for *Aeromonas* is only being conducted at 300 large and small systems in 2003,

which has a limited effect on the industry overall. This is a one time, one-year survey, specific to *Aeromonas*, which is being conducted with the expectation that it will provide a nationally consistent result. Figure 1 provides a timeline for implementation of the UCMR, including the Screening Survey for List 2 contaminants.

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Figure 1

Implementation Timeline for UCMR (1999): Public Water Systems

UCMR Implementation Timeline

2000	2001	2002	2003	2004	2005
Large Systems (serving more than 10,000 people)					
	List 1 Assessment Monitoring - All Large Systems must monitor for one year during this three-year period. Data must be reported electronically to EPA.				
		List 2 Screening Survey Chemicals 120 randomly selected large systems must monitor.	***List 2 Screening Survey Aeromonas*** Second set of randomly selected 120 large systems must monitor.		
Small Systems (serving 10,000 or fewer people)					
	List 1 Assessment Monitoring - 800 Small Systems (statistically selected) must monitor for one year during this three-year period, as specified by the State and EPA. Approximately one-third monitor each year. EPA pays for the costs of testing.				
	List 2 Screening Survey Chemicals 180 randomly selected small systems must monitor; subset of systems doing List 1 monitoring during this year.		***List 2 Screening Survey Aeromonas*** Second set of 180 randomly selected small systems must monitor; subset of systems doing List 1 monitoring during this year.		
	Index Systems 30 Index Systems (randomly selected from the 800 small systems) must monitor every year for List 1 contaminants during this five-year period, with additional support from EPA.				
All Systems Conducting UCMR Monitoring					
Systems notified of requirements by EPA/State					
	Reporting - All Large and Small Systems Monitoring for List 1 and List 2 Contaminants must report results to public under the Consumer Confidence Rule or Public Notification requirements.				
Perchlorate Laboratory Proficiency Testing					

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b. *Selection of Systems by Water Source and Size.* Today's rule proposes the approved analytical methods for fourteen (14) UCMR (1999) List 2 contaminants for which selected systems will need to monitor. EPA will select these systems from the 2,800 large systems and 800 small systems previously identified by EPA for Assessment Monitoring. One hundred twenty (120) large systems and 180 small systems will be randomly selected to monitor for the Screening Survey and they will be allocated as follows:

System size (persons)	Water source	
	Ground water	Surface water
25–500	30	30
501–3,300	30	30
3,301–10,000	30	30
10,001–50,000 ..	30	30
50,000 or more persons	30	30

This allocation ensures adequate coverage in both small and large system size and the source water categories.

c. *Sampling Period, Location and Frequency.* For the monitoring period, the proposed rule indicates the year the monitoring must be completed. For small systems serving 10,000 or fewer persons, monitoring for List 2 chemicals is proposed to be conducted in 2001, which is also the first year of Assessment Monitoring. EPA will pay for sample shipping, testing, and reporting for small systems. EPA expects to evaluate both the occurrence and the analytical methods used for List 2 contaminants at this time. If adjustments to the methods need to be made before large systems monitor, the monitoring in 2001 will provide EPA time to make these changes before large systems conduct monitoring. Large systems serving more than 10,000 persons would be required to conduct monitoring in 2002. The monitoring of List 2 chemical contaminants in 2001 and 2002 will provide information for the contaminant selection process used for the next (2003) Contaminant Candidate List (see 64 FR 23403). The monitoring for *Aeromonas* is proposed to be conducted by all selected small and large systems in 2003.

The sampling location for the chemical contaminants on List 2 is the entry point to the distribution system. For *Aeromonas*, the sampling locations are the three locations in the distribution system representing: (1) the total coliform location specified by the State, (2) the distal end of the distribution system (maximum residence time) specified for TTHM sampling and/or the location of low disinfection residual, also specified for TTHM sampling, depending on whether these are the same location. If the latter two are the same location, then the third sampling location is at a point between the total coliform and the TTHM location.

The frequency of sampling for chemical contaminants on List 2 is the same as for List 1 Assessment Monitoring: four consecutive quarters for surface water systems and two times six months apart for ground water systems, with one of these sampling events (for both water source types) during the vulnerable time specified by EPA in the rule, or by the State in its State Monitoring Plan. For *Aeromonas*, sampling frequency is once per quarter (specifically the last month of each quarter) and each month during the warmest quarter (July, August and September).

d. *Sample Analysis.* Large systems will sample and send their samples to the EPA certified laboratory of their choice. Large systems will pay for the cost of the shipping, testing, and reporting of the results. At small systems, the owner or operator will collect the sample in EPA-provided equipment. EPA will pay for the shipment, analysis of the samples, and reporting of test results for small systems.

e. *Reporting.* Systems, through their analytical agent or laboratory, will be responsible for reporting the results to EPA, with a copy to the State, in a format specified by EPA, within 30 days of the month in which the results are received from the laboratory. EPA will allow an additional 60 days for system, State, and EPA quality control review before posting the results to the National Drinking Water Contaminant Occurrence Database (NCOD) portion of the Safe Drinking Water Information System.

EPA contract laboratories will generate small system results and will report the data into the EPA system. EPA will provide the small systems the opportunity to conduct a 30-day quality control review of the results before EPA reports them to the NCOD and before the 60-day quality control review by systems and States. During this 60-day period, EPA will also conduct its own quality control review.

D. Other Technical Changes and Clarifications to the UCMR (CFR 141.40)

Changes described in this section will affect monitoring and reporting for both List 1 and List 2 contaminants beginning in 2001.

1. Updating the National Drinking Water Contaminant Occurrence Database

EPA proposes to modify § 141.35(c) to recognize the updating cycle of the National Drinking Water Contaminant Occurrence Database (NCOD). The existing rule provides for placing the data reported to EPA by systems in the NCOD after a 60-day quality control review period. Today's proposal will continue to provide for the 60-day quality control review by systems, States and the Agency. The proposed rule would require that EPA place the available unregulated contaminant occurrence data resulting from UCMR monitoring in the NCOD at the time of each update of the database, which currently is on the same quarterly update cycle as the Safe Drinking Water Information System. Since updating the databases incurs costs, being able to coordinate this update with an existing update process provides a lower level of expenditure for database maintenance. The NCOD would be updated four times per year, rather than six times. Because these data are for long-term analytical purposes, this change should not inhibit its principal use for regulatory determination and development. The data would still be regularly available to the public through the NCOD. The public should also see the results of detections of unregulated contaminants in their consumer confidence reports. EPA invites public comment on this proposed change in the updating cycle of the NCOD for unregulated contaminants.

2. Reporting System and Laboratory Contacts

In § 141.35(d), EPA identified the data elements to be reported with contaminant monitoring results. In the process of initiating implementation of the UCMR, including discussions with stakeholders, EPA realized that to facilitate communication in a rule for which EPA had direct implementation responsibility, the agency needed points of contact with public water systems and their analytical agents or organizations (laboratories). In today's proposal, EPA is amending § 141.35(d) to clarify that systems must provide ''point-of-contact'' information. The proposed rule would amend the UCMR to require on a one-time basis that systems and laboratories provide the following information: name, mailing address, phone number, and email address for: (1) PWS technical person (*i.e.,* the person at the PWS who is responsible for the technical aspects of UCMR activities, such as details concerning sampling and reporting); (2)

PWS official UCMR spokesperson (*i.e.,* the person at the PWS who is able to function as the official spokesperson for the PWS); and (3) laboratory contact person (*i.e.,* the person at the laboratory who is able to address questions concerning the analyses performed). Systems will be asked to update this information if it changes during the course of UCMR implementation. The information will be used to facilitate: communication with PWSs and labs regarding any reporting system problems/modifications; resolution of specific data questions; and periodic distribution of any related materials. EPA invites public comment concerning the provision of system and laboratory point-of-contact information.

3. Modification of Data Element Definitions

In discussions with representatives of systems and laboratories concerning implementation of the UCMR, EPA found that the definitions of several data elements were not clear. EPA is proposing to change nine data element definitions to clarify the data to be reported so that they will be more useful for possible regulatory analysis. These data elements are: PWS facility identification number, sample identification number, sample analysis type, sample batch identification number, analytical precision, analytical accuracy, detection level, detection level unit of measure, and presence/absence. The proposed changes appear in § 141.35, Table 1. The proposed clarifications are as follows:

(a) PWS facility identification sampling point number is proposed to be a two-part number made up of the PWS facility identification number and a unique sampling point number within the PWS and assigned by the State, as well as the sampling point type, to allow for relationships between sampling points and other facilities to be reported and maintained, and for appropriate analyses to be made.

(b) Sample identification number is proposed to be changed to specify a sample or group of samples that are collected at the same time and place.

(c) Sample analysis type is proposed to be modified to address raw and treated field and duplicate samples to ensure that the full range of sample types can be reported.

(d) Sample batch number is proposed to be changed to clarify that an extraction or an analysis batch number are to be reported along with the laboratory identification number and analysis date.

(e) Analytical accuracy and analytical precision are both proposed to be modified to clarify the meaning of each variable identified in the current equations.

(f) The proposed changes appear in § 141.35, Table 1.

EPA proposes to modify both detection level and detection level unit of measure to provide additional reporting flexibility and to change their names to ''minimum reporting level'' and ''minimum reporting level unit of measure,'' respectively. PWSs are required to report all detections occurring at or above the minimum reporting level (MRL). Since some laboratories will be able to accurately and precisely measure some of these analytes at concentrations below the EPA established UCM MRL, EPA proposes to expand the definition of MRL to permit laboratories to establish their own MRLs as long as they are less than the UCM MRL listed in § 141.40(a)(3), Table 1, and that they adhere to the requirements established in Appendix A to § 141.40, paragraphs (2) and (3). These changes will permit PWSs to report data for analytes below the UCM MRLs without compromising the quality of the data reported.

(g) The presence/absence data element is being reserved for potential future use. All of the contaminants currently being monitored can be accurately and precisely quantified. Therefore, their presence or absence does not need to be reported. This data element is being reserved for contaminants and not deleted in order to permit the use of presence/absence measured if warranted in future regulations.

EPA invites public comment on these proposed changes in reporting for UCMR contaminants.

Special Note on PWS Facility Identification Number. Table 1 of Section 141.35 previously required that the same PWS Facility Identification Number be used consistently throughout the history of unregulated contaminant monitoring to facilitate analysis of the data. States are already required to number and report to EPA water source intakes and treatment plants, but there is no requirement to hold those numbers static, or even to store them in the state's database. EPA is aware that States converting to the State version of the Safe Drinking Water Information System (SDWIS/STATE) will have new numbers assigned to PWS facilities within that State. Other States converting to other databases during the next several years may face a similar problem. It may be less burdensome on the State to be able to change the number, but report to EPA what number the new number is replacing so that SDWIS/FED can link the two for historical tracking. As a result, EPA is proposing additional flexibility in this definition.

One option EPA has given States historically to number their system facilities is to notify EPA of the existence of the facility and have EPA's database automatically generate a number for the facility. EPA is considering requiring States to actually provide an identification number rather than have EPA's database generate a number on the State's behalf so that States are aware of the number and can respond to inquiries regarding it. EPA requests comment on this possible change.

4. Clarification of Data Reporting Procedures

EPA is also proposing to modify § 141.35 to modify the electronic process that EPA intends to implement for the large amount of data that is expected to be reported under the UCMR. As EPA evolves its electronic reporting approach Agency-wide, it is trying to learn from lessons in which it has attempted such streamlining in the past. Specifically, the electronic reporting that occurred under the Information Collection Rule resulted in a process whereby laboratories entered data electronically in formats they used, provided a hard copy of the report to the public water system, and then the system reentered the data to an electronic disc which was sent to EPA. This resulted in rekeying (data entry) errors and transmission errors, including loss of discs (through mail or damage). EPA is moving toward a ''one-entry'' approach for data reporting to improve reporting quality, reduce reporting errors, reduce the time involved in investigating, checking and correcting errors at all levels (laboratory, system, State and EPA), thereby making the data more useful earlier. Electronic reporting supports the President's overall regulatory reinvention goals of reducing the burden of compliance and streamlining regulatory reporting, as stated in his March 1996, Reinventing Environmental Information Report. Electronic reporting allows for improvements to the current submission process, such as additional data quality checks and electronic acknowledgments of data received by EPA. These opportunities provide EPA with the ability to better serve the systems as regulated entities and the public in general. For UCMR implementation, EPA has consulted with system and laboratory representatives concerning an approach that will allow the organization conducting unregulated

contaminant analysis for the system to enter the data one-time through EPA's electronic Web-based format, having the system review (electronically or hard copy) the results and approve them for submission. Furthermore, in response to stakeholder input on UCMR implementation, EPA is establishing procedures to accommodate ''batch'' electronic data transfer directly from laboratory information management systems. This will result in a very efficient, cost-effective approach, in addition to enhancing data quality.

In light of these electronic reporting developments and experiences, EPA proposes to modify § 141.35(e) and (f) to clarify its format for reporting and to indicate that a system must instruct the agent or organization that conducts the testing and laboratory analysis for the unregulated contaminants (herein after referred to as ''the laboratory'') to enter the data into the UCMR electronic reporting system. EPA will provide electronic forms via its Internet website or via ''batch'' electronic data transfer following a format specified by EPA. Such data entry also includes the sample collection and PWS information specified in Table 1 of § 141.35.

A public water system has choices for reporting the data to EPA: (a) The public water system can instruct its analytical agent (laboratory) to enter the UCMR results directly into the electronic template that EPA will make available on the Internet through the OGWDW Homepage. The PWS can then review the results on-line and electronically indicate its approval to submit the data to EPA. The advantages of the EPA electronic reporting system are that no duplicate data entry would occur, data quality would improve, access by systems and States would be in near real time and systems could reduce costs of data management for unregulated contaminant reporting. A disadvantage may be that EPA (and potentially the public) would have access to UCMR data entered by laboratories to the EPA electronic reporting system before a system approves submission of the data since the data would be in an EPA database network. However, while these data are subject to public requests under the Freedom of Information Act (FOIA), EPA does not intend to use these data in its regulatory determinations until they have been reviewed for quality control and approved for submission by the PWS. Until the PWS review and submission approval occurred, EPA would consider the data preliminary and usable for Agency decisionmaking.

(b) Systems may require their laboratories to receive their approval before the laboratories post data on the EPA electronic reporting system. In this case, the PWS can, of course, review the results prior to the laboratory's entry of the data into the UCMR electronic reporting system through its previous arrangements for receiving data from the laboratory. Typically, the laboratory has already entered the data into its electronic laboratory information management system (LIMS). Once the laboratory receives approval to submit the data from the PWS, it could electronically send the data in batch form from its LIMS to EPA's electronic reporting system.

(c) A system may determine that its laboratory does not have the capability to report electronically or does not have the capability to provide data to the system prior to submitting it to EPA without rekeying (option b above). In this case, the system may submit a request to EPA to use an alternate reporting format.

In any of the results to EPA within 30 days following the month the PWS receives the results. The single-entry, electronic reporting procedure will reduce concerns about quality control of reporting and is believed to be the most efficient, cost-effective approach since it eliminates potential re-keying steps possible under the current approach.

For small water systems, EPA would enter and report the results directly to its electronic reporting system through its contract laboratories. Since the samples, once sent to EPA by the small system, are in EPA's charge, EPA may make the data available to the public if requested prior to the system's review. Again, however, EPA would consider the preliminary and unreliable until they had undergone a quality control review by the system and EPA.

This proposal further clarifies that if a PWS chooses to report multiple results for a particular contaminant (for the same sampling location and same monitoring period) via the UCMR electronic reporting system, the highest) reported value will be used as the official result.

Additionally, for small systems in States requiring immediate reporting of contaminants found in PWSs, EPA will report these results to the State promptly after laboratory results are received to assist these small systems in meeting State reporting requirements, if this need is identified in the Partnership Agreement. However, EPA makes clear here that such a State requirement for systems to report more immediately any contaminants found is not a requirement on EPA and EPA bears no liability if such reporting by it for a system is beyond a State's reporting date for systems or if there are errors in the reporting of the information. The former situation might occur, for example, if the electronic reporting system were to go off line for any reason around the time specified by the State.

EPA invites public comment on its proposed revisions to the UCMR data reporting process.

5. Clarification of Systems Purchasing Water from Other Systems

At § 141.40(a)(1)(ii), the UCMR indicates that large public water systems not purchasing their water from another wholesale or retail public water system must monitor under the requirements outlined in the rule. However, at § 141.40(a)(1)(iii) and (v), it specifies monitoring requirements for large and small public water systems purchasing their water supply from a wholesale public water system only, with no mention of retail systems. This technical correction seeks to clarify and provide consistency in regards to wholesale and retail systems in the rule. The original intent was to address purchase of water from another system in these cases, whether or not it was a wholesale or retail system. Additionally, for small systems purchasing their entire water supply, the proposed rule changes the wording ''wholesale'' to ''another'' public water system to clarify that the selected small system may have to monitor, in particular in the distribution system, regardless of the type of system from which it purchases water.

6. Clarification of Source (Raw) Water Monitoring Alternative

At § 141.40(a)(5)(ii)(C), the UCMR allows systems in States requiring source (raw) water monitoring for compliance monitoring to conduct UCMR monitoring in the source water. However, once one or more contaminants on the UCMR list are found, the monitoring must also be done at the entry points to the distribution system. This requirement to move the monitoring activity was necessary to allow EPA to assemble a nationally consistent data set for UCMR contaminants. EPA proposes to clarify that should a system in a State requiring source (raw) water monitoring find a contaminant in the source water, the system must initiate monitoring at the entry point to the distribution system only for the contaminant(s) found, unless it desires to sample and test for all contaminants analyzed by that same method, or for all the contaminants, at its option. EPA is also proposing to clarify the rule to specify that the monitoring, once initiated at the entry point to the distribution system, must be conducted for the next 12 month period

(four times for surface water systems and two times five to seven months apart for ground water systems), even if the monitoring extends past the end of 2003. While this was the original intent, the September 1999 final rule was not clear on this matter. EPA invites public comment on this clarification of the source (raw) water monitoring alternative.

7. Clarification of Treatment Plant Latitude/Longitude Options

At § 141.40(b)(1)(ix), the existing rule states that, if a State enters into a Memorandum of Agreement with EPA to implement the UCMR, the State must report the latitude and longitude of its systems' treatment plants when the systems report this information with the first Assessment Monitoring results for List 1 contaminants. This requirement under the UCMR is in addition to a preexisting requirement to report by January 1, 2000, either the latitude and longitude or the street address of each treatment plant location. The preexisting reporting requirement is based on 40 CFR 142.15(b)(1) (which requires States to submit inventory information concerning their public water systems, including location information, according to a format and schedule prescribed by EPA; the requirement for reporting latitude/longitude information for treatment plants was transmitted to States by memorandum of July 10, 1998, from Robert J. Blanco, Director, Implementation and Assistance Division, OGWDW, as ''Revised Inventory Reporting Requirements for the Safe Drinking Water Information System,'' June 1998, EPA 816–R–98–007, with a reporting date of January 1, 2000) and the EPA Locational Data Policy (published as Information Resources Management Policy Manual 2600, Chapter 13, April 8, 1991). The EPA Locational Data Policy specifies the content of latitude and longitude data that are to be reported by facilities and other entities required to report locational information. Today's proposal clarifies that the State may use the latitude and longitude of closely adjacent facilities at or near the same site, when the facilities are associated with the treatment plant(s). Specifically, the State may use the latitude and longitude of the intake or wellhead/field if the treatment plant is on the same site, or the latitude and longitude of the entry point to the distribution system if it is on the same site as the treatment plant. Other facilities located closely adjacent to the treatment plant and part of the PWS for which it has a latitude and longitude may also be used. As a guide, ''closely adjacent'' should be taken to mean not more than ¼ mile or 400 meters away from the treatment plant. This approach provides the State with the flexibility to use closely associated measurements without having to return to take field measurements. It also provides EPA with the information to be used in health risk assessment relating to the location of contaminants to populations potentially affected. This report of latitude and longitude would be a one-time reporting, unless the information needed to be updated. EPA invites public comment on the use of these adjacent measurements for latitude and longitude of treatment plants.

8. Addition of Consensus Method for Testing

The 1999 UCMR required systems to arrange for testing of the listed contaminants by a laboratory certified for compliance analysis using specified EPA analytical methods. Since the September 17, 1999 publication of the UCMR, EPA has approved a consensus organization method for compliance monitoring that is also approved for UCMR analysis. Therefore, EPA is revising section 141.40(a)(5)(ii)(G), ''Testing'', to allow laboratories certified to perform compliance monitoring using any consensus method that is also approved for UCMR monitoring, as well as any EPA method, to be automatically approved to perform UCMR monitoring using that method.

9. Approval of EPA Method 502.2 and Standard Methods 6200C for the Analysis of MTBE

During the public comment period for the UCMR (64 FR 50556), EPA received public comment recommending approval of purge and trap/photoionization methods, EPA Method 502.2 and Standard Methods 6200C, for the determination of MTBE in addition to the methods proposed and made final. At that time, EPA did not have data beyond that included in Standard Methods 6200C to support that recommendation. Since that time, EPA has received data from the Suffolk County Water Authority which supports the data contained in Standard Methods (SM) 6200C. Therefore, EPA is proposing the approval of EPA Method 502.2 and Standard Methods 6200C for analyses of MTBE, included on List 1 for Assessment Monitoring. For systems that want to report MTBE data collected prior to 2001 to meet the UCMR regulatory requirements, they will need to use the UCMR (1999) data elements as revised by this rule, when final, to meet the reporting requirements of the UCMR. Otherwise, the data will not meet EPA's minimum reporting requirements for UCMR data and will limit the use of the data in subsequent regulatory analyses. EPA is also proposing at § 141.40(a)(3), Table 1, List 1, footnote ''n,'' that sample preservation techniques and holding times specified in EPA Method 524.2 must be used by laboratories using either EPA Method 502.2 or Standard Methods 6200C. The sampling and holding time requirements of Standard Methods 6010B are not adequate for these determinations.

EPA invites public comment on the use of these additional methods for MTBE analyses to provide flexibility to systems and laboratories already using EPA Method 502.2 and SM 6200C for analyzing MTBE.

10. Approval of EPA Methods 515.3 and 515.4 for the Analysis of DCPA mono-acid degradate and DCPA di-acid degradate

EPA proposes at § 141.40(a)(3), Table 1, List 1, to add methods for analysis of DCPA acid metabolites. Adding these methods will provide systems and their laboratories more flexibility in analyzing these UCMR contaminants and managing costs. The methods previously approved for the UCMR monitoring of DCPA mono-acid and di-acid degradates contained a solvent wash following hydrolysis. The DCPA parent is removed during this sample wash step. Since EPA Method 515.3 does not contain this solvent wash following hydrolysis and the DCPA parent is not hydrolyzed under the conditions specified in these methods, all three forms of DCPA are measured as a total value. Therefore, EPA Method 515.3 was not approved for UCMR monitoring. In this rule, EPA is proposing at § 141.40(a)(3), Table 1, List 1, footnote ''j,'' to permit the use of EPA Method 515.3 for the analysis of DCPA mono-acid and di-acid degradates in the UCMR with the following conditions:

1. When monitoring is conducted using EPA Method 515.3, only the results for DCPA mono-acid and di-acid degradates which are less than the UCMR MRL for these analytes may be reported.

2. If DCPA mono-acid or di-acid degradates are observed at greater than or equal to the UCMR MRL using EPA Method 515.3, then either a duplicate sample must be analyzed within the method specified sample holding time, or a replacement sample collected within the same month as the original sample, must be analyzed using one of the other methods approved for UCMR analysis of DCPA mono-acid and di-acid

degradates. The PWS would then only report the result of subsequent analysis.

EPA is also currently developing a revised version of EPA Method 515.3 titled EPA Method 515.4 which will include a wash step following hydrolysis. In this rule EPA is proposing that EPA Method 515.4 be approved for UCMR monitoring of DCPA mono-acid and di-acid degradates. EPA may also propose the approval of Method 515.4 for compliance monitoring in a future regulation. Until that time, EPA Method 515.4 is not approved for drinking water compliance monitoring. EPA Method 515.4 may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460 (Telephone: 202–260–3027), Docket Number W–00–01; or at the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

11. Use of pH as a Water Quality Parameter

Today's proposal also clarifies that pH need not be reported as a water quality parameter for chemical contaminants. In the preamble to the proposed UCMR (64 FR 23398), EPA asked for public comment on the monitoring of routinely-tested water quality parameters for all water samples analyzed for UCMR contaminants. EPA proposed to collect these routinely tested water quality parameter data to provide for a more thorough scientific understanding of the occurrence of unregulated contaminants, and, specifically, to gather data that could facilitate the interpretation of UCMR results. The majority of public comments received on this topic generally agreed with EPA's approach, particularly with respect to microbiological contaminants. In the final Rule, EPA moved to require that pH be monitored when collecting samples for unregulated chemical contaminants, and pH, turbidity, temperature, free disinfectant residual, and total disinfectant residual be monitored when collecting samples for unregulated microbiological contaminants. While these chemical and physical parameters can be important indicators of water quality, based on EPA's continuing evaluation of the UCMR Program, EPA does not believe that analyzing the pH of finished drinking water will provide relevant data related to the occurrence of these UCMR chemical contaminants. The pH in the environment, particularly the wide variations in the soil-water environment at the source or during transport, can significantly alter the fate of some contaminants (Barbash and Resek 1996). The pH level can significantly affect both the absorption of contaminants to soil and rock materials (e.g., preventing transport) and the degradation of some organic chemicals by hydrolysis. Depending on the compound, at lower pH values, acid-catalyzed hydrolysis may occur, while at higher pH values, base-catalyzed hydrolysis may have a significant impact on the overall rate of hydrolysis (*e.g.,* Schwarzenbach *et al.,* 1993). Either can contribute to faster degradation or transformation of some compounds.

Thus, for studies of the fate and transport of contaminants in raw water, pH can be a very important water quality parameter to be monitored. However, most of these transformation effects likely have taken place before the contaminant reaches a drinking water system. For drinking water, pH values tend to be near neutral, where the contributions of acid and base-catalysis to overall rates of hydrolysis are smaller. Perhaps most importantly, many common steps in water treatment can alter the pH, for softening or corrosion control, for example. Thus, for many systems, even if pH were a significant factor in determining the fate of a particular contaminant reaching the drinking-water supply, such correlations are lost in the finished water by the purposeful adjustment of the pH. Thus, the data generated by monitoring the pH for chemical contaminants would be of limited utility. For these reasons, EPA proposes eliminating pH as a water quality parameter for chemical contaminants.

While EPA is proposing the elimination of pH as a water quality parameter to be reported with chemical contaminant results under the UCMR, all the water quality parameters in § 141.40(a)(4)(i)(B), Table 2, Water Quality Parameters to be Monitored with UCMR Contaminants, must be reported for microbiological contaminants. The only microbiological contaminant required to be monitored under the 1999 UCMR is *Aeromonas,* a List 2 contaminant to be monitored in 2003 by 120 randomly selected large systems and 180 randomly selected small systems.

12. Method Detection Limit Reference

EPA proposes in the Appendix to § 141.40 to remove the reference to the 136 Appendix B definition of Minimum Detection Limit (MDL) and instead to reference the MDL calculations listed in each method. The 136 Appendix B definition includes extensive reiteration of the MDL and does not specify that MDLs should be determined over a three day period. Maintaining the 136 Appendix B definition would be both inconsistent with the definition used in the List 2 analytical methods, and would result in both additional burden on the laboratories by requiring them to perform the reiterations, and in a less useful MDL estimate because it does not take into account day to day method variations.

13. Detection Confirmation

Since EPA is proposing to add both an HPLC method for the determination of linuron and diuron, and a membrane filtration method for the analysis of *Aeromonas,* the previous requirement to confirm all detections by GC/MS can no longer apply to all analyses. Therefore, EPA is clarifying in the Appendix to § 141.40 that all detections observed using a gas chromatographic analytical method are to be confirmed by GC/MS, however this confirmation requirement does not apply to analytes detected using a non-gas chromatographic method.

14. Method Defined Quality Control

EPA has received some questions from representatives of PWS and laboratories concerning the quality control requirements specified for UCMR analyses. Therefore, EPA is proposing in the Appendix to § 141.40 to clarify the quality control requirements to indicate that by specifying quality control elements specific to UCMR analyses, EPA did not intend to change the methods requirements concerning the analyses of Laboratory Fortified Blanks or Laboratory Performance checks.

15. Clarification of Resampling

EPA offers the following guidance on resampling in response to questions about the 1999 UCMR since its publication last September. If laboratory or shipping problems cause the loss of a sample, then all efforts should be made to replace that sample at the earliest possible time (i.e., resample). EPA's preference is that the sample be replaced within the same month it was originally sampled. If this is not possible, EPA's next preference is within the same quarter. In all but one case, the schedule for future samples should not change: for example, if a surface water PWS is on a sampling schedule of January, April, July, and October and an April sample is lost, it should be resampled as soon as possible (i.e., in April or early May) and the next quarter's samples will still be taken in July. The only time this guideline should not be followed is when all the samples from the first sampling period are lost. In this case, the sampling frequency will be determined by when

the first set of samples is collected, analyzed and reported: for example, if the plan was to take samples in July, October, January, and April, but all the July samples were lost. In such an event, the PWS may decide to resample in August, and its new sampling schedule would become August, November, February, and May.

16. Update on Statistical Selection of the Nationally Representative Sample of Small Systems

EPA has refined the statistical sampling plan to select a representative sample of small systems for the UCMR, which was first presented in the April 1999 UCMR proposed rule. This discussion is an information update on the refinement in the selection process. The revised sampling plan has the same key features as the original plan: 800 small public water systems will conduct Assessment Monitoring of UCMR (1999) List 1 contaminants (64 FR 50556). The primary goal of Assessment Monitoring is to estimate the overall exposure fraction of each contaminant (i.e., the fraction of all customers of community and non-transient non-community water systems who are exposed to the contaminant at any time at detectable levels). The secondary goal is that the exposure estimates must be precise enough to yield a 99 percent confidence interval within 1 percent for the true exposure fraction when the estimated fraction of exposure is 1 percent.

Subject to the primary goal constraints and the secondary goal, EPA has revised its sampling plan to allocate the 800 systems in its sample as efficiently as possible. The secondary goal of the revised plan is to gather information about contaminant occurrence within the smaller sampling strata of very small (serving less than 500 people), small (serving 501–3,300 people), and medium-sized (serving 3,301–10,000 people) systems, and of ground water and surface water systems. The revised plan achieves this by reapportioning the probabilities of drawing each of the 800 systems from categories of system size, source water type, State or Territory, and community or non-transient non-community systems. Specifically, the probabilities are chosen to minimize the largest 99 percent-confident margin of error for the exposure fraction in any of the size-by-source-water-type strata, subject to a precise enough estimate of the overall exposure fraction. To meet the constraint for the overall exposure fraction, the revised sample is close to a population-weighted sample. However, compared to a population-weighted sample, the revised plan shifts some samples from ground water to surface water systems, and from larger to smaller system strata (i.e., to increase the confidence, the sample size is increased in the strata that would have few samples on a strictly population-weighted basis). As a result, the largest 99 percent-confident margin of error for the exposure fraction in any of the size-by-source-water-type strata is reduced from 12.1 percent under the strict population-weighted allocation, to 4.1 percent (for very small, surface water systems) under the revised plan.

The revised plan also solves a technical problem in the original plan: the original plan specified separately the sample allocations by State or Territory and by system size and type, but it did not specify the allocation within each stratum of State or Territory, system size, source water type, and community or non-transient non-community systems. The revised plan solves this problem by specifying the probability of selecting each system from each stratum.

The initial sampling frame for the national representative sample of small systems was derived from the inventory of PWSs contained in SDWIS and revised for the 1999 Infrastructure Needs Survey. Revisions were made to the sampling frame to minimize the number of inventory information discrepancies (e.g., population, and source of water). For a more detailed discussion on the sampling frame used to select the national representative sample of small systems, please see the ''National Representative Sample of Small Systems: Statistical Design, Sample Selection, and State Plan'' available at the Water Docket for this proposed rule, docket number W–000–01.

The small systems were first stratified by system type (CWS, NTNCWS), and all transient non-community water systems were removed from the sample frame, to ensure appropriate population exposure estimates. For this UCMR, purchased water systems were also removed. The remaining systems were then stratified by water source type (ground water or surface water, including ground water under the direct influence of surface water (GWUDI)), service size category (serving 25–500, 501–3,300, and 3,301–10,000), and State. Each U.S. Territory was considered as one individual ''State,'' while specified Tribal water systems together were considered as one ''State'' for the purposes of the system sample selection. Each ''State'' was allocated a minimum of 2 systems (except in the case of Guam, which had only one active eligible system in their inventory), one of which was a CWS.

The number of systems assigned to monitor within each State was based on the proportion of the population served in each strata (source water type, divided into the three service size categories). In addition, the number of systems in each strata was statistically adjusted to ensure that each had enough systems to maximize the statistical confidence in the results (as noted earlier). Once the number of systems in each strata was identified, then the primary list of systems for the initial representative sample was selected using a random number generator. Using the same methodology, two alternate systems were then selected for each system on the primary list. Finally, a general replacement list was selected, for the unusual case in which the primary system and both alternates are inactive, purchase their water, or have merged with another system. These general replacement systems were not picked based on their source water type or service size, but rather were randomly selected from all of the small systems remaining after the primary systems and two alternate systems were selected.

Table 5 shows the total number of small systems that were selected to conduct Assessment Monitoring for UCMR (1999) List 1 contaminants in each State, and the number of systems selected in each State for the Screening Surveys (UCMR (1999) List 2). The number of systems per State varies from one system in Guam to 71 systems in Texas. There is an average of approximately 14 systems per State in the national sample. There are no systems from Washington, D.C. in the national sample, since D.C. does not have any small CWSs or NTNCWSs.

TABLE 5.—DISTRIBUTION OF SMALL SYSTEMS REQUIRED TO CONDUCT ASSESSMENT MONITORING AND SCREENING SURVEY IN EACH STATE/TRIBE/TERRITORY

State/Tribes/Territories	Number of small systems conducting assessment monitoring [1] (A_n)	Number of small systems conducting screening surveys [2] (S_n)
Tribes [3]	7	2
Alabama	15	4
Alaska	4	3
American Samoa	2	2
Arizona	12	3
Arkansas	13	8
California	48	24

TABLE 5.—DISTRIBUTION OF SMALL SYSTEMS REQUIRED TO CONDUCT ASSESSMENT MONITORING AND SCREENING SURVEY IN EACH STATE/TRIBE/TERRITORY—Continued

State/Tribes/Territories	Number of small systems conducting assessment monitoring [1] (A_n)	Number of small systems conducting screening surveys [2] (S_n)
Colorado	10	6
Connecticut	6	2
Delaware	2	1
Florida	32	11
Georgia	22	12
Guam	1	0
Hawaii	3	2
Idaho	8	2
Illinois	28	8
Indiana	20	8
Iowa	16	10
Kansas	12	6
Kentucky	9	4
Louisiana	27	14
Maine	6	3
Mariana Islands	2	1
Maryland	8	2
Massachusetts	12	3
Michigan	24	13
Minnesota	16	8
Mississippi	30	9
Missouri	20	8
Montana	6	3
Nebraska	8	4
Nevada	4	1
New Hampshire	6	2
New Jersey	16	6
New Mexico	8	6
New York	29	14
North Carolina	22	11
North Dakota	4	2
Ohio	28	7
Oklahoma	15	5
Oregon	11	6
Pennsylvania	37	19
Puerto Rico	9	4
Rhode Island	2	0
South Carolina	11	7
South Dakota	4	2
Tennessee	14	9
Texas	71	28
Utah	7	4
Vermont	4	3
Virgin Islands	2	1
Virginia	16	7
Washington	17	10
Washington DC [4]	0	0
West Virginia	10	6
Wisconsin	21	12
Wyoming	3	2
Total	800	360

[1] This column represents the total number of small systems allocated in an individual State and Tribes as a group from the national representative sample of 800 systems.

[2] There are 360 small systems shown for two Screening Surveys (180 for Screening Survey 1 and 180 for Screening Survey 2). Note that in each Screening Survey Group an additional 120 large systems will also be required to monitor. Therefore, there is a total of 300 small and large systems (a total of 600 Screening Survey systems) in each Survey.

[3] The number of Tribal water systems may include Tribal systems in any of the 10 EPA Regions. Tribal systems were aggregated as a group comparable to a State to ensure that Tribal systems were represented in the national representative sample of small systems in the UCMR.

[4] The Washington DC water supply is provided exclusively by large PWSs.

Table 6 shows the number of CWSs by water source and size.

TABLE 6.—ALLOCATION OF CWSS CONDUCTING ASSESSMENT MONITORING

Size category	Ground water-supplied systems	Surface water-supplied systems	Total
	n	n	n
500 and Under	76	51	127
501 to 3,300	208	38	246
3,301 to 10,000	230	106	336
Total	514	195	709

III. Other Issues Related to Unregulated Contaminant Monitoring

A. Reporting Processes

1. Systems

EPA is developing a template for electronically reporting UCMR results to the Agency, with a PWS regulated by the UCMR reviewing and approving submission of the results to EPA by the agent or organization conducting unregulated contaminant analysis (a laboratory). The template is being developed in both ''batch'' electronic data transfer and web-based ''manual'' entry formats. If the laboratory cannot enter the monitoring results using EPA's electronic reporting system, then the PWS must explain to EPA in writing the reasons why alternate reporting is necessary and must receive EPA's approval to use an alternate reporting procedure.

2. States

While § 141.35 (b) specifies that the PWS ''must report the results of unregulated contaminant monitoring to EPA *and provide a copy to the State* * * *'', note that States will have electronic access to the monitoring results for State review concurrent with EPA review of the results (after the results have been submitted by the PWS via the electronic reporting system). Therefore, States may decide to forego the requirement for an independent copy and are free to do so. PWSs should also be aware that some States may have additional requirements (i.e., beyond those specified in this rule), such as immediate reporting of monitoring results which suggest an imminent threat to public health. States are asked to address any additional reporting requirements (or waiver of requirements) when they notify PWSs of their UCMR responsibilities. In the

absence of any State direction on this matter, PWSs are expected to provide States with a copy of monitoring results concurrent with reporting those results to EPA via the electronic reporting system. For small systems in States requiring immediate reporting of contaminants found in PWSs, EPA will report these results to the State promptly after laboratory results are received to assist these small systems in meeting State reporting requirements, if this need is identified in the Partnership Agreement. However, EPA makes clear here that such a State requirement for systems to report more immediately any contaminants found is not a requirement on EPA and EPA bears no liability if such reporting by it for system is beyond a State's reporting date for systems. Such a circumstance might occur if the electronic reporting system were to go off line for any reason around the time specified by the State.

If during the 60-day quality control review period, States find questionable data in the data set, EPA will discuss the data at issue with the State and system before determining the disposition of the data relative to placing them in NCOD. Confirmations for all positive results will occur promptly after testing shows a positive occurrence as part of the analytical method quality control, so reported data should be generally reliable.

B. Reporting Data on Other Contaminants

EPA will be paying for the analysis of samples for small systems. The analytical methods used for the List 1 and 2 contaminants will routinely determine the presence of other contaminants for which testing is not required to be done and reported. The contaminants that are not required to be reported but are identified will become research data for EPA and may provide the basis of future Contaminant Candidate Lists. EPA intends to place these data in the NCOD since they would be considered reliable results for unregulated contaminants under the SDWA and, therefore, must be placed in the NCOD under SDWA Section 1445(g). One option considered in placing these data in NCOD is to create a special research section in the NCOD so that these data can be recognized as not required for reporting under the UCMR. A second option is to attach a special ''flag'' to these data that would indicate their research status. EPA seeks public comment on these and other options for storage and access to these data.

C. More Complete Specification of Contaminants for Unregulated Contaminant Monitoring in the Future

The current approach of listing specific contaminants for monitoring under the UCMR program does not address the complete effect of the individual contaminant on the environment and in drinking water. For example, a pesticide may have several degradates. Unregulated contaminant monitoring only for the parent pesticide may entirely miss potentially harmful degradates and by products. For example, the European Union treats several categories of contaminants as groups for the specification of monitoring requirements, such as ''pesticides and degradates.'' (European Union, 1997). EPA requests public comment on whether such an approach should be applied to unregulated contaminants to assess more completely the occurrence of such contaminants in source water and drinking water. The current CCL includes contaminants that are parent compounds, degradates and groups of degradates. Public input on the options may be incorporated in the development of the next CCL, as well as the subsequent UCMR List. Comments should address the following options of listing contaminants by:

1. *Contaminant Groups.* Contaminant groups might include disinfection by-products, pesticides listed by functionality such as sulfonylurea herbicides for example, or haloacetic acids.

2. *Analytical Method Groups.* A particular analytical method may be able to identify a range of contaminants very cost effectively in one scan. The contaminant category might be ''Method 524 contaminants.'' Such an approach offers the potential to obtain information on a larger set of contaminants at small incremental cost.

3. *Parent and Degradates.* A parent and degradates listing may include contaminants such as pesticides which can have many degradates, some of which may also be of health concern. An example would be atrazine, de-ethyl atrazine, and de-isopropylatrazine. This parent and degradates might be listed as ''atrazine and degradates.''

4. *Mixtures of Contaminants.* The literature indicates that chemical mixtures are of concern and should be evaluated for their collective and cumulative effects. (Mumatz, *et al.*, 1991; Yang, 1997; EPA, 1999) Mixtures of contaminants known to be used or applied together may be treated as a category listed as, for example, ''herbicides used on corn and soybean'' or ''gasoline-related mixtures.'' The mixtures would be evaluated for combined occurrence.

5. *Other.* Other categorizations of contaminants may be useful to identify for efficient analysis. EPA welcomes comments on other possible options.

Another approach to the concern for multiple contaminant groups occurring in drinking water would be to have all large and a representative sample of small systems divided into statistical groups to be tested for many contaminants overall, but any particular system not tested for more than the statutory limit of 30. This would give results for a broader set of contaminants and allow the CCL regulatory determination process to focus only on the most significant contaminants. EPA invites public comment on all these and other options for a more complete specification of unregulated contaminants for analysis in public water systems, particularly at low incremental costs to systems.

D. Synchronization of UCMR and CCL in the Future

The current schedules for the development of the CCL and UCMR are February 1998 and August 1999, respectively, and then every five years after each of those dates. This scheduling means that the UCMR responds to the contaminant list of the CCL, rather than allowing the UCMR to anticipate contaminants for which the CCL deliberations could evaluate and decide whether or not to regulate. Given the current characteristics of the UCMR program and CCL process, EPA requests public comment on whether the UCMR monitoring list revisions could be promulgated at the same time as the publication of the revised CCL, indicating which contaminants would be on the Lists 1, 2 or 3 about 1½ years earlier than under the current process. The purpose of this earlier promulgation is to provide information earlier for the next CCL process. A drawback of such a linkage would be that it may reduce the time available to develop analytical methods for newly identified contaminants. If substantial method development effort is required, monitoring may not be able to begin any earlier in the cycle.

Another option would be for the UCMR to anticipate needs for contaminants to be included in future CCLs. Under this option, other possibilities might exist: (1) Contaminants not on the then current CCL would be proposed for monitoring, and (2) a list of many more contaminants may be proposed (more than 30) with systems divided into statistical groups that would allow

testing of systems for no more than 30 contaminants as noted previously in C. The CCL could focus on the most important contaminants and health effects research could be focused much earlier. EPA invites public comment on these and other approaches to synchronize the UCMR and CCL processes in the future to improve the acquisition of information relative to the timing of decisions for regulating the contaminants.

IV. Cost and Benefits of the Rule

Today's proposed amendment to the UCMR (64 FR 50556) would add methods for monitoring the UCMR (1999) List 2 contaminants. The first set of List 2 contaminants may be collected during the same time as the Assessment Monitoring component of the UCMR program. As described elsewhere in this Preamble, the first Screening Survey will be conducted over a 2-year period from 2001 to 2002. One hundred eighty small systems randomly selected from the first 267 small systems monitoring in 2001 and 120 large systems randomly selected from the 2,774 large PWSs will monitor in 2002. During 2003, the second Screening Survey will be conducted by a different group of systems (180 small and 120 large systems).

Of the 16 List 2 contaminants, today's Rule establishes the analytical methods for 13 chemical contaminants and one microbiological contaminant. Estimated system and EPA costs are based on the analytical costs for these methods. EPA recognizes that these Screening Survey methods are new and will not coincide with other compliance monitoring. However, since the 13 List 2 chemical contaminants for the first Screening Survey may be analyzed by laboratories using water samples that are collected at the same time as the Assessment Monitoring contaminants, there are no significant additional labor costs anticipated related. The Agency assumes there is no measurable added labor burden associated with filling one more sample bottle. However, the collection of *Aeromonas* under Screening Survey Two will necessitate some minimal additional burden for systems to collect samples. In many cases, the *Aeromonas* samples can be collected at the same time and place as other required microbiological sampling. Where coincident sampling is not possible, EPA assumes an additional one half hour of labor per sampling station.

In addition, today's proposed Rule makes several clarifications and technical corrections to the UCMR (1999) Rule. EPA believes that none of these clarifications and corrections would increase the costs or labor burden to public water systems or States. Most of these items were already included in the cost and burden analyses; their explanation is simply being clarified. These assumptions are discussed below.

Updating the NCOD on a quarterly basis rather than six times per year will not be an additional expense to systems or States, and will reduce EPA costs marginally. Requiring one-time reporting of system and laboratory points-of-contact will improve the implementation of the program by allowing EPA to convey important testing and reporting information to systems and laboratories, thereby enhancing the long-term data quality. Clarifying the data element definitions will provide more usable information by more clearly conveying the data that should be reported and should not be an additional cost to any entity. Clarifying the data reporting procedures through a ''single-entry'' electronic data reporting process, will reduce costs to systems marginally. Clarification of the source (raw) water monitoring alternative option does not increase the costs to systems beyond those that EPA had anticipated originally in adopting the alternative so that systems in States requiring source water compliance monitoring could coordinate unregulated monitoring with other monitoring. Providing options for reporting treatment plant latitude and longitude should marginally reduce costs to States which had not previously reported these locational data. Approval of EPA Method 502.2 and Standard Methods 6200C for the analysis of MTBE provides systems more flexibility to use methods that they may already be using to monitor for this unregulated contaminant, possibly providing cost savings to them. Approval of EPA Methods 515.3 and 515.4 for the analysis of DCPA mono-acid degradate and DCPA di-acid degradate provides flexibility to systems to use methods similar to those used in compliance monitoring and may reduce costs for testing and analysis of those unregulated contaminants. Eliminating the use of pH as a water quality parameter required for reporting chemical contaminant results will marginally reduce costs to systems for testing and analysis. Removing the reference to 40 CFR Part 136, Appendix B definition of Minimum Detection Limit is a technical change with no cost. Providing contaminant detection confirmation clarification for linuron, diuron and *Aeromonas* as applying only to non-gas chromatographic methods does not change the costs of the rule for the other unregulated contaminants. This change only applies to these three List 2 contaminants and is included in the cost analysis for the List 2 contaminant methods. Clarifying that the method quality controls for UCMR contaminants are to be used along with the UCMR-specific quality controls for testing and analysis does not increase the cost of the regulation. Finally, clarifying the resampling process when samples must be resubmitted does not increase the cost of the regulation. These costs were included in the original analysis.

As noted, additional non-labor costs from this Rule are solely attributed to the laboratory fees that will be charged for analysis of these contaminants and to additional shipping charges associated with the extra sample bottles. These costs will only be incurred by EPA and by large PWSs. EPA assumes that there will be additional charges imposed for analysis of the List 2 contaminants, since these contaminants will be analyzed under new methods or modifications of existing methods. EPA estimates that the average laboratory fee for the analyses for the 13 Screening Survey One chemical contaminants, using EPA Methods 526, 528, and 532 will be $560. The additional costs for Screening Survey One for laboratory analysis are calculated as follows: the number of systems multiplied times the number of entry or sampling points, multiplied by the sampling frequency, and then multiplied by the cost of analysis.

Sampling for *Aeromonas*, under Screening Survey Two, is calculated in a similar manner, assuming an estimated cost of $25 per sample for presumptive enumeration on the ADA medium. This cost would apply for each sample, at the 120 large systems selected (and the 180 small systems that EPA would pay for). EPA estimates that *Aeromonas* will be detected in 10% of samples. Each of these positive *Aeromonas* samples (i.e., estimated as 10% of all samples), isolated from membrane filters, would incur an additional $25 cost for confirmation at the genus level with cytochrome oxidase and trehalose fermentation tests (which are part of Method 1605). This would be the total cost to large systems. For small systems, where *Aeromonas* has been found, EPA will pay for further identification to hybridization group or determination of virulence factors. The exact cost will depend on the identification method chosen. If a phenotypic method were chosen, the cost could be as little as $25, with another $25 for virulence factors, or if

a genotypic method were used the cost could be as much as $100. For the cost estimations presented, EPA assumes that it will incur $100 of additional analytical costs for 10% of small system samples. Note that if a system is a consecutive system to any of the 300 selected Screening Survey systems (i.e., it purchases water from a Screening Survey system), it will also be required to sample for *Aeromonas*. To estimate these costs, EPA assumes that the number of consecutive systems that this includes is statistically proportional to the size of the randomly selected sample for the Screening Survey.

The details of EPA's cost assumptions and estimates can be found in the Information Collection Request (ICR, Number 1882.02) amendment prepared for this Rule (OMB number 2040–0208), which presents estimated cost and burden for the 2000–2002 period. Estimates of costs over the UCMR cycle of 2001–2005 are attached as an appendix to the ICR. It presents the total and the estimated additional annual cost and burden for Screening Survey component of the first 5-year cycle (from 2001 to 2005) of the UCMR. Copies of the ICR and its amendment may be obtained from Sandy Farmer by mail at: OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW., Washington, DC 20460, by email at: farmer.sandy@epa.gov, or by calling: (202) 260–2740. A copy may also be downloaded from the Internet at: *http://www.epa.gov/icr.*

In preparing the UCMR Screening Survey ICR, EPA relied on standard assumptions and data sources used in the preparation of other drinking water program ICRs. These include the public water system inventory, number of entry points per system, and labor rates. EPA expects that States will incur no additional labor or non-labor costs associated with the Screening Survey component of the UCMR. Other assumptions are discussed below.

Over the UCMR implementation period of 2001–2005, EPA estimates that the average annual cost of the two Screening Surveys (including 13 chemical contaminants and *Aeromonas*) is approximately $505,200. These total estimated annual costs are incurred as follows:

1. *EPA:* $178,000 (exclusively for the additional testing costs for small systems).

2. *States:* $0 (no additional burden associated with Screening Survey component of UCMR).

3. *Small systems:* $5,300.

4. *Large systems:* $321,900.

The estimated average annual (non-labor) cost is approximately $1,185 per large system.

V. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not ''economically significant'' as defined under Executive Order 12866. Further, this proposed rule does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. This rule makes only clarifying changes to the September 1999 UCMR and establishes procedures for monitoring of the List 2 unregulated contaminants.

However, this Rule is part of the Agency's overall strategy for deciding whether to regulate the contaminants under the Safe Drinking Water Act (see discussion of the Contaminant Candidate List (CCL) at 63 FR 10273). Its purpose is to ensure that EPA obtains data on the occurrence of contaminants on the CCL—specifically, 14 of the List 2 contaminants—where those data are currently lacking. EPA is also taking steps to ensure that the Agency will have data on the health effects of these contaminants on children through its research program. The Agency will use these occurrence and health effects data to decide whether to regulate these contaminants.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for the proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, UMRA section 205 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative, if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under UMRA section 203 a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in

the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that today's proposed rule 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 for the private sector in any one year. Total annual costs of today's Rule (across the implementation period of 2001–2005), for State, local, and Tribal governments and the private sector, are estimated to be $505,200, of which EPA will pay $178,000, or approximately 35 percent. Again, States are assumed to incur no additional costs associated with the Screening Survey component of the UCMR. Thus, today's Rule is not subject to the requirements of UMRA sections 202 and 205.

EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because EPA will pay for the reasonable costs of sample testing for the small PWSs required to sample and test for unregulated contaminants under this proposed rule, including those owned and operated by small governments. Screening Survey One samples will generally be collected coincident with Assessment Monitoring and therefore has minimal associated additional burden. The only costs that small systems will incur are those attributed to collecting the Screening Survey Two samples and packing them for shipping to the laboratory (EPA will pay for shipping). These costs are minimal. They are not significant or unique. Thus, today's rule is not subject to the requirements of UMRA section 203.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA prepared an Information Collection Request (ICR) document (ICR No. 1882.02) and a copy may be obtained from Sandy Farmer by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by email at: farmer.sandy@epa.gov; or by calling (202) 260–2740. A copy may also be downloaded from the internet at: http://www.epa.gov/icr.

The information to be collected under today's proposed rule fulfills the statutory requirements of section 1445(a)(2) of the Safe Drinking Water Act, as amended in 1996. The data to be collected will describe the source water, location, and test results for samples taken from PWSs. The concentrations of any identified UCMR contaminants will be evaluated regarding health effects and will be considered for future regulation accordingly. Reporting is mandatory. The data are not subject to confidentiality protection.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and use technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The cost estimates described below for the List 2 contaminants are solely attributed to additional contract laboratory fees. No additional measurable labor burden will be incurred during the ICR period because of the addition of analytical methods for the 13 chemical contaminants in Screening Survey One to the UCMR (1999) List 2. Screening Survey One sampling will be done coincident with Assessment Monitoring and the burden and costs for sample collection, packing, and shipping, and reporting were included in the original ICR for the UCMR (1999). For the first Screening Survey, 180 small water systems (from the national representative sample of systems serving 10,000 or fewer people) will collect and test during 2001, and 120 large public water systems will collect and test during 2002. During the ICR period, large systems and EPA will incur the additional laboratory fees for the analysis of the 13 List 2 chemical contaminants (*e.g.*, Screening Survey One). Each large system respondent will incur an annual average additional cost of $4,200. For the entire three year ICR period, the additional cost for the 13 Screening Survey One contaminants is estimated to be $4,200 per response by a large system (*e.g.*, the cost per reporting period for the 120 large systems involved). In addition, program implementation costs and burdens for the 56 States and primacy agents were already included in the original ICR for UCMR (1999), and they will not incur any additional unique labor or non-labor costs associated with the Screening Surveys. The frequency of response varies across respondents and years. However, there are no additional responses during the ICR period associated with today's proposed rule, and thus no additional hour burden for any respondents. For the ICR period no additional costs will be incurred by small systems and States. The collection of samples and data and associated reporting for *Aeromonas* in the second Screening Survey is beyond the ICR period for the first Screening Survey. The collection of this information will be addressed in a renewal ICR to be submitted in 2002.

EPA will incur no additional labor costs for implementation of today's proposed rule. EPA's annual non-labor costs for the ICR period are estimated to be $212,700 for Screening Survey One, which consists of 13 chemical contaminants. The non-labor costs are solely attributed to the cost of sample testing and sample kit shipping for the 180 small systems.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after September 13, 2000, a comment to OMB is best assured of having its full effect if OMB receives it by October 13, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et.seq.

The RFA generally requires an agency to prepare a regulatory flexibility

analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, ''which are appropriate to the activities of the agency'' after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with SBA's Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's proposed rule on small entities, EPA considered small entities to be systems serving 10,000 or fewer customers because this is the size of system specified in SDWA as requiring special consideration with respect to small system flexibility. In accordance with the RFA requirements, EPA proposed using this alternative definition in the **Federal Register**, (63 FR 7605, February 13, 1998) requested public comment, consulted with SBA, and finalized the alternative definition in the Consumer Confidence Reports rulemaking, (63 FR 44511, August 19, 1998). As stated in that Final Rule, the alternative definition would be applied to future drinking water rules, such as this one, as well.

For the UCMR, published on September 17, 1999, EPA analyzed separately the impact on small privately and publicly owned water systems because of the different economic characteristics of these ownership types. For publicly owned systems, EPA used the ''revenue test,'' which compares a system's annual costs attributed to the rule with the system's annual revenues. EPA used a ''sales test'' for privately owned systems, which involves the analogous comparison of UCMR-related costs to a privately owned system's sales. EPA assumes that the distribution of the national representative sample of small systems will reflect the proportions of publicly and privately owned systems in the national inventory. The estimated distribution of the representative sample for today's proposed rule, categorized by ownership type, source water, and system size, is presented below in SBREFA Table 1.

TABLE 1.—NUMBER OF PUBLICLY AND PRIVATELY OWNED SYSTEMS TO PARTICIPATE IN SCREENING SURVEY ONE AND TWO

Size category	Publicly owned systems	Privately owned systems	Total—all systems
GROUND WATER SYSTEMS			
500 and under	18	65	83
501 to 3,300	68	31	99
3,301 to 10,000	87	24	111
Subtotal Ground	172	120	292
SURFACE WATER SYSTEMS			
500 and under	11	31	42
501 to 3,300	23	11	33
3,301 to 10,000	87	24	111
Subtotal Surface	120	65	185
Total	292	185	477

The basis for the UCMR RFA certification for today's proposed rule, which adds the Screening Survey contaminants and methods to the UCMR program, is as follows: the average annual compliance costs of the rule represent less than 1 percent of revenues/sales for the 180 small water systems that will be affected. The Agency estimates that EPA and small system costs for the first Screening Survey (during 2001 for small systems) will be approximately $638,220. Since the Agency specifically structured the rule to avoid significantly affecting small entities by assuming all costs for laboratory analyses, shipping, and quality control for small entities, EPA incurs the entirety of the non-labor costs associated with adding methods for monitoring the List 2 contaminants, or 97 percent of all costs. Small systems only incur labor costs associated with the collection and arranging for the shipment of *Aeromonas* samples, with an average annual labor cost per system over the 5 years of $11.

In addition, today's proposed Rule makes several clarifications and technical corrections to the UCMR (1999) Rule. EPA believes that none of these clarifications and corrections would increase the costs or labor burden to small public water systems. Most of these items were already included in the cost and burden analyses; their explanation is simply being clarified. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1993 (NTTAA), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides

not to use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards. Therefore, EPA proposes to use EPA Methods 526, 528, 532, and 1605. EPA welcomes comments on this aspect of the proposed rulemaking and specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

G. Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (February 11, 1994), focuses Federal attention on the environmental and human health conditions of minority and low-income populations with the goal of achieving environmental protection for all communities. By seeking to identify unregulated contaminants that may pose health risks via drinking water from all PWSs, this proposed regulation furthers the protection of public health for all citizens, including minority and low-income populations using public water supplies.

H. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule 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. The objective of this Rule is to specify the approved analytical methods for 14 List 2 contaminants, thereby allowing these contaminants to be included in the UCMR Screening Survey program and to make other minor corrections to the September rule. The cost to State and local governments is minimal, and the rule does not preempt State law. Thus, the requirements of section 6 of the Executive Order do not apply to this Rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with State and local representatives in developing this rule.

I. Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian Tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian Tribal governments. Only one Tribal water system serves more than 10,000 persons. All the other Tribal water systems serve 10,000 or fewer persons, and in today's Rule have an equal probability of being selected in the national representative sample of small systems, for which EPA will pay the costs of unregulated contaminant testing. Thus, these Tribal water systems will be treated the same as water systems of a State and the impact of the Rule on them will not be significant. In addition, there are no costs associated with the minor amendments that clarify the September 1999 UCMR.

This proposed rule will not impose substantial direct compliance costs on such communities either because, with the exception of the one large Tribal water system, the Federal government will provide the funds necessary to pay the potential direct costs incurred by Tribal governments in complying with the rule for the testing and reporting of contaminant occurrence of small systems. By statute, EPA must pay the reasonable testing and laboratory analysis costs for small systems selected to participate in this monitoring program. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this Rule.

J. President's Plain Language Directive

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. EPA invites public comment on how to make this proposed rule easier to understand. Comments may address the following questions and other factors, as well:

A. Has EPA organized the material to suit your needs?

B. Are the requirements in the rule clearly stated?

C. Does the rule contain technical wording or jargon that is not clear?

E. Would a different format (grouping or order of sections, use of headings, paragraphing) make the rule easier to understand?

F. Would more (but shorter) sections be better?

G. Could EPA improve clarity by using additional tables, lists or diagrams?

H. What else could EPA do to make the rule easier to understand?

VI. Public Involvement in Regulation Development

EPA's Office of Ground Water and Drinking Water has developed a process for stakeholder involvement in its regulatory activities to provide early input to regulation development. Today's rule proposes to amend the September 1999 UCMR, by establishing

the method requirements for 14 List 2 contaminants and making other minor changes in the UCMR. At the time of UCMR publication—September 1999—the methods for these contaminants were still being refined by EPA. For a description of public involvement activities related to the UCMR, please see the discussion at 64 FR 50556. Relative to the technical changes and clarifications, EPA conducted a series of five national implementation workshops for States and EPA Regions from March 26 through April 27, 2000, in Philadelphia, Atlanta, Kansas City, Denver, and San Francisco. Participants, other than EPA personnel, represented 35 States, two territories, and one Tribe. Questions about implementation of the UCMR prompted many of the technical changes and clarifications proposed.

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List of Subjects in 40 CFR Part 141

Analytical methods, Chemicals, Environmental protection, Intergovernmental relations, Microorganisms, Monitoring, Water supply.

Dated: August 25, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter 1 of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.35 as revised at 64 FR 50611 (to be effective January 1, 2001), is proposed to be amended by:

a. Revising paragraph (c);

b. Revising paragraph (d) (including Table 1);

c. Revising paragraph (e); and

d. Revising paragraph (f).

The Revisions read as follows:

§ 141.35 Reporting of unregulated contaminant monitoring results.

* * * * *

(c) *When must I report monitoring results?* You must report the results of unregulated contaminant monitoring within thirty (30) days following the month in which you received the results from the laboratory. EPA will conduct its quality control review of the data for sixty (60) days after you report the data, which will also allow for quality control review by systems and States. After the quality control review, EPA will place the data in the national drinking water contaminant occurrence database at the time of the next database update.

(d) *What information must I report?* (1) You must provide the following ''point of contact'' information: name, mailing address, phone number, and e-mail address for:

(i) PWS Technical Contact, the person at your PWS that is responsible for the technical aspects of your unregulated contaminant monitoring regulation (UCMR) activities, such as details concerning sampling and reporting;

(ii) PWS Official, the person at your PWS that is able to function as the official spokesperson for your UCMR activities; and

(iii) Laboratory Contact Person, the person at your laboratory that is able to address questions concerning the analysis that they provided for you.

(2) You must update this information if it changes during the course of UCMR implementation.

(3) You must report the information specified for data elements 1 through 16 in the following table for each sample with the exception that data element number 12, Minimum Reporting Level, and data element number 13, Minimum Reporting Level Unit of Measure, are optional and only need to be reported if the laboratory conducting the analysis has established a Minimum Reporting Level that is lower than the one established in § 141.40 monitoring requirements for unregulated contaminants:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS

Data element	Definition
1. Public Water System (PWS) Identification Number	The code used to identify each PWS. The code begins with the standard two-character postal State abbreviation; the remaining seven characters are unique to each PWS.
2. Public Water System Facility Identification Number—Sampling Point Identification Number and Sampling Point Type Identification.	The Sampling point identification number and sampling point type identification must either be static or traceable to previous numbers and type identifications throughout the period of unregulated contaminant monitoring. The Sampling point identification number is a three-part alphanumeric designation, made up of: a. The Public Water System Facility Identification Number is an identification number established by the State, or at the State's discretion the PWS, that is unique to the PWS for an intake for each source of water, a treatment plant, a distribution system, or any other facility associated with water treatment or delivery and provides for the relationship of facilities to each other to be maintained; b. The Sampling Point Identification Number is an identification number established by the State, or at the State's discretion the PWS, that is unique to each PWS facility that identifies the specific sampling point and allows the relationship of the sampling point to other facilities to be maintained; and c. Sampling Point Type Identification is one of following: SR—Untreated water collected at the source of the water system facility. EP—Entry point to the distribution system. MD—midpoint in the distribution system where the chlorine residual would be expected to be typical for the system such as the location for sampling coliform indicator bacteria as described in 40 CFR 141.21. MR—point of maximum retention is the point located the furthest from the entry point to the distribution system which is approved by the State for trihalomethane (THM) (disinfectant byproducts (DBP)) and/or total coliform sampling. LD—location in the distribution system where the disinfectant residual is the lowest which is approved by the State for THM (DBP) and/or total coliform sampling.
3. Sample Collection Date	The date the sample is collected reported as 4-digit year, 2-digit month, and 2-digit day.
4. Sample Identification Number	An alphanumeric value of up to 15 characters assigned by the laboratory to uniquely identify containers or groups of containers containing water samples collected at the same time and sampling point.
5. Contaminant/Parameter	The unregulated contaminant or water quality parameter for which the sample is being analyzed.
6. Analytical Results—Sign	An alphanumeric value indicating whether the sample analysis result was: a. (<) ''less than'' means the contaminant was not detected or was detected at a level ''less than'' the MRL. b. (=) ''equal to'' means the contaminant was detected at a level ''equal to'' the value reported in ''Analytical Result—Value.''
7. Analytical Result—Value	The actual numeric value of the analysis for chemical and microbiological results, or the minimum reporting level (MRL) if the analytical result is less than the contaminant's MRL
8. Analytical Result—Unit of Measure	The unit of measurement for the analytical results reported. [e.g., micrograms per liter, (µg/L); colony-forming units per milliliter, (CFU/mL), etc.]
9. Analytical Method Number	The identification number of the analytical method used.
10. Sample Analysis Type	The type of sample collected. Permitted values include: a. RFS—Raw field sample—untreated sample collected and submitted for analysis under this rule. b. RDS—Raw duplicate field sample—untreated field sample duplicate collected at the same time and place as the raw field sample and submitted for analysis under this rule.

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS—Continued

Data element	Definition
	c. TFS—Treated field sample—treated sample collected and submitted for analysis under this rule. d. TDS—Treated duplicate field sample—treated field sample duplicate collected at the same time and place as the treated field sample and submitted for analysis under this rule.
11. Sample Batch Identification Number	The sample batch identification number consists of three parts: a. Up to a 10-character laboratory identification code assigned by EPA; b. Up to a 15-character code assigned by the laboratory to uniquely identify each extraction or analysis batch. c. The date that the samples contained in each extraction batch extracted or in an analysis batch were analyzed, reported as an 8-digit number in the form 4-digit year, 2-digit month, and 2-digit day.
12. Minimum Reporting Level	Minimum Reporting Level (MRL) refers to the lowest concentration of an analyte that may be reported. Unregulated contaminant monitoring (UCM) MRLs are established in § 141.40 monitoring requirements for unregulated contaminants. Laboratories may establish ''Laboratory'' MRLs that are lower than the UCM MRL provided that they meet the requirements of Appendix A to § 141.40 sections (2) and (3).
13. Minimum Reporting Level Unit of Measure	The unit of measure to express the concentration, count, or other value of a contaminant level for the Minimum Reporting Level reported. (e.g., µg/L, colony forming units/mL (CFU/mL), etc.).
14. Analytical Precision	Precision is the degree of agreement between two repeated measurements and is monitored through the use of duplicate spiked samples. For purposes of the Unregulated Contaminant Monitoring Regulation (UCMR), Analytical Precision is defined as the relative percent difference (RPD) between spiked matrix duplicates. The RPD for the spiked matrix duplicates analyzed in the same batch of samples as the analytical result being reported is to be entered in this field. Precision is calculated as Relative Percent Difference (RPD) of spiked matrix duplicates from the mean using: RPD = absolute value of $[(X_1—X_2) /(X_1 +X_2)/2] \times 100\%$ where: X_1 is the concentration observed in spiked field sample minus the concentration observed in unspiked field sample. X_2 is the concentration observed in duplicate spiked field sample minus the concentration observed in unspiked field sample.
15. Analytical Accuracy	Accuracy describes how close a result is to the true value measured through the use of spiked field samples. For purposes of unregulated contaminant monitoring, accuracy is defined as the percent recovery of the contaminant in the spiked matrix sample analyzed in the same analytical batch as the sample result being reported and calculated using: % recovery = [(amt. found in spiked sample—amt. found in sample) / amt. spiked] x 100%.
16. Spiking Concentration	The concentration of method analytes added to a sample to be analyzed for calculating analytical precision and accuracy where the value reported use the same unit of measure reported for Analytical Results.
17. Presence/Absence	Reserved

(e) *How must I report this information?* (1) You must report results from monitoring under this rule using EPA's electronic reporting system. For quality control purposes, you must instruct the organization(s) responsible for the analysis of unregulated contaminant samples taken under § 141.40 to *enter* the results into the reporting system, in the format specified by EPA. You are responsible for *reviewing* those results and *approving* the reporting (via the electronic system) of the results to EPA. You must also provide a copy of the results to the State, as directed by the State.

(2) If you report more than one set of valid results (for example, because you have had more than one organization (e.g., a laboratory) analyze the samples collected under § 141.40, or because you have collected multiple samples during the monitoring period at the same sampling point), EPA will use the highest of the reported values as the official result.

(f) *Does the laboratory to which I send samples report the results for me?* While you must instruct the organization conducting unregulated contaminant analysis (e.g., a laboratory) to enter the results into EPA's electronic reporting system, you are responsible for reviewing and approving the submission of the results to EPA. If the analytical organization or laboratory cannot enter these data for you using EPA's electronic reporting system, then you may explain to EPA in writing the reasons why alternate reporting is necessary and must receive EPA's approval to use an alternate reporting procedure.

* * * * *

3. Section 141.40 as revised at 64 FR 50612 (to be effective January 1, 2001), is amended by:

a. Revising paragraph (a)(1)(iii) introductory text;

b. Revising paragraph (a)(1)(v) introductory text;

c. Revising Table 1, List 1, List 2 and List 3, in paragraph (a)(3);

d. Revising Table 2, in paragraph (a)(4)(i);

e. Revising paragraph (a)(5)(ii)(B) (including table 3);

f. Revising paragraph (a)(5)(ii)(C);

g. Revising paragraph (a)(5)(ii)(G);

h. Revising paragraphs (a)(7)(i) and (a)(7)(ii) and adding paragraph (a)(7)(iii);

i. Revising paragraph (b)(1)(ix);

j. In the Appendix to § 141.40 by revising paragraphs (2) and (9); and

k. Adding paragraph (11) to the Appendix to § 141.40.

The Revisions read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) * * *

(1) * * *

(iii) *Large systems purchasing their entire water supply from another system.* If you own or operate a public water system (other than a transient system) that serves more than 10,000 persons and purchase your entire water supply from a wholesale or retail public water system, you must monitor as follows:

* * * * *

(v) *Small systems purchasing their entire water supply from another system.* If you own or operate a public water system (other than a transient system) that serves 10,000 or fewer persons and purchase your entire water supply from another public water system, you must monitor as follows:

* * * * *

(3) * * *

Table 1. Unregulated Contaminant Monitoring Regulation (1999) List

LIST 1.—ASSESSMENT MONITORING—CHEMICAL CONTAMINANTS

1—Contaminant	2—CAS registry number	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Period during which monitoring to be completed
2,4-dinitrotoluene	121–14–2	EPA 525.2[a]	2 µg/L[e]	EPTDS[f]	2001–2003
2,6-dinitrotoluene	606–20–2	EPA 525.2[a]	2 µg/L[e]	EPTDS[f]	2001–2003
Acetochlor	34256–82–1	EPA 525.2[a]	2 µg/L[o]	EPTDS[f]	2001–2003
DCPA mono-acid degradate[h]	887–54–7	EPA 515.1[a] EPA 515.2[a] EPA 515.3[i,j] EPA 515.4[k] D5317–93[b] AOAC 992.32[c]	1 µg/L[e]	EPTDS[f]	2001–2003
DCPA di-acid degradate[h]	2136–79–0	EPA 515.1[a] EPA 515.2[a] EPA 515.3[i,j] EPA 515.4[k] D5317–93[b] AOAC 992.32[c]	1 µg/L[e]	EPTDS[f]	2001–2003
4,4′–DDE	72–55–9	EPA 508[a] EPA 508.1[a] EPA 525.2[a] D5812–96[b] AOAC 990.06[c]	0.8 µg/L[e]	EPTDS[f]	2001–2003
EPTC	759–94–4	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	1 µg/L[e]	EPTDS[f]	2001–2003
Molinate	2212–67–1	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	0.9 µg/L[e]	EPTDS[f]	2001–2003
MTBE	1634–04–4	EPA 502.2[a,n] SM 6200C[d,n] EPA 524.2[a] D5790–95[b] SM 6210D[d] SM 6200B[d]	5 µg/L[g]	EPTDS[f]	2001–2003
Nitrobenzene	98–95–3	EPA 524.2[a] D5790–95[b] SM6210D[d] SM6200B[d]	10 µg/L[g]	EPTDS[f]	2001–2003
Perchlorate	14797–73–0	EPA 314.0[l]	4 µg/L[m]	EPTDS[f]	2001–2003

LIST 1.—ASSESSMENT MONITORING—CHEMICAL CONTAMINANTS—Continued

1—Contaminant	2—CAS registry number	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Period during which monitoring to be completed
Terbacil	5902–51–2	EPA 507 [a] EPA 525.2 [a] D5475–93 [b] AOAC 991.07 [c]	2 µg/L [e]	EPTDS [f]	2001–2003

Column headings are:

1—Chemical or microbiological contaminant: the name of the contaminants to be analyzed

2—CAS (Chemical Abstract Service Number) Registry No. or Identification Number: a unique number identifying the chemical contaminants.

3—Analytical Methods: method numbers identifying the methods that must be used to test the contaminants.

4—Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods

5—Sampling Location: the locations within a PWS at which samples must be collected.

6—Years During Which Monitoring to be Completed: The years during which the sampling and testing are to occur for the indicated contaminant.

The procedures shall be done in accordance with the documents listed next in these footnotes. The incorporation by reference of the following documents listed in footnotes b–d was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the documents may be obtained from the following sources. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

[a] The version of the EPA methods which you must follow for this Rule are listed at § 141.24 (e).

[b] Annual Book of ASTM Standards, 1996, 1998 and 1999, Vol. 11.02, American Society for Testing and Materials. Method D5812–96 is located in the Annual Book of ASTM Standards, 1998 and 1999, Vol. 11.02. Methods D5790–95, D5475–93, and D5317–93 are located in the Annual Book of ASTM Standards, 1996 and 1998, Vol 11.02. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[c] Official Methods of Analysis of AOAC (Association of Official Analytical Chemist) International, Sixteenth Edition, 4th Revision, 1998, Volume I, AOAC International, First Union National Bank Lockbox, PO Box 75198, Baltimore, MD 21275–5198. 800–379–2622

[d] SM 6210 D is only found in the 18th and 19th editions of Standard Methods for the Examination of Water and Wastewater, 1992 and 1995, American Public Health Association; either edition may be used. SM 6200 B and 6200 C are only found in the 20th edition of Standard Methods for the Examination of Water and Wastewater, 1998. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[e] Minimum Reporting Level determined by multiplying by 10 the least sensitive method's minimum detection limit (MDL-standard deviation times the Student's t value for 99% confidence level with n-1 degrees of freedom), or when available, multiplying by 5 the least sensitive method's estimated detection limit (where the EDL equals the concentration of compound yielding approximately a 5 to 1 signal to noise ratio or the calculated MDL, whichever is greater).

[f] Entry Points to the Distribution System (EPTDS), after treatment, representing each non-emergency water source in routine use over the twelve-month period of monitoring; sampling must occur at the EPTDS, unless the State has specified other sampling points that are used for compliance monitoring 40 CFR 141.24 (f)(1), (2), and (3). See 40 CFR 141.40(a)(5)(ii)(C) for a complete explanation of requirements, including the use of source (raw) water sampling points.

[g] Minimum Reporting Levels (MRL) for Volatile Organic Compounds (VOC) determined by multiplying either the published Method Detection Limit (MDL) or 0.5 µg/L times 10, whichever is greater. The MDL of 0.5 µg/L (0.0005 mg/L) was selected to conform to VOC MDL requirements of 40 CFR 141.24(f)(17(E).

[h] The approved methods do not allow for the identification and quantitation of the individual acids. The single analytical result obtained should be reported as total DCPA mono- and di-acid degradates.

[i] Method 515.3, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Extraction, Derivatization and Gas Chromatography with Electron Capture Detection,'' EPA 815/8–99–001, July 1996. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time). Alternatively, the method can be assessed and downloaded directly on-line at www.epa.gov/safewater/methods/sourcalt.html.

[j] Since Method 515.3 does not include a solvent wash step following hydrolysis, the parent DCPA is not removed prior to analysis, therefore, only non-detect data may be reported using Method 515.3. All samples with results above the MRL must be analyzed by one of the other approved methods.

[k] Method 515.4, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Extraction, Derivatization and Gas Chromatography with Electron Capture Detection,'' April 2000. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time).

[l] Method 314.0, ''Determination of Perchlorate in Drinking Water Using Ion Chromatography,'' Revision 1.0, EPA 815–B–99–003, November 1999. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time). Alternately, the method can be assessed and downloaded directly on-line at www.epa.gov/safewater/methods/sourcalt.html.

[m] MRL was established at a concentration, which is at least 1/4th the lowest known adverse health concentration, at which acceptable precision and accuracy has been demonstrated in spiked matrix samples.

[n] Sample preservation techniques and holding times specified in EPA Method 524.2 must be used by laboratories using either EPA Method 502.2 or Standard Methods 6200C

LIST 2—SCREENING SURVEY—CHEMICAL CONTAMINANTS

[To Be Sampled After Notice of Analytical Methods Availability]

1-Contaminant	2-CAS registry number	3-Analytical methods	4-Minimum reporting level	5-Sampling location	6-Period during which monitoring to be completed
1,2-diphenylhydrazine	122–66–7	EPA 526 [a]	0.5 µg/L [g]	EPTDS [f]	2001—Selected Systems serving ≤ 10,000 persons; 2002—Selected systems serving > 10,000 persons.
2-methyl-phenol	95–48–7	EPA 528 [b]	1 µg/L [g]	EPTDS [f]	Same as above.
2,4-dichlorophenol	120–83–2	EPA 528 [b]	1 µg/L [g]	EPTDS [f]	Same as above.
2,4-dinitrophenol	51–28–5	EPA 528 [b]	5 µg/L [g]	EPTDS [f]	Same as above.
2,4,6-trichlorophenol	88–06–2	EPA 528 [b]	1 µg/L [g]	EPTDS [f]	Same as above.
Diazinon	333–41–5	EPA 526 [a]	0.5 µg/L [g]	EPTDS [f]	Same as above.
Disulfoton	298–04–4	EPA 526 [a]	0.5 µg/L [g]	EPTDS [f]	Same as above.
Diuron	330–54–1	EPA 532 [c]	1 µg/L [g]	EPTDS [f]	Same as above.
Fonofos	944–22–9	EPA 526 [a]	0.5 µg/L [g]	EPTDS [f]	Same as above.
Linuron	330–55–2	EPA 532 [c]	1 µg/L [g]	EPTDS [f]	Same as above.
Nitrobenzene	98–95–3	EPA 526 [a]	0.5 µg/L [g]	EPTDS [f]	Same as above.
Prometon	1610–18–0	EPA 526 [a]	0.5 µg/L [g]	EPTDS [f]	Same as above.
Terbufos	13071–79–9	EPA 526 [a]	0.5 µg/L [g]	EPTDS [f]	Same as above.
Alachlor ESA	Reserved [e]	Reserved [e]	Reserved [e]	Reserved [e]	Reserved. [e]
RDX	121–82–4	Reserved [e]	Reserved [e]	Reserved [e]	Reserved. [e]

LIST 2—SCREENING SURVEY—MICROBIOLOGICAL CONTAMINANTS

[To Be Sampled After Notice of Analytical Methods Availability]

1-Contaminant	2-Identification number	3-Analytical methods	4-Minimum reporting level	5-Sampling location	6-Period during which monitoring to be completed
Aeromonas	NA	EPA 1605 [d, j]	0.2/100mL [h]	Distribution System [i]	2003

Column headings are:

1-Chemical or microbiological contaminant: the name of the contaminants to be analyzed

2-CAS (Chemical Abstract Service Number) Registry No. or Identification Number: a unique number identifying the chemical contaminants.

3-Analytical Methods: method numbers identifying the methods that must be used to test the contaminants.

4-Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods

5-Sampling Location: the locations within a PWS at which samples must be collected.

6-Years During Which Monitoring to be Completed: the years during which the sampling and testing are to occur for the indicated contaminant.

The procedures shall be done in accordance with the documents listed next in these footnotes. Copies of the documents may be obtained from the sources listed in these footnotes. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

[a] Method 526, ''Determination of Selected Semivolatile Organic Compounds in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry,'' April 2000. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time).

[b] Method 528, ''Determination of Phenols in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry,'' April 2000. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time).

[c] Method 532, ''Determination of Phenylurea Compounds in Drinking Water by Solid Phase Extraction and High Performance Liquid Chromatography with UV Detection,'' April 2000. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time).

[d] Method 1605, ''*Aeromonas* in Finished Water by Membrane Filtration,'' April 2000. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at (800) 426–4791 (Hours are Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time).

[e] To be determined at a later time.

[f] Entry Points to the Distribution System (EPTDS), after treatment, representing each non-emergency water source in routine use over the twelve-month period of monitoring; sampling must occur at the EPTDS, source water sampling points are not permitted for List 2 contaminant monitoring.

[g] Minimum Reporting Level represents the value of the lowest concentration precision and accuracy determination made during methods development and documented in the method. If method options are permitted, the concentration used was for the least sensitive option.

[h] Minimum reporting level will be 0.2/100mL unless water turbidity does not permit filtration of 500 mL.

[i] Three samples will be taken from each distribution system. The sample locations will include one sample from a point (MD from § 141.35(d)(5), Table 1) where the chlorine residual is representative of the distribution system (for disinfected systems). This sample location may be selected from sample locations which have been previously identified for samples to be analyzed for coliform indicator bacteria. Coliform sample locations encompass a variety of sites including midpoint samples which may contain a chlorine residual that is typical of the system. Coliform sample locations are described in 40 CFR 141.21. This same approach must be used for the Aeromonas midpoint sample where the chlorine residual would not have declined and would be typical for the distribution system. Additionally, two samples must be taken from two different locations: either the distal or dead-end locations in the distribution system (MR from § 141.35(d)(5), Table 1), avoiding chlorine booster stations, and/or from locations where previous determinations have indicated that the chlorine residual has declined to 0.3 mg/L or lower (LD from § 141.35(d)(5), Table 1). (For example, this sampling could result in two samples from two different dead-end locations, from two different low-chlorine residual locations, or from one distal end and one low-chlorine residual site.) Locations in the distribution system where chlorine residual is expected to be low are similar to TTHM sampling points. If these two locations of distal (or dead-end) and low chlorine residual sites coincide, then the second sample must be taken at a location between the MD and MR sites. Sampling locations for TTHMs are described in 63 FR 69468. In cases where water is purchased by other systems, all consecutive systems must monitor at the three sampling locations, unless the State has specified MD, MR and LD sampling locations for the applicable consecutive systems as a group based on prior knowledge of the appropriate locations for this sampling.

[j] The public water system, through its laboratory, must archive confirmed positive colonies of *Aeromonas* and send them to EPA for determination of the hybridization group.

LIST 3—PRE-SCREEN TESTING—RADIONUCLIDES

[To Be Sampled After Notice of Analytical Methods Availability]

1-Contaminant	2-CAS registry number	3-Analytical methods	4-Minimum reporting level	5-Sampling location	6-Period during which monitoring to be completed
Lead-210	14255–04–0	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
Polonium-21-	13981–52–7	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]

LIST 3—PRE-SCREEN TESTING—RADIONUCLIDES

[To Be Sampled After Notice of Analytical Methods Availability]

1-Contaminant	Identification number	3-Analytical methods	4-Minimum reporting level	5-Sampling location	6-Period during which monitoring to be completed
Cyanobacteria (blue-green algae, other freshwater algae and their toxins).	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
Echoviruses	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
Coxsackieviruses	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
Helicobacter pylori	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
Microporidia	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
Calciviruses	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
Adenoviruses	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]
	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]	Reserved [a]

Column headings are:

1—Chemical or microbiological contaminant; the name of the contaminants to be analylzed

2—CAS (Chemical Abstract Service Number) Registry No. or Identification Number; a unique number identyifing the chemical contaminants.

3—Analytical Methods: method numbers identifying the methods that must be used to test the contaminants.

4—Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods.

5—Sampling Location: the locations within a PWS at which samples must be collected.

6—Years During Which Monitoring to be Completed: the years during which the sampling and testing are to occur for the indicated contaminant.

[a] to be determined at a later time.

* * * * *

(4) * * *

(i) * * *

TABLE 2.—WATER QUALITY PARAMETERS TO BE MONITORED WITH UCMR CONTAMINANTS

Parameter	Contaminant type	Methodology		
		EPA method	Standard methods [1]	Other
pH	Microbiological	150.1 [2] 150.2 [2]	4500–H+ B	ASTM D1293–84 [3] ASTM D1293–95 [3]
Turbidity	Microbiological	180.1 [4,5]	2130 B [4]	GLI Method 2 [2,6]
Temperature	Microbiological		2550.	

TABLE 2.—WATER QUALITY PARAMETERS TO BE MONITORED WITH UCMR CONTAMINANTS—Continued

Parameter	Contaminant type	Methodology		
		EPA method	Standard methods [1]	Other
Free Disinfectant Residual	Microbiological		4500-Cl D 4500-Cl F 4500-Cl G 4500-Cl H 4500-ClO_2 D 4500-ClO_2 E 4500-O_3 B	ASTM D 1253–86 [3]
Total Disinfectant Residual	Microbiological		4500-Cl D 4500-Cl E [4] 4500-Cl F 4500-Cl G [4] 4500-Cl I	ASTM D 1253–86. [3]

The procedures shall be done in accordance with the documents listed in these footnotes. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the documents may be obtained from the sources listed in these footnotes. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

[1] The 18th and 19th Editions of *Standard Methods for the Examination of Water and Wastewater,* 1992 and 1995. Methods 2130 B; 2550; 4500-Cl D, E, F, G, H, I; 4500-ClO_2 D, E; 4500-H+ B; and 4500-O_3 B in the 20th edition *Standard Methods for the Examination of Water and Wastewater,* 1998, American Public Health Association, 1015 Fifteenth St. NW, Washington D.C., 20005.

[2] Methods 150.1 and 150.2 are available from US EPA, NERL, 26 W. Martin Luther King Dr., Cincinnati, Ohio 45268. The identical methods are also in ''Methods for Chemical Analysis of Water and Wastes,'' EPA–600/4–79-020, March 1983, available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Virginia 22161, PB84–128677. (Note: NTIS toll-free number is 800-553–6847.)

[3] *Annual Book of ASTM Standards,* Editions 1994, 1996, 1998 and 1999, Volumes 11.01, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428. Version D1293–84 is located in the *Annual Book of ASTM Standards,* 1994, Volumes 11.01. Version D1293–95 is located in the Annual Book of *ASTM Standards,* 1996, 1998 and 1999, Volumes 11.01.

[4] ''Technical Notes on Drinking Water,'' EPA–600/R–94–173, October 1994, Available at NTIS, PB95–104766.

[5] ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' EPA–600/R–93–100, August 1993. Available at NTIS, PB94–121811.

[6] GLI Method 2, ''Turbidity,'' November 2, 1992, Great Lakes Instruments Inc., 8855 North 55th St., Milwaukee, Wisconsin 53223.

* * * * *

(5) * * *

(ii) * * *

(B) *Frequency.* You must collect the samples within the timeframe and according to the following frequency specified by contaminant type and water source type:

TABLE 3.—MONITORING FREQUENCY BY CONTAMINANT AND WATER SOURCE TYPES

Contaminant type	Water source type	Timeframe	Frequency
Chemical	Surface water	Twelve (12) months	Four quarterly samples taken as follows: Select either the first, second, or third month of a quarter and sample in that same month of each of four (4) consecutive quarters [a] to ensure that one of those sampling events occurs during the vulnerable time [b]
	Ground water	Twelve (12) months	Two (2) times in a year taken as follows: Sample during one (1) month of the vulnerable time [b] and during one (1) month five (5) to seven (7) months earlier or later [c]
Microbiological	Surface and ground water.	Twelve (12) months	Six (6) times in a year taken as follows: Sample during the last month of each quarter and each month of the warmest quarter [d]

[a] ''Select either the first, second, or third month of a quarter and sample in that same month of each of four (4) consecutive quarters'' means that you must monitor during each of the four (4) months of either: January, April, July, October; or February, May, August, November; or March, June, September, December.

[b] ''Vulnerable time'' means May 1 through July 31, unless the State or EPA informs you that it has selected a different time period for sampling as your system's vulnerable time.

[c] ''Sample during one (1) month of the vulnerable time and during one (1) month five (5) to seven (7) months earlier or later'' means, for example, that if you select May as your ''vulnerable time'' month to sample, then one (1) month five (5) to seven (7) months earlier would be either October, November or December of the preceding year, and one (1) month five (5) to seven (7) months later would be either, October, November, or December of the same year.

[d] ''Six (6) times in a year taken as follows: Sample during the last month of each quarter and each month of the warmest quarter'' means sampling in March, June, July, August, September, and December.

(C) *Location.* You must collect samples at the location specified for each listed contaminant in column 5 of the Table 1, UCMR (1999) List, in paragraph (a)(3) of this section. The sampling location for chemical contaminants must be the entry point to the distribution system or the compliance monitoring point specified by the State or EPA under 40 CFR 141.24 (f)(1), (2), and (3). Except as provided below, if the compliance monitoring point as specified by the State is for source (raw) water and any of the contaminants in paragraph (a)(3) of this section are detected, then you must complete the source water monitoring for the indicated timeframe

and also sample at the entry point to the distribution system representative of the affected source water only for the contaminant(s) found in the source water over the next twelve month timeframe, beginning in the next required monitoring period as indicated in paragraph (a)(5)(ii)(B), Table 3, even though monitoring might extend beyond the last year indicated in column 6, Period during which monitoring to be completed, in Table 1 of paragraph (a)(3). Exception: If the State or EPA determines that sampling at the entry point to the distribution system is unnecessary because no treatment was instituted between the source water and the distribution system that would affect measurement of the contaminants listed in paragraph (a)(3) of this section, then you do not have to sample at the entry point to the distribution system.

* * * * *

(G) *Testing.* (*1*) Except as provided in paragraph (a)(5)(ii)(G)(*2*) and (*3*) of this section, you must arrange for the testing of the contaminants identified in List 1 of Table 1 by a laboratory certified under § 141.28 for compliance analysis using any of the analytical methods listed in column 3 for each contaminant in List 1 of Table 1, Unregulated Contaminant Monitoring Regulation (1999) List, in paragraph (a)(3) of this section, whether you use the EPA analytical methods or non-EPA methods listed in List 1 of Table 1. Laboratories are automatically certified for the analysis of UCMR contaminants in List 1 of Table 1 if they are already certified to conduct compliance monitoring for a contaminant included in the same method being approved for UCMR analysis.

(*2*) You must arrange for the testing of Perchlorate as identified in List 2 of Table 1 by a laboratory certified under § 141.28 for compliance analysis using an approved ion chromatographic method as listed in § 141.28 and that has analyzed and successfully passed the Performance Testing (PT) Program administered by EPA.

(*3*) You must arrange for the testing of the chemical contaminants identified in List 2 of Table 1 by a laboratory certified under § 141.28 for compliance analysis using EPA Method 525.2 if performing UCMR analysis using EPA Methods 526 or 528, or a laboratory certified under § 141.28 for compliance analysis using EPA Methods 549.1 or 549.2 if performing UCMR analysis using EPA Method 532. You must arrange for the testing for *Aeromonas* using EPA Method 1605 as identified in List 2 of Table 1 by a laboratory certified under § 141.28 for compliance analysis for Coliform indicator bacteria using an EPA approved membrane filtration procedure. EPA may require that laboratories performing *Aeromonas* analyses with EPA Method 1605 analyze and successfully pass a performance testing (PT) program administered by EPA.

* * * * *

(7) * * *

(i) *All systems.* You must:

(A) Analyze the additional parameters specified in paragraph § 141.40(a)(4)(i), Table 2, ''Water Quality Parameters to be Monitored with UCMR Contaminants'' for each relevant contaminant type. You must analyze the parameters for each sampling event of each sampling point, using the method indicated, and report the results using the data elements 1 through 10 in Table 1, § 141.35(d), Unregulated Contaminant Monitoring Reporting requirements;

(B) Review the laboratory results to ensure reliability; and

(C) Report the results as specified in § 141.35.

(ii) *Large systems.* If your system serves over 10,000 persons, you must collect and arrange for testing of the contaminants in List 2 and List 3 of Table 1, Unregulated Contaminant Monitoring Regulation (1999) List, in paragraph (a)(3) of this section, in accordance with the requirements set out in paragraphs (a)(4) and (5) of this section, with one exception: you must sample only at sampling locations specified in Table 1. You must send the samples to one of the laboratories designated by EPA in your notification. You are also responsible for reporting these results as required in § 141.35.

(iii) *Small systems.* If your system serves 10,000 or fewer persons, you must collect samples in accordance with the instructions sent to you by the State or EPA, or, if informed by the State or EPA that the State or EPA will collect the sample, you must assist the State or EPA in identifying the appropriate sampling locations and in taking the samples. EPA will report the results to you and the State.

* * * * *

(b) * * *

(1) * * *

(ix) Revise system's treatment plant location(s) to include latitude and longitude. For reporting to the Safe Drinking Water Information System, EPA already requires reporting of either the latitude and longitude or the street address for the treatment plant location. If the State enters into MOA, the State must report each system's treatment plant location(s) as latitude and longitude (in addition to street address, if previously reported) by the time of the system's reporting of Assessment Monitoring results to the National Drinking Water Contaminant Occurrence Database. The State may use the latitude and longitude of facilities related to the public water system on the same site, or closely adjacent to the same site as the treatment plant, such as the latitude and longitude of the intake or wellhead/field or the entry point to the distribution system, if such measurements are available.

* * * * *

Appendix A to § 141.40 Quality Control Requirements for Testing All Samples Collected

* * *

(2) Method Detection Limit. Calculate the laboratory method detection limit (MDLs) for each contaminant in Table 1, Unregulated Contaminant Monitoring Regulation (1999) List, of paragraph (a)(3) of this section using the appropriate procedure in the specified method with the exception that the contaminant concentration used to fortify reagent water must be less than or equal to the minimum reporting level (MRL) for the contaminants as specified in column 4, Table 1, UCMR (1999) List, in paragraph (a)(3) of this section. The calculated MDL is equal to the standard deviation times the Student's t value for 99% confidence level with n-1 degrees of freedom. (The MDL must be less than or equal to one-half of the MRL.)

* * *

(9) Detection Confirmation. Confirm any chemical contaminant analyzed using a gas chromatographic method and detected above the MRL, by gas chromatographic/mass spectrometric (GC/MS) methods. If testing resulted in first analyzing the sample extracts via specified gas chromatographic methods, an initial confirmation by a second column dissimilar to the primary column may be performed. If the contaminant detection is confirmed by the secondary column, then the contaminant must be reconfirmed by GC/MS using three (3) specified ion peaks for contaminant identification. Use one of the following confirming techniques: perform single point calibration of the GC/MS system for confirmation purposes only as long as the calibration standard is at a concentration within ± 50% of the concentration determined by the initial analysis; or perform a three (3) point calibration with single point daily calibration verification of the GC/MS system regardless of whether that verification standard concentration is within ± 50% of sample response. If GC/MS analysis confirms the initial contaminant detection, report results determined from the initial analysis.

* * *

(11) Method Defined Quality Control. As appropriate to the method's requirements, perform analysis of Laboratory Fortified Blanks and Laboratory Performance Checks as specified in the method. Each method specifies acceptance criteria for these quality control checks.

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Federal Register

Wednesday,
September 13, 2000

Part IV

Department of the Treasury

Fiscal Service

31 CFR Part 344

U.S. Treasury Securities—State and Local Government Series; Interim Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 344

[Department of the Treasury Circular, Public Debt Series No. 3–72]

U.S. Treasury Securities—State and Local Government Series

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: State and Local Government Series (SLGS) securities are offered to provide issuers of tax exempt securities with investments from any amounts that constitute gross proceeds of an issue, or assist in complying with applicable provisions of the Internal Revenue Code relating to the tax exemption.

We're publishing an interim rule amending the rules to allow you to submit SLGS subscriptions over the Internet to the Division of Special Investments (DSI), Bureau of the Public Debt (Public Debt), Department of the Treasury (Treasury).

Under the Government Paperwork Elimination Act (GPEA), executive agencies must generally provide, where practicable, for the optional use and acceptance of electronic documents, record keeping and signatures by October 2003.

We are implementing the GPEA by offering SLGSafeSM, a secure site where Internet customers can submit subscriptions, change account information, and redeem securities.

We've also rewritten this part in plain language.

DATES: Effective September 13, 2000. To be considered, comments must be received on or before November 13, 2000.

ADDRESSES: You can download this interim rule at the following World Wide Web address: <http://www.publicdebt.treas.gov>. You may also inspect and copy this interim rule at: Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220. Before visiting the library, you must call (202) 622–0990 for an appointment.

Submit comments to Howard Stevens, Director, Division of Special Investments, Bureau of the Public Debt, Department of the Treasury, 200 3rd St., P.O. Box 396, Parkersburg, WV 26101–0396 or by e-mail at: <osas__dsi@bpd.treas.gov>. See **SUPPLEMENTARY INFORMATION** for other information about electronic filing of comments.

FOR FURTHER INFORMATION CONTACT:

Technical information: Howard Stevens, Director, Division of Special Investments, Bureau of the Public Debt, 200 3rd St., P.O. Box 396, Parkersburg, WV 26106–0396, (304) 480–7752, <www.publicdebt.treas.gov/spe/spe.htm> or <osas__dsi@bpd.treas.gov>.

Legal information: Edward C. Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480–3692, <egronset@bpd.treas.gov> or Elizabeth S. Gracia, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480–3692, <lgracia@bpd.treas.gov>.

SUPPLEMENTARY INFORMATION:

I. Electronic Access and Filing of Comments

You may submit comments by sending electronic mail to: <osas-dsi@bpd.treas.gov>. Please identify the e-mail by the **Federal Register** citation and provide your full name and mailing address. Submitted comments will be available for public inspection and copying at DSI and the Treasury Library. Comment letters may be downloaded from <http://www.publicdebt.treas.gov>.

II. Background

This interim rule implements the last of a three-step process designed to improve the SLGS program. First, we centralized processing of SLGS securities in the Division of Special Investments (DSI), Bureau of the Public Debt (Public Debt), Department of the Treasury (Treasury). We published a final rule accomplishing the consolidation in the **Federal Register**, 60 FR 4502, Jan. 23, 1995.

Second, we made SLGS more attractive to State and local government issuers of debt obligations. After soliciting comments from market participants in an Advanced Notice of Proposed Rulemaking, **Federal Register**, 61 FR 19002, April 30, 1996, we published the enhancements in the **Federal Register**, 61 FR 55690, Oct. 28, 1996.

The third phase, the ability to file electronic subscriptions, was announced in a Proposed Rule published in the **Federal Register**, 61 FR 39228, 39230, Jul. 26, 1996. This interim rule fulfills the requirement under the Government Paperwork Elimination Act (GPEA), Sec. 1701–1710, Pub. L. 105–277, 112 Stat. 2681–749 to 2681–751 (44 U.S.C. 3504 note), that Executive agencies provide for the option of electronic submissions instead of paper. Specifically, the interim rule gives you the option of subscribing for SLGS securities electronically over the Internet through SLGSafeSM.

SLGSafeSM is the secure site where Internet customers can submit subscriptions, change account information, and redeem securities. As further described in the SLGSafeSM Internet User's Guide, owners and trustees can redeem, review, and inquire about their SLGS security holdings by using SLGSafeSM. SLGSafeSM also reduces processing time and simplifies the subscription procedure by eliminating the time-consuming paperwork required to manually complete and submit subscription forms. A major benefit is the enhanced retrieval of electronically stored information. You can view, download, and print reports from your SLGS securities portfolio. For example, SLGSafeSM will provide a variety of reports, such as Future Payments by Date, Statement of Accounts and Statement of Holdings.

Before you submit transactions through SLGSafeSM, we must approve your SLGSafeSM Application for Internet Access. The Secretary of the Treasury (the Secretary) has the sole discretion to approve applications and to prioritize the enrollment of customers in SLGSafeSM. We will contact SLGS securities customers to schedule a commencement date for SLGSafeSM use. Scheduling will aim to meet our goal of completing 50% of SLGS securities transactions electronically by September 2000, 85% by September 2001, and 100% by September 2002.

If your SLGSafeSM Application is approved, each user that you designate will receive a digital certificate and an authorization code in order to access SLGSafeSM. Designated individuals can submit subscriptions signed with an electronic signature over the Internet. SLGSafeSM transactions constitute electronic messages that are governed by this part and 31 CFR part 370.

This interim rule does not eliminate paper subscriptions. Non-Internet subscriptions may be sent to us by various methods: fax, carrier service, U.S. Postal Service (certified or registered mail), or other means. Non-Internet customers will receive transaction confirmations by fax only if requested. However, if you take advantage of Internet delivery through SLGSafeSM, you will receive automatic confirmations of activity.

The Summary of Amendments made in this interim rule, located in Section III, lists the amendments by section. Many of the amendments are plain

language clarifications that do not substantively change 31 CFR part 344, Jul. 1, 1999. Amendments worth highlighting because of their substantive impact have been noted.

We request your comments on SLGSafe℠. The ability to accept, process and distribute subscription information electronically was developed in response to our mutual need to manage book-entry holdings. We welcome your input on the functionality of SLGSafe℠, including the application process, the electronic submission of data and the reporting capabilities.

Executive Order 12866 and the President's memorandum of June 1, 1998, require us to write this interim rule in plain language. We invite your comments on how we can make the final rule easier to understand.

III. Summary of Amendments in Part 344

All of the operating rules in the offering apply to electronic and paper transactions alike except for § 344.3, which applies exclusively to SLGSafe℠ transactions. The ability to conduct electronic transactions in SLGSafe℠ is the most significant revision. For ease of reference, we've summarized other important changes from 31 CFR part 344, Jul. 1, 1999, in the following tables:

SUBPART A—GENERAL INFORMATION

Interim rule CFR sec.	Jul. 1, 1999 CFR sec.	Summary of change
344.0	344.0	We amended the section headings of the offering to be consistent with our regulations that have been rewritten in plain language.
344.0(b)	344.10	We provided a complete list of the types of SLGS securities currently outstanding. We added a reference to the date that special zero interest securities were discontinued.
344.0(c)(1)	344.0(c)	We clarified that the denominations for time deposit securities are issued in any whole dollar amount instead of in increments of not less than $1.00. This is not a substantive change.
344.1	344.0(b), 344.1(k), 344.5(a)(3) (ii), (a) (4)(ii).	We consolidated the terms used in this part into one section. To explain the interaction between the ''current Treasury borrowing rate'' and the ''SLGS rate,'' we revised the definition of ''current Treasury borrowing rate'' and added a definition for ''SLGS rate.'' ''Current Treasury borrowing rate'' is redefined to mean ''the prevailing market rate, as determined by Treasury, for a Treasury security with the specified period to maturity'' instead of the applicable rate shown in the SLGS rate table for the day we receive your request for early redemption, plus five basis points. ''SLGS rate'' means ''the current Treasury borrowing rate on the day we receive your subscription, less 5 basis points, as released daily by Treasury in a SLGS rate table.'' We added a definition for ''SLGS rate table.'' The synonymous terms ''issuer'' and ''government body'' have been replaced with a definition for ''issuer.'' We also added a definition for ''we.''
344.2(a) (2), (n)	344.1(a), (g), (i) (2), 344.2(c) (1)–(2), 344.3(b)(3) (iv), 344.7(b).	As for other regulations that apply to SLGS securities, part 306 of this subchapter, ''General Regulations that Apply to U.S. Treasury Securities,'' previously applied to this part to the extent applicable. Appendix to subpart E of part 306 of this subchapter is now specifically cross-referenced at § 344.2(a)(2). We deleted the cross-reference to the waiver of regulations set forth under § 306.126 of this subchapter and added a waiver subsection at § 344.2(n) of this part. The applicable payment provisions were consolidated in 31 CFR § 344.2(j) and 31 CFR part 370. Hence, payments are no longer subject to the payment provisions of § 357 of this subchapter. Since the incorporated regulations easily are obtainable in public libraries and on the Internet, we deleted the option of writing to us to obtain a copy.
344.2(e)	344.1(e)	We deleted the requirement that an agent, other than a commercial bank, must submit evidence of its authority to act for the issuer. However, DSI still may request evidence of such authority.
344.2(f)(3) (i)–(v)	344.1(f)	We issued a Final Rule, 62 FR 46444, Sept. 3, 1997, clarifying that SLGS securities may not be used as cost-free interest hedge or option for speculation in open market securities. The illustrations of permissible and impermissible transactions that were contained previously in the preamble of the Final Rule, 62 FR 46444–46445, are now included in § 344.2(f)(3)(i)–(v).

SUBPART A—GENERAL INFORMATION—Continued

Interim rule CFR sec.	Jul. 1, 1999 CFR sec.	Summary of change
344.2(g)	344.4(a), 344.8	We consolidated the payment instructions that you must use when subscribing for SLGS securities. Formerly, full payment by 3:00 p.m., Eastern time, was requested but not required, to ensure that settlement of the securities occurred on the issue date. We now compel full payment by 4:00 p.m., Eastern time, on the issue date. For convenience, we added a reference to Public Debt's American Bankers Association (ABA) Routing Number.
344.2(h)(2)	344.1(i) (2), 344.3(b)(3) (iv), 344.7(b).	Where settlement occurs after the proposed issue date, Treasury may determine that settlement is acceptable on an exception basis. If so, DSI will waive the six-month penalty and the issuer will be charged a late payment assessment. To avoid confusion, we eliminated the reference to ''late payment fees.'' We clarified that the late payment assessment consists of accrued interest and a $100 administrative charge per subscription. This is not a substantive change.
344.2(j)	344.2(c)(2)	Since the payment method in § 344.2(j) governs all payments that we make under this part, we placed it under the general provisions section. We will make payments by ACH unless operational considerations require alternate payment procedures. Previously, redemptions before maturity were made by Fedwire.
344.2(k)	344.3(a), (b)(1), (b)(3), (c), 344.5(a) (2), 344.7(a), 344.9(b), 344.11(b).	We consolidated references to DSI's address and fax number into one paragraph. Only non-Internet customers submit paper SLGS securities transactions to DSI's business address. Unlike Internet customers who automatically receive an electronic confirmation of receipt, under this new paragraph Non-Internet customers will not receive a confirmation of receipt for transactions unless requested.
344.2(l)	344.1(h)	During a debt limit contingency, we may change or suspend the terms and conditions of the offering, including provisions relating to redemptions. Used in this context, ''redemptions'' is not intended to refer to matured securities which under § 344.2(i) we are obligated to pay the principal amount and interest due. We clarified that only ''early'' redemptions and not payment on redeemed, matured securities are affected during a debt limit contingency.
344.2(m) (1)–(2)	344.3(b)(3) (iv), 344.7(b)	We consolidated in § 344.2(m) the references to Treasury's right to reject untimely changes in subscriptions. We amended § 344.2(m)(1) to add a new provision giving Treasury the right to reject any SLGSafe℠ Application. In § 344.2(m)(2), we clarified that the right to reject transaction requests includes electronic and paper submissions.
344.2(n)	344.1(g), (i)(2), 344.3(b)(3) (iv), 344.7(b).	We added a new paragraph that allows Treasury to waive the provisions of this part. Previously, this authority was incorporated into this part by referencing 31 CFR 306.126, ''Waiver of Regulations.'' This is not a substantive change.

SLGSAFE℠

Interim rule CFR sec.	Summary of change
344.3(a)	We added a new section describing SLGSafe℠ which allows transactions to be processed over the Internet.
344.3(b)	This new paragraph provides that SLGSafe℠ access will be available after we approve your SLGSafe℠ Application.
344.3(c)	This new paragraph provides that you can find special terms and conditions relating to SLGSafe℠ in the SLGSafe℠ Application, SLGSafe℠ User Acknowledgment, Public Debt's Certificate Practice Statement, and the SLGSafe℠ Internet User's Guide.
344.3(d)	This new paragraph informs that there are five roles that can apply for SLGSafe℠ access: owner, trustee, receiving depository financial institution, subscriber, and viewer.
344.3(e)	This new paragraph specifies that your role with regard to each SLGS security determines what functions you can perform in SLGSafe℠. The User's Guide contains a description of each role and its capabilities.

SLGSAFE℠—Continued

Interim rule CFR sec.	Summary of change
344.3(f)	Before performing any functions, you must apply for access to SLGSafe℠ by following the steps in this new paragraph.
344.3(g)	This new paragraph explains that the Secretary has the sole discretion to approve SLGSafe℠ Applications. After your SLGSafe℠ Application is approved, the users that you authorized on the SLGSafe℠ Application to submit transactions on your behalf will receive a digital certificate and an authorization code. Upon approval of the application, your existing portfolio of securities will be accessed through SLGSafe℠.
344.3(h)	All authorized users must agree to the conditions of use in this new paragraph.
344.3(i)	This new paragraph explains that Internet customers submit transactions to the designated Internet address. Internet customers will receive automatic confirmations of SLGSafe℠ transactions. The electronic confirmation shows the date and time that the electronic message you sent was processed by Public Debt's Application server.

SUBPART B—TIME DEPOSIT SECURITIES

Interim rule CFR sec.	Jul. 1, 1999 CFR sec.	Summary of change
344.4(b)(2)	344.2(b)	We added a new sentence in § 344.4(b)(2) on the applicability of the SLGS rate table to SLGSafe℠ subscriptions. Under § 344.3(i), we explain that Public Debt's Application server determines when we receive all electronic messages sent via the Internet. If you are an Internet customer, you can verify that you locked in a particular SLGS rate by reviewing the automatic confirmation notice. It shows the date and time Public Debt's Application server received your electronic message.
344.4(b)(3) (i)-(ii)	344.2(b) (1), (b)(2)	The applicable SLGS rate table is available either on the Internet or by telephoning DSI. We deleted the reference to posting the rate table on Commerce Department's Economic Bulletin Board. We've discontinued providing the rate table on an automated fax.
344.4(c)	344.2(c)(1)	We clarified that the first interest payment date must be at least thirty days but less than or equal to one year from the issue date. This is not a substantive change.
344.5(a)	344.3(b) (1), (b)(3), 344.3(c)	For non-Internet customers, we eliminated the requirement that a faxed initial subscription, amendment or final subscription be followed by a mailed original subscription or amendment.
344.5(b)(2)	344.3(b)(1)	We named the electronic and paper Treasury forms used to send initial time deposit subscriptions.
344.5(c)(1)	344.3(c)	We named the electronic and paper time deposit Treasury forms used to send final subscriptions. We eliminated the requirement that a final subscription state the title of the designated official(s) authorized to request early redemption.
344.5(c)(2) (vi)	344.3(c)	Although the prohibition against payment of a final subscription with proceeds of early redeemed SLGS securities subscribed on or before December 27, 1976, remains, the requirement that a subscriber submit a statement about the proceeds in the final time deposit subscription is removed.
344.5(c)(3)		We added a new provision to clarify that changes to final subscriptions are allowed before issuance of the SLGS securities. Changes to final subscriptions are made in the same manner as changes to initial subscriptions under § 344.5(b)(4)(i)–(iv). This is not a substantive change.
	344.3(b)(2)	We eliminated this paragraph as repetitious because the provisions set out in § 344.2(e), dealing with the authority of the subscriber to act on behalf of the issuer, and in § 344.2(h), relating to the penalty for failure to complete a subscription, are located in the general provisions section of this part which applies to initial and final subscriptions.

SUBPART B—TIME DEPOSIT SECURITIES—Continued

Interim rule CFR sec.	Jul. 1, 1999 CFR sec.	Summary of change
344.6(a)(1)	344.5(a)(1)	A 15-day zero percent certificate of indebtedness is ineligible for early redemption. You may redeem a zero percent certificate of indebtedness with a maturity of 16 to 29 days no earlier than fifteen days after the issue date (instead of fifteen days before the scheduled maturity date as formerly required).
344.6(b)	344.5(a)(1)	Partial redemptions of time deposit SLGS securities previously accepted in any amount can now only be requested in whole dollar increments. The requirement that a security balance of less than $1,000 must be redeemed in total has not changed.
344.6(c)	344.5(a)(2)	We clarified that notices of early redemption of time deposit SLGS securities must be submitted electronically or in paper form. We deleted the requirement that the official providing notice be named on the final subscription form. However, the requirement that notice be provided by an authorized official remains.
344.6(e)(2)	344.5(a)(4) (ii)	We amended the next to last sentence in § 344.6(e)(2) pertaining to the applicable interest rate that applies when redemption is requested on a date less than thirty days before the original maturity date. For greater accuracy, this sentence is amended to reflect that the rate is that of a one month security as listed on the SLGS rate table issued on the day redemption is requested (and not the rate shown for a security with a maturity of thirty days as formerly stated.) Also, for certificates of indebtedness subscribed from September 1, 1989, through October 27, 1996, we deleted the instructions for determining the market charge since all certificates of indebtedness issued during this time frame have matured.
344.6(g)(1)	344.5(a)(6) (i)	Since certificates of indebtedness and notes subscribed for on or before December 27, 1976, have matured, we deleted the instructions for calculating the adjusted interest rate for these securities.

SUBPART C—DEMAND DEPOSIT SECURITIES

Interim rule CFR sec.	Jul. 1, 1999 CFR sec.	Summary of change
344.8(b)(1)	344.7(a)	We named the electronic and paper Treasury forms used to send demand deposit subscriptions.
344.8(b)(3), 344.9(c)	344.7(b)	Changes to subscriptions and notices of redemption are now due at DSI by 3:00 p.m., Eastern time instead of 1:00 p.m., Eastern time.
344.9(c)	344.9(b)	We named the electronic and paper Treasury forms used to make a notice of redemption of demand deposit SLGS securities. We deleted the requirement that the official providing notice be named on the final subscription form. However, the requirement that notice be provided by an authorized official remains. For consistency with the cancellation provision at § 344.6(c) for time deposit and special zero interest securities, we added a requirement that notices of redemption for demand deposit securities cannot be canceled.

SUBPART D—SPECIAL ZERO INTEREST SECURITIES

Interim rule CFR sec.	Jul. 1, 1999 CFR sec.	Summary of change
344.6(a), 344.11	344.5(a)(1), 344.11(a)	Section 344.11 corrects an internal inconsistency between former 31 CFR 344.5(a)(1) and 344.11(a). To determine how long a special zero interest note must be held, § 344.11 now refers to § 344.6(a). Section 344.6(a)(3) provides that a note can be redeemed at the owner's option no earlier than 30 days (instead of one year as stated in former § 344.11(a)) after the issue date.

APPENDICES TO PART 344

Interim rule CFR sec.	Jul. 1, 1999 CFR sec.	Summary of change
Appendix A	Appendix A	The text of Appendix A provides early redemption market charge formulas and examples for subscriptions from December 28, 1976, through October 27, 1996. We corrected the heading of Appendix A by deleting the former reference to September 1, 1989, and inserting December 28, 1976.
Appendices A, B	Appendices A, B	We corrected a typographical error by substituting ''a_n'' with ''a_n'' in section (a) of Appendices A and B.

IV. Procedural Requirements

A. Executive Order 12866

This interim rule is not a significant regulatory action as defined in Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804. Therefore, an assessment of anticipated benefits, costs, and regulatory alternatives is not required.

B. Regulatory Flexibility Act

This interim rule relates to matters of public contract and procedures for United States securities. The notice and public procedures requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), are inapplicable. Since a notice of proposed rulemaking is not required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

C. Paperwork Reduction Act

This interim rule does not alter the collection of information previously reviewed and approved by the Office of Management and Budget, under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507, under control number 1535–0091.

D. Determination to Issue an Interim Rule

Because this interim rule relates to matters of public contract and procedures for United States securities, a Notice of Proposed Rulemaking (NPRM) is not required by 5 U.S.C. 553. In addition, we find under 5 U.S.C. 553(b)(B) that there is good cause why a NPRM is unnecessary and contrary to the public interest. First, the electronic subscription feature was announced in a Proposed Rule published in the **Federal Register** 61 FR 39228, 39230, Jul. 26, 1996. Second, the SLGSafe℠ database system requires us to perform research on existing SLGS securities portfolios to prepare the data for use in SLGSafe℠. Therefore, the Secretary will prioritize the approval of SLGSafe℠ Applications and the enrollment of customers based on this operational need. Third, this interim rule includes an opportunity for written comments. We would also like to take the opportunity provided by the interim rule to request comments specifically on whether the interim rule is written in plain language.

We find under 5 U.S.C. 553(d)(3) good cause for making the interim rule effective immediately because of our plan to enroll customers by staggering the approval of SLGSafe℠ Applications in order to meet our goal of having 100% SLGSafe℠ transactions by September 2002. Furthermore, it will not require an increase in cost or administrative burden. Lastly, it will allow us to provide improved services to our customers. After reviewing public comments, we will issue a final rule.

List of Subjects in 31 CFR Part 344

Bonds, Government securities, Securities.

For the reasons set forth in the preamble, we revise 31 CFR part 344 to read as follows:

PART 344—U.S. TREASURY SECURITIES—STATE AND LOCAL GOVERNMENT SERIES

Subpart A—General Information

Sec.

344.0 What does this part cover?
344.1 What special terms do I need to know to understand this part?
344.2 What general provisions apply to SLGS securities?

SLGSafe℠

344.3 What special provisions apply to SLGSafe℠ Internet transactions?

Subpart B—Time Deposit Securities

344.4 What are Time Deposit securities?
344.5 How do I subscribe for Time Deposit securities?
344.6 How do I redeem a Time Deposit security before maturity?

Subpart C—Demand Deposit Securities

344.7 What are Demand Deposit securities?
344.8 How do I subscribe for Demand Deposit securities?
344.9 How do I redeem a Demand Deposit security?

Subpart D—Special Zero Interest Securities

344.10 What are Special Zero Interest securities?
344.11 How do I redeem a Special Zero Interest security before maturity?

Appendix A to Part 344—Early Redemption Market Charge Formulas and Examples for Subscriptions From December 28, 1976, Through October 27, 1996

Appendix B to Part 344—Formula for Determining Redemption Value for Securities Subscribed for and Early-Redeemed On or After October 28, 1996

Authority: 26 U.S.C. 141 note; 31 U.S.C. 3102.

Subpart A—General Information

§ 344.0 What does this part cover?

(a) *What is the purpose of the SLGS securities offering?* The Secretary of the Treasury (the Secretary) offers for sale State and Local Government Series (SLGS) securities to provide issuers of tax exempt securities with investments from any amounts that:

(1) Constitute gross proceeds of an issue; or

(2) Assist in complying with applicable provisions of the Internal Revenue Code relating to the tax exemption.

(b) *What types of SLGS securities are governed by this part?* This part governs the following SLGS securities:

SLGS securities	United States Treasury certificates of indebtedness	United States Treasury notes	United States Treasury bonds
(1) Time Deposit	X	X	X

SLGS securities	United States Treasury certificates of indebtedness	United States Treasury notes	United States Treasury bonds
(2) Demand Deposit	X		
(3) Special Zero Interest (Discontinued offering on October 28, 1996)	X	X	

(c) *In what denominations are SLGS securities issued?* SLGS securities are issued in the following denominations:

(1) *Time deposit securities*—a minimum amount of $1,000, or in any larger whole dollar amount; and

(2) *Demand deposit securities*—a minimum amount of $1,000, or in any larger amount, in any increment.

(d) *For how long is the offering in effect?* The offering continues until terminated by the Secretary.

§ 344.1 What special terms do I need to know to understand this part?

As appropriate, the definitions of terms used in this part are those found in the relevant portions of the Internal Revenue Code and the Income tax regulations.

Business Day(s) means Federal business day(s).

Current Treasury borrowing rate means the prevailing market rate, as determined by Treasury, for a Treasury security with the specified period to maturity.

Day(s) means calendar day(s).

Issuer refers to the Government body that issues State or local government bonds described in section 103 of the Internal Revenue Code.

Public Debt's website refers to <http://www.publicdebt.treas.gov/spe/spe.htm>.

SLGS rate means the current Treasury borrowing rate on the day we receive your subscription, less 5 basis points, as released daily by Treasury in a SLGS rate table.

SLGS rate table means a compilation of SLGS rates available for a given day.

''We,'' ''us,'' or ''the Secretary'' refers to the Secretary and the Secretary's delegates at the Department of the Treasury (Treasury), Bureau of the Public Debt (Public Debt), and Division of Special Investments (DSI). The term also extends to any fiscal or financial agent acting on behalf of the United States when designated to act by the Secretary or the Secretary's delegates.

§ 344.2 What general provisions apply to SLGS securities?

(a) *What other regulations apply to SLGS securities?* SLGS securities are subject to:

(1) The electronic transactions and funds transfers provisions for United States securities, part 370 of this subchapter, ''Electronic Transactions and Funds Transfers Related to U.S. Securities'', and

(2) The Appendix to subpart E to part 306 of this subchapter, for rules regarding computation of interest.

(b) *Where are SLGS securities held?* SLGS securities are issued in book-entry form on the books of the Department of the Treasury, Bureau of the Public Debt, Division of Special Investments, Parkersburg, WV.

(c) *Besides DSI, do any other entities administer SLGS securities?* The Secretary may designate selected Federal Reserve Banks and Branches, as fiscal agents of the United States, to perform services relating to SLGS securities.

(d) *Can SLGS securities be transferred?* No. SLGS securities held in an account of any one type, *i.e.,* time deposit, demand deposit, or special zero interest, cannot be transferred within that account, or to an account of any other type. Transfer of securities by sale, exchange, assignment, pledge, or otherwise is not permitted.

(e) *How does a bank or other agent certify its authority?* When a commercial bank or other agent submits an initial or final subscription on behalf of the issuer, it certifies that it is acting under the issuer's specific authorization. Ordinarily, evidence of such authority is not required.

(f) *What transactions are not permitted?* The following is a nonexclusive list of impermissible transactions:

(1) It is impermissible to subscribe for SLGS securities for deposit in a defeasance escrow of fund if at any time between the close of business on the date of subscription and the close of business on the date of issue, the amount of SLGS securities subscribed for, plus the amount of any other securities already in such escrow or fund, plus the amount of other securities the issuer has acquired, or has the right to acquire for deposit in an escrow or fund, exceeds the total amount of securities needed to fund such escrow or fund.

(2) For paragraph (f)(1) of this section, do not include in the computation any securities held in the escrow or fund that are not subject to an agreement conditioned on changes in the interest rate on open market Treasury securities on or before the issue date of the SLGS securities. An adjustment in the subscription amount under § 344.5(b)(4)(ii) will not in and of itself make the transaction impermissible.

(3) The following examples illustrate certain permissible and impermissible practices:

(i) In order to fund an escrow for an advance refunding, the issuer simultaneously enters into a purchase contract for open market securities and subscribes for SLGS securities, such that either purchase is sufficient to pay the cash flows on the outstanding bonds to be refunded but together, the purchases are greatly in excess of the amount necessary to pay the cash flows. The issuer plans that, if interest rates decline during the period between the date of subscribing for SLGS securities and the requested date of issuance of SLGS securities, the issuer will enter into an offsetting agreement to sell the open market securities and use the bond proceeds to purchase SLGS securities to fund the escrow. If, however, interest rates do not decline in that period, the issuer plans to use the bond proceeds to purchase the open market securities to fund the escrow and cancel the SLGS securities subscription. This arrangement in effect allows the SLGS program to provide a cost-free option to the issuer. This transaction is prohibited.

(ii) The existing escrow for an advance refunding contains open market securities which produce a negative arbitrage. In order to reduce or eliminate this negative arbitrage, the issuer subscribes for SLGS securities at a yield higher than the yield on the existing escrow, but less than the permitted yield. At the same time, the issuer agrees to sell the open market securities in the existing escrow to a third party and use the proceeds to purchase SLGS securities if interest rates decline between the date of subscribing for SLGS securities and the requested date of issuance of SLGS securities. The issuer and the third party further agree that if interest rates increase during this period, the issuer will cancel the SLGS securities

subscription. This arrangement in effect allows the SLGS program to provide a cost-free option to the issuer. This transaction is prohibited.

(iii) Under the same facts as in paragraph (f)(3)(ii) of this section, except that in this case, the agreement entered into by the issuer with a third party to sell the open market securities in order to obtain funds to purchase SLGS securities is not conditioned upon changes in interest rates on Treasury securities. No option is created. This transaction is permissible.

(iv) The issuer subscribes for SLGS securities fifteen days before the settlement date of its bonds at the maximum rates on such day, but the resulting yield in the escrow is less than the permitted yield. The rates on the SLGS securities rise over the next few days, and, within the time periods permitted for cancellation of a subscription under § 344.5(b)(1) and § 344.8(b)(2), the issuer cancels the earlier subscription and resubscribes at the higher rates. This transaction is permissible.

(v) The issuer holds a portfolio of open market securities in an account that produces negative arbitrage. In order to reduce or eliminate this negative arbitrage, the issuer subscribes for SLGS securities for purchase in sixty days. At the same time, the issuer sells an option to purchase the portfolio of open market securities. If interest rates increase, the holder of the option will not exercise its option and the issuer will cancel the SLGS securities subscription. On the other hand, if interest rates decline, the option holder will exercise the option and the issuer will use the proceeds to purchase SLGS securities. This arrangement uses the SLGS program to provide the issuer with a cost-free option. This transaction is prohibited.

(g) *When and how do I pay for SLGS securities?* You must submit full payment for each subscription to DSI by 4:00 p.m., Eastern time, on the issue date. Submit payments by the Fedwire funds transfer system with credit directed to the Treasury's General Account. For these transactions, Public Debt's ABA Routing Number is 051036476.

(h) *What happens if I do not settle on a subscription?* The penalty imposed for failure to make settlement on a subscription that you submit but do not timely cancel will be to render you ineligible to subscribe for SLGS securities for six months, beginning on the date the subscription is withdrawn or the proposed issue date, whichever occurs first.

(1) *Upon whom is the penalty imposed?* If you are the issuer, the penalty is imposed on you unless you provide the Taxpayer Identification Number of the conduit borrower that is the actual party failing to make settlement of a subscription. If you provide the Taxpayer Identification Number for the conduit borrower, the six-month penalty will be imposed on the conduit borrower.

(2) *What occurs if Treasury exercises the option to waive the penalty?* If you settle after the proposed issue date and we determine that settlement is acceptable on an exception basis, we will waive under § 344.2(n) the six-month penalty under paragraph (h) of this section. You shall be charged a late payment assessment. The late payment assessment equals the amount of interest that would have accrued on the SLGS securities from the proposed issue date to the date of settlement plus an administrative fee of $100 per subscription. Late payment assessments are due on demand.

(i) *What happens at redemption?* Treasury cannot call a security for redemption before maturity. Upon the maturity of a security, we will pay the owner the principal amount and interest due. A security scheduled for maturity on a non-business day will be redeemed on the next business day.

(j) *How will I receive payment?* We will make payment by the Automated Clearing House (ACH) method for the owner's account at a financial institution as designated by the owner. We may use substitute payment procedures, instead of ACH, if we consider it to be necessary. Any such action is final.

(k) *If I am not an Internet customer, how do I submit transactions to DSI?* Non-Internet customers may submit transactions by fax at (304) 480–6818, or by carrier service, U.S. Postal Service (certified or registered mail), or other means, to the Bureau of the Public Debt, Division of Special Investments, 200 3rd St., P.O. Box 396, Parkersburg, WV 26106–0396. Unless requested, DSI will not send a confirmation of receipt to non-Internet customers.

(l) *Will the offering be changed during a debt limit contingency?* We reserve the right to change or suspend the terms and conditions of the offering, including provisions relating to subscriptions for, and issuance of, SLGS securities, interest payments, early redemptions, rollovers, and notices, at any time the Secretary determines that the issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit. We will announce such changes by any means the Secretary deems appropriate.

(m) *What transaction requests are unacceptable?* A decision to reject an unacceptable transaction request is in our sole discretion and is final. Although we may waive the right to reject transactions under § 344.2(n), Treasury reserves the right:

(1) To reject any SLGSafe℠ Application for Internet Access;

(2) To reject any electronic or paper transaction request (including requests for subscription and redemption, and changes to subscriptions) that is unsigned, inappropriately completed, or untimely submitted;

(3) To refuse to issue any SLGS securities in any case or class of cases; and

(4) To revoke the issuance of any SLGS securities and to declare the subscriber ineligible thereafter to subscribe for securities under the offering if the Secretary deems that such action is in the public interest and any security is issued on the basis of an improper certification or other misrepresentation (other than as the result of an inadvertent error) or there is an impermissible transaction under § 344.2(f).

(n) *Are there any situations in which Treasury may waive these regulations?* We reserve the right, at our discretion, to waive or modify any provision of these regulations in any case or class of cases. We may do so if such action is not inconsistent with law and will not subject the United States to substantial expense or liability.

SLGSafe℠

§ 344.3 What special provisions apply to SLGSafe℠ Internet transactions?

(a) *What is SLGSafe℠?* SLGSafe℠ is a secure Internet site on the World Wide Web through which you can submit SLGS securities transactions. SLGSafe℠ Internet transactions constitute electronic messages under 31 CFR part 370.

(b) *When can I subscribe using SLGSafe℠?* You will be able to submit SLGSafe℠ transactions to DSI after we approve your SLGSafe℠ Application under § 344.3(g).

(c) *What special terms and conditions apply to SLGSafe℠?* The following terms and conditions, which may change from time to time, apply to SLGSafe℠ transactions and are downloadable from Public Debt's website:

(1) SLGSafe℠ Application for Internet Access and SLGSafe℠ User Acknowledgment;

(2) Public Debt's Certificate Practice Statement; and

(3) SLGSafe℠ Internet User's Guide.

(d) *Who can apply for SLGSafe℠ access?* There are five roles in SLGSafe℠: owner, trustee, receiving depository financial institution, subscriber, and viewer. If you are an owner of SLGS securities or act as a trustee, receiving depository financial institution or subscriber, you can apply to DSI for authorization to send electronic messages through SLGSafe℠. If you are an owner or trustee, you can authorize your SLGS securities holdings to be accessed by any other viewer who applies for SLGSafe℠ access.

(e) *What SLGSafe℠ functions can I perform in each role?* The role that you play in SLGSafe℠ shall determine the functions that you will be allowed to perform. An explanation of the roles and functions is outlined in the SLGSafeSM Internet User's Guide.

(f) *How do I apply for access to SLGSafe℠?* You must apply for SLGSafe℠ access before performing any Internet functions. To apply for SLGSafe℠ Internet access, you must:

(1) Submit to DSI a completed Treasury form, PD F 4144–5, SLGSafe℠ Application for Internet Access;

(2) Appoint a SLGSafe℠ Access Administrator and a backup administrator who certify that the information on the SLGSafe℠ Application is accurate;

(3) Ensure only authorized users are reflected on the SLGSafe℠ Application; and

(4) Await our written approval of your SLGSafe℠ Application before you, or anyone acting on your behalf, uses an electronic connection to access any of our services or to send any electronic messages.

(g) *How is my SLGSafe℠ Application approved?* The Secretary has the sole discretion to determine the priority of approval of SLGSafe℠ Applications. Upon receipt of your SLGSafe℠ Application, we will review your SLGSafe℠ Application and send to you either an approval or rejection notice. If we approve your SLGSafe℠ Application, we will:

(1) Issue a digital certificate with an associated authorization code to each user you authorize on your approved application; and

(2) Provide access to your existing portfolio of SLGS securities, if any, to enable you to access the SLGS securities through SLGSafe℠.

(h) *What are the conditions of SLGSafe℠ use?* If you are designated as an authorized user on a SLGSafe℠ Application that we've approved, you must:

(1) Sign, and send to DSI, a User Acknowledgment regarding the use of the digital certificate and authorization code;

(2) Have and maintain the compatibility of your computer(s) and associated equipment and software so that you can send electronic messages and permit us to send an automatic confirmation receipt of each transaction, and any other information, to you on a timely basis throughout the day;

(3) Assume the sole responsibility and the entire risk of use and operation of your electronic connection;

(4) Agree that we may act on any electronic message that we authenticate as yours under Public Debt's Certificate Practice Statement, and any other Certificate Policy that Treasury may issue, to the same extent as if we had received a written instruction bearing the signature of your duly authorized officer;

(5) Submit electronic messages exclusively through SLGSafe℠ unless you:

(i) Are unable to do so; and

(ii) Notify us before submitting transactions by other means; and

(6) Agree to submit transactions by other means if we notify you that problems with hardware, software or data transmission delays, or any other reason, prevent our sending or receiving electronic messages.

(i) *If I am an Internet customer, how do I submit transactions using SLGSafe℠ to DSI?* Internet customers must submit transactions to DSI through the SLGSafe℠ Internet site at Public Debt's website. If your electronic message is accepted, we will send automatically an electronic confirmation to you. You can use the confirmation notice to verify the date and time that Public Debt's Application server received the electronic message that you submitted.

Subpart B—Time Deposit Securities

§ 344.4 What are Time Deposit securities?

Time deposit securities are issued as certificates of indebtedness, notes and bonds.

(a) *What are the terms of maturity?* The issuer must fix the maturity periods for time deposit securities, which are issued as follows:

Time deposit securities	Maturity range	
	From	Up to and including
Certificates of Indebtedness that bear no interest	15 days	1 year.
Certificates of Indebtedness	30 days	1 year.
Notes	1 year and 1 day	10 years.
Bonds	10 years and 1 day	40 years; provided that for any subscription for a bond exceeding 30 years, the maximum available rate must be the rate on a 30-year bond.

(b) *How are SLGS rates determined?* For each security, the issuer shall designate an interest rate that does not exceed the maximum interest rate shown in the daily SLGS rate table as defined in § 344.1.

(1) *When is the SLGS rate table released?* We release the SLGS rate table to the public by 10:00 a.m., Eastern time, each business day. If we find that due to circumstances beyond our control the SLGS rate table is not available at that time on any given business day, the SLGS rate table for the preceding business day applies.

(2) *How do I lock in a SLGS rate?* The applicable daily SLGS rate table for a non-Internet subscription is the one in effect on the date the initial subscription is faxed, postmarked, or carrier date stamped. The applicable daily SLGS rate table for a SLGSafeSM Internet initial subscription is the one in effect on the date shown on Public Debt's Application server.

(3) *Where can I find the SLGS rate table?* The SLGS rate table can be obtained:

(i) On the Internet at Public Debt's website; or

(ii) By calling DSI at (304) 480–7752.

(c) *How are interest computation and payment dates determined?* Interest on a certificate of indebtedness is computed on an annual basis and is paid at maturity with the principal. Interest on a note or bond is paid semi-annually. The issuer specifies the first interest payment date, which must be at least thirty days and less than or equal to one year, from the date of issue. The final interest payment date must coincide with the maturity date of the security. Interest for other than a full interest period is computed on the basis of a 365-day or 366-day year (for certificates of indebtedness) and on the basis of the exact number of days in the half-year (for notes and bonds). *See* the Appendix to subpart E of part 306 of this subchapter for rules regarding computation of interest.

§ 344.5 How do I subscribe for Time Deposit securities?

(a) *Where do I submit transactions?* All subscriptions for purchase, cancellation requests, changes to initial or final subscriptions and notices of redemption must be sent to DSI.

(b) *What requirements apply to initial subscriptions?*

(1) *When is my initial subscription or cancellation due in DSI?* The subscriber must fix the issue date of each security in the initial subscription. The issue date must be a business day. The issue date cannot be more than sixty days after the date DSI receives the initial subscription. To determine when you must send an initial subscription or cancellation request, follow this table:

If:	Then:
(i) The subscription is for:	DSI must receive an initial subscription (or you can cancel it without penalty):
(A) $10 million or less, or	at least 5 days before the issue date of the subscription.
(B) Over $10 million	at least 7 days before the issue date of the subscription.
(ii) The 5th or 7th day before the issue date is a non-business day.	DSI must receive the cancellation request on the preceding business day.
(iii) DSI receives an initial subscription more than 60 days before the issue date.	DSI will not accept an initial subscription.

Example to paragraph (b)(1): If SLGS securities totaling $10 million or less will be issued on March 16th, DSI must receive the initial subscription no later than March 11th. If SLGS securities totaling more than $10 million will be issued on March 16th, DSI must receive the initial subscription no later than March 9th.

(2) *What form is used to submit an initial subscription?* An initial subscription must be submitted on an electronic or paper Treasury form, PD F 4144, ''Subscription for Purchase and Issue of U.S. Treasury Securities State and Local Government Series Time Deposit.''

(3) *Can I submit a letter instead of an initial subscription form?* Yes. If you do not have an initial subscription form under paragraph (b)(2) of this section, then submit a letter to DSI that contains the following information:

(i) The total principal amount;

(ii) The issue date;

(iii) The name and the Taxpayer Identification Number of issuer eligible to purchase SLGS securities;

(iv) The date; and

(v) The signature and title of an official authorized to purchase SLGS securities.

(4) *How do I change an initial subscription?* You can change an initial subscription on or before the issue date, but not later than 3:00 p.m., Eastern time, on the issue date. Changes to an initial subscription are acceptable with the following exceptions:

(i) You cannot change the issue date to require issuance earlier than the issue date originally specified. The issue date can be changed up to seven days after the original issue date. If you make such a change, you should notify DSI as soon as possible, but no later than 3:00 p.m., Eastern time, one business day before the original issue date;

(ii) You may change the aggregate principal amount specified in the initial subscription up to $10 million or ten percent, whichever is greater;

(iii) You can change an interest rate provided it does not exceed the maximum interest rate in the SLGS rate table that was in effect for a security of comparable maturity on the date the initial subscription was submitted (unless the issuer obtains a higher rate by canceling and resubscribing in compliance with this section); and

(iv) If you submit an untimely change, Treasury, in its sole discretion, can accept the change on an exception basis under § 344.2(n). Whether we accept the change before or after the issue date, the amended information will be applied to the securities. The six-month penalty will be imposed under § 344.2(h). If Treasury waives the six-month penalty, you will be charged a late payment assessment under § 344.2(h)(2).

(5) *When is an initial subscription not required?* No initial subscription is required when a final subscription is received at least five days before the issue date for subscriptions of $10 million or less and at least seven days before the issue date for subscriptions of over $10 million. Such final subscription is treated as the initial subscription for purposes of determining the applicable SLGS rate table under § 344.4(b).

(c) *What requirements apply to final subscriptions?*

(1) *What form is used to submit a final subscription?* You must submit an electronic or paper Treasury form, PD F 4144 ''Subscription for Purchase and Issue of U.S. Treasury Securities State and Local Government Series Time Deposit,'' as a final subscription.

(2) *What information must be contained on the final subscription?* The final subscription must:

(i) be dated and signed by an official authorized to make the purchase;

(ii) include the Taxpayer Identification Number of the issuer;

(iii) be accompanied with a copy of the initial subscription (or if a SLGSafe℠ subscription, the Treasury case number) where applicable;

(iv) separately itemize securities by the various maturities, interest rates, and first interest payment dates (in the case of notes and bonds);

(v) not be more than $10 million or ten percent, whichever is greater, above or below the aggregate principal amount specified in the initial subscription; and

(vi) not be paid with proceeds that are derived, directly or indirectly, from the redemption before maturity of SLGS securities subscribed for on or before December 27, 1976.

(3) *How do I change a final subscription?* You can change a final subscription on or before the issue date in the same fashion as you change an initial subscription under § 344.5(b)(4)(i)–(iv).

(4) *When must I send a final subscription?* DSI must receive a final subscription on or before the issue date, but not later than 3:00 p.m., Eastern time, on the issue date.

§ 344.6 How do I redeem a Time Deposit security before maturity?

(a) *What is the minimum time a security must be held?* To determine how long you must hold a security, follow this table:

If the security is . . .	then, at the owner's option, the security can be redeemed no earlier than . . .
(1) A zero percent certificate of indebtedness of 16 to 29 days	15 days after the issue date.
(2) A certificate of indebtedness of 30 days or more	25 days after the issue date.
(3) A note or bond	30 days after the issue date.

(b) *Can I request partial redemption of a security balance?* You may request partial redemptions in any whole dollar amount; however, a security balance of less than $1,000 must be redeemed in total.

(c) *Do I have to submit a notice of early redemption?* Yes. An official authorized to redeem the securities before maturity must submit an electronic or paper notice of redemption. The notice must show the Taxpayer Identification Number of the issuer, the Treasury case number, the security number and the dollar amount of the securities to be redeemed. DSI must receive the notice no less than 10 days and no more than 60 days before the requested redemption date. You cannot cancel the notice.

(d) *How do I calculate the amount of redemption proceeds for subscriptions on or after October 28, 1996?* For securities subscribed for on or after October 28, 1996, the amount of the redemption proceeds is calculated as follows:

(1) *Interest.* If a security is redeemed before maturity on a date other than a scheduled interest payment date, Treasury pays interest for the fractional interest period since the last interest payment date.

(2) *Redemption value.* The remaining interest and principal payments are discounted by the current Treasury borrowing rate for the remaining term to maturity of the security redeemed. This may result in a premium or discount to the issuer depending on whether the current Treasury borrowing rate is unchanged, lower, or higher than the stated interest rate of the early-redeemed SLGS securities. There is no market charge for the redemption of zero interest time deposit SLGS securities subscribed for on or after October 28, 1996. Redemption proceeds in the case of a zero-interest security are a return of the principal invested. The formulas for calculating the redemption value under this paragraph, including examples of the determination of premiums and discounts, are set forth in Appendix B of this part.

(e) *How do I calculate the amount of redemption proceeds for subscriptions from September 1, 1989, through October 27, 1996?* For securities subscribed for from September 1, 1989, through October 27, 1996, the amount of the redemption proceeds is calculated as follows:

(1) *Interest.* If a security is redeemed before maturity on a date other than a scheduled interest payment date, Treasury pays interest for the fractional interest period since the last interest payment date.

(2) *Market charge.* An amount shall be deducted from the redemption proceeds if the current Treasury borrowing rate for the remaining period to original maturity exceeds the rate of interest originally fixed for such security. The amount shall be the present value of the future increased borrowing cost to the Treasury. The annual increased borrowing cost for each interest period is determined by multiplying the principal by the difference between the two rates. For notes and bonds, the increased borrowing cost for each remaining interest period to original maturity is determined by dividing the annual cost by two. Present value is determined by using the current Treasury borrowing rate as the discount factor. When you request a redemption date that is less than thirty days before the original maturity date, we will apply the rate of a one month security as listed on the SLGS rate table issued on the day you make a redemption request. The market charge under this paragraph can be computed by using the formulas in Appendix A of this part.

(f) *How do I calculate the amount of redemption proceeds for subscriptions from December 28, 1976, through August 31, 1989?* For securities subscribed for from December 28, 1976, through August 31, 1989, the amount of the redemption proceeds is calculated as follows:

(1) *Interest.* Interest for the entire period the security was outstanding shall be recalculated if the original interest rate of the security is higher than the interest rate that would have been set at the time of the initial subscription had the term of the security been for the shorter period. If this results in an overpayment of interest, we will deduct from the redemption proceeds the aggregate amount of such overpayments, plus interest, compounded semi-annually thereon, from the date of each overpayment to the date of redemption. The rate used in calculating the interest on the overpayment will be one-eighth of one percent above the maximum rate that would have applied to the initial subscription had the term of the security been for the shorter period. If a note or bond is redeemed before maturity on a date other than a scheduled interest payment date, no interest is paid for the fractional interest period since the last interest payment date.

(2) *Market charge.* An amount shall be deducted from the redemption proceeds in all cases where the current Treasury borrowing rate for the remaining period to original maturity of the security prematurely redeemed exceeds the rate of interest originally fixed for such security. You can compute the market charge under this paragraph by using the formulas in Appendix A of this part.

(g) *How do I calculate the amount of redemption proceeds for subscriptions on or before December 27, 1976?* For bonds subscribed for on or before December 27, 1976, the amount of the

redemption proceeds is calculated as follows.

(1) *Interest.* The interest for the entire period the bond was outstanding shall be re-calculated if the original interest rate at which the bond was issued is higher than an adjusted interest rate reflecting both the shorter period during which the bond was actually outstanding and a penalty. The adjusted interest rate is the Treasury rate which would have been in effect on the date of issue for a marketable Treasury bond maturing on the semi-annual maturity period before redemption reduced by a penalty which must be the lesser of:

(i) One-eighth of one percent times the number of months from the date of issuance to original maturity, divided by the number of full months elapsed from the date of issue to redemption; or

(ii) One-fourth of one percent.

(2) *Deduction.* We will deduct from the redemption proceeds, if necessary, any overpayment of interest resulting from previous payments made at a higher rate based on the original longer period to maturity.

Subpart C—Demand Deposit Securities

§ 344.7 What are Demand Deposit securities?

Demand deposit securities are one-day certificates of indebtedness that are automatically rolled over each day until you request redemption.

(a) *How is a Demand Deposit account established?* Each demand deposit subscription will establish a unique account.

(b) *How are interest rates determined?* Each security shall bear a variable rate of interest based on an adjustment of the average yield for three-month Treasury bills at the most recent auction. A new rate is effective on the first business day following the regular auction of three-month Treasury bills and is shown in the SLGS rate table. Interest is accrued and added to the principal daily. Interest is computed on the balance of the principal, plus interest accrued through the preceding day.

(1) *How is the interest rate calculated?*

(i) First, you calculate the annualized effective demand deposit rate in decimals, designated ''I'' in Equation 1, as follows:

$$I = \left[\left(\frac{100}{P}\right)^{Y/DTM} - 1\right] x\ (1 - MTR) - TAC$$

(Equation 1)

WHERE:	
I =	Annualized effective demand deposit rate in decimals.
P =	Average auction price for the most recently auctioned 13-week Treasury bill, per hundred, to three decimals.
Y =	365 (if the year following issue date does not contain a leap year day) and 366 (if the year following issue date does contain a leap year day).
DTM =	The number of days from date of issue to maturity for the most recently auctioned 13-week Treasury bill.
MTR =	Estimated marginal tax rate, in decimals, of purchasers of tax-exempt bonds.
TAC =	Treasury administrative costs, in decimals.

(ii) Then, you calculate the daily factor for the demand deposit rate as follows:

$$DDR = (1 + I)^{1/Y} - 1$$

(Equation 2)

(2) *Where can I find additional information?* Information on the estimated average marginal tax rate and costs for administering demand deposit SLGS securities, both to be determined by Treasury from time to time, will be published in the **Federal Register**.

(c) *What happens to demand deposit securities during a Debt Limit Contingency?* At any time the Secretary determines that issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit, we will invest any unredeemed demand deposit securities in special ninety-day certificates of indebtedness. Funds invested in the ninety-day certificates of indebtedness earn simple interest equal to the daily factor in effect at the time demand deposit security issuance is suspended, multiplied by the number of days outstanding. When regular Treasury borrowing operations resume, the ninety-day certificates of indebtedness, at the owner's option, are:

(1) Payable at maturity;

(2) Redeemable before maturity, provided funds are available for redemption; or

(3) Reinvested in demand deposit securities.

§ 344.8 How do I subscribe for Demand Deposit securities?

(a) *Where do I submit transactions?* All subscriptions for purchase, cancellation requests, changes to subscriptions and notices of redemption must be sent to DSI.

(b) *What requirements apply to subscriptions?*

(1) *What form is used to submit a subscription?* You must submit an electronic or paper Treasury form, PD F 5237, ''Subscription for Purchase of U.S. Treasury Securities State and Local Government Series One-Day Certificate of Indebtedness Demand Deposit.''

(2) *When is my subscription or cancellation request due in DSI?* To determine when you must send a subscription or cancellation request, follow this table:

If:	Then:
(i) The subscription is for:	DSI must receive a subscription (or you can cancel it without penalty):
(A) $10 million or less, or	at least 5 days before the issue date of the subscription.
(B) Over $10 million	at least 7 days before the issue date of the subscription.
(ii) The 5th or 7th day before the issue date is a non-business day * * *.	DSI must receive the cancellation request on the preceding business day.
(iii) DSI receives a subscription more than 60 days before the issue date * * *.	DSI will not accept a subscription.

(3) *How do I change a subscription?* You can change the principal amount to be invested without penalty on or before the issue date, but no later than 3:00 p.m., Eastern time, on the issue date. If you submit an untimely change, § 344.5(b)(4)(iv) applies.

(4) *What information must be contained on the subscription?* The subscription must:

(i) Be dated and signed by an official authorized to make the purchase;

(ii) Include the Taxpayer Identification Number of the issuer; and

(iii) Specify the principal amount to be invested and the issue date.

§ 344.9 How do I redeem a Demand Deposit security?

To redeem a demand deposit security, follow this section.

(a) *When must I notify DSI to redeem a security?* To determine when you must notify us, follow this table:

A security can be redeemed at the owner's option, if DSI receives a request for redemption not less than * * *.	for redemptions of * * *
(1) 1 business day before the requested redemption date	$10 million or less.
(2) 3 business days before the requested redemption date	more than $10 million.

(b) *Can I request partial redemption of a security balance?* You may request partial redemptions in any amount. If your account balance is less than $1,000, it must be redeemed in total.

(c) *Do I have to submit a notice of redemption?* Yes. An official authorized to redeem the securities must submit an electronic or paper Treasury form PD F 5238, ''Request for Redemption of U.S. Treasury Securities State and Local Government Series One-Day Certificate of Indebtedness Demand Deposit.'' The notice must show the Taxpayer Identification Number of the issuer, the Treasury case number, the security number and the dollar amount of the securities to be redeemed. DSI must receive the notice by 3:00 p.m., Eastern time on the required day. You cannot cancel the notice.

Subpart D—Special Zero Interest Securities

§ 344.10 What are Special Zero Interest securities?

Special zero interest securities were issued as certificates of indebtedness and notes. Provisions of subpart B of this part (Time Deposit Securities) apply except as specified in subpart D of this part. Special zero interest securities were discontinued on October 28, 1996. The only zero interest securities available after October 28, 1996, are zero interest time deposit securities that are subject to subpart B of this part.

§ 344.11 How do I redeem a Special Zero Interest Security before maturity?

Follow the provisions of § 344.6(a)–(g) except that no market charge or penalty will apply when you redeem a special zero interest security before maturity.

Appendix A to Part 344—Early Redemption Market Charge Formulas and Examples for Subscriptions From December 28, 1976, Through October 27, 1996

(a) The amount of the market charge for bonds and notes subscribed for before October 28, 1996 can be determined by the following formula:

$$M = \frac{\left(\frac{b}{2}\right) x \left(\frac{r}{s}\right) + \left(\frac{b}{2}\right) a_{n\neg}}{1 + \left(\frac{r}{s}\right) x \left(\frac{i}{2}\right)}$$

(Equation 1)

WHERE:	
M =	Market charge
b =	Increased annual borrowing cost (i.e., principal multiplied by the excess of the current borrowing rate for the period from redemption to original maturity of note or bond over the rate for the security)
r =	Number of days from redemption date to next interest payment date
s =	Number of days in current semi-annual period
i =	Treasury borrowing rate over the remaining term to maturity, based on semi-annual interest payments and expressed in decimals
n =	Number of remaining full semi-annual periods from the redemption date to the original maturity date, except that if the redemption date is on an interest payment date, n will be one less than the number of full semi-annual periods remaining to maturity
v^n =	$1/(1 + i/2)^n$ = present value of 1 due at the end of n periods (Equation 2)
$a_{n\neg}$ =	$(1 - v^n)/(i/2) = v + v^2 + v^3 + \ldots + v^n$ = present value of 1 per period for n periods (Equation 3)

(b) The application of this formula can be illustrated by the following example:

(1) Assume that a $600,000 note is issued on July 1, 1985, to mature on July 1, 1995. Interest is payable at a rate of 8% on January 1 and July 1.

(2) Assume that the note is redeemed on February 1, 1989, and that the current borrowing rate for Treasury at that time for the remaining period of 6 years and 150 days is 11%.

(3) The increased annual borrowing cost is $18,000. ($600,000)x(11%-8%)

(4) The market charge is computed as follows:

$$M = \frac{(\$18,000/2)\ x\ (150/181) + (\$18,000/2)a_{n\rceil}}{1 + (150/181)(.11/2)}$$

(Equation 4)

$$M = \frac{(\$7,458.56) + (\$9,000)a_{n\rceil}}{1.045580111}$$

(Equation 5)

$$M = \frac{(\$7,458.56) + (\$9,000)\ x\ \left\lfloor \frac{1 - \frac{1}{(1+.11/2)^{12}}}{(.11/2)} \right\rfloor}{1.045580111}$$

(Equation 6)

$$M = \frac{(\$7,458.56) + (\$9,000)(8.618517849)}{1.045580111}$$

(Equation 7)

$$M = \frac{(\$7,458.56) + (\$77,566.66)}{1.045580111}$$

(Equation 8)

$$M = \$81,318.71$$

(Equation 9)

(c) The amount of the market charge for certificates of indebtedness subscribed for before October 28, 1996 can be determined by the following formula:

$$M = \frac{(b)\left(\frac{r}{s}\right)}{1 + \frac{r}{s}(i)}$$

(Equation 10)

WHERE:	
M =	Market charge
b =	Increased borrowing cost for full period
r =	Number of days from redemption date to original maturity date
s =	Number of days in current annual period (365 or 366)
i =	Current borrowing rate expressed in decimals (discount factor)

(d) The application of this formula can be illustrated by the following example:

(1) Assume that a $50,000 certificate of indebtedness is issued on March 1, 1987, to mature on November 1, 1987. Interest is payable at a rate of 10%.

(2) Assume that the certificate of indebtedness is redeemed on July 1, 1987, and that the current borrowing cost to Treasury for the 123-day period from July 1, 1987, to November 1, 1987, is 11.8%.

(3) The increased annual borrowing cost is $900. ($50,000) x (11.8%-10%)

(4) The market charge is computed as follows:

$$M = \frac{\$900\left(\frac{123}{365}\right)}{1 + \left(\frac{123}{365}\right)(.118)} =$$

(Equation 11)

$$\frac{\$303.29}{1.039764384} =$$

(Equation 12)

$291.69

(Equation 13)

Appendix B to Part 344—Formula for Determining Redemption Value for Securities Subscribed for and Early-Redeemed On or After October 28, 1996

(a) This formula results in a premium or discount to the issuer depending on whether the current Treasury borrowing rate at the time of early redemption is lower or higher than the stated interest rate of the early-redeemed SLGS security. The total redemption value for bonds and notes can be determined by the following two steps. First, calculate accrued interest payable in accordance with § 344.6(d)(1) using the following formula:

$$AI = \left\lfloor \frac{(s-r)}{s} \right\rfloor x \left(\frac{C}{2} \right)$$

(Equation 14)

Second, calculate the redemption value per § 344.6(d)(2) using the following formula:

$$RV = \frac{\left(\frac{C}{2}\right) + \left(\frac{C}{2}\right) a_{n\neg} + F(v^{n})}{1 + \left(\frac{r}{s}\right) x \left(\frac{i}{2}\right)} - AI$$

(Equation 15)

WHERE:	
RV =	Redemption value
F =	Face amount redeemed
AI =	Accrued interest = [(s-r)/s] x (C/2)
r =	Number of days from redemption date to next interest payment date
s =	Number of days in current semi-annual period
i =	Treasury borrowing rate over the remaining term to maturity, based on semi-annual interest payments and expressed in decimals
C =	The regular annual interest
n =	Number of remaining full semi-annual periods from the redemption date to the original maturity date, except that, if the redemption date is an interest payment date, n will be one less than the number of full semi-annual periods remaining to maturity
v^n =	$1/(1 + i/2)^n$ = present value of 1 due at the end of n periods
$a_{n\neg}$ =	$(1 - v^n)/(i/2) = v + v^2 + v^3 + \ldots + v^n$ = present value of 1 per period for n periods

(b) The application of this formula can be illustrated by the following examples:

(1) The first example is for a redemption at a premium.

(i) Assume that an $800,000 2-year note is issued on December 10, 1996, to mature on December 10, 1998. Interest is payable at a rate of 7% on June 10 and December 10.

(ii) Assume that the note is redeemed on October 21, 1997, and that the current borrowing rate for Treasury at that time for the remaining period of 1 year and 50 days is 6.25%.

(iii) The redemption value is computed as follows. First, the accrued interest payable is calculated as:

$$AI = \left(\frac{183-50}{183}\right) x \left(\frac{\$56,000}{2}\right)$$

(Equation 16)

$$AI = \left(\frac{133}{183}\right) x \$28,000$$

(Equation 17)

$$AI = \$20,349.73$$

(Equation 18)

$$RV = \frac{\left(\frac{\$56,000}{2}\right) + \left(\frac{\$56,000}{2}\right) a_{n\rceil} + \$800,000v^{n}}{1 + \left(\frac{50}{183}\right)\left(\frac{.0625}{2}\right)} - AI$$

(Equation 19)

Then, the redemption value is calculated as:

$$RV = \frac{\left(\frac{\$56,000}{2}\right) + \left(\frac{\$56,000}{2}\right)\left[\frac{1 - \left(\frac{1}{\left(1+\frac{.0625}{2}\right)^2}\right)}{\left(\frac{.0625}{2}\right)}\right] + \$800,000\left[\frac{1}{\left(1 + \frac{.0625}{2}\right)^2}\right]}{1 + \left(\frac{50}{183}\right) x \left(\frac{.0625}{2}\right)} - AI$$

(Equation 20)

$$RV = \frac{\$28,000 + (\$28,000)(1.9100092) + (\$800,000)(0.94031221)}{1.008538251} - AI$$

(Equation 21)

$$RV = \frac{\$28,000 + \$53,480.26 + \$752,249.77}{1.008538251} - AI$$

(Equation 22)

$$RV = \frac{\$833,730.03}{1.008538251} - AI$$

(Equation 23)

$$RV = \$826,671.70 - \$20,349.73$$

(Equation 24)

$$RV = \$806,321.97$$

(Equation 25)

(2) The second example is for a redemption at a discount and it uses the same assumptions as the first example, except the current Treasury borrowing cost is assumed to be 8.00%:

(i) Assume that an $800,000 2-year note is issued on December 10, 1996, to mature on December 10, 1998. Interest is payable at a rate of 7% on June 10 and December 10.

(ii) Assume that the note is redeemed on October 21, 1997, and that the current borrowing rate for Treasury at that time for the remaining period of 1 year and 50 days is 8.00%.

(iii) The redemption value is computed as follows.

First, the accrued interest payable is calculated as:

$$AI = \left(\frac{183-50}{183} \right) x \left(\frac{\$56,000}{2} \right)$$

(Equation 26)

$$AI = \left(\frac{133}{183} \right) x \$28,000$$

(Equation 27)

$$AI = \$20,349.73$$

(Equation 28)

Then, the redemption value is calculated as:

$$RV = \frac{\left(\frac{\$56,000}{2} \right) + \left(\frac{\$56,000}{2} \right) a_{\overline{n}|} + \$800,000 v^n}{1 + \left(\frac{50}{183} \right) \left(\frac{.0800}{2} \right)} - AI$$

(Equation 29)

$$RV = \frac{\left(\frac{\$56,000}{2}\right) + \left(\frac{\$56,000}{2}\right)\left[\frac{1 - \left(\frac{1}{\left(1+\frac{.0800}{2}\right)^{2}}\right)}{\left(\frac{.0800}{2}\right)}\right] + \$800,000\left[\frac{1}{\left(1 + \frac{.0800}{2}\right)^{2}}\right]}{1 + \left(\frac{50}{183}\right) x \left(\frac{.0800}{2}\right)} - AI$$

(Equation 30)

$$RV = \frac{\$28,000 + (\$28,000)(1.8860947) + (\$800,000)(0.92455621)}{1.010928962} - AI$$

(Equation 31)

$$RV = \frac{\$28,000 + \$52,810.65 + \$739,644.97}{1.010928962} - AI$$

(Equation 32)

$$RV = \frac{\$820,455.62}{1.010928962} - AI$$

(Equation 33)

$$RV = \$811,585.83 - \$20,349.73$$

(Equation 34)

$$RV = \$791,236.10$$

(Equation 35)

(c) The total redemption value for certificates of indebtedness can be determined by the following two steps. First, calculate accrued interest payable in accordance with § 344.6(d)(1) using the following formula:

$$AI = \left\lfloor \frac{(d-r)}{y} \right\rfloor x\ C$$

(Equation 36)

Second, calculate the redemption value per § 344.6(d)(2) using the following equation:

$$RV = \frac{\left(\frac{d}{y}\right) x\ (C) + F}{1 + \left(\frac{r}{y}\right) x\ (i)} - AI$$

(Equation 37)

WHERE:	
RV =	Redemption value
F =	Face amount redeemed
AI =	Accrued interest = [(d-r)/y] x C
d =	Number of days from original issue of the certificate of indebtedness to its maturity date
r =	Number of days from redemption date to the certificate of indebtedness' maturity date
y =	365, if the number of days in the year following issue of the certificate of indebtedness does not include a leap year day; 366, if the number of days following issue of the certificate of indebtedness does include a leap year day
i =	Treasury borrowing rate over the remaining term to maturity, expressed in decimals
C =	The regular annual interest

(d) The application of this formula can be illustrated by the following examples.

(1) First, for a redemption at a premium:

(i) Assume that a $300,000 security is issued on December 5, 1996, to mature in 151 days on May 5, 1997. Interest at a rate of 5% is payable at maturity.

(ii) Assume that the security is redeemed on April 9, 1997, and that the current borrowing rate for Treasury at that time for the remaining period of 26 days is 4.00%.

(iii) The redemption value is computed as follows.

First, the accrued interest payable is calculated as:

$$AI = \left(\frac{151-26}{365}\right) x\ \$15,000$$

(Equation 38)

$$AI = \left(\frac{125}{365}\right) x\ \$15,000$$

(Equation 39)

$$AI = \$5,136.99$$

(Equation 40)

Then, the redemption value is calculated as:

$$RV = \frac{\left(\frac{151}{365}\right) x \$15,000 + \$300,000}{1 + \left(\frac{26}{365}\right)(.0400)} - AI$$

(Equation 41)

$$RV = \frac{\$6,205.48 + \$300,000}{1.002849315} - AI$$

(Equation 42)

$$RV = \frac{\$306,205.48}{1.002849315} - AI$$

(Equation 43)

$$RV = \$305,335.48 - \$5,136.99$$

(Equation 44)

$$RV = \$300,198.49$$

(Equation 45)

(2) Secondly, for a redemption at a discount:

(i) Assume that a $300,000 security is issued on December 5, 1996, to mature in 151 days on May 5, 1997. Interest at a rate of 5% is payable at maturity.

(ii) Assume that the security is redeemed on April 9, 1997, and that the current borrowing rate for Treasury at that time for the remaining period of 26 days is 6.25%.

(iii) The redemption value is computed as follows.

First, the accrued interest payable is calculated as:

$$AI = \left(\frac{151 - 26}{365} \right) x \$15,000$$

(Equation 46)

$$AI = \left(\frac{125}{365} \right) x \$15,000$$

(Equation 47)

$$AI = \$5,136.99$$

(Equation 48)

Then, the redemption value is calculated as:

$$RV = \frac{\left(\frac{151}{365}\right) x \$15,000 + \$300,000}{1 + \left(\frac{26}{365}\right)(.0625)} - AI$$

(Equation 49)

$$RV = \frac{\$6,205.48 + \$300,000}{1.004452055} - AI$$

(Equation 50)

$$RV = \frac{\$306,205.48}{1.004452055} - AI$$

(Equation 51)

$$RV = \$304,848.28 - \$5,136.99$$

(Equation 52)

$$RV = \$299,711.29$$

(Equation 53)

Dated: August 28, 2000.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 00–22531 Filed 9–12–00; 8:45 am]

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Federal Register

Wednesday,
September 13, 2000

Part V

Department of the Treasury

Fiscal Service

31 CFR Part 202, 203, 225, 380
Collateral Acceptability and Valuation; Final Rule
Depositaries and Financial Agents of the Government; Final Rule
Payment of Federal Taxes and the Treasury Tax and Loan Program; Final Rule
Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 380

RIN 1535—AA00

Collateral Acceptability and Valuation

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The Department of the Treasury (''Treasury,'' ''We,'' or ''Us'') is issuing a rule in final form that governs the acceptability and valuation of all collateral pledged to secure deposits of public monies and other financial interests of the Federal Government under Treasury's three Fiscal Service collateral programs. These programs are titled and described in existing parts of the Code of Federal Regulations (''CFR'') as: Depositaries and Financial Agents of the Government (31 CFR part 202); Payment of Federal Taxes and the Treasury Tax and Loan Program (31 CFR part 203); and Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties (31 CFR part 225). We are establishing a new part in the CFR for this purpose. This final rule provides a central location for the acceptability and valuation provisions for Treasury's collateral programs without substantive changes.

EFFECTIVE DATE: October 13, 2000.

ADDRESSES: You may download this final rule from Treasury's Bureau of the Public Debt website at www.publicdebt.treas.gov. It is also available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena (Executive Director), Kurt Eidemiller (Senior Financial Advisor), or Nadir Z. Isfahani (Government Securities Specialist), Department of the Treasury, Bureau of the Public Debt, Government Securities Regulations Staff, (202) 691–3632.

SUPPLEMENTARY INFORMATION:

I. Background

We are publishing this final rule governing the determination of the acceptable types of collateral and their assigned values when pledged to secure deposits of public monies and other financial interests of the Federal Government under Treasury's three Fiscal Service collateral programs. We are centralizing these collateral provisions and establishing a new part 380 of Title 31 of the CFR for this purpose.

Treasury's Fiscal Service administers three financial programs that involve the pledging of specific collateral. These programs are governed by 31 CFR part 202 (Depositaries and Financial Agents of the Government), 31 CFR part 203 (Payment of Federal Taxes and the Treasury Tax and Loan Program), and 31 CFR part 225 (Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties). The Financial Management Service (''FMS''), a bureau within Treasury's Fiscal Service, administers these programs, which are handled operationally by the Federal Reserve System, acting as the fiscal agent for Treasury. FMS will continue to be responsible for administering and amending the regulations for these programs and providing operational oversight. The Bureau of the Public Debt (''Public Debt''), another bureau within Treasury's Fiscal Service, will administer 31 CFR part 380, pertaining to the acceptability and valuation of the collateral in these programs and will provide guidance accordingly.

On October 29, 1999, we published a proposed rule for public comment that laid out our intent to centralize the acceptability and valuation standards for collateral pledged to Treasury's three Fiscal Service financial programs.[1] The closing date for comments was November 29, 1999. We have decided to adopt the approach essentially as proposed.

II. Comments Received in Response to Proposed Rule

In response to the proposed rule, we received one comment letter and the commenter was supportive of the proposal.[2] The commenter recommended that fixed income securities be included in parts 202 and 225. The commenter also suggested that valuation for all pledged collateral be based on the class of acceptable securities using a market valuation methodology.

Certain fixed income securities are currently acceptable collateral for pledging in these programs. Obligations of the U.S. government, government-sponsored corporations, and those issued by certain international development banks, such as the Inter-American Development Bank or the World Bank, are acceptable for part 202. Acceptable collateral for Part 225 is statutorily limited to public debt obligations of the United States and those obligations ''whose principal and interest is unconditionally guaranteed by the Government.'' [3] Such obligations, including U.S. Treasury notes, bonds, and selected U.S. government agency issues, are commonly called fixed income securities. Also, we currently apply a market valuation methodology for collateral pledged under part 203 and continue to work at extending this methodology to the other two programs.

III. Changes from the Proposed Rule

We have decided to adopt this rule to establish a different regulatory structure to centralize the acceptability and valuation standards for Treasury's three financial programs that require the pledging of collateral. The final rule adopts the proposed rule without significant changes. The only change that has been made is to reference current Treasury guidance rather than set out the acceptable classes of collateral and respective valuations in the regulation, as we had considered in the preamble to the proposed rule.[4] Eliminating specific mention of the acceptable classes and respective valuations in the final rule allows us the flexibility to maintain guidance that can be readily updated for the benefit of participants in the programs. Sections 380.2, 380.3, and 380.4 of this rule provide that we will list the types and valuation of acceptable collateral in Treasury procedural instructions. The term ''procedural instructions,'' for instance, is described in 31 CFR 203.2 as ''the Treasury Financial Manual, Volume IV (TFM IV), other Treasury instructions issued through the TFAs, and FRB operating circulars issued consistent with this part.'' [5] We will also provide guidance and information about collateral acceptability and valuation issues on Treasury's Bureau of the

[1] 64 FR 58364 (October 29, 1999).

[2] See Bank of America Corporation letter dated November 29, 1999, from Patrick M. Frawley, Director, Regulatory Relations, to Van Zeck, Commissioner, Bureau of the Public Debt. The comment letter is available for downloading on the Internet and for inspection and copying at the Treasury Department Library at the addresses provided earlier in this rule.

[3] 31 U.S.C. 9301(2).

[4] 64 FR 58365 (October 29, 1999).

[5] For example §§ 203.1 and 203.2 of Title 31 of the CFR reference several terms that are applied to part 203 and that will also be applied by reference to part 380, as applied to part 203. Included in these references and definitions is the term ''TFA'' meaning ''Treasury Financial Agent.'' Also, Treasury procedural instructions consistent with 31 CFR part 203 include periodic releases distributed by Treasury to supplement and update the Treasury Financial Manual. These are often referred to as Treasury Tax and Loan (TT&L) Releases. FRB refers to Federal Reserve Banks.

Public Debt website at: www.publicdebt.treas.gov.

The office responsible for implementation of part 380, including interpretations, is the Office of the Commissioner, Bureau of the Public Debt. FMS and Public Debt are coordinating on the issuance of their respective rules. FMS is simultaneously publishing its corresponding regulatory amendments to parts 202, 203, and 225 of Title 31 of the CFR, removing current references to collateral acceptability and valuation and replacing them with references to 31 CFR part 380.

IV. Procedural Requirements

This final rule is not a ''significant regulatory action'' under Executive Order 12866. We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation provides a central location, without substantive change, for regulatory provisions that currently appear in three separate sets of regulations for Treasury's collateral programs. Accordingly, we are not required to perform a regulatory flexibility analysis. Finally, this final rule contains no new collection of information. Therefore, the Paperwork Reduction Act does not apply.

List of Subjects in 31 CFR Part 380

Collateral, Depositaries, Government obligations, Government securities, Securities, Surety bonds.

For the reasons set forth in the preamble, we amend Subchapter B of Chapter II of Title 31 of the Code of Federal Regulations, by adding Part 380 to read as follows:

PART 380—COLLATERAL ACCEPTABILITY AND VALUATION

Subpart A—General Information

Sec.

380.0 What do these regulations govern?
380.1 What special definitions apply to this part?

Subpart B—Acceptable Collateral and its Valuation

380.2 What collateral may I pledge if I am a depositary or a financial agent of the Government under 31 CFR part 202, and what value will you assign to it?
380.3 What collateral may I pledge if I am a Treasury Tax and Loan depositary under 31 CFR part 203, and what value will you assign to it?
380.4 What collateral may I pledge instead of a surety bond under 31 CFR part 225, and what value will you assign to it?

Subpart C—Miscellaneous Provisions

380.5 Where can I find current information, and who can I contact for additional guidance and interpretation?

Authority: 12 U.S.C. 90, 265–266, 332, 391, 1452(d), 1464(k), 1767, 1789a, 2013, 2122, 3101–3102; 26 U.S.C. 6302; 31 U.S.C. 321, 323, 3301–3304, 3336, 9301, 9303.

Subpart A—General Information

§ 380.0 What do these regulations govern?

The regulations in this part govern the types of acceptable collateral that you may pledge to secure deposits of public monies and other financial interests of the Federal Government, as well as the valuation of that collateral. Specifically, the regulations in this part apply to the programs governed by the Department of the Treasury's regulations at 31 CFR part 202 (Depositaries and Financial Agents of the Government), 31 CFR part 203 (Payment of Federal Taxes and the Treasury Tax and Loan Program), and 31 CFR part 225 (Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties). The regulations in this part apply only to the acceptability and valuation of collateral that may be pledged under these programs. 31 CFR parts 202, 203, and 225 continue to govern the respective programs themselves.

§ 380.1 What special definitions apply to this part?

Special definitions that may apply to this part are contained in 31 CFR parts 202, 203 and 225.

Subpart B—Acceptable Collateral and its Valuation

§ 380.2 What collateral may I pledge if I am a depositary or a financial agent of the Government under 31 CFR part 202, and what value will you assign to it?

Unless we specify otherwise, we will list the types and valuation of acceptable collateral in Treasury procedural instructions. We will also post updated information and guidance on Treasury's Bureau of the Public Debt website at www.publicdebt.treas.gov.

§ 380.3 What collateral may I pledge if I am a Treasury Tax and Loan depositary under 31 CFR part 203, and what value will you assign to it?

Unless we specify otherwise, we will list the types and valuation of acceptable collateral in Treasury procedural instructions. We will also post updated information and guidance on Treasury's Bureau of the Public Debt website at www.publicdebt.treas.gov.

§ 380.4 What collateral may I pledge instead of a surety bond under 31 CFR part 225, and what value will you assign to it?

Unless we specify otherwise, we will list the types and valuation of acceptable collateral in Treasury procedural instructions. We will also post updated information and guidance on Treasury's Bureau of the Public Debt website at www.publicdebt.treas.gov.

Subpart C—Miscellaneous Provisions

§ 380.5 Where can I find current information, and who can I contact for additional guidance and interpretation?

You can find a current list of acceptable classes of securities, instruments and respective valuations on Treasury's Bureau of the Public Debt website at www.publicdebt.treas.gov. You may also contact the Office of the Commissioner. We can be reached by postal mail at: Department of the Treasury, Bureau of the Public Debt, Office of the Commissioner, Government Securities Regulations Staff, 999 E Street, NW., Room 315, Washington, DC 20239–0001, or by e-mail at govsecreg@bpd.treas.gov.

Dated: August 17, 2000.

Van Zeck,

Commissioner.

[FR Doc. 00–23087 Filed 9–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 202

RIN–1510–AA75

Depositaries and Financial Agents of the Government

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final Rule.

SUMMARY: The Financial Management Service (FMS) is issuing this final rule which governs the designation of Depositaries and Financial Agents of the Federal Government; their authorization to accept deposits of public money and to perform other specific services; and the securing of public money. This revision removes current references to collateral acceptability and valuation and replaces them with references to the new rule of the Bureau of the Public Debt (BPD), codified at 31 CFR part 380, governing collateral acceptability and valuation. The revision is necessary because the responsibility for determining the acceptability and valuation of collateral under 31 CFR part 202 was recently transferred from FMS to BPD.

EFFECTIVE DATE: October 13, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Bailey, Financial Program Specialist, at (202) 874–6749; Walt Henderson, Senior Financial Program

Specialist, at (202) 874–6705; Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, at (202) 874–6590; or Marc Seldin, Senior Attorney, at (202) 874–6680. A copy of this final rule is available on FMS' web site at the following address: www.fms.treas.gov/regs.html.

SUPPLEMENTARY INFORMATION:

Background

Depositaries accepting deposits of public money and providing other financial agency services to the United States (depositaries) are required to pledge adequate acceptable securities as collateral, as directed by the Secretary of the Treasury (Secretary). The Secretary previously promulgated regulations, codified at 31 CFR part 202, setting forth general requirements for designating depositaries and the pledging of collateral.

While FMS continues to be responsible for all other operational and regulatory oversight of programs under 31 CFR part 202, responsibility for determining the acceptability and valuation of collateral pledged for programs under this regulation was recently transferred from FMS to BPD, another bureau within the Fiscal Service of the Department of the Treasury (Treasury). BPD has promulgated a regulation, codified at 31 CFR part 380 and published elsewhere in this issue of the **Federal Register**, governing such collateral acceptability and valuation. The current rule provides that types and valuation of acceptable collateral securities will be specified in Treasury procedural instructions. The revised rule results in no effective change. Current references to collateral acceptability and valuation are removed and replaced with references to BPD's collateral acceptability and valuation rule, which similarly provides that types and valuations of acceptable collateral securities will be specified in Treasury procedural instructions. Treasury procedural instructions issued under the current rule and the revised rule are presently identical. This rule also revises the heading of this part for clarity and the format of the authority citation for this part for consistency.

Regulatory Analyses

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Executive Order 12866 and the President's memorandum of June 1, 1998 require each agency to write all rules in plain language.

We invite your comments on the clarity of this rule. Please send any comments to the Department of the Treasury, Financial Management Service, Cash Management Policy and Planning Division, 401 14th Street, SW, Washington, DC 20227.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

Because this regulation merely affects internal agency organization and does not substantively change the current rule, no notice of proposed rulemaking is required by 5 U.S.C. 553.

List of Subjects in 31 CFR Part 202

Banks, Banking.

For the reasons set out in the preamble, 31 CFR part 202 is amended as follows:

1. Amend the heading of part 202 to read as follows:

PART 202—DEPOSITARIES AND FINANCIAL AGENTS OF THE FEDERAL GOVERNMENT

2. Revise the authority citation for part 202 to read as follows:

Authority: 12 U.S.C. 90, 265–266, 391, 1452(d), 1464(k), 1789a, 2013, 2122 and 3101–3102; 31 U.S.C. 3303 and 3336.

3. Amend § 202.6 to revise paragraph (b) to read as follows:

§ 202.6 Collateral security.

* * * * *

(b) *Acceptable security.* Types and valuations of acceptable collateral security are addressed in 31 CFR part 380. For a current list of acceptable classes of securities and instruments described in 31 CFR part 380 and their valuations, see the Bureau of the Public Debt's web site at www.publicdebt.treas.gov.

* * * * *

Dated: September 1, 2000.

Richard L. Gregg,

Commissioner.

[FR Doc. 00–23088 Filed 9–12–00; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 203

RIN–1510–AA76

Payment of Federal Taxes and the Treasury Tax and Loan Program

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Financial Management Service (FMS) is issuing this final rule which governs the processing of Federal tax payments by financial institutions and the Federal Reserve Banks using electronic payment or paper methods; the designation of Treasury Tax and Loan (TT&L) depositaries; and the operation of the investment program of the Department of the Treasury (Treasury). This revision removes current references to the acceptability and valuation of collateral pledged to secure deposits of tax payments through the Treasury Investment Program, and replaces them with references to the new rule published by Treasury's Bureau of the Public Debt (BPD), codified at 31 CFR part 380, governing collateral acceptability and valuation. The revision is necessary because the responsibility for determining the acceptability and valuation of collateral was recently transferred from FMS to BPD.

EFFECTIVE DATE: October 13, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Bailey, Financial Program Specialist, at (202) 874–6749; Walt Henderson, Senior Financial Program Specialist, at (202) 874–6705; Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, at (202) 874–6590; or Marc Seldin, Senior Attorney, at (202) 874–6680. A copy of this final rule is available on FMS' web site at the following address: www.fms.treas.gov/regs.html.

SUPPLEMENTARY INFORMATION:

Background

The TT&L program encompasses two separate components—a depositary component through which the Treasury collects Federal tax deposits and payments from business taxpayers for employee withholding and other types of taxes, and an investment component through which the Treasury invests short-term operating balances not needed for immediate cash outlays. More than 1,500 of the TT&L depositaries borrow excess short-term Treasury operating funds by participating in the investment component of the TT&L program. Through agreements, participating depositaries borrow Treasury funds in the form of a note secured with collateral pledged to the Treasury and pay interest to the Treasury on these balances. The Secretary of the Treasury (Secretary) previously promulgated regulations, codified at 31 CFR part 203, governing the TT&L program and the pledging of such collateral.

While FMS continues to be responsible for any other operational and regulatory oversight of programs under 31 CFR part 203, responsibility for determining the acceptability and valuation of collateral pledged for programs under this regulation was recently transferred from FMS to BPD, another bureau within the Fiscal Service of the Department of the Treasury (Treasury). BPD has promulgated a regulation, codified at 31 CFR part 380 and published elsewhere in this issue of the **Federal Register**, governing such collateral acceptability and valuation. The current rule provides that (1) unless otherwise specified by the Secretary, collateral security pledged under § 203.24 may be transferable securities, owned by the depositary free and clear of all liens, charges, or claims, of any of the classes listed in procedural instructions; and (2) collateral valuations will be assigned by the Federal Reserve Bank of the District. The revised rule results in no substantive change. The revised rule states that acceptable types and valuations of collateral are addressed in 31 CFR part 380. Pursuant to § 380.3, BPD has specified that the above provisions of the current rule continue.

Regulatory Analyses

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Executive Order 12866 and the President's memorandum of June 1, 1998 require each agency to write all rules in plain language. We invite your comments on the clarity of this rule. Please send any comments to the Department of the Treasury, Financial Management Service, Cash Management Policy and Planning Division, 401 14th Street, SW, Washington, DC 20227.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

Because this regulation merely affects internal agency organization and does not substantively change the current rule, no notice of proposed rulemaking is required by 5 USC 553.

List of Subjects in 31 CFR Part 203

Banks, Banking.

For the reasons set out in the preamble, 31 CFR part 203 is amended as follows:

PART 203—PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 90, 265–266, 332, 391, 1452(d), 1464(k), 1767, 1789a, 2013, 2122 and 3102; 26 U.S.C. 6302; 31 U.S.C. 321, 323 and 3301–3304

2. Amend § 203.24 to revise paragraph (d) to read as follows:

§ 203.24 Collateral security requirements.

* * * * *

(d) *Acceptable securities.* Types and valuations of acceptable collateral security are addressed in 31 CFR part 380. For a current list of acceptable classes of securities and instruments described in 31 CFR part 380 and their valuations, see the Bureau of the Public Debt's web site at www.publicdebt.treas.gov.

* * * * *

Dated: September 1, 2000.

Richard L. Gregg,

Commissioner.

[FR Doc. 00–23089 Filed 9–12–00; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 225

RIN–1510–AA77

Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds With Sureties

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Financial Management Service (FMS) is issuing this final rule which governs the acceptance of bonds secured by Government obligations in lieu of bonds with sureties. This revision adds references to the new rule of the Bureau of the Public Debt (BPD), codified at 31 CFR part 380, governing collateral acceptability and valuation. The revision is necessary because the responsibility for determining the acceptability and valuation of collateral was recently transferred from FMS to BPD.

EFFECTIVE DATE: October 13, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Bailey, Financial Program Specialist, at (202) 874–6749; Walt Henderson, Senior Financial Program Specialist, at (202) 874–6705; Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, at (202) 874–6590; or Marc Seldin, Senior Attorney, at (202) 874–6680. A copy of this final rule is available on FMS' web site at the following address: www.fms.treas.gov/regs.html.

SUPPLEMENTARY INFORMATION:

Background

Persons required by Federal law to give an agency a surety bond instead may provide a bond secured by Government obligations. To assist agencies in reviewing and accepting such bonds, the Secretary of the Treasury promulgated regulations codified at 31 CFR part 225, which set forth requirements applicable to bonds secured by Government obligations in lieu of bonds with sureties. While the FMS continues to be responsible for all other operational and regulatory oversight of programs under 31 CFR part 225, responsibility for determining the acceptability and valuation of collateral pledged under this regulation was recently transferred from FMS to BPD, another bureau within the Fiscal Service of the Department of the Treasury (Treasury). BPD has promulgated a regulation, codified at 31 CFR part 380 and published elsewhere in this issue of the **Federal Register**, governing such collateral acceptability and valuation. The current rule reserves paragraph (e) within section 225.3. The revised rule inserts in this section appropriate references to the new BPD regulation. The revised rule results in no substantive change. Acceptable types of collateral security and their valuation under this revision are the same as exist currently. This rule also revises, for purposes of consistency, the format of the authority citation for this part.

Regulatory Analyses

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Executive Order 12866 and the President's memorandum of June 1, 1998 require each agency to write all rules in plain language. We invite your comments on the clarity of this rule. Please send any comments to the Department of the Treasury, Financial Management Service, Cash Management Policy and Planning Division, 401 14th Street, SW, Washington, DC 20227.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

Because this regulation merely affects internal agency organization and does not substantively change the current

rule, no notice of proposed rulemaking is required by 5 U.S.C. 553.

List of Subjects in 31 CFR Part 225

Banks, Banking.

For the reasons set out in the preamble, 31 CFR part 225 is amended as follows:

PART 225—ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

1. Revise the authority citation for part 225 to read as follows:

Authority: 12 U.S.C. 391; 31 U.S.C. 321, 9301 and 9303.

2. Amend § 225.3 to revise paragraph (e) to read as follows:

§ 225.3 Pledge of Government obligations in lieu of a bond with surety or sureties.

* * * * *

(e) *Acceptable Government obligations.* Types and valuations of acceptable collateral security are addressed in 31 CFR part 380. For a current list of acceptable classes of securities and instruments described in 31 CFR part 380 and their valuations, see the Bureau of the Public Debt's web site at www.publicdebt.treas.gov.

* * * * *

Dated: September 1, 2000.

Richard L. Gregg,

Commissioner.

[FR Doc. 00–23090 Filed 9–12–00; 8:45 am]

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Federal Register

Vol. 65, No. 178

Wednesday, September 13, 2000

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

53157–53522 1
53523–53888 5
53889–54138 6
54139–54396 7
54397–54740 8
54741–54942 11
54943–55168 12
55169–55430 13

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7336 53887
7337 54397

Executive Orders:
5327 (Revoked in part by PLO 7461) 54297

5 CFR

2635 55076

Proposed Rules:
2635 53650
2640 53942

7 CFR

246 53523
301 ..... 53528, 54139, 54741, 54943
920 54945
927 53531
944 54945
1735 54399

Proposed Rules:
226 55102
932 54818
983 53652
1945 54973

8 CFR

204 53889
245 53889

9 CFR

318 53531
381 53531

Proposed Rules:
206 53653

10 CFR

1 54948
2 54948
19 54948
30 54948
40 54948
50 54948
51 54948
70 54948
72 53533

12 CFR

612 54742
614 54742
1710 55169

13 CFR

121 53533

14 CFR

39 ..... 53157, 53158, 53161, 53897, 54140, 54143, 54145, 54403, 54407, 54409, 54743, 55175
71 ..... 53558, 54950, 54952, 54953, 55076
95 54744

Proposed Rules:
39 ..... 53199, 53201, 53203, 53205, 53206, 54182, 54184, 54445, 54820, 54823, 54981
71 ..... 54824, 54825

15 CFR

738 55177
742 55177
746 55177
774 55177

16 CFR

305 ..... 53163, 53165
1000 53167

Proposed Rules:
313 54186
436 53946

17 CFR

146 53559
200 55180
240 53560

Proposed Rules:
30 53946
210 54189
240 54189

19 CFR

10 53565
12 53565
18 53565
24 53565
111 53565
113 53565
114 53565
125 53565
134 53565
145 53565
162 53565
171 53565
172 53565

20 CFR

404 54747
416 54747

21 CFR

101 54686
510 54147
520 53581
573 53167
558 ..... 53581, 53582, 53583, 54147, 54410, 54411

22 CFR

22 54148
40 54412

42.....54412
203.....54790

24 CFR

5.....55134
401.....53899
903.....55134
982.....55134

25 CFR

Proposed Rules:
103.....53948

26 CFR

1.....53584, 53901
25.....53587
602.....53584

28 CFR

Proposed Rules:
16.....53679

30 CFR

218.....55187
917.....53909
931.....54791
Proposed Rules:
943.....54982

31 CFR

202.....55427
203.....55428
225.....55429
344.....55400
380.....55426

32 CFR

311.....53168
701.....53171
736.....53589
762.....53171
765.....53171
770.....53591
Proposed Rules:
326.....53902
651.....54348

33 CFR

100.....54150
117.....54795, 54954
162.....53593
165 .....54152, 54153, 54795, 54797
167.....53911

34 CFR

Proposed Rules:
303.....53808

36 CFR

51.....54155
242.....55190
Proposed Rules:
7.....53208
293.....54190

37 CFR

1.....54604
3.....54604
5.....54604
10.....54604
Proposed Rules:
201.....54984
256.....54984
401.....54826

38 CFR

8.....54798
21.....55192

39 CFR

Proposed Rules:
111.....53212

40 CFR

52 .....53172, 53180, 53181, 53595, 53599, 53602, 54413, 55193, 55196, 55201
62.....53605
63.....54419
80.....53185, 54423
261.....54955
Proposed Rules:
50.....54828
52 .....53214, 53680, 53962, 54820, 55205
62.....53680
63.....55332
80.....53215, 54447
81.....54828
141.....55362
146.....53218
300.....54190
372.....53681

41 CFR

Ch. 301.....53470
101-16.....54965
102-5.....54965

42 CFR

36.....53914
36a.....53914
447.....55076
457.....55076
Proposed Rules:
405.....53963
410.....55078
414.....55078

44 CFR

Ch. I.....53914
65.....53915
67.....53917
295.....53914
Proposed Rules:
67.....53964

45 CFR

2543.....53608

46 CFR

Proposed Rules:
401.....55206

47 CFR

1.....53610, 54799
2.....54155
11.....53610, 54155
21.....53610
24.....53624
25.....53610, 54155
51.....54433
52.....53189
64.....54799
73 .....53610, 53638, 53639, 53640, 54176, 54804, 54805
74.....53610, 54155
76.....53610
78.....54155
79.....54176, 54805
90.....53641
95.....53190
100.....53610
101.....54155
Proposed Rules:
73 .....53690, 53973, 53974, 54192, 54832, 54833

48 CFR

209.....54988
1828.....54439
1845.....54813
1852.....54439, 54813
Proposed Rules:
2.....54940
13.....54936
22.....54104
25.....54936
31.....54940
35.....54940
52.....54104, 54936
204.....54985
442.....54986

49 CFR

192.....54441
195.....54441
Proposed Rules:
23.....54454
26.....54454
565.....53219
571.....55212
1244.....54471

50 CFR

17.....54177
20 .....53190, 53492, 53936
100.....55190
300.....54969
600.....53646
622.....55203
635.....54970
648.....53648, 53940
660 .....53646, 53648, 54178, 54817
679 .....53197, 53198, 54179, 54180, 54971
Proposed Rules:
17 .....53222, 53691, 53974, 54472, 54892
600.....54833
622.....54474
648.....54987
660 .....53692, 54475, 55214

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 13, 2000

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Kiwifruit grown in California and imported; published 9-12-00

COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Commerce control list—
Crime control items; published 9-13-00

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
California; published 8-14-00
Water pollution; effluent guidelines for point source categories:
Transportation equipment cleaning operations; published 8-14-00

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Public and Indian housing:
Public housing agency plans; poverty deconcentration and public housing integration (''One America''); published 8-14-00

INTERIOR DEPARTMENT
Minerals Management Service
Royalty management:
Solids minerals and geothermal leases; late payment or underpayment of monies due; interest rate; published 9-13-00

LABOR DEPARTMENT
Mine Safety and Health Administration
Coal and metal and nonmetal mine safety and health:
Occupational noise exposure—
Health standards; published 9-13-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Pratt & Whitney; published 6-15-00

TREASURY DEPARTMENT
Fiscal Service
Treasury certificates of indebtedness, notes, and bonds; State and local government series:
Securities; electronic submission of subscriptions, account information, and redemption; published 9-13-00

VETERANS AFFAIRS DEPARTMENT
Vocational rehabilitation and education:
Veterans education—
Montgomery GI Bill—Active Duty; rates payable increase; published 9-13-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Peanut promotion, research, and information order:
National Peanut Board; membership; comments due by 9-20-00; published 8-21-00

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Interstate transportation of animals and animal products (quarantine):
Land tortoises free of ticks carrying heartwater disease; comments due by 9-19-00; published 7-21-00

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
Americans with Disabilities Act; implementation:
Accessibility guidelines—
Recreation facilities; draft final guidelines summary availability and meetings; comments due by 9-19-00; published 7-21-00

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Endangered and threatened species:
Sea turtle conservation; shrimp trawling requirements—
Galveston Bay, TX; inshore waters; limited tow times use as alternative to turtle excluder devices; comments due by 9-22-00; published 8-29-00
Fishery conservation and management:
Atlantic highly migratory species—
Atlantic blue marlin, billfish, and swordfish; comments due by 9-22-00; published 8-9-00
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish; comments due by 9-22-00; published 9-7-00

COMMODITY FUTURES TRADING COMMISSION
Foreign futures and options transactions:
Secured amount requirement; interpretation; comments due by 9-21-00; published 9-6-00

DEFENSE DEPARTMENT
Acquisition regulations:
Profit policy changes; comments due by 9-22-00; published 7-24-00

EDUCATION DEPARTMENT
Postsecondary education:
Federal Perkins Loan, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs; comments due by 9-18-00; published 8-2-00
Student assistance general provisions and Federal Family Education Loan, William D. Ford Federal Direct Loan, and Federal Pell Grant Programs; comments due by 9-18-00; published 8-2-00
Special education and rehabilitative services:
Special Demonstration Programs; comments due by 9-21-00; published 6-23-00

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Metal coil coating facilities; comments due by 9-18-00; published 7-18-00
Mobile source air toxics controls; comments due by 9-20-00; published 8-4-00
Air quality implementation plans; approval and promulgation; various States:
Massachusetts; comments due by 9-20-00; published 8-21-00
Hazardous waste:
Identification and listing—
Exclusions; comments due by 9-22-00; published 8-8-00
Fossil fuels combustion wastes; regulatory determination; comments due by 9-19-00; published 5-22-00
Land disposal restrictions—
Miscellaneous changes; comments due by 9-18-00; published 6-19-00
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Azoxystrobin, etc.; comments due by 9-18-00; published 7-19-00
Butyl acrylate-vinyl acetate-acrylic acid copolymer; comments due by 9-18-00; published 7-19-00
Humic acid, sodium salt; comments due by 9-18-00; published 7-18-00
Pendimethalin; comments due by 9-18-00; published 7-19-00
Tebuconazole; comments due by 9-18-00; published 7-18-00
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 9-18-00; published 8-17-00
National priorities list update; comments due by 9-18-00; published 8-17-00
Water supply:
National primary drinking water regulations—
Arsenic; maximum contaminant level; comments due by 9-20-00; published 6-22-00

FEDERAL COMMUNICATIONS COMMISSION
Digital television stations; table of assignments:
Alabama; comments due by 9-18-00; published 7-31-00

GENERAL SERVICES ADMINISTRATION
Acquisition regulations:
Energy-efficient office equipment and supplies containing recovered materials or other

environmental attributes; identification; comments due by 9-18-00; published 7-18-00

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Human drugs:
Labeling of drug products (OTC)—
Standardized format; compliance dates, partial extension; comments due by 9-18-00; published 6-20-00

INTERIOR DEPARTMENT
Land Management Bureau
Minerals management:
Leasing of solid minerals other than coal and oil shale; comments due by 9-18-00; published 8-18-00

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critial habitat designations—
Spalding's catchfly; comments due by 9-22-00; published 9-8-00
Critical habitat designations—
Mexican spotted owl; comments due by 9-19-00; published 7-21-00
Zapata bladderpod; comments due by 9-18-00; published 7-19-00

INTERIOR DEPARTMENT
Minerals Management Service
Outer Continental Shelf; oil, gas, and sulphur operations:
Restructuring oil and gas drilling requirements, and conversion of rule into plain language; comments due by 9-19-00; published 6-21-00

JUSTICE DEPARTMENT
Immigration and Naturalization Service
Nonimmigrant classes:
Temporary agricultural worker (H-2A) petitions; processing procedures; comments due by 9-18-00; published 8-17-00

LABOR DEPARTMENT
Employment and Training Administration
Aliens:
Nonimmigrant agricultural workers; temporary employment; labor certification and petition process; fee structure modification; comments due by 9-18-00; published 8-17-00
Temporary employment in U.S.—
Attestations by facilities employing H-1C nonimmigrant aliens as registered nurses; comments due by 9-21-00; published 8-22-00

NUCLEAR REGULATORY COMMISSION
Reports and guidance documents; availability, etc.:
Operator license eligibility and use of simulation facilities in operator licensing; comments due by 9-18-00; published 7-3-00

PENSION BENEFIT GUARANTY CORPORATION
Single-employer plans:
Allocation of assets—
Title IV aspects of cash balance plans with variable indices; comments due by 9-22-00; published 7-6-00

PERSONNEL MANAGEMENT OFFICE
Health benefits, Federal employees:
Health insurance premiums; pre-tax allotment; comments due by 9-18-00; published 7-19-00
Health benefits; Federal employees:
Health insurance; pre-tax premium conversion; comments due by 9-18-00; published 7-19-00
Prevailing rate systems; comments due by 9-18-00; published 8-17-00

SECURITIES AND EXCHANGE COMMISSION
Securities:
Firm quote and trade-through disclosure rules for options; comments due by 9-18-00; published 8-4-00
Order routing and execution practices; disclosure; comments due by 9-22-00; published 8-8-00

TRANSPORTATION DEPARTMENT
Computer reservation systems, carrier-owned
Internet use for airline distribution; comments due by 9-22-00; published 7-24-00

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Air carrier certification and operations:
Airports serving scheduled air carrier operations in aircraft with 10-30 seats; certification requirements; comments due by 9-19-00; published 6-21-00
Emergency medical equipment; comments due by 9-21-00; published 5-24-00
Hawaii; air tour operators; comments due by 9-22-00; published 8-23-00
Airworthiness directives:
Aerospatiale; comments due by 9-18-00; published 8-23-00
Airbus; comments due by 9-18-00; published 8-23-00
Bell; comments due by 9-18-00; published 7-20-00
Bombardier; comments due by 9-22-00; published 8-23-00
Cessna; comments due by 9-22-00; published 8-8-00
Dowty Aerospace Propellers; comments due by 9-20-00; published 8-21-00
Eurocopter France; comments due by 9-18-00; published 7-20-00
Fairchild; comments due by 9-22-00; published 8-3-00
General Electric Co.; comments due by 9-18-00; published 7-20-00
Learjet; comments due by 9-22-00; published 8-8-00
Pilatus Aircraft Ltd.; comments due by 9-22-00; published 8-18-00
Raytheon; comments due by 9-18-00; published 8-16-00
Saab; comments due by 9-20-00; published 8-21-00
Class E airspace; comments due by 9-17-00; published 7-14-00

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Intelligent transportation system architecture and standards; comments due by 9-23-00; published 7-26-00
Payment procedures:
Engineering and design related service contracts; administration; comments due by 9-18-00; published 7-18-00
Statewide and metropolitan transportation planning; extension; comments due by 9-23-00; published 7-7-00
Transportation decisionmaking procedures; public parks, wildlife, and waterfowl refuges, and historic sites protection; comments due by 9-23-00; published 7-7-00

TRANSPORTATION DEPARTMENT
Federal Transit Administration
Statewide and metropolitan transportation planning; extension; comments due by 9-23-00; published 7-7-00
Transportation decisionmaking procedures; public parks, wildlife, and waterfowl refuges, and historic sites protection; comments due by 9-23-00; published 7-7-00

VETERANS AFFAIRS DEPARTMENT
National and State cemeteries; interment or memorialization prohibition due to commission of capital crimes; comments due by 9-19-00; published 7-21-00
Servicemembers' and veterans' group life insurance:
Accelerated benefits option; comments due by 9-18-00; published 7-20-00

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 3519/P.L. 106–264
Global AIDS and Tuberculosis Relief Act of 2000 (Aug. 19, 2000; 114 Stat. 748)
Last List August 22, 2000

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